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Whistleblowing Policy

1 Introduction

1.1 Metro is committed to the highest standards of openness, probity and accountability. In line with that commitment, we encourage Metro employees and those of firms contracted by us, who have serious concerns about any aspect of Metro's work, to come forward and report those concerns (whistleblowing). This Policy makes it clear that workers can do so without fear of reprisals. The Policy is intended to encourage and enable employees of Metro and its contractors, to raise serious concerns within Metro.

1.2 The policy reflects the Public Interest Disclosure Act 1998 (the Act), which protects workers from dismissal or victimisation if they disclose information about wrongdoing by their employer or their colleagues providing:

- the information is disclosed in good faith;
- it is believed to be substantially true;
- the worker does not act maliciously or make false allegations;
- the worker does not seek any personal gain.

Furthermore workers also have statutory protection against victimisation if they then report the matter externally.

1.3 The Policy sets out the procedure to follow to raise a concern and the safeguards available. The Policy also recognises there are specific circumstances where an individual has the right to raise concerns externally.

2 What is the protection given by the Act?

2.1 The Act protects disclosures of information relating to the following types of wrongdoing:

- a criminal offence;
- a failure to comply with a legal obligation (e.g. a breach of a statutory duty, a breach of contract or negligence);
- a miscarriage of justice;
- danger to the health and safety of any individual (not just a fellow worker);
- damage to the environment;
- the deliberate concealment of information tending to show any of the above.

2.2 The worker making the disclosure must have a reasonable belief in the truth of the allegation.

2.3 Disclosures may be protected even if the information is confidential or even if the worker's employment contract says that they are not.

3 What action can you take?

3.1 Metro wants its employees and those of its contractors to have the confidence to make disclosures internally and to achieve that a Disclosure Procedure is set out in Appendix A to this document. To qualify for protection under the Act, disclosures made in accordance with Appendix A need only to be made in good faith.

3.2 Metro also recognises a worker's lawful right to make wider disclosures externally to prescribed persons. Appendix B contains a list of the prescribed persons and a summary of the circumstances in which you would then have protection. You should note that normally additional tests have to be satisfied to qualify for protection if these wider disclosures are made and that, in particular, regard may be had to whether you first raised the matter internally.

4 What protection do you receive?

4.1 If you make a disclosure that is protected by the Act and are then victimised because of your actions then you can make a claim for compensation to an Employment Tribunal. If you are dismissed from your employment because you made a protected disclosure, that would be an unfair dismissal under the Employment Rights Act 1996.

4.2 If you make a disclosure that is not protected, either because it does not fall into one of the categories listed in paragraph 2.1 above or because you have not followed the correct procedures, then you will lose the protection and might be subject to disciplinary proceedings. However, there is no risk of this happening if you make the disclosure in good faith and restrict it to those persons listed in Appendix A.

5 Review of the Policy

The operation of this Policy will be monitored and subject to review. If there are any questions over the application of this policy then please contact the Secretary and Solicitor.

APPENDIX A

Metro's Disclosure Procedure

1 Metro has introduced this Procedure for the following reasons:

- to ensure that employees of Metro and its contractors are aware of the protection that they have under the Act;
- to demonstrate a clear commitment by Metro's Executive Board that wrongdoing is taken seriously within Metro;
- to provide an opportunity for employees of Metro and its contractors to raise any concerns that they have outside the line management structure;
- to give an indication of the proper way in which concerns may be raised outside Metro if appropriate;
- to inform employees of Metro and its contractors of the penalties for making false allegations.

2 You will be protected if you make a qualifying disclosure to your line manager or the head of your department or section.

3 You will also be protected if you make a qualifying disclosure to any of the following persons in Metro:

- Director General;
- Director, Corporate Services;
- Director, Passenger Services;
- Secretary and Solicitor;
- Assistant Director, Finance;
- Assistant Director, Corporate Development;
- The Internal Auditor.
- The Monitoring Officer (ITA matters)

4 If you approach a manager or one of those listed above in accordance with this procedure, they will tell you the action they intend to take and confirm this in writing to you.

5 As far as possible, your concerns will be treated as confidential, although if any formal investigation is commenced it might be necessary for you to attend a hearing and/or to make a statement.

6 Metro will ensure that your concerns are taken seriously and will take all reasonable steps to ensure that you do not experience any difficulties as a result of your disclosures.

7 Subject to any legal constraints, you will be informed of the outcome of any investigation.

APPENDIX B

Wider External Disclosures

1 Disclosure to a legal adviser - you can make a disclosure in the course of seeking legal advice even if it is not made in good faith.

2 Disclosure to a prescribed person - a number of persons have been prescribed by the Secretary of State. A full list can be obtained from the Secretary and Solicitor or the Internal Auditor, but those most likely to be of relevance to Metro staff are:

- Audit Commission for England and Wales and the District Auditor in respect of disclosures relating to the proper conduct of public business, value for money, and fraud and corruption;
- Information Commissioner for disclosures relating to compliance with data protection and freedom of information legislation;
- Environment Agency in respect of environmental matters;
- Health and Safety Executive in respect of disclosures relating to matters which may affect the health or safety of any individual at work or the health and safety of any member of the public arising out of activities of persons at work;
- Rail Regulator in respect of the provision and supply of railway services.

Workers should be aware that disclosures to a prescribed person must not only be made in good faith, but the person making the disclosure must reasonably believe that it is substantially true.

3 Disclosure in other cases - in certain circumstances you will be protected if you make a disclosure to someone other than Metro, your legal adviser or a prescribed person. However, the rules relating to these wider disclosures are more strict. In order to qualify for protection, you must not only do so in good faith and with a reasonable belief in the truth of the allegations, but must also:

- not do so for personal gain (e.g. disclosure to a newspaper in return for a payment would not be protected);
- have already made a disclosure of substantially the same information to Metro or to a prescribed person unless you reasonably believe that you will be subject to detriment for doing so or, if there is no prescribed person, that Metro would destroy or conceal evidence;
- do so only if it is reasonable in all the circumstances having regard, in particular, to the person to whom the disclosure is made (e.g. disclosure to the police or an MP is more likely to be protected than disclosure to the press); the seriousness of the matter; whether the failure is continuing or is likely to recur; whether the disclosure breaches a duty of confidentiality to any other person; whether the employer or a prescribed person has taken appropriate action; and whether you have complied with the Metro's Disclosure Procedure.

4 Disclosures of an exceptionally serious nature - disclosures about exceptionally serious wrongdoing will be protected provided that you do so in good faith and reasonably believe the allegations to be true, do not act for personal gain and, in all the circumstances, it is reasonable to make the disclosure having particular regard to the person to whom you make the disclosure.
