

<b>Title</b>	Whistleblowing Policy
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Please see full policy control sheet on the back page of this document.

With effect from 21 January 2019 this policy supersedes the previous Serious Concerns policy.

# Whistleblowing Policy

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- 1 Policy statement**
- 1.1 The States of Jersey believes in openness and honesty. We are committed to the highest standards of accountability. In line with our core values, we expect staff and others that we deal with who have serious concerns about any aspects of our work, to come forward and voice those concerns.
- 1.2 You may feel worried about raising a concern, and we understand this. In accordance with our values, our organisation is committed to an open and honest culture. We will look into your concern and you will have access to the support you need while this is happening.
- 2 Policy aims**
- 2.1 The purpose and aims of this policy are to:
- remind all employees of their duty to report serious concerns
  - ensure that all of our employees feel confident about raising serious concerns at an early stage
  - provide clear guidance to employees about how to raise a serious concern and how the process will operate
  - reassure employees that if they raise concerns in the public interest and reasonably believe them to be true, we will not tolerate any reprisal against them and will treat such reprisal as a disciplinary matter
  - ensure that employees who raise concerns are provided with feedback on any actions taken and are aware of the options available to them if they are dissatisfied with the response.
- 3 When does this policy apply?**
- 3.1 Not all concerns are whistleblowing concerns; therefore it is important to read this policy in order to understand whether your concern should be dealt with under this policy.
- 3.2 If your concern is a personal concern, it may be better dealt with using one of our other internal processes. The policies that may be relevant are:
- Grievance
  - Bullying and harassment
  - Equalities and diversity
- 3.3 If your concern cannot be resolved through our internal processes and your concern is in the public interest, this policy may apply

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## 4 What is Whistleblowing?

- 4.1 Whistleblowing is where an employee raises a concern about an activity or inactivity within the organisation that has a public interest aspect to it. The 'public interest' relates to the welfare or well-being of the general public and not to an individual or group.
- 4.2 Sharing a concern with us can be the first step in helping the organisation identify problems and improve our practices.
- 4.3 If in the public interest to disclose, the following are examples of what may constitute a concern:
- fraud, in or by the organisation
  - financial irregularity
  - offering, taking or soliciting bribes
  - malpractice
  - damage to the environment
  - health and safety risks, including risks to the public as well as States of Jersey employees
  - gross waste or mismanagement of funds
  - misuse or abuse of authority
  - neglect of people in care
  - attempts to conceal information relating to any of the above.

(Please note that this list is not exhaustive)

- 4.4 You must reasonably believe that your concern is true and that raising it is in the public interest.
- 4.5 Whistleblowing does not apply to personal grievances concerning an individual's terms and conditions of employment, or other aspects of the working relationship, complaints of bullying or harassment or disciplinary matters. These complaints are personal, relating to your own employment and do not have a public interest element, therefore would not fall within this policy. They will be dealt with under existing States of Jersey policies and procedures such as Bullying and harassment, Disciplinary or Grievance policies.

## 5 Who can raise a concern?

- 5.1 All employees, workers and office holders may raise a concern under this policy. This includes permanent and temporary employees or workers and those providing services to the States of Jersey under a contract.
- 5.2 Members of the States of Jersey Police are not covered by these arrangements, as any concerns regarding the States of Jersey Police should be referred to the Police Complaints Board.

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## 6 What support and protection will I be offered by the organisation?

- 6.1 The decision to report a concern can be a difficult one to make. Provided that you are acting honestly, you will be doing a duty to the organisation and to the wider public and it will not matter if you are mistaken or if there is an innocent explanation for your concern.
- 6.2 The States of Jersey will not tolerate any harassment or victimisation (including informal pressures) nor will we tolerate any attempt to bully you into not raising a concern. Any such behaviour is a breach of our values as an organisation and we will take appropriate action to protect you.
- 6.3 We are committed to ensuring that you feel fully supported at all stages of this process. You can seek help and support from any of the sources listed below:

### Your line manager

As people who work closely with you, line managers are very well placed to offer support during the process. We encourage colleagues to see their line manager as a first port of call wherever possible.

### Recognised trade union representative

If you are a union member, then your union will be able to offer advice and guidance to you. The States of Jersey is committed to working in partnership with all recognised trade unions as we understand the important role they play in supporting and advising their members.

### HR Business Partner

At any time during the process, you can contact your department's HR Business Partner for advice. They will be able to offer advice and explain the options available to you.

### Employee assistance line

The Employee assistance line is called 'Be Supported' and is provided by our Occupational Health partners, AXA. Be Supported provides easy, fast and confidential access to information and resources on a wide range of work-related or domestic topics. It aims to provide support and advice should you feel more comfortable in speaking to someone outside the organisation. Be Supported can be accessed 24/7 via the telephone support line: 0800 0727072 and employees may receive up to six free counselling sessions. You can self-refer to Be Supported or by your line manager, with your consent. There is also online access at [www.axabesupported.co.uk](http://www.axabesupported.co.uk) using the username: *statesofjersey* and password: *supported*.

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- 6.4 Any investigation into allegations raised by you as a concern will not influence, or be influenced by any ongoing employment matter that already affects you.

## 7 Confidentiality

- 7.1 We hope that you will feel comfortable raising your concern, but we appreciate that you may want to raise it confidentially, therefore all concerns raised will be treated in confidence, which means they will only be disclosed when absolutely necessary.
- 7.2 Every effort will be made not to reveal your identity, however, at the appropriate time you may be asked to come forward as a witness because a statement may be required as part of evidence.
- 7.3 You can choose to raise your concern anonymously, without giving your name; however, anonymous disclosures are generally more difficult to investigate, as we will not be able to contact you should we need further information. However, If you chose to whistle blow to the Speak-up line, you can remain entirely anonymous.
- 7.4 Once a complaint has been made you should not discuss the concern with any of the subjects of your complaint. You must not attempt to conduct any interviews or investigations of your own.
- 7.5 You must not discuss your concerns with any third parties, such as the press, however you may discuss your concern with your trade union representative or workplace colleague should you need to.
- 7.6 Anyone who has an identified role within this policy, for example a Designated Person or a Commissioning Manager should ensure confidentiality and discretion and safeguard the identity of the 'whistleblower' should they wish to remain anonymous.

## 8 Who should I raise my concern to?

- 8.1 The earlier you raise your concern, the easier it is to take action. You should normally raise concerns formally or informally with your immediate line manager, or, if the concern relates to your line manager, to their line manager. Where concerns are more serious, you may raise them with the Director General of your department.
- 8.2 You can also raise your concern via a dedicated, 24/7/365 Speak-up Line, provided by Expolink. The speak-up line is completely independent from the States of Jersey. All of the operatives will be fully trained and able to offer help and guidance as to how you wish to progress your concern.
- 8.3 There are three ways to contact the speak-up line; by free phone (0800 374 199), via the web at <https://wrs.expolink.co.uk/statesofjersey> and via your smart

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phone, search for Expolink's Speaking Up App and look for this branding (once installed use the access code statesofjersey):



- 8.4 You will be provided with a unique reference number and you can check for feedback on your concern, even if you choose to remain anonymous.
- 8.5 Where your concern relates to issues involving more than one department or a States member, concerns can be raised directly with the Chief Operating Officer.
- 8.6 For departments required to comply with UK regulatory and statutory provisions that apply to specific definitions of 'serious concerns' (for example, but not limited to, HSSD, Law Officers' Department and finance staff working with anti-money laundering legislation) departmental guidelines will apply in respect of who to raise concerns with.
- 8.7 The States of Jersey acknowledges the importance of recognised trade unions as providing a source of support to their members. Your recognised trade union representative may accompany you to any meetings throughout the process of raising your concern. Alternatively, you may be accompanied by a workplace colleague.
- 8.8 The Chief Internal Auditor must be notified of all concerns raised and, unless there is a potential conflict of interest the Director General (or equivalent) of the relevant department must also be notified. The Treasurer of the States must be notified of all financial concerns raised.
- 8.9 The person who you raise your concern with will be able to make these notifications on your behalf, and will ensure that they are anonymised.

## **Action points (AP)**

### **Line managers:**

**AP 8a** If you receive a concern in person or over the telephone, listen to the employee carefully and allow them to explain their concern fully. Take a note of any meeting you attend in order that you can refer back to what was said and by whom. Ensure that you have a full understanding of the concern, ask questions and repeat back what you have heard to provide the employee with an opportunity to clarify anything you may have misunderstood. You

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should ask the employee to submit a report of their concern via the Speak-up line described at 8.3. If you feel they need help or support, you can offer help by doing this together with them. Please note: if you do offer to help, you should not influence their submission at all.

**AP 8b** The employee is likely to require support at this early stage. You should keep in contact with them to ensure that they are coping well, offer to speak with them privately should they need and also provide them with the details of the support we can offer them, set out in section 6 of this policy.

**AP 8c** Inform the Chief Internal Auditor and the Director General (or equivalent) of all concerns raised. Where the concern relates to a financial irregularity, inform the Treasurer of the States.

## 9 How to raise a concern

**9.1** Concerns may be raised using any of the methods set out in section 8 of this policy. If you chose to raise the concern internally with a line manager or one of the other points of contact listed here, they will ask you to submit a report of your concern via the Speak-Up Line. This ensures there is a uniform and consistent log of all whistleblowing concerns.

**9.2** If you need support to do this, they can offer to help you with this, but they should not influence your submission, it must be in your own words.

**9.3** Please be ready to explain as fully as you can the information and circumstances that gave rise to your concern.

**9.4** You are not expected to prove beyond reasonable doubt the truth of the allegation but you should be able to demonstrate that there are reasonable grounds for your concern.

**9.5** If you have any personal interest in the subject matter of your concern, then you must raise this at this stage.

## 10 How the organisation will respond

**10.1** We are committed to listening to our staff, learning lessons and improving the services we provide to the public. Whoever you choose to raise your concern to, your concern will be dealt with the in same way.

**10.2** Your concern will be assigned to one of our Designated Persons who will have overarching responsibility for your concern. The Designated Persons are named people with specific responsibility for ensuring that concerns raised are addressed appropriately. The Designated Persons are:

- the Chief Operating Officer



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- the Director of Risk and Audit
- the Chair of the Audit Committee.

- 10.3** Dependent on the nature of the concern it may no longer be appropriate to remain as an internal process, it may be necessary to refer to external agencies, such as the States of Jersey Policy, or the Multi Agency Safeguarding Hub, or become the subject of an independent enquiry. The assigned Designated Person, with the support of HR Case Management has responsibility for making this referral.
- 10.4** If it is appropriate to remain as an internal process, with the support of HR Case Management, the Designated Person will appoint a Commissioning Manager who will be a Director or Group Director within a different department to the department that the concern relates to.
- 10.5** The Commissioning Manager will write to you within two working days to confirm that they have received your concern, unless the concern has been raised anonymously (in this circumstance progress will be logged in the Case Reporting System provided through the speak-up line). The Commissioning Manager will consider the content of your concern and will decide how best to proceed. If further information is required, you may be invited to a meeting in order to gather as much information as possible. This meeting can be held off States of Jersey premises if you wish. You may be accompanied by a recognised trade union representative or workplace colleague.
- 10.6** With the exception of anonymous referrals, the Commissioning Manager will write to you within ten working days of your meeting in order to summarise your concern. You will be informed whether an investigation will be carried out and of the timescales within which we will aim to complete the investigation. If any of our proposed timescales change, we will keep you updated.
- 10.7** We may decide that your concern would be better looked at under another policy, for example our Bullying and Harassment policy. If so, we will discuss this with you.
- 10.8** Where a concern relates to a Director General or a States member, the Chief Executive will be informed. The Chief Executive may discuss the concern with the Chief Minister or refer the concern to the Privileges and Procedures Committee.

## **Action points (AP)**

### **Line managers:**

- AP 10a** As soon as you receive a concern, whether verbally or in writing, you should log the call with the speak-up line. You do this by

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contacting Expolink via one of the methods set out at point 8.3. The concern is then logged in the case reporting system and in process.

## **Commissioning manager:**

**AP 10b** You will receive the details of a concern from a Designated Person, supported by HR Case Management. You must write to the employee within two working days of receiving their concern confirming that you are the Commissioning Manager. Consider the information that has been provided and if you feel that you need further information, invite the employee to a meeting in order to provide this. Confirm to the employee that the meeting may be held off States of Jersey premises should they wish and also that they may be accompanied by a recognised trade union representative or workplace colleague (10.4). Take notes during this meeting in order to ensure that you have a full record of the concern.

**AP 10c** You should use the information you have gathered in order to assess whether an investigation should be carried out. If you feel an investigation is required, confirm this with HR Case Management.

**AP 10d** Following the meeting, you should write to the employee within **ten working days** to confirm:

- a summary of the concern (10.5)
- whether an investigation is to be carried out (10.5)
- proposed timescales for the investigation (discuss this with HR Case Management)
- whether the concern may be better dealt with under a different policy (ie. where the concern is not a whistleblowing concern - see the definition set out in sections 3 and 4 of this policy).

**AP 10e** If the concern relates to a Director General or a States member, you should inform the Chief Executive. If the concern is of a serious nature, contact HR Case Management who can advise whether the concern should also be referred to the police, Jersey Designator Officer or MASH.

## **11 Investigation**

**11.1** In order to protect those who have been accused, initial enquiries will be made by the Commissioning Manager to decide whether an investigation is appropriate, and if so, what form it should take. Some concerns may be resolved by agreed action without the need for investigation. The overriding principle we will have in mind is the public interest.

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- 11.2** When it is decided that an investigation is required, we will ensure that it is carried out following our Investigation Framework. This framework is used not only for concerns relating to Whistleblowing but also for issues related to other workplace concerns, for example disciplinary matters or grievances. The investigation will be objective and evidence-based and will produce a report that focuses on identifying and rectifying your concerns, as well as learning lessons to prevent issues reoccurring. Lessons will be shared with teams across the organisation, or more widely, as appropriate. Investigators will be free from bias or judgement and independent from those involved.
- 11.3** The Commissioning Manager, with the support of HR Case Management, will appoint investigator(s).
- 11.4** The investigator(s) will report their findings to the Commissioning Manager, and wherever possible and appropriate (dependent on the nature of the investigation these outcomes may not be appropriate) who will conclude one of the following outcomes:
- There is a case to answer
  - There is no case to answer
  - The complaint was untrue or malicious.
- 11.5** Subject to any legal and personal information constraints, you will be informed of the outcome of any investigation.
- 11.6** If the concern is a potential criminal offence, then HR Case Management will advise the Designated Person and Commissioning Manager, in accordance with the States of Jersey Memorandum of Understanding Agreement, whether it is appropriate to proceed with an investigation. Care should be taken not to prejudice any criminal investigation. See 8.1 and 8.5 in the Disciplinary policy for more information.

## **Action points (AP)**

### **Commissioning manager:**

- AP 11a** Confirm to HR Case Management that an investigation is required. When you receive the investigation report, consider the contents and conclude the outcome.
- AP 11b** Advise the employee of the outcome, in writing. Inform HR Case Management of the outcome in order that they can update the case reporting system provided by Expolink.
- AP 11c** You should ensure that any lessons that can be learned in order to prevent issues re-occurring are reported to the Designated

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Person with overarching responsibility for the original concern in order that they can share these more widely within the organisation.

## 12 Recording, monitoring and review

**12.1** The outcomes of your concern will be recorded within the case reporting system provided by Expolink so that the organisation holds a complete record of all concerns raised. We will use this to identify similar behaviours or practices and areas for improvement across the organisation. We will also use this information to update any concern raised via the speak-up line.

**12.2** The States Employment Board will be provided with high level information about all concerns raised under this policy in order that they can be satisfied that all employees are supported and feel free to speak up. The information will be presented within a report, which will be produced on a quarterly basis. Subject to any legal constraints, any concerns of a highly serious nature will be referred to the States Employment Board immediately.

**12.1** We will review the effectiveness of this policy and local process annually and changes will be made as appropriate.

## 13 Taking your concern further

**13.1** The aim of this policy is to provide you with an avenue within the organisation to raise concerns and we hope that you will be satisfied with any action taken. If, after the internal procedure has been exhausted, you still feel that your concern has not been addressed, you may contact the Designated Person assigned to your concern.

**13.2** The Designated Person will review your concern together with the investigation report and the decision of the Commissioning Manager. They will assess all of the information and reach a conclusion as to whether the outcome of the investigation was correct.

**13.3** The decision of the Designated Person is final. You will receive confirmation of the decision in writing.

### **Action points (AP)**

#### **Designated Person:**

**AP 13a** Write to the employee to confirm the outcome of the appeal. Inform HR Case Management of the outcome in order that they can update the case reporting system provided by ExpoLink and inform the Commissioning Manager.

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## 14 Untrue allegations

14.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. However, if during the investigation it is found that you made an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

## 15 Roles and responsibilities

### 15.1 Everyone within the organisation must:

- report serious concerns as soon as possible through the channels set out within this policy. This applies to all employees, workers and office holders, regardless of seniority.

### 15.2 Line and/or Commissioning Managers must:

- deal promptly and fairly with any concerns raised under this policy
- ensure that the employee's concerns are appropriate for consideration under this policy. If they are not, the employee should be referred to the correct policy
- support the employee throughout the Whistleblowing process
- maintain confidentiality throughout any proceedings
- as far as possible, withhold the identity of the employee who has raised the concern, if the employee has requested confidentiality
- keep the employee updated as to progress in investigating and resolving their concerns
- advise the employee that they have a right to bring a recognised trade union representative or workplace colleague to any meetings under this policy
- implement any actions or recommendations arising from the investigation into the concern
- ensure that the employee who raised the concern suffers no detriment as a result of raising their concern.

### 15.3 Employees must:

- raise concerns in confidence at the earliest possible moment
- never carry out their own investigation
- as far as the employee feels it is possible, assist with any investigation into their concern, including attending meetings, replying to requests for further information and providing signed statements as appropriate
- immediately pass any information to the investigator when requested
- follow the stages of the procedure in sequence
- always act honestly and in good faith when raising and pursuing concerns under this policy

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- inform the investigator if you have any personal interest in the matter under investigation.

## 16 Withdrawal of a concern

16.1 Occasionally, individuals decide to withdraw their concern. Withdrawal of a concern must be done in writing to the person to whom the concern was initially raised. If we feel the circumstances warrant it, we reserve the right to continue to investigate any concern that has been withdrawn.

### Action points (AP)

#### **Line managers:**

**AP 16a** If you receive a withdrawal of a concern, pass this to HR Case Management as soon as possible in order that a decision can be made as to whether to continue to investigate the concern.

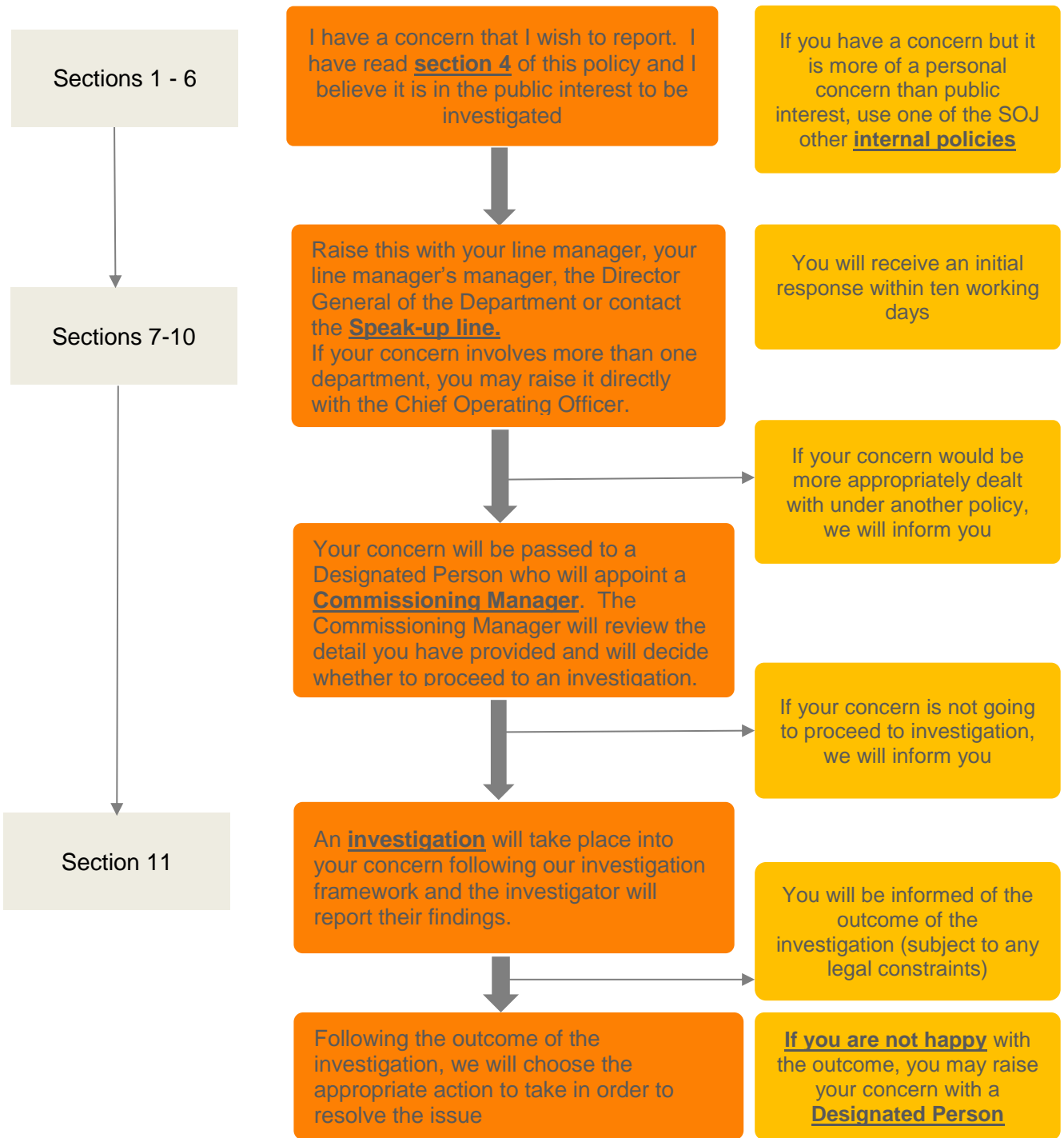
## 17 Links to other policies

19.1 Other policies and documents which may be helpful when considering this policy are:

- Equalities and Diversity
- Bullying and Harassment
- Code of Conduct
- Ministerial Code of Conduct
- Anti-Fraud and Corruption
- Investigation Guidelines.

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## 18 Whistleblowing Flowchart



If at any stage of the Whistleblowing process you feel you have been subject to any form of harassment, victimisation, bullying or pressure to not raise your concern, where necessary we will take the appropriate disciplinary action to protect you.

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## 19 Policy control sheet

Version	Date Issued	Issued by	Reason for Change
1.0		Tara Macnair	Response to HR Lounge Report recommendations

Presented to	Approved	Date
CSB	✓	October 2018
SEB	✓	

### Additional Information

Planned Review Date	3 <sup>rd</sup> quarter 2019
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