

# WHISTLEBLOWING POLICY

**Issued:** March 2022

**Version:** 4

## Policy overview

At ScotRail, we're committed to conducting business with honesty and integrity. Every one of us needs to follow our Code of Conduct.

However, things can go wrong – so we need an open and accountable culture to stop problems developing, and to deal with problems once they're discovered.

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any workplace wrongdoing. It sets out the procedure by which workers can report concerns to us about workplace practices, without fear of reprisals.

If you suspect wrongdoing, tell us as soon as possible. We will take your concerns seriously, and carry out an investigation if that's the right course of action.

This policy takes account of the Whistleblowing Arrangements Code of Practice, issued by British Standards.

The policy does not form part of your contract of employment except to the extent that it imposes obligations on you and can be amended from time-to-time.

## Who does this policy apply to?

This policy applies to everyone who works at ScotRail, at every level. This includes consultants, agency workers, contractors, trainees, part-time and fixed-term colleagues.

## 1 Definition

Whistleblowing is the disclosure of information by a colleague which relates to suspected wrongdoing or dangers at work. Wrongdoing can include conduct that you believe is illegal, fraudulent or unethical.

## 2 What disclosures are covered by this policy?

If you have any concerns related to suspected wrongdoing, or danger affecting any of our business activities, report it under this policy.

This policy should not be used for complaints relating to your personal circumstances, such as the way you have been treated at work. In those cases, you should use the grievance procedure or the dignity and respect procedure.

You should use this policy to report concerns about malpractice within ScotRail which:

- fall within categories (a) to (f) below; and
- which there is a public interest in disclosing (because it affects or could affect, for example, customers, service users, members of the public or other workers).

This policy will be applicable if you have a **reasonable belief** that:

- (a) a criminal offence has been committed, is being committed, or is likely to be committed;
- (b) a person has failed, is failing, or is likely to fail to comply with their legal obligations;
- (c) a miscarriage of justice has occurred, is occurring, or is likely to occur;
- (d) the health and safety of any individual has been, is being, or is likely to be endangered;
- (e) the environment has been, is being or is likely to be damaged; or
- (f) any of the above are being, or are likely to be, deliberately concealed,
- (g) and it is in the public interest to disclose this information.

This might cover, for example, breaches of confidentiality; conflicts of interest; negligent advice, financial fraud, bribery, harassment of others; and health and safety breaches.

Only disclosures concerning those actions falling strictly within the categories (a) to (f) will be eligible for the statutory protection outlined in section 10 below.



## **Not sure if something is covered by this policy?**

Ask the Employee Relations Manager for advice.

### **3 Raising a concern**

We hope that in most cases you will be able to raise any concerns with your line manager. You may tell them in person or in writing. They should be able to resolve most concerns quickly and effectively. You should provide specific examples of the alleged malpractice.

However, you may feel that the matter is more serious, or that your line manager has not addressed your concern. You may also prefer not to raise the matter with your line manager. In this case, contact the Employee Relations Manager.

We will arrange a meeting with you to discuss your concerns. You may bring a colleague or union representative to any meetings, but your companion must respect the confidentiality of your disclosure and any subsequent investigation. You should inform the person chairing the meeting of your choice of companion in good time before the meeting, so that arrangements can be made for them to attend.

We will take a written statement of your concerns and provide you with a copy. We will also aim to give you an indication of how we propose to deal with the matter.

### **4 Investigation and outcome**

Once you have raised a concern, we will carry out an initial assessment to decide the scope of any investigation. We will tell you the outcome. You may have to attend additional meetings to provide further information.

In some cases, we may appoint an investigator or team of investigators, who may make recommendations for change to enable us to minimise the risk of future wrongdoing.

We want to keep you informed of the progress of any investigation. However, confidentiality may prevent us from giving you specific details of the investigation or any action taken as a result. You should treat any information about the investigation as confidential.

### **5 Confidentiality**

We hope this policy helps you to voice your concerns openly. However, if you want to raise your concern confidentially, we will make every effort to keep your identity secret. If it is necessary for anyone investigating your concern to know your identity, we will discuss this with you.



We do not encourage colleagues to raise matters anonymously. Proper investigation may be more difficult or impossible if we can't get more information from you.

If you are concerned about possible reprisals if your identity is revealed, speak to the Employee Relations Manager– they will take appropriate measures to preserve your confidentiality. If you still have worries, you can speak to Public Concern at Work, the independent whistleblowing charity, which offers a confidential telephone helpline.

In order not to jeopardise the investigation, you will be expected to keep the fact that you have raised a concern, the nature of the concern and the identity of those involved confidential.

## 6 External Disclosures

We have an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not need to alert anyone externally.

However, the law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body, such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to get advice before reporting a concern to any external person or organisation. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. They also have a list of all recognised industry regulators.

Whistleblowing usually relates to the conduct of our own colleagues, but it may sometimes relate to a third party, such as a customer, supplier or service provider. The law allows you to raise any concern with a “responsible” third party, where you reasonably believe it relates mainly to their actions or something that is legally their responsibility. However, to ensure that you are protected we encourage you to report such concerns internally first. You should contact your line manager for guidance, or one of the other individuals set out in this policy.

## 7 If you are not satisfied

We will try to deal with your concern fairly and in an appropriate way. If you are unhappy with the way we have handled your concern, you should write to the Human Resources Director.

## 8 Protection and support

It's natural that you might be worried about raising your concerns. We encourage openness; we support all staff who raise genuine concerns, even if those concerns turn out to be mistaken.



Colleagues who blow the whistle on genuinely held concerns relating to bad practice are protected from being subjected to any detriment or unfairly dismissed as a result. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment. If you believe that you have suffered any such treatment, you should inform the HR department immediately. If the matter is not remedied, you should raise it formally using the grievance procedure.

Colleagues must not victimise or retaliate against whistleblowers in any way. Anyone involved in such conduct will be subject to disciplinary action. In serious cases this may be treated as gross misconduct leading to dismissal without notice.

If you choose to make a disclosure without following this procedure you may not receive the protection outlined in this section.

If an investigation under this procedure concludes that a disclosure has been made maliciously, vexatiously or with a view to personal gain, you may be subject to disciplinary action under our Disciplinary Policy. In serious cases, this may be treated as gross misconduct leading to dismissal without notice.

## 9 **Responsibility for the success of this policy**

The ScotRail Board has responsibility for this policy, and for reviewing the effectiveness of actions taken in response to concerns raised by colleagues.

Colleagues have the right to report anonymously, be taken seriously and with discretion, be protected from adverse action and receive feedback on the conclusion of each case.

All colleagues are responsible for ensuring that they take steps to disclose any wrongdoing or malpractice of which they become aware.

Managers will treat each matter with respect and discretion, make objective assessment and conduct any investigation appropriately and ensure all necessary remedial action is taken.

The Human Resource Director has day-to-day responsibility for this policy, and must make sure that all colleagues who may deal with concerns or investigations under it receive regular and appropriate briefing.

The policy will be reviewed periodically. We are all responsible for the success of this policy, and we all need to make sure we use it to disclose any suspected danger or wrongdoing.



## 10 Monitoring

Confidential records will be kept of all matters raised through this policy and the ScotRail Sub – Group (Organisation & people) committee will receive reports with an assessment of the effectiveness of the policy.

### Review and Revision History

Version	Date	Issued By	Status	Review Due	Comments
4	10/03/22	[REDACTED]	Final	March 24	V&V branding amended. Removal previous contact details