



## PUBLIC INTEREST DISCLOSURE STATEMENT OF POLICY

### DOCUMENT VERSION CONTROL – GOVERNANCE SCHEME

Date	Author	Version	Status	Reason for Change
	SEStran	1.0	Policy created	Implementation
Oct 2017	SEStran	1.1	Adoption of version control	Implementation

**Upcoming Review: May 2018**

## **1. STATEMENT OF INTENT**

- 1.1. SEStran endorses the principles of Public Life endorsed by the Nolan Committee. A statement of these principles is attached as Appendix 1 to this policy for information.
- 1.2. SEStran undertakes to investigate fully any substantive material allegation of a breach of these standards in its corporate governance or in SEStran's strategic, operational or financial management.
- 1.3. SEStran will normally place in the public domain any formal report into any allegations which are substantiated. It will also advise the individual making an allegation of the action that will be taken to investigate it and of the outcome of such an enquiry.
- 1.4. SEStran recognises the need for an effective means for members of staff, external members of the board, and members of the public to raise matters of public interest related to the quality of the RTPs management and governance. Nevertheless it is also aware that such facilities can be abused and used for potentially malicious purposes.
- 1.5. SEStran also accepts that it has a duty of care to protect members and staff against the potential impact of vexatious or malicious allegations made against them for malicious reasons. Similarly it accepts that it also has a responsibility in these circumstances to protect the RTP's reputation and its interests against such allegations. It may seek redress against any allegations, substantiated to be false, made against members and staff of SEStran.
- 1.6. Issues raised under the terms of SEStran's Public Interest Disclosure Policy shall be investigated as outlined in this document. However, if, at the conclusion of any investigation there is evidence that the allegations have been raised for vexatious or malicious purposes the Partnership Director may consider if appropriate steps should be taken for disciplinary action to deal with the individual(s) involved. Vexatious or malicious allegations to deliberately damage the interests of SEStran or its members and staff will be considered gross misconduct.

## **2. SCOPE OF THE PUBLIC INTEREST DISCLOSURE POLICY**

- 2.1. SEStran's Public Interest Disclosure Policy is designed to enable concerned individuals to indicate their concerns about malpractice related to its governance and management.
- 2.2. SEStran assumes that all of its employees and members will exercise both a duty and responsibility to bring any impropriety to the attention of the appropriate individuals in its structures.

- 2.3. These procedures have not, however, been put in place to hear either individual or collective grievances. SEStran has separate policies and procedures in this respect which must be used for these purposes. Similarly these procedures are not for use to resolve complaints about SEStran services. A Complaints Procedure exists for this purpose. Additionally they may not be used to question policy decisions which have been properly made by its Board which are related to financial, business, academic matters or others issues which arise in the pursuit of its statutory duties.
- 2.4. They are, however, designed to ensure that a member of the public, a member of staff or a member of the Board can raise an issue which shows:
- material breaches of the Board's policies, financial regulations and associated procedures;
  - corruption on behalf of SEStran's staff or a member of its Board;
  - the commission or the likely commission of a criminal offence;
  - a failure or likely failure to comply with legal or statutory obligations;
  - a failure to adhere to policy directives issued by the Scottish Executive or other funding bodies;
  - the occurrence or likely occurrence of a miscarriage of justice;
  - a serious danger to the health and safety of any individual;
  - damage or likely damage to the environment;
  - the improper use of SEStran resources for personal gain or in the interests of relations or associates; and
  - the deliberate concealment of information showing any of the above.
- 2.5. Employees and members are reminded of their obligations to assist SEStran to maintain a healthy and safe working environment. It is expected that they will comply with SEStran's policies and their statutory responsibility in these respects and bring to the Board's attention, within the terms of these policies, any potential hazards to the public, staff or members. Furthermore the Policy may not be used to re-open disciplinary or grievance cases which have been considered fully within the terms of SEStran's Policies in this respect.

### **3. RAISING MATTERS OF CONCERN**

- 3.1. All matters of concern in respect of the scope of this Policy should be forwarded in writing, on a private and confidential basis, to the SEStran Office Manager. These concerns may be made in confidence until such time as SEStran begins to investigate formally any allegations made within the terms of this policy.
- 3.2. In the event that the concern or malpractice relates to the activities or conduct of the Office Manager matters should be raised formally with the Partnership Director.
- 3.3. In the event that the concern involves the collective actions and/or conduct of the Partnership Director and the Office Manager matters should be raised with the Chair
- 3.4. These procedures do not preclude the reference of any competent matter to the Standards Commissioner appointed under the terms of the Ethical Standards legislation. However, it should be noted that these statutory provisions do not relate to the conduct of any of the employees or members of SEStran.

### **4. ADMISSIBILITY OF CONCERNS**

- 4.1. SEStran will, within the terms of this Policy, investigate fully any concerns which are raised formally and in writing. The receipt of all formal allegations will normally be acknowledged in writing by recorded delivery letter or other secure delivery system by the Office Manager. The Office Manager shall advise any individual making an allegation within the terms of this policy of the steps which have been or will be taken to address it. In all cases they shall apprise them, in writing, of the outcome of any investigation at the earliest opportunity.
- 4.2. The Office Manager shall, on receipt of any formal allegation of malpractice:
  - 4.2.1. decide whether or not the matter raised should be dealt with within the terms of this Policy; and
  - 4.2.2. decide whether or not there is a *prima facie* case to be investigated.
- 4.3. The Office Manager may direct an individual or group to raise more appropriately an allegation within the terms of SEStran's grievance or its complaints procedures. [The Partnership Director's decision on all these matters is final].

- 4.4. The Office Manager shall advise the complainant(s) of the reasons for any such decision made in these respects. This should normally be undertaken in no more than ten working days. Individuals may, of course, raise concerns about the appropriateness of decisions made in this respect with Partnership Director
- 4.5. SEStran will not automatically investigate anonymous allegations. The Public Interest Disclosure Act 1998 affords staff and members bringing matters of concern to the attention of the Board considerable legal protection and, in these circumstances, it is expected that all allegations will be attributable. However, the receipt of all anonymous allegations will be formally recorded by the Office Manager and considered by them and the Partnership Director normally within five working days. If in their joint opinion the allegations are credible, material and within the scope of this policy they may authorise a formal investigation within the terms outlined below.
- 4.6. SEStran will take a very serious view about false and malicious allegations made within the terms of this Policy. Such allegations made by a member or an employee will be regarded as gross misconduct and dealt with by means of the existing Code of Conduct for Members and disciplinary procedures. If substantiated such action will normally lead to the dismissal from SEStran.

## **5. INVESTIGATION OF MATTERS OF CONCERN**

- 5.1. On receipt of a formal and competent allegation of impropriety which is within the scope of this Policy or an anonymous allegation which both the Office Manager and the Partnership Director (or, if appropriate, the Chair of the Board if a conflict of interest prohibits the Partnership Director's involvement) believe is worthy of formal consideration the Office Manager will take appropriate action to investigate the matter.
- 5.2. At this stage the Office Manager shall formally advise the individual(s) concerned of any allegation made against them within the terms of this policy about their conduct.
- 5.3. The Office Manager shall, after consulting the Partnership Director (or Chair of the Board if an allegation is related to the Partnership Director), instigate one of the undernoted actions. They shall either:
  - 5.3.1. notify the Police if there is evidence that a criminal act has or may have been or might be committed;
  - 5.3.2. notify SEStran's Internal Auditors if there is evidence of fraud, financial misconduct or other related matters. He/She shall also

normally inform the Chair of the Board's Audit Committee of such a decision;

- 5.3.3.** seek to establish an Ad Hoc committee of the senior Managers (normally excluding the Partnership Director and staff or member representatives on the grounds of conflict of interest) to hold hearings to investigate the matters of concern. This committee shall normally comprise the Chair of the Audit Committee (acting as Chair), 3 Board members and the Office Manager. The Executive Committee (excluding those with potential conflicts of interest) will determine the Committee's remit. Any Ad Hoc Committee shall have the right to seek advice from external sources;
- 5.3.4.** make other appropriate arrangements to establish an independent or external investigation if potential internal conflicts of interest require such action; or
- 5.3.5.** notify the Head of Transport of the Scottish Government if all of the above are precluded
- 5.3.6.** The Partnership Director shall normally be advised, in his/her capacity as Accounting Officer, of any allegation of financial impropriety investigated under paragraph (b) unless the allegations directly concern his/her conduct or actions. If such an allegation directly concerns the Partnership Director's conduct or actions, consideration should, instead, be given by the Office Manager to advising the Head of Transport of the Scottish Executive Accounting Officer.
- 5.4.** If an allegation is made against the Partnership Director, the Chair of the Board may, after discussion with the Office Manager, suspend the Partnership Director on full pay during any investigation if, in the circumstances, such action is appropriate. If allegations are made against members of the Board the Chair may, with the agreement of the Shadow Board, exclude these members from participation in any deliberations of the Board and its standing and ad hoc committees. If an allegation is made against the Chair or the Office Manager the Shadow Board shall make a decision on behalf of SEStran to suspend him/her from all meetings of the Board and its related committees until such time as the matter is resolved.
- 5.5.** The Partnership Director shall have the authority to suspend any member of SEStran against whom a competent allegation has been made normally having first discussed the issue and the appropriateness of such action with the Chair of the Board (or in his absence the Vice Chair) and the Office Manager.

- 5.6. The suspension of any individual will be a neutral act and will not, in any way, impute any presumption of any wrongdoing by that individual. All suspended individuals shall make themselves available at all times during normal working hours to assist SEStran in the conduct of any investigation arranged by the Office Manager or the Scottish Executive.
- 5.7. The Office Manager will, after having initiated such an investigation, bring any formal report (except those relating to financial impropriety) to the attention of the Board. If the matter relates to financial impropriety and SEStran's internal auditors have been involved the report should, instead, be included on the agenda of an appropriate meeting of the Audit Committee for its consideration.
- 5.8. The Partnership Director (as the Accounting Officer) shall, as required by the Scottish Government's Financial Memorandum and related guidance bring any findings related to financial impropriety to the attention of its Chief Executive.
- 5.9. Once a report has been considered the Board (or the Audit Committee in cases of financial impropriety) shall decide what further action might be required within the Board's existing policies. In this respect it shall decide whether or not SEStran should invoke its disciplinary policy or, at this stage, whether it should involve the Police if evidence of a crime has been discovered or if a criminal act is suspended.

Both the Ad Hoc and the Audit Committee shall also be able to initiate further investigations on behalf of SEStran into matters related to issues investigated if appropriate.

- 5.10. In line with SEStran's custom and practice all such reports considered by the Board shall be a matter of public record and be placed in the public domain (unless its members decide otherwise – however any decision *not* to make a report public shall be explained to the entire Board which may, if it does not accept the justification, overturn such a decision at its next scheduled meeting or at a meeting called for this purpose if more than half of the members wish an earlier meeting). Normally only issues of personal confidentiality or a judgement that the publication of such a report would not be in the public interest can be used to justify the non-publication of a report.
- 5.11. SEStran shall retain all documentation related to investigations initiated under this Policy for a minimum period of three years from the date of the conclusion of any investigation.

## **6. REVIEW**

**6.1.** This document will be reviewed annually by SEStran.



## 1. THE SEVEN PRINCIPLES OF PUBLIC LIFE

### 1.1. Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

### 1.2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

### 1.3. Objectivity

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holder of public office should make choices on merit.

### 1.4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### 1.5. Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### 1.6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### 1.7. Leadership

Holders of public office should promote and support these principles by leadership and example.

2. **These principles apply to all aspects of public life. The Nolan Committee has set them out here for the benefit of all who serve the public in any way.**