

Are you concerned about **wrongdoing** where you work?



- 1 This leaflet is designed to help you take the next steps. It may be particularly relevant if you work for a Welsh public body such as a local health board, local authority or the Welsh Government.

Whistleblowing disclosures

- 2 The Public Interest Disclosure Act 1998 (the Act) was introduced to protect employees who are worried about wrongdoing in the workplace and want to 'blow the whistle'. The Act applies to most employees and includes those employed on a temporary basis or through an agency.
- 3 An employee who is subjected to detriment in any way because they have 'blown the whistle' can take their employer to an Employment Tribunal.

Role of the Auditor General for Wales

- 4 Under the Act, the Auditor General for Wales (the Auditor General) is a 'prescribed person' for concerns about 'the proper conduct of public business; value for money, fraud and corruption in relation to the provision of public services'.



About the Auditor General and the Wales Audit Office

- 5 The Auditor General is the auditor of most public bodies in Wales, including the Welsh Government, its sponsored and related public bodies, local government bodies and NHS bodies. The Wales Audit Office is a statutory board that provides staff and other resources for the Auditor General's work, and monitors and advises the Auditor General in relation to his work. The Auditor General carries out both financial audit work (the audit of accounts) and performance audit (value-or-money work) at public bodies.
- 6 The legal powers and responsibilities of the Auditor General are set out in the Government of Wales Act 2006, the Public Audit (Wales) Act 2004 and other pieces of legislation.
- 7 The Auditor General is not under a duty to investigate every disclosure he receives. Indeed, he can only investigate disclosures in accordance with his existing audit and related legal powers and duties (the Act does not confer any additional powers on to the Auditor General). The Auditor General bases his decision on whether or not to investigate on the relevance of the disclosure to his audit powers and duties. While we recognise that issues whistleblowers raise are important to them, we must make sure that we do not use public money looking at issues that are not relevant to our audit work, or spend too much time on minor issues.

Raising a concern

- 8 It is good practice for employers to have their own internal whistleblowing procedures, which should explain how you can raise any concerns. If your employer does have such procedures, you should follow them first unless there is a good reason not to.
- 9 If your concerns are matters for which the Auditor General is a prescribed person (see above), and you cannot raise your concerns within your workplace, or have done so without the situation being resolved, it may be appropriate for you to raise your concerns with the Auditor General.
- 10 If you raise your concerns with a 'prescribed person' instead of your employer, an Employment Tribunal may class your disclosure as protected provided:
 - you have a reasonable belief that wrongdoing or malpractice is occurring, has occurred, or may occur, in the workplace;
 - your disclosure is made in the public interest;
 - you believe that the information, and any allegation it contains, is true as far as you know; and
 - you have reason to believe that the matter is the prescribed person's responsibility.
- 11 However, the Auditor General does not have the power to decide whether a disclosure is protected (because that is a matter for an Employment Tribunal), or to get involved in employment relations, and he cannot provide legal advice.
- 12 The Auditor General has no power to discipline any individuals, or to bring criminal prosecutions after completing any investigations. Disciplinary action can only be taken by the management of the organisation concerned, or any relevant professional organisations. In cases of criminal behaviour, you should notify the police (or other relevant law enforcement agency). The Auditor General is not a law enforcement agency. If you raise any matters with the Auditor General that appear to be a matter of criminal behaviour, the Auditor General will refer them to the police, or other relevant law enforcement agency.
- 13 The Auditor General only examines allegations of criminality such as fraud to the extent that examining the alleged criminality appears to facilitate or be incidental or conducive to our work, and then only if he is confident that such work would not prejudice a law enforcement investigation.

Contacting the Auditor General

- 14 To deal promptly and effectively with your concerns, the Auditor General has put arrangements in place so that individuals can raise their concerns in confidence with trained and experienced staff.

You can contact the Auditor General as follows:

Write to:

PIDA Officer1 Capital QuarterTyndall StreetCardiff, CF10 4BZ

E-mail: whistleblowing@audit.wales

Phone: 02920 320522

- 15 All communications with the Auditor General will be treated in confidence, as far as the law allows. You should be aware that in dealing with concerns raised, we will often have to liaise with relevant audited bodies and other third parties. You should also be aware that our raising of issues in order to respond to the concerns you have raised may mean disclosure of your identity is unavoidable. For example, if you have previously raised the same issue with your employer, it may be obvious whom we have received the disclosure from.
- 16 It may also be necessary to disclose, or otherwise process your personal information in order to exercise the Auditor General's functions (or to meet other legal obligations or the public interest) without your consent. Such processing would not be a breach of the Data Protection Act.
- 17 If we decide to investigate the concerns you have raised, we will, wherever possible, send you feedback when we complete our investigations. There may, however, be occasions when the law prevents us from giving feedback.
- 18 If you want to contact the Auditor General for any other reason, perhaps because you are concerned about value for money as a taxpayer rather than as an employee, you should visit the Wales Audit Office's website for information or call 029 2032 0500.

Points to remember

- 19 Always remember that, as a whistleblower, you are acting as a witness and not a complainant. You have to have reasonable suspicion but not actual evidence to support your concerns. If you do suspect wrongdoing where you work, you should follow a few simple guidelines.



Do:

1. Make an immediate note of your concerns. Note all relevant details, such as what was said in phone or face-to-face conversations, the date, time and the names of those involved.
2. Pass on your suspicions to someone with the appropriate authority and experience. Most employers have policies and procedures in place for whistleblowing, and your HR Department or Head of Internal Audit should be able to give you more details.
3. Deal with the matter promptly, if you feel your concerns are justified. Any delay may mean that your organisation or service users continue to suffer or that the risk of harm increases.

Don't:



1. Do nothing.
2. Be afraid of raising your concerns. Your employer must not subject you to any detriment if you raise your concerns. Your organisation must treat any matter you raise sensitively and confidentially.
3. Approach or accuse any individuals directly.
4. Try to investigate the matter yourself. This is particularly important if your concern is about a crime or breaking a legal duty. There are special rules for gathering evidence to use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case.
5. Pass on your suspicions to anyone who does not have the proper authority.

More advice and guidance

- 20 If you are thinking about making a disclosure and you are not sure what your legal rights are, you should consider getting independent legal advice.
- 21 If you would like advice on what information is protected under the Act, and how best to raise your concern, it may be helpful to call Protect (an independent charity) on 020 3117 2520 or visit their [website](#).
- 22 If you are concerned about fraud or corruption within the NHS, you should call the NHS Counter Fraud Service's reporting line on 0800 028 4060 or visit the Report NHS Fraud website for more information. NHS workers should usually contact the NHS Counter Fraud Service reporting line in the first instance, but may raise concerns with us if they feel unable to do so.
- 23 If you are concerned about wrongdoing that does not involve how public business is carried out, value for money, fraud or corruption, you may find it helpful to visit the Whistleblowing List of Prescribed People and bodies webpage for details about other prescribed persons. Also, Public Concern at Work may be able to give you advice about the most appropriate organisations to contact.
- 24 We encourage people with impairment (disability) who require reasonable adjustments to let us know what those adjustments are. A reasonable adjustment may mean, for example, providing information in large font or in audio form in order to address visual impairment. We will provide further details on request.





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Textphone: 029 2032 0660

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Website: www.audit.wales

We welcome correspondence and
telephone calls in Welsh and English.

Rydym yn croesawu gohebiaeth a
galwadau ffôn yn Gymraeg a Saesneg.