

# Telling Concerns Practice Guides

## Whistleblowing



Further copies of this practice guide - and of those in the same series dealing with Advocacy and Complaints - can be obtained from:

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## **Introduction**

The aim of this Practice Guide is to disseminate information and insight gained during the process of the Children's Commissioner for Wales' Review of the operation of representations and complaints procedures, whistleblowing procedures and arrangements for the provision of children's advocacy services in local authority social services throughout Wales. It also identifies practice, documents and procedures from local authorities which, we believe, it would be helpful to share.

The report on the review - *Telling Concerns* - was published in February 2003 and contained 15 recommendations about whistleblowing which, when implemented, will increase significantly the protection offered to children and young people by enabling and supporting employees to raise concerns of malpractice.

We hope that local authorities who wish to amend their existing policies in the light of the recommendations in *Telling Concerns* will find this guidance useful. It has been written to attempt to give a view of whistleblowing procedures first from the point of view of a young person and secondly from the point of view of employees of local authority social services who feel that they need to raise their concerns of malpractice.

It is hoped that the format of this guide will be useful for training purposes.

## Whistleblowing – a case study

Dai is a child living in a local authority residential unit. His home authority placed him there 6 months ago.

One evening Dai was coming back from school a bit late. He was passing the rear entrance to the kitchen when he noticed Mr Blake, the manager of the home, loading a large package of frozen meat into the boot of his car.

“Feeling a bit peckish, Mr Blake?”, and instantly regretted it when he saw the look of fury on Mr Blake’s face.

“You tell anyone about this and I will make your life a misery!” said Mr Blake.

Over the next few days, he felt that Mr Blake was picking on him in a way that had not happened before. Dai was sure that he had caught Mr Blake stealing meat from the kitchen but, of course, could not prove it. He wondered whether he should contact the Complaints Officer and make a complaint but this wasn’t something to do with his own care and wasn’t really a complaint.

What does Dai need to know?

Dai needs to understand the difference between a complaint about his own treatment and being able to raise concerns about malpractice.

Complaints leaflets should give examples of the range of things that are considered complaints. This is considered further in the Complaints and Representations practice guide.

Dai decided to do nothing about it.

However, over the next few weeks Mr Blake picked on him more and more until Dai thought that he was starting to make good his threat to make his life a misery - even though Dai hadn’t told anyone what he had seen!

One day Mr Blake really had a go at him in the dining room while the cook, Mrs Cooke, was there and stormed out in a rage. Mrs Cooke said “Never mind dear” and gave Dai extra chips.

Dai liked Mrs Cooke and wondered whether to tell her about what he thought he’d seen. She would certainly be able to tell whether such a large package of frozen meat had disappeared.

But then he wondered whether that would place her in a difficult situation – would she get into trouble if she reported it? Mr Blake was much more senior than she was.

What does Dai need to know?

Confiding in an adult in this situation isn't easy for a young person. Dai already feels he is being persecuted for having this knowledge and would not like to think that Mrs Cooke would suffer if he were to tell her.

Whistleblowing policies are rightly considered to be for the use of staff and little or no effort has been made to publicise them to children and young people. Research informs us that children and young people often worry about the person to whom they have disclosed or to whom they wish to disclose. They may be uncertain as to what will happen next.

We believe that it is important to ensure that children and young people receiving a service from the local authority social services department know about and understand the policies and procedures put in place that contribute to safeguarding their welfare. This is a means of further promoting their rights.

This information could be provided in the children's complaints leaflets in the following way:

*'If you ask someone to raise concerns on your behalf we will make sure that they will not be punished in any way.'*

Dai decided to confide in Mrs Cooke. He told her everything, about the package of meat and the treatment he had been getting from Mr Blake. She was very sympathetic and left Dai saying she would think about what to do.

Mrs Cooke had wondered whether anything had gone missing from her stores but she was only too aware that she hadn't kept all her paperwork up to date – if anyone started to investigate they would find out and she would be in trouble. However, she had witnessed Mr Blake's treatment of Dai and felt sorry for him. She felt it wasn't fair and that something should be done about it. But what?

She worked for a catering company that was contracted by the local authority. It was only a small company and if the local authority thought she was interfering they might not renew the contract. If they lost this contract they would have to lay off staff and she was sure that she would be among the first to go.

What would reassure Mrs Cooke?

Mrs Cooke's dilemma is not unusual. The Waterhouse report noted many instances of support staff with information about abuse who didn't know where to go to report it. Information about whistleblowing often is not imparted to all employees who are in day-to-day contact with children and young people.

Where services are contracted out, the contracting companies often have no whistleblowing policy. Mrs Cooke's concerns are well founded.

We have recommended that all local authorities revise their Service Level Agreements to include a requirement that companies have a whistleblowing policy and that all their staff are informed about it. There would also be a need to include a protocol for these

companies to report concerns about children and young people's welfare to local authority social services.

Consideration could also be given to enabling staff from contracted companies to directly access the local authority social service procedures.

Suddenly Mrs Cooke had an idea!

Could she report this anonymously? Was there some way of raising her concerns simply as a member of the public?

Anonymous allegations are also much more difficult to investigate as there is no possibility of seeking further clarification – some local authorities suggested that they would need to consider whether there was a likelihood that an investigation would be able to uncover the truth before embarking on it.

It is important that employees realise that, if they make anonymous allegations, they may not qualify for protection under the Public Interest Disclosure Act 1998 should their identity later come to light.

If employees genuinely believed that they would not be victimised for blowing the whistle there would be no need for anonymous allegations. Any local authority that does receive such allegations should be asking whether there is a need to amend its procedures and improve their accessibility to employees.

Members of the public do not qualify for protection under the Public Interest Disclosure Act 1998 but the recent Laming report includes a recommendation:

*5.71 What is clear is that social services should do as much as possible to access such information at the earliest opportunity, particularly in relation to child protection concerns where these have been relayed by members of the public whose chosen means of communication is by public telephone. I therefore make the following recommendation:*

*Local authorities with responsibility for safeguarding children should establish and advertise a 24-hour free telephone referral number for use by members of the public who wish to report concerns about a child. A pilot study should be undertaken to evaluate the feasibility of electronically recording calls to such a number.*

The Victoria Climbié Inquiry - Report of an Inquiry by Lord Laming, January 2003

Mrs Cooke decided it was too risky for her to report it. She liked this job and didn't want to lose it.

But she did feel sorry that Dai was being treated so badly and advised him to speak to his social worker when she next came to visit him. Dai considered this and decided he would tell Julie when she came the following week. Mr Blake was getting worse!

When he told Julie she was very concerned. She had never seen Dai like this he was normally a very happy boy. Yet now he was worried and troubled.

This situation wasn't like any others she had had experience of dealing with. When children and young people had problems she would usually be able to resolve them. This was different because it involved one of her colleagues and he would get into trouble if she reported it. He may even lose his job.

This would be like "ratting" on a colleague – what would her peers think of her? Could she report this without everyone knowing?

Fortunately, Julie was employed by a local authority that had made sure that their employees were well informed about their whistleblowing policy.

It is not sufficient for local authorities to have a whistleblowing policy "that staff can access" – its existence and purpose must be well known to their employees. How else will they know that they are offered protection by it?

Induction packs for new employees are one obvious means of publicising the whistleblowing policy. In-service training is another. However, employees will need to be reminded from time to time. Caerphilly CBC circulate a leaflet to their employees on a regular basis which helps to reinforce employees awareness of whistleblowing procedures. Carmarthenshire County Council and Rhondda Cynon Taf County Borough Council report that all staff are notified (about whistleblowing procedures) in a staff newsletter or information sheet issued to all with their salary.

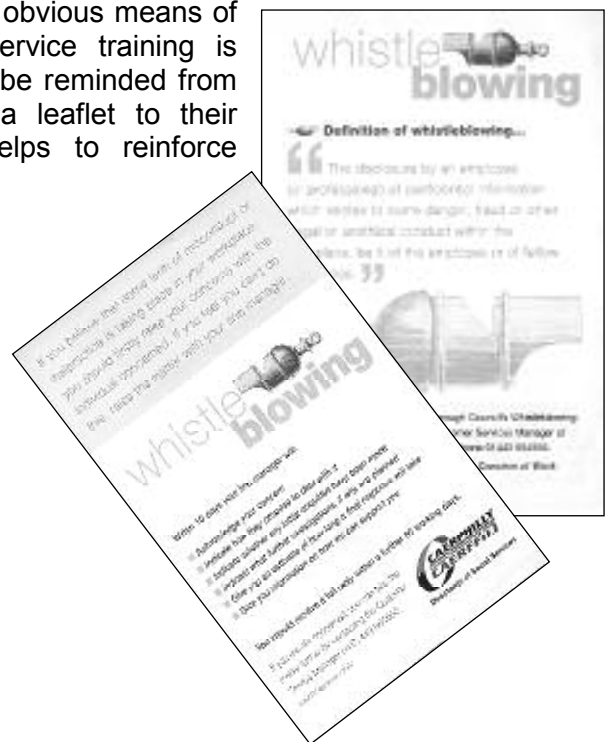
These regular reminders are more than simply a means of publicising the whistleblowing policy. They can also promote a culture in which reporting concerns of malpractice is seen as a way of improving services.

If employees feel that they are able to report their concerns within a supportive organisation there will be no need for the damaging media coverage that some whistleblowers have initiated. Such coverage can undermine confidence that concerns will be acted upon quietly and without fuss and discourage employees from reporting their concerns. If this is the case, children and young people will have less protection.

It is reassuring that so many social care workers are aware of whistleblowing procedures but there is a clear need to improve this awareness amongst other groups.

Foster carers are particularly close to the children and young people in their care and more must be done to enable them to raise concerns. Some local authority social services have made efforts to facilitate this:

In Gwynedd and Caerphilly information about whistleblowing is included in the Foster Care Handbook and several other local authorities report that they are planning to do the same.



Julie decided she has to report her concerns but is very aware that she will mostly be reporting hearsay. Will her employers think that she is doing this in order to “get at” Mr Blake?

Should she try to get more evidence? What if she is wrong?

Julie gets a copy of the local authority’s whistleblowing policy but it doesn’t answer these questions.

Most whistleblowing policies give no guidance to employees as to what they should do.

It would be quite wrong, for example, for Julie to try to investigate herself – to do so could contaminate any evidence that may exist and be useful to anyone who investigates later. This is particularly the case where it may be necessary to check files held on computers.

In addition to a whistleblowing policy, employees need practical guidance. Blaenau Gwent County Borough Council publishes a practical guide for employees and has allowed us to reproduce extracts from it in Appendix 3.

Julie reads the whistleblowing policy. It mentions the Public Interest Disclosure Act 1998 and the protection it would offer her as an employee providing that her disclosure is a “qualifying disclosure”.

How can she be sure that it is?

Most whistleblowing policies include a statement similar to the following:

*The areas qualifying for protection under the Public Interest Disclosure Act 1998 are information which the employee reasonably believes tends to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:*

- *a criminal offence*
- *the breach of a legal obligation*
- *a miscarriage of justice*
- *a danger to the health or safety of an individual*
- *damage to the environment*
- *deliberate covering up of information tending to show any of the above five matters.*

However, this does not give sufficient information to employees within local authority social services and needs unpicking to some extent. Examples (from various sources) of what the local authority social service employees may raise concerns about are:

- Malpractice or ill treatment of a patient/client/customer by a member of staff
- Maladministration as would be defined by the Local Government Ombudsman
- A breach of any statutory code of practice

- Unprofessional conduct or conduct below recognised and established standards of practice
- Breach of or failure to implement or comply with any relevant standing orders or policies
- Abuse of power or the use of the powers of a worker's office for any unauthorised purpose or for personal gain
- Unfair discrimination in the provision of services
- A criminal offence has been committed, is being committed or is likely to be committed
- Suspected fraud
- Disregard for legislation, particularly in relation to health and safety at work
- The environment has been, or is likely to be, damaged
- Breach of standing financial instructions
- Showing undue favour over a contractual matter or to a job applicant
- Information on any of the above has been, is being, or is likely to be concealed

This list is not exhaustive. It would, however, mean considerably more to Julie than the one in her whistleblowing policy.

The Public Interest Disclosure Act 1998 is part of employment regulations and is intended to apply to all areas of employment and needs to be interpreted to meet the range of concerns that are likely to be met in social work.

It is for this reason that we recommended that the local authority social services consider having their own whistleblowing policy and not adopt that of the local authority. However, given that all sorts of local authority employees are likely to have concerns about the welfare of children and young people, we also recommend that local authorities extend the range of concerns mentioned in their whistleblowing policies in a similar way.

Powys CBC have reported that they have reviewed their whistleblowing policy in the light of the recommendations of "Telling Concerns" and that this will then be adopted as the corporate, local authority whistleblowing policy. We would suggest that this is considered by all local authorities.

Julie decides that her concerns would be considered as a "qualifying disclosure" and reads on...

What else should the policy include?

Many local authorities have used the title Whistleblowing Policy and some others include the term in the title of their policies along with mention of 'confidential reporting', 'disclosure of malpractice' or 'procedures for dealing with suspicions and allegations'. However, some of the titles of policies would not be immediately recognisable as a source of information about whistleblowing in relation to the welfare of children and young people or other concerns that may arise in social work.

There is a good argument for a using a standardised title that includes the term 'whistleblowing' in all local authorities and local authority social services departments.

A whistleblowing policy should be written with the following recommendations in mind:

- The policy should say who and what it applies to
- Make it clear that the employer is committed to tackling malpractice and wrongdoing. The policies should detail the range of concerns that are considered.
- Make it clear to the staff that malpractice and wrongdoing is a serious matter which will be dealt with stringently and at the highest level.
- Mention the Public Interest Disclosure Act 1998 and the way in which it protects workers who report malpractice within the work place
- Provide the names and contact details of senior members of staff who are designated to deal with employees concerns of malpractice and the areas of concern which should be disclosed to them.
- Provide information about sources of advice outside the local authority for employees who wish to raise concerns of malpractice and are unsure of their rights and responsibilities.
- Ensure confidentiality for the whistleblower who requests it but specify circumstances in which confidentiality cannot be guaranteed.
- Establish time limits to ensure that a concern will be dealt with promptly
- Provide assurance that feedback will be provided about the progress and outcome of the investigation
- Provide assurance that concerns will be properly recorded
- Provide information about the relationship between the whistleblowing policy and the employer's other procedures
- Allow concerns to be raised independently from line management
- Recognise that employees may lawfully raise concerns externally
- Inform employees that they can seek help from their trade union representative if they have a concern to raise
- Provide information about prescribed individuals outside the company who can handle employees' concerns.

Further help, information and advice on preparing a whistleblowing policy and supporting documentation can be obtained from:

Public Concern at Work – who describe themselves as *an independent authority on whistleblowing providing free help to prospective whistleblowers, advice on whistleblowing laws and help to organisations wishing to create a culture where it is safe and accepted for staff to blow the whistle.*

*“Our toolkit, the policy pack, is the authoritative guide on complying with the Public Interest Disclosure Act. It is a step-by step guide to an effective whistleblowing policy. It has an Introductory Booklet, an Implementation Guide, an annotated version of the full Act and nine practical tools, including a model policy and promotional material.”*

Website: <http://www.pcaw.org.uk/>

Unison – the public service union publish a guide to whistleblowing, *Speaking out without fear*, which includes a sample whistleblowing policy. This can be downloaded from:

<http://www.unison.org.uk/acrobat/10377.pdf>

A sample whistleblowing policy can also be found on the Human Resource Solutions website:

<http://www.human-resource-solutions.co.uk/Areas%20of%20Interest/Whistleblowing.htm>

Julie was fairly sure that she would be considered as a whistleblower and protected by Public Interest Disclosure Act 1998 but couldn't be 100% certain.

She felt that she needed advice from someone who understood the law and who was not connected with the local authority.

Where could she find that advice?

Ideally these sources of advice would be mentioned in the local authority's whistleblowing policy. There was, however, some confusion within many local authorities about the nature of the advice and support that employees might need at this stage. They need advice and support on the process of whistleblowing and an understanding of the steps they need to take to meet the conditions for "qualifying disclosure" under the Public Interest Disclosure Act 1998.

Employees may want advice or support because they are worried about something that is going on at work but are unsure about what to do next or because they have already raised a concern but are unhappy with the way the issue has been addressed by their employers. For them to be considered whistleblowers and have the protection of the Public Interest Disclosure Act 1998 the issue must be of public concern and, as such, **affect a third party** (such as members of the public, clients, customers, other staff).

They may need advice on:

- The best way to raise a concern
- Who to go to, how to contact them and what to say
- How to deal with the reactions of colleagues and managers
- What to do if a concern has been ignored
- What to do if they think they may be bullied or victimised for raising the matter
- What to do if they have already raised a concern and feel they have been bullied or victimised because of it
- What their legal rights are if things go badly wrong

A summary of the Public Interest Disclosure Act 1998 is available on the DTI website at:

<http://www.dti.gov.uk/er/individual/pidguide-pl502.htm#app1>

Most trades unions will give advice and employees should be advised to contact their own union. Unison, for example, has a website that contains useful advice and guidance and also offers a freephone number for direct advice for members at: [www.unison.org.uk](http://www.unison.org.uk) should they not be able to contact their local representative. We would suggest that whistleblowing policies should contain the contact details and website addresses of all the trades unions and local representatives of all their employees.

A completely independent charity, Public Concern at Work, is the major source of advice and support for the whistleblower in the UK. Their website is at: [www.pcaw.co.uk](http://www.pcaw.co.uk) and they have a UK helpline number 020 7404 6609. Public Concern at Work can give legal advice to whistleblowers at all stages of raising their concerns and individuals who contact them are protected under section 43d of the Public Interest Disclosure Act 1998.

Clearly the most useful point for employees to obtain advice about the processes of whistleblowing and ensuring their disclosure is protected is at the stage of considering whether to raise their concerns at all. In our report “Telling Concerns” we suggested that those authorities who direct employees to these sources of advice and support only after disclosure and investigation were not being entirely helpful to their employees. However, we would like to make it clear that it is still preferable for employees to seek advice at any stage (including the later ones) than to take no advice at all.

It has to be recognised that employees may wish to get advice and support before raising their concerns with their line manager. For this reason it is important that sources of advice are clearly set out in the whistleblowing policy so that there is no necessity for them to ask anyone about it.

Julie has had her advice. She will clearly be making a “qualifying disclosure” she will be protected by the Public Interest Disclosure Act 1998 so there is nothing stopping her.

Or is there? It would obviously be less hassle not to.

Does she have to do this? How could she explain it to her colleagues if they ever found out?

The National Assembly Government’s response to the Waterhouse Report stated:

*Consideration should be given to requiring failure by a member of staff to report actual or suspected physical or sexual abuse of a child by another member of staff or other person having contact with the child to be made an explicit disciplinary offence.*

*Action: Local authorities to consider their employment contracts and disciplinary procedures.*

Most local authorities use words such as “encourage” and “expect” in their policies about reporting concerns of malpractice but few local authorities had policies that made it clear that it was an employee’s **duty** to report concerns of malpractice although as Powys County Borough Council reported: *‘Any failure by staff to pass on an allegation of child abuse to an appropriate officer may also be considered gross misconduct’.*

However, mistreatment of children and young people can take many forms, such as:

- Unprofessional conduct or conduct below recognised and established standards of practice
- Abuse of power or the use of the powers of a worker’s office for any unauthorised purpose or for personal gain
- Unfair discrimination in the provision of services

These would not be considered to be child abuse, but are clear examples of concerns that should be reported.

We recommend that local authorities amend their documents as necessary to make it clear that it is an employee’s **duty** to report all forms of malpractice.

If employees were to regard this as a duty it would have the added advantage that they could explain to their colleagues (should it be necessary) that they had no choice whether to report malpractice.

Documents that should contain this statement might include:

- The contract of employment
- The Employee's Code of Conduct
- The Whistleblowing Policy
- The Disciplinary Policy
- The Supervision Policy
- The supervisor/supervisee supervision agreement

At her next supervision session, Julie reports the matter to her Team Manager, Amanda.

Amanda listens carefully and records Julie's concerns.

One of Julie's concerns is that her identity is protected so that her colleagues, particularly Mr Blake, is not told who reported the matter.

After Julie leaves, Amanda sits and wonders what to do with this information. She knows only a little about whistleblowing and is unsure where to go next. She reads the policy and sees that the Assistant Director is the Designated Officer for whistleblowing.

Is she supposed to take the matter directly to the Assistant Director?

The appropriate time and place to offer employees the opportunity to share concerns they may have is during individual supervision sessions. It gives employees the feeling that reporting such concerns is not outside of normal office routines.

It has to be noted that supervision procedures are not always adhered to as strictly as they might be as The Laming Report notes:

*4.44.....If Ms L... had any concerns about her management of the case, which she undoubtedly did, supervision would have provided the opportunity for her to air those concerns with her team and line manager. But as Ms L... admitted, supervision arrangements with Ms S... were a bit "ad hoc" and at least initially were not "adequate".*

The Victoria Climbié Inquiry - Report of an Inquiry by Lord Laming, January 2003

However, when concerns are about the malpractice of someone who may well be out of the supervisor's department, supervisors may well feel the need for some guidance. This is arguably the weakest link in the whistleblowing process.

Is it necessary for all supervisors to undergo training in handling whistleblowers? This is one option but it could be a time-consuming and expensive one.

We suggest that the easiest option is to include a standard question in supervision forms that offers employees the opportunity to raise such concerns. Supervisors can

then be instructed to take any response to this question and discuss it directly with the Designated Officer.

Two local authority social services, Monmouthshire County Council and Carmarthenshire County Council, have indicated that they intend to adopt this approach.

One of the questions that Julie needed answered by the supervisor was whether her identity would be protected. It has to be recognised that, following an investigation, police action may be required and the whistleblower may be required to give evidence in court. However, in other respects, everything should be done to protect the identity of the whistleblower. Such a statement could well form a part of the standard question in supervision.

Amanda takes the matter to the Designated Officer.

The Designated Officer listens carefully and takes notes reassuring Amanda that she was right to bring the matter to his attention. He tells her he will initiate an investigation and keep both her and Julie informed of the progress and outcome.

What does the Designated Officer need to consider?

Dealing with whistleblowing and issues of malpractice is very different to investigating a complaint. Designated Officers will need to pay great attention to the need to protect the identity of the whistleblower and will need to carefully instruct any Investigating Officer they appoint to do likewise.

They will also need to be conversant with the Public Interest Disclosure Act 1998 and have procedures in place to allow for reporting the progress of the investigation to the whistleblower.

Unless whistleblowers are kept informed, they may well feel that their concerns are not being taken seriously and decide to make a wider disclosure. Such a disclosure would inevitably damage the reputation of the department concerned.

The Designated Officer is not just there to investigate malpractice – his role in reassuring employees and giving them correct advice is equally important. Employees who do not follow proper procedures in whistleblowing are in danger of losing the protection of the Public Interest Disclosure Act 1998. Employers have a duty of care towards their employees to give them correct advice.

For these reasons it is **essential** that Designated Officers receive training in dealing with whistleblowers and the operation of the Public Interest Disclosure Act 1998.

One of the Designated Officer's first tasks after receiving training should be to review the whistleblowing policy and ensure that it is practical for their department.

Three local authorities, Carmarthenshire County Council, Torfaen County Borough Council and Ceredigion County Council have provided training for their Designated Officers.

Some sources of training are given in Appendix 2.

The investigation takes place and the Investigating Officer reports back to the Designated Officer.

There is no evidence that Mr Blake was stealing meat from the home. It is clear that no further action could be taken on that aspect of Julie's concerns.

However, it had become clear that Mr Blake's treatment of Dai could be characterised as falling within several of the following:

Malpractice or ill treatment of a patient/client/customer by a member of staff

A breach of any statutory code of practice

Unprofessional conduct or conduct below recognised and established standards of practice

Breach of or failure to implement or comply with any relevant standing orders or policies

Abuse of power or the use of the powers of a worker's office for any unauthorised purpose or for personal gain

Unfair discrimination in the provision of services

The Designated Officer reports to the Director who decides to take disciplinary action against Mr Blake.

The Designated Officer reports to Amanda and Julie and asks Julie to let Dai know what has been decided.

Reporting back to the whistleblower is a very important step in the process and should happen as soon as possible after the investigation has been concluded. The whistleblower will be reassured that their concerns have been taken seriously.

However, although it may be appropriate to tell the whistleblower that disciplinary action has been taken it is important that no specific details are disclosed that would contravene the confidentiality that Mr Blake can reasonably expect from his employer.

Julie is happy that steps have been taken to ensure that Dai will not be persecuted by Mr Blake but not happy that he seems to have "got away" with the stealing of meat.

The Designated Officer advises Julie that if she is not happy with the way her concerns have been dealt with in the department she has the right to take her concerns to prescribed regulators and gives her their contact details.

A full list of prescribed persons and the matters in respect of which they are prescribed is available from the DTI website: <http://www.dti.gov.uk/er/individual/pidguide-pl502.htm#app1>

An edited list of the prescribed persons likely to be needed by social workers in Wales is attached in Appendix 1 of this guidance.

The Children's Commissioner for Wales has recently been added to the list of prescribed persons.

Julie decides not to go to the prescribed regulator but wonders whether it would be worth going to the media with her concerns.

Should she approach the local newspaper and tell them the story?

This would be unwise. Whilst the Public Interest Disclosure Act 1998 provides protection from victimisation for employees who make qualifying disclosures, there are strict guidelines that need to be followed to ensure that disclosures do qualify.

The DTI website (<http://www.dti.gov.uk/er/individual/pidguide-pl502.htm#sec3>) states: *A qualifying disclosure will be a protected disclosure if the following conditions are met: Firstly, the worker must:-*

- *make the disclosure in good faith*
- *reasonably believe that the information, and any allegation contained in it, are substantially true, and*
- ***not** act for personal gain.*

*In addition, one or more of the following conditions must be met:*

- *the worker reasonably believed that he would be subjected to a detriment by his employer if disclosure were to be made to the employer or to a prescribed person;*
- *in the absence of an appropriate prescribed person, the worker reasonably believed that disclosure to the employer would result in the destruction or concealment of information about the wrongdoing;*
- *the worker had previously disclosed substantially the same information to his employer or to a prescribed person.*

Since there is a prescribed person that Julia could approach, her disclosure would probably not be protected if she were to omit to disclose to them and went directly to the media.

However, it has to be recognised that employees are not prevented from approaching the media. Local authorities cannot impose “gagging” clauses in their contracts with employees.

Since the enactment of the Public Interest Disclosure Act 1998, any existing provision in an agreement between a worker and his employer which would prevent the worker from making disclosures protected by the new provisions is void.

Julie decides, in the end, not to take the matter any further. She arranges to meet with Dai and let him know what has been done and what the outcome was.

There are clearly tensions between providing children and young people with information and ensuring that any investigation is not impeded nor the whistleblower's identity revealed. The Designated Officer will need to consider very carefully the best time to keep the young person who was the subject of concerns informed. Whether the Designated Officer does this or delegates the task to someone who is more familiar to the child or young person will depend on individual circumstances.

Having investigated Julie's concerns and reported back to her, taken the necessary action and arranged that Dai is informed of the outcome, the Designated Officer reflects on the lessons that could be learned.

The fact that no evidence could be collected about the package of meat suggests there is a need for tightening up record keeping at the unit.

Julie had said that deciding to blow the whistle was difficult – does the department need to circulate leaflets about whistleblowing or is there some other way to make it easier for staff?

In much the same way as information about complaints is intended to influence the development of practice, policy and planning, so too should information arising from concerns raised by whistleblowers.

There will, obviously, be a continuing need to protect the identity of the whistleblower but this should not preclude the lessons learnt from informing the development of practice, policy and planning.

Local authority social services will need to reflect on how this process can be achieved.

And they all lived happily ever after.....

Dai did well at school , and went to university where he studied forensic science.

Julie recently became the Designated Officer for her department and is busy revising their whistleblowing policy.

The years of culinary experimentation finally paid off for Mr Blake, following the spectacular success of his recipe for Hungarian Goulash, he is now a famous TV chef.

## Appendix 1

### EDITED LIST OF PRESCRIBED PERSONS

The complete list contains reference to many agencies which operate in Scotland only as well as Agencies such as the Civil Aviation Authority which social services employees are unlikely to need to contact.

**Local authorities are advised to consult the complete list and decide for themselves which prescribed persons are relevant for their employees.**

This available from: <http://www.dti.gov.uk/er/individual/pidguide-pl502.htm#sec3>

#### **Audit Commission for England and Wales (including auditors appointed by the Commission)**

Matters in respect of which the person is prescribed:

- The proper conduct of public business, value for money, fraud and corruption in local government, and health service, bodies

#### **Certification Officer**

Matters in respect of which the person is prescribed:

- Fraud, and other irregularities, relating to the financial affairs of trade unions and employers' associations

#### **Charity Commissioners for England and Wales**

Matters in respect of which the person is prescribed:

- The proper administration of charities and of funds given or held for charitable purposes

#### **Chief Executive of the Criminal Cases Review Commission**

Matters in respect of which the person is prescribed:

- Actual or potential miscarriages of justice

#### **Children's Commissioner for Wales**

Matters in respect of which the person is prescribed:

- Matters relating to the rights and welfare of children

#### **The competent authority under Part IV of the Financial Services Act 1986**

Matters in respect of which the person is prescribed:

- The listing of securities on a stock exchange; prospectuses on offers of transferable securities to the public

#### **Her Majesty's Commissioners of Customs and Excise**

Matters in respect of which the person is prescribed:

- Value added tax, insurance premium tax, excise duties and landfill tax. The import and export of prohibited or restricted goods

#### **Her Majesty's Commissioners of the Inland Revenue**

Matters in respect of which the person is prescribed:

- Income tax, corporation tax, capital gains tax, petroleum revenue tax, inheritance tax, stamp duties, national insurance contributions, statutory maternity pay and statutory sick pay

### **Comptroller and Auditor General of the National Audit Office**

Matters in respect of which the person is prescribed:

- The proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally funded public services

### **Auditor General for Wales**

Matters in respect of which the person is prescribed:

- The proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services

### **Data Protection Registrar**

Matters in respect of which the person is prescribed:

- Compliance with the requirements of legislation relating to data protection\*

(\*Data protection legislation regulates the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information)

### **The Director of the Serious Fraud Office**

Matters in respect of which the person is prescribed:

- Serious or complex fraud

### **The Environment Agency**

Matters in respect of which the person is prescribed:

- Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment including those relating to pollution, abstraction of water, flooding, the flow of rivers, inland fisheries and migratory salmon or trout

### **Financial Services Authority**

Matters in respect of which the person is prescribed:

- The carrying on of investment business or of insurance business. The operation of banks and building societies, deposit-taking businesses and wholesale money market regimes. The operation of friendly societies, benevolent societies, working men's clubs, specially authorised societies and industrial and provident societies. The functioning of financial markets, investment exchanges and clearing houses. The functioning of other financial regulators. Money laundering, financial crime, and other serious financial misconduct, in connection with activities regulated by the Financial Services Authority

### **Health and Safety Executive**

Matters in respect of which the person is prescribed:

- Matters which may affect the health or safety of any individual at work; matters which may affect the health and safety of any member of the public arising out of, or in connection with, the activities of persons at work

### **Local authorities**

The local authority which under section 18 of the Health and Safety at Work etc Act 1974 is responsible for the enforcement of the relevant statutory provisions

Matters in respect of which the person is prescribed:

- Matters which may affect the health or safety of any individual at work; matters which may affect the health and safety of any member of the public arising out of, or in connection with, the activities of persons at work

### **The Occupational Pensions Regulatory Authority**

Matters in respect of which the person is prescribed:

- Matters relating to occupational pension schemes and other private pension arrangements

**Secretary of State for Trade and Industry**

Matters in respect of which the person is prescribed:

- Fraud and other misconduct in relation to companies, investment business, insurance business, or multi-level marketing schemes (and similar trading schemes); insider dealing

## Appendix 2

### Sources of training

The following sources of information and training have been included for information. This does not constitute recommendation or the endorsement of the Children's Commissioner for Wales.

#### Better Governance Forum Events

They have recently organised a series of seminars on whistleblowing.

Notes from their website:

##### Workshops and Seminars

For more information about Better Governance Events in England, Scotland and Wales, please contact Sandra Moss on 01245 400 255, or email [Sandra.Moss@ipf.co.uk](mailto:Sandra.Moss@ipf.co.uk)  
<http://www.ipf.co.uk/Governance/events/default.asp>

#### Quorum Training

Notes from their website:

##### Developing and Running Whistleblowing Policies

Organiser Quorum Training

Start date 08 Apr 03

Duration 1 days

Venue Tavistock House, Tavistock Square, London

Country United Kingdom

Type Training Course

Price GBP 490.00

Description The aims of this course are to appreciate the benefits of being proactive in developing a corporate approach to whistleblowing, to pass on practical advice on how to develop and implement a policy and to understand the law relating to whistleblowing.

Email [courses@quorumtraining.com](mailto:courses@quorumtraining.com)

URL <http://www.quorumtraining.co.uk>

#### Public Concern at Work

Notes from their website:

##### Whistleblowing: Implementing a policy

Aimed at senior managers, this provides an introduction to the legislation, an explanation of why whistleblowing procedures are important and advice on how the organisation should go about the process of introducing a policy.

**Whistleblowing: Handling the whistleblower**

This course gives practical hands-on training for staff who have been appointed as 'designated officers'. As well as providing a background to the legislation, this course makes use of case studies and role play to provide the skills required to respond to concerns and handle them effectively.

The cost of our training is based on hourly charges of £250 (excluding VAT). Fixed fees are negotiable. If you take a three year subscription to our helpline, you can claim a 25% discount on our training and other services.

To discuss your requirements, please contact us on 020 7404 6609 or email [services@pcaw.co.uk](mailto:services@pcaw.co.uk)

## Appendix 3

### **Extracts from Guidelines for *Social Services Staff on Confidential reporting* published by local authority social services in Blaenau Gwent**

This is a large document - only those sections which offer guidance to staff have been reproduced below.

#### **11. Advice for Staff Raising a Concern**

Social Services acknowledges the difficult choice a member of staff may have to make in raising a concern.

As the issues that prompt the concern are likely to be complex, how the member of staff proceeds with his or her concern will vary from situation to situation. The following advice is recommended if a member of staff wishes to make a disclosure:

- make any objections to illegal, unsafe or unethical practices promptly so as to avoid any misinterpretation of the motives for doing so;
- focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- be accurate in his/her observations and claims and keep formal records documenting relevant events.
- Members of staff may also wish to seek independent legal advice.

#### **13. Checklist for Staff Considering Making a Disclosure**

Questions to ask yourself:

- Is the situation serious enough to warrant confidential reporting?
- Do you have enough facts, and do you properly understand their significance?
- What is your responsibility?
- What are the chances for success?
- What is the best way to blow the whistle?
- To whom should the information be revealed?
- How much information should be revealed?
- Do you have evidence?
- Is there a policy you can refer to?
- Are there others who have evidence or are witnesses?
- Do you have the evidence in your possession? Are you supposed to have it?
- How far will claims about its confidentiality carry weight?
- Are you keeping a diary of events?
- Are you keeping copies of all relevant documents in a safe and accessible place?
- Is there material in which the police or similar agencies would be interested?
- Have colleagues expressed similar concerns in the past?
- Will colleagues help you to put the concern in writing?
- Has the concern been raised informally with colleagues and/or management?
- Could you raise it at a team meeting?

- Do you have an idea of which colleagues will oppose you, and which will sit on the fence and do any colleagues have informal influence they could exert?

A member of staff considering making a disclosure should consider the following:

- Stick to the key issues.
- Do not go on a crusade.
- Do not engage in personal attacks.
- Have a plan of action and stick to it.
- Make sure you have your facts right.
- Don't exaggerate or lie.
- Talk to the people you work with.
- Avoid hurt to innocent parties.
- Don't make it personal.
- Choose the proper time.
- Tell the most appropriate party (someone who is also responsible).
- Make a clear, well-informed, balanced and non-emotive presentation of your concern in writing.