

Centre City Tower, 7 Hill Street, Birmingham B5 4UA
21 Bloomsbury Street, London WC1B 3HF

By email

2 September 2020

Freedom of Information Act (FOIA) 2000 - Request For Information

Reference: FOI 202008089

Dear [REDACTED]

Thank you for your request for the following information

Q1 Does your Organisation take action to protect external whistleblowers from unjustified treatment by their employers or others?

Please select one of the below answers if possible –

i. Yes (please explain what action is taken) – Ofwat will follow up the substantive issue(s) raised by the whistleblower, anonymously, if requested to do so by the whistleblower. However, if there is detriment suffered by the whistleblower, as a result of making a disclosure, whether the individual in question will be afforded the protections set out under the Employment Rights Act 1996 will be a matter that falls within the jurisdiction of the Employment Tribunal.

ii. No

iii. Not known

Q2 Does any protection against unjustified treatment provided by your organisation extend to persons reporting on behalf of external whistleblowers?

i. Yes (please explain what action is taken) – Under the Public Interest Disclosure Act 1998 only ‘workers’ are defined as whistleblowers. Our approach (here: <https://www.ofwat.gov.uk/regulated-companies/investigations/ofwat-regulating-the-industry-monitoring-and-casework-whistleblowing-whistleblowing/>) is in line with this legislation.

ii. No

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iii. Not known

Q3 Does any protection extend to proposed or intended unjustified action against an external whistleblower contemplated by his/her employer or another in respect of the disclosure?

i. Yes (please explain what action is taken)

ii. No – Ofwat will follow up the substantive issue raised by the whistleblower anonymously, if requested to do so by the whistleblower. However, if there is detriment, suffered by the whistleblower, as a result of making a disclosure, whether the individual in question will be afforded the protections set out under the Employment Rights Act 1996 will be a matter that falls within the jurisdiction of the Employment Tribunal.

iii. Not known

Q4 Does your organisation offer any reward or bounty for information received from an external whistleblower in respect of information about which you are the prescribed body or person?

i. Yes

ii. No

iii. Not known

Q5 Does your organisation publish for the public a step by step guide on how it follows up on external whistleblower information?

i. Yes – Please see our webpage which sets out our approach: <https://www.ofwat.gov.uk/regulated-companies/investigations/ofwat-regulating-the-industry-monitoring-and-casework-whistleblowing-whistleblowing/>

ii. No

iii. Not known

Q6 Where your organisation does not feel itself to be legally competent to engage with a disclosure made by an external whistleblower, do you have a policy and process to refer that disclosure to another prescribed body/person/regulator or other agency better placed to deal with it?

i. Yes – Please see our webpage which sets out our approach: <https://www.ofwat.gov.uk/regulated-companies/investigations/ofwat-regulating-the-industry-monitoring-and-casework-whistleblowing-whistleblowing/>.

ii. No

iii. Not known

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Q7 Where in the circumstances described in Q6 above, your organisation passes information to another prescribed body etc., do you have a policy and process to advise the external whistleblower that the disclosure has been passed to another body etc?

i. Yes – Please see our webpage which sets out our approach: <https://www.ofwat.gov.uk/regulated-companies/investigations/ofwat-regulating-the-industry-monitoring-and-casework-whistleblowing-whistleblowing/>.

ii. No

iii. Not known

Q8 Where an external whistleblower may be dissatisfied with his/her dealings with your organisation, is there an appeals policy and process which engage someone who is independent of the investigating department?

i. Yes – please see our internal review policy: <https://www.ofwat.gov.uk/wpcontent/uploads/2019/10/G4-Internal-Review-Policy-v1.0.pdf>.

ii. No

iii. Not known

Q9 Does your organisation publish FAQ to advise and assist external whistleblowers considering making a disclosure to you?

i. Yes (please provide the FAQ or direct me to it)

ii. No – though please see our webpage which sets out our approach to whistleblowing: <https://www.ofwat.gov.uk/regulated-companies/investigations/ofwat-regulating-the-industry-monitoring-and-casework-whistleblowing-whistleblowing/>.

iii. Not known

Q10 Does all your staff which communicates with or otherwise manages external whistleblowers receive specialist and on-going training for that purpose?

i. Yes – in that the relevant members of staff attend relevant training courses relevant to complaints handling, enforcement and investigations, including training on whistleblowing.

ii. No

iii. Not known

Q11 Where, following a disclosure to your organisation by an external whistleblower about a matter for which you are prescribed, an alleged act of retaliation occurs against the external whistleblower by the employer or another person, does your organisation investigate the alleged act of retaliation?

i. Yes

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ii. No – See above. It would depend on the facts. Ofwat could follow up the substantive issue raised by the whistleblower, with the employer anonymously, if requested to do so by the whistleblower. If carried out by another person we would consider on the facts.

iii. It would depend on the facts

iv. Not known

Q12 Please describe what criteria you consider in deciding whether to investigate information received from an external whistleblower about a matter in respect of which you are prescribed?

Please see our webpage which sets out our approach to whistleblowing information:

<https://www.ofwat.gov.uk/regulated-companies/investigations/ofwat-regulating-the-industry-monitoring-and-casework-whistleblowing-whistleblowing/>.

Q13 Does your organisation distinguish between public complaints and disclosures from external whistleblowers?

i. Yes (please describe the essential differences in your approach between managing public complaints and external whistleblower disclosures) – in so far as the Employment Rights Act 1996 and the Public Interest Disclosure Act 1998 apply to the second and not the first category of complainants. Nevertheless, we follow up on any public complaint received that we consider has merit and falls within Ofwat's jurisdiction.

ii. No

iii. Not known

Q14 Apart from any information on your website, does your organisation undertake any public awareness programme(s) regarding whistleblowing?

i. Yes (if so please provide details)

ii. No

iii. Not known

Q15 In respect of Article 5(c)(ii), Prescribed Persons (Reports on Disclosures of Information) Regulations 2017, please disclose any and all reports (suitably redacted, where appropriate) which describe how disclosures from workers in other organisations (not your Organisation) have impacted on your Organisation's ability to perform its functions and meet its objectives during the reporting periods 2017 – 18, 2018 – 19, 2019 – 20. – We include the report required under the Regulations in our annual reports. For example, see page 46 of our most recent annual report (2020). See below:

- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727337/ofwat-annual-report-2017-2018.pdf;

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- https://www.ofwat.gov.uk/wp-content/uploads/2020/02/Annual-report-and-accounts-2018_19-Final.pdf;
- https://www.ofwat.gov.uk/wp-content/uploads/2020/07/Water-Services-Regulation-Authority-Ofwat_Annual-report-and-accounts-2019-20.pdf.

We can confirm that we do hold this information and have provided it in blue above.

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or

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Wycliffe House
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Yours sincerely,

[Redacted]

[Redacted]