



# Regulatory Whistleblowing Policy



Version (1) of the Regulatory Whistleblowing Policy was approved on 19 July 2018. A previous Interim version of this policy was published in September 2017.

Qualifications Wales will aim to review this document every three years. Feedback on this policy is welcomed at any time. Please send any comments to [policy@qualificationswales.org](mailto:policy@qualificationswales.org).

## Introduction

1. We encourage anyone who has concerns about the qualification system in Wales to bring these concerns to our attention. This include specific complaints but also general concerns and information. We use the information we receive to inform our work, including how we monitor and regulate recognised awarding bodies.
2. If you report some form of wrongdoing that you became aware of through your work, this is called 'Whistleblowing'<sup>1</sup>. You will be able to raise these issues with us without notifying your employer and in some cases, have legal protection in doing so.
3. This policy provides a clear and transparent approach for any whistleblower disclosing a matter to us. The aim of the policy is to:
  - provide clarity on what we mean by a whistleblower;
  - explain the type of disclosures that fall within the scope of this policy; and
  - outline the process we will follow when handling whistleblower disclosures.

## Who is a whistleblower?

4. If you have a concern that you wish to raise with us, then there are broadly two policies that can come into play. These are the Regulatory Whistleblowing Policy and our [Complaints About Awarding Bodies Policy](#).
5. The definition of a whistleblower is any worker working on behalf of:
  - i. an awarding body regulated by us (an 'awarding body');
  - ii. a Centre in Wales offering qualifications that are regulated by us (a 'Centre'<sup>2</sup>); or
  - iii. a worker of any organisation involved with the development or awarding of a qualification relating to an awarding body we regulate.

and who wishes to make a disclosure, based on evidence that has been discovered as a part of their work.

6. If you have a concern or a complaint about an awarding body, a centre or a qualification offered in Wales but are not a worker of the awarding body, centre or relevant

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<sup>1</sup> Further information on Whistleblowing may also be found at <https://www.gov.uk/whistleblowing/what-is-a-whistleblower>

<sup>2</sup> In this policy 'Centres' refers to locations where learners study and assessments are held. This includes schools, colleges and work-based learning providers.

organisation, you will not be classed as a whistleblower. Please refer to our [Complaints About Awarding Bodies Policy](#) for a description of how to make such a complaint, and the actions we will take to investigate and resolve the issue.

### **Protected disclosures**

7. Certain types of disclosures are entitled to legal protection. To receive this protection, disclosures must meet the criteria for 'qualifying disclosures' under the [Public Interest Disclosure Act 1998](#).
8. We cannot provide legal advice on such circumstances. It is for the worker making the disclosure to seek information and / or legal advice should they wish to clarify their position in such circumstances. As a starting point, workers may wish to explore the [Public Concern at Work](#) website.

### **Confidentiality and anonymity**

9. We will respect the confidentiality of any personal information you provide to us. Where it is necessary to transfer any personal details to third parties, we will contact you before doing so. As a public body, all written information that we hold is subject to Freedom of Information requests, however we will pay regard to the Data Protection Act and EU General Data Protection Regulation before disclosing any personal information. Please see our [Privacy notice for Complaints, EPRS and Whistleblowing](#) for information about how we will process your personal data and your rights as data subject.
10. There may be circumstances where, in order for us to progress the case effectively, the whistleblower's identity could become apparent or disclosed. If such a circumstance were to arise, we would contact the whistleblower to seek their consent in advance. If consent was not given, then we would explain that we would not be able to progress their disclosure.
11. In the case of an anonymous whistleblower we will endeavour to deal with the disclosure; however, in such circumstances, our investigations, actions and ability to respond to whistleblowers may be limited due to the anonymity of the source.

### **What disclosures fall within the scope of this policy**

12. We will accept disclosures:
  - i. which relate to the design, assessment, award or certification of a regulated qualification by a recognised awarding body;

- ii. which relates to an awarding body's failure to comply with our regulatory requirements, including malpractice and maladministration, conflicts of interest or incident reporting;
  - iii. if the qualification that is the focus of the disclosure is being assessed in Wales, or, if that qualification is being assessed elsewhere but is likely to result in adverse effects for learners in Wales; and/ or
  - iv. if they are received in writing by us no later than 12 months after the date on which the incident that is the subject or cause of the disclosure occurred.
13. Our regulatory requirements for recognised awarding bodies are set out in our regulatory documents. All awarding bodies are subject to compliance with our [Standard Conditions of Recognition](#), and some awarding bodies may be subject to additional regulatory requirements, depending on the qualifications that they make available. A list of our regulatory documents can be found in our [Regulatory Documents List](#).
14. If you disclose information to us relating to the practices of a Centre, we may ask the relevant awarding body to investigate if it is about a Centre which delivers their qualification.

### How to make a disclosure to us

15. If you wish to make a disclosure, please email [report@qualificationswales.org](mailto:report@qualificationswales.org), or write to us at:

Qualifications Wales  
Q2 Building  
Pencarn Lane  
Imperial Park  
Coedkernew  
Newport  
NP10 8AR

You should include as much information as possible within your disclosure to enable us to act effectively. Information we would welcome includes:

- saying that you are making a whistleblowing disclosure;
- what you are disclosing;
- where it happened;
- when it happened;
- who was involved and / or affected;
- any outcomes you would like to see from your disclosure; and
- supporting evidence.

The better the information provided to us, the more able we will be to investigate effectively. We will only be able to consider disclosures where we are able to identify the relevant awarding body and/or regulated qualification that is the subject of the disclosure, where this applies.

16. You may submit a complaint to us in English or in Welsh, and you will receive a response in the language used in your communication with us unless you advise us otherwise.

### **Disclosure handling process**

17. When we receive a disclosure, we will aim to send an acknowledgement within five working days of having received it, where we have been provided with contact details.
18. We will then follow a two-stage process, where appropriate, which is outlined below.

#### Initial Assessment

19. We will conduct an initial assessment of the matters raised to confirm whether the disclosure is one that we have the powers to deal with and are within the scope of this policy.
20. Where we determine that the disclosure is not within the scope of this policy, we will inform the whistleblower of the decision not to take the disclosure forward. Where we determine that the disclosure is in scope, we will proceed to investigate the disclosure.
21. We will aim to complete an initial assessment within ten working days of the date of our acknowledgement letter/email.

#### Full investigation

22. Where we determine from our initial assessment that the disclosure is one that we will and are able to deal with, we will write to the whistleblower confirming this and then will carry out a full investigation.
23. We will aim to complete our investigation within 20 working days. (This is in addition to the time taken for the initial assessment). If we are unable to meet this deadline, we will, within that period, provide the whistleblower with reasons and an anticipated timescale within which we aim to provide a fuller response (when the contact details of the whistleblower are available to us).
24. We may conclude or resolve any outstanding issues during the course of addressing or investigating the disclosure, or we may take regulatory action if our investigation

concludes that the awarding body has failed to comply with any relevant regulation. For further information on possible actions we could take, please consider [Taking Action When Things Go Wrong](#).

25. Where we have contact details for the whistleblower who has made the disclosure, we will notify them of the outcome of our investigation.
26. We may pause or stop an investigation where there is a possibility of legal, criminal or civil proceedings and may refer the matter to the appropriate bodies, such as the police and/or Crown Prosecution Service, where appropriate.
27. If any person makes any public statement during the investigation that could affect the outcome of our investigation or any criminal or civil proceedings, which includes the whistleblower discussing the investigation with their employer, we may pause or stop the investigation.

### **Working with others**

28. We may find that the disclosure is within the remit and/or relevant to the work of another body, such as;
  - Estyn, Her Majesty's Inspectorate for Education and Training in Wales;
  - Ofqual and/or CCEA
  - Education Workforce Council
  - Health and Safety Executive Wales;
  - Police or Crown Prosecution Service;
  - Charity Commission for England and Wales;
  - Welsh Language Commissioner; or
  - Office of the Independent Adjudicator.

In these instances, we may contact the appropriate body, and/ or provide the whistleblower with contact details for such bodies.

### **Action following an investigation**

29. If a whistleblower is unhappy with the outcome of our investigation into their disclosure then they may request an internal review of our decision. Disagreement with a decision taken by Qualifications Wales does not automatically provide a right to escalate to the review stage. Requests must be made according to one of the following grounds:

- i. that our decision was not carried out in accordance with relevant policy, regulations, legislation or other information published or communicated by Qualifications Wales;
  - ii. that our decision was based on incomplete or inaccurate evidence, to the extent that it is reasonable to conclude that the decision may have been different; and
  - iii. that there was prejudice or bias by one or more decision maker.
30. Where we deem requests to be unreasonably persistent or vexatious, we will explain this in our response.
31. The internal review of our decision will be undertaken by a reviewer(s) who will not have been involved in the original decision or investigation. The internal review will normally be completed within 30 working days of the request being received and the internal reviewer(s) will provide a written response to the whistleblower or awarding body following its conclusion. This will include their recommendation to either uphold or revise the decision.
32. If a whistleblower is unhappy with the internal review of our decision they can contact the Public Services Ombudsman for Wales. For information about how to make a disclosure, please use the following contact details:
  - Online at <http://www.ombudsman-wales.org.uk/en/Making%20a%20complaint.aspx>
  - By telephone on 0300 790 0203

The Ombudsman has legal powers to consider complaints about public services in Wales and is independent of all government bodies.