

ROMAN CATHOLIC DIOCESE OF MOTHERWELL



POLICY ON WHISTLEBLOWING

Approved by the Diocesan Trustees on 25th September 2018

Review date: September 2020

Definition

‘Whistleblowing’ is where an employee or member of clergy makes a disclosure in the public interest.

Introduction

The Diocese of Motherwell is committed to the highest standards of openness, probity and accountability.

An important aspect of accountability and transparency is a mechanism to enable staff and clergy of the Company to voice concerns in a responsible and effective manner. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer’s affairs. A similar expectation applies in the case of clergy. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done and the complaint to be investigated properly.

The Public Interest Disclosure Act, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The Diocese has endorsed the provisions set out below to ensure that no members of staff should feel at a disadvantage in raising legitimate concerns. Whilst clergy are not legally employed by the Diocese, they may feel that they too are entitled to have a complaint investigated where other avenues have been exhausted, without fear of discrimination or persecution.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the Diocese nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures.

Scope of Policy

This policy is designed to enable employees of the Diocese to raise concerns internally and at a high level and to disclose information which the individual believes shows malpractice or impropriety. This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately but might then lead to the invocation of other procedures e.g. disciplinary. These concerns could include:

- Financial malpractice or impropriety or fraud
- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment
- Criminal activity

- Improper conduct or unethical behaviour
- Attempts to conceal any of these

Safeguards

Protection

This policy is designed to offer protection to employees and clergy of the Diocese who disclose such concerns provided the disclosure is made:

- in good faith
- in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below). It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure. In an extreme case, malicious or wild allegations could give rise to legal action on the part of the persons complained about.

Confidentiality

The Diocese will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

Anonymous Allegations

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Company. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

Untrue Allegations

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

Procedures for Making a Disclosure

There are two distinct pathways for making a disclosure – one for employees and one for clergy. In the process for employees, the investigation will be carried out by the Chancellor or someone delegated by him to do so; in the case of clergy, the investigation will be carried out by the Vicar General or someone delegated by him to do so. If the complaint relates to actions of either the Chancellor or the Vicar General (to be referred to as the ‘investigating officer’), the process will be led by the Bishop or an external person appointed by him to do so.

The complainant has the right to bypass this line of investigation and take their complaint direct to the Bishop who will, at his sole discretion, decide whether to carry out the investigation himself, refer it to the Chancellor or Vicar General, or refer it to an external person.

If there is evidence of criminal activity then the Diocese should inform the police. The Diocese will ensure that any internal investigation does not hinder a formal police investigation

Timescales

Due to the varied nature of these sorts of complaints, which may involve internal/external investigators and/or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant should be in writing and sent to their home address marked “confidential”.

Investigating Procedure

The Chancellor or Vicar General will follow these steps:

- Full details and clarifications of the complaint should be obtained.
- The investigating officer should inform the member of staff against whom the complaint is made as soon as is practically possible. If this is a member of staff will be informed of their right to be accompanied by a trade union or work colleague at any future interview or hearing held under the provision of these procedures. At the discretion of the investigating officer and dependant on the circumstances

of the complaint an alternative representative may be allowed e.g. the individual's legal representative. In the instance of a member of clergy, the person will be entitled to representation of their choice.

- The investigating officer should consider the involvement of the diocesan auditors and the Police at this stage and should consult with the Bishop if appropriate
- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
- A judgement concerning the complaint and validity of the complaint will be made by the Chancellor or the Vicar General. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Bishop..
- The Bishop will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate Diocesan procedures.
- The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
- If appropriate, a copy of the outcomes will be used to enable a review of Diocesan procedures.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, the Diocese recognises the lawful rights of employees, ex-employees or clergy to make disclosures to prescribed persons or body (e.g. the Health and Safety Executive). A full list of prescribed people and bodies can be found on the Government website (www.gov.uk).