





# Conduct – Whistleblowing

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## Contents

	01 Introduction	03
	02 Reporting a concern	05
	03 The role of the Nominated Officer	07
	04 Dealing with your concern	08

## 01 Introduction

- 02 Reporting a concern
- 03 The role of the Nominated Officer
- 04 Dealing with your concern

## Introduction

In normal circumstances, you should discuss any concerns you have about your work with your line manager, or where this is not possible, with your line manager's manager.

Where this is not possible and it is appropriate to do so, you may need to consider using the whistleblowing procedure.

### WHAT IS "WHISTLEBLOWING"?

Whistleblowing is the confidential reporting of:

- Allegations that someone has breached the *Conduct policy*
- Instances in which you believe you are being asked to act in a way that conflicts with the standards of behaviour set out in the *Civil Service Code* (the Code)
- Evidence of criminal or unlawful activity by others to the appropriate authorities
- Any security risks or breaches, including information risks or concerns about data handling or information security, which you are uncomfortable reporting openly through the normal incident reporting channels (listed on page 5).

## PUBLIC INTEREST DISCLOSURES

The *Public Interest Disclosures Act 1998* (PIDA) provides protection from detriment, dismissal or redundancy to people disclosing information which they reasonably believe shows that one or more of the following has occurred, is occurring or is likely to occur:

- A criminal offence
- A failure to comply with a legal obligation
- A miscarriage of justice
- The endangering of an individual's health and safety
- Damage to the environment
- Deliberate concealment of information tending to show any of the above.

This guidance provides a process by which the above concerns can be raised within MoJ. You are encouraged to raise issues in the first instance in this way because:

- This is the easiest way for you to obtain legal protection
- It also makes it more likely that a subsequent disclosure to an outside body will be covered by the Act.

## OUR ASSURANCE TO YOU

Ministry of Justice is committed to:

- Seriously considering any concerns you raise with us
- Making sure that you are not penalised unfairly for raising your concerns
- Where necessary, providing you with appropriate support and protection (including, for example, consideration of a move to a different work area, where necessary).

You are also entitled to ask for support from our Corporate Staff Networks and Workplace Support. You might also be able to access support through trade unions.

## UNAUTHORISED DISCLOSURES

'Leaking' confidential information (eg, to the press or other media) is never justified and is inconsistent with your role as a civil servant and your contractual duty of confidentiality. If you are found to have 'leaked' information you will not be protected by the PIDA legislation described above. You are also likely to face disciplinary action which could lead to your dismissal.

## FALSE OR MALICIOUS REPORTS

The whistleblowing procedure is designed to deal with reasonable concerns and to consider reports that you have filed which you reasonably believe to be true. Reports made under the policy must be made in good faith. If you submit a false complaint that is made in bad faith (eg, out of spite or for personal gain) action will normally be taken against you under the *Discipline policy*.

01 Introduction

**02 Reporting a concern**

03 The role of the Nominated Officer

04 Dealing with your concern

## Reporting a concern

### CONFIDENTIALITY

This procedure allows you to raise concerns in confidence.

Your identity will be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and you may need to provide a statement or come forward as a witness. You will be told before any further action is taken if it becomes clear that maintaining confidentiality will be difficult.

### ANONYMITY

You are encouraged to put your name to any report you make. Concerns you raise without giving your name will be considered at the Nominated Officer's discretion but they are more difficult to investigate fully. The factors that the Nominated Officer will take into account in deciding whether to exercise their discretion to investigate concerns raised anonymously are:

- The seriousness of the issue raised
- The credibility of the concern
- The likelihood of being able to validate the allegation.

### REPORTING A CONCERN

You are encouraged to discuss your concern in the first instance with your line manager, another senior manager, or a HR adviser. The whistleblowing procedure (detailed below) should not be used to by-pass the line management chain unless there is a legitimate reason to do so.

You may also seek the advice and support of Workplace Support, a trade union representative or a staff network representative.

If your concern is about the following issues, you or the above contact, should contact the relevant listed contact below:

- Suspected fraud or corruption – either Internal Audit (telephone 020 7217 4599) or, if you are a member of HMCS, Corporate Governance (telephone 020 7334 6735)
- Suspected or potential breach of security – the security team for your business group or agency (if you are unsure consult Corporate Security, telephone 020 7334 6735)
- Information risk which involves personal data – contact Access Rights unless you are a member of NOMS in which case you should contact the Open Government Unit.

## THE WHISTLEBLOWING PROCEDURE

If you do not feel it is appropriate to report your concern to any of the above, or you do not feel that your concern has been properly addressed, you should consider making a report under the whistleblowing procedure by contacting a Nominated Officer.

## NOMINATED OFFICERS

The names and contact details of the nominated officers are listed under *Related information* at <http://intranet/justice/hr/staffconduct/index.htm>.

### Information you should provide when reporting a concern

When reporting your concern you should include the following information:

- The background and history to your concern
- Any relevant dates
- The reason why you are concerned about the situation.

This information is intended to demonstrate that there are reasonable grounds for your concern to be acted upon.

It is not appropriate to report concerns about personal treatment, including harassment, bullying and discrimination using the whistleblowing procedure. The *Grievance policy* should be used in such instances.

If as a line manager you have a matter referred to you which you consider it would be appropriate to deal with under the whistleblowing procedure, you may also consult a Nominated Officer.

- 01 Introduction
- 02 Reporting a concern
- 03 The role of the Nominated Officer**
- 04 Dealing with your concern

## The role of the Nominated Officer

Nominated Officers are managers who are trained to:

- Provide you with support and advice relating to your concern from outside of your management chain
- Help you consider whether the issue you have raised falls under the *Whistleblowing policy*
- Advise you of the appropriate channels available for raising your concern.

You should not approach them in relation to grievances where separate procedures already exist.

When you report a concern to a Nominated Officer they will make initial enquiries in order to decide the appropriate course of action. During their initial enquiries they will consider:

- Whether you have reasonable grounds for believing that wrongdoing has taken place or that you have a genuine issue of conscience over some aspect of your work and that you are acting in good faith
- Whether the matter raised is actually or potentially a criminal matter and should be reported to the police or other enforcement agency

- Whether the matter should be subject to independent investigation under MoJ's misconduct procedure
- Whether the Permanent Secretary needs to be consulted or made aware
- If the matter needs to be reported elsewhere in MoJ (eg, alleged fraud needs to be reported to Internal Assurance or Corporate Governance and allegations relating to the actions of a Minister needs to be reported to the Permanent Secretary)
- Whether the concern is outside the scope of the *Whistleblowing policy* because it is linked to a personal plea or grievance for which a specific internal process is available (which may or may not have been exhausted)
- What the next steps should be.

## MONITORING AND RECORDING

Nominated Officers are required to record all approaches made to them and to make a summary of the allegations or issues in contention. Summaries (with names of individuals who raised the concern removed) will be sent to HR to report to the Office of the Civil Service Commissioner twice a year.



- 01 Introduction
- 02 Reporting a concern
- 03 The role of the Nominated Officer
- 04 Dealing with your concern**

## Dealing with your concern

### STEP ONE

Based on the outcome of their initial enquires, the Nominated Officer will advise how your concern should be taken forward. They will discuss a range of options with you. These may include talking to your line manager or another senior manager and/or contacting HR.

Dealing with your concern may require an internal inquiry or formal investigation. However, some concerns may be resolved by agreed action without the need for an investigation.

If urgent action is required, this will be taken before any investigation is conducted.

### Investigations

You will be told who the investigator will be and how to contact them. You will also be kept informed of the progress of the investigation. In some cases, it may be necessary for an investigation to be carried out by an external organisation (eg, the police or the National Audit Office).

The investigator will:

- Contact the parties involved to establish the facts
- Submit their findings to the person chosen to decide what action should be taken (this may be a senior manager from another business area, the Permanent Secretary, or an independent adjudicator)
- Aim to complete the investigation within one working month subject to other work pressures and the availability of those involved.

It may be necessary for the investigator or the Nominated Officer to meet with you to get more information about your concern. You have the option of the meeting being held away from your workplace.

At this meeting you can be accompanied or represented by either:

- a trade union representative;
- a workplace colleague; or
- a representative from Workplace Support.



## The outcome of an investigation

Wherever possible, the investigator will give you feedback on the outcomes of the investigation so that you can be satisfied that your concerns have been properly addressed. However, in some circumstances this may not be possible (eg, due to legal constraints, or the duty of confidentiality to other parties involved).

The Nominated Officer will check and keep you updated as to progress.

## STEP TWO

After Step One has been completed, if you do not believe that your concern has been satisfactory resolved, you may submit your concerns in writing to the Permanent Secretary.

This should be done as soon as reasonably possible after Step One has been concluded.

## STEP THREE

If you believe that you have still not received a reasonable response to your initial concern after following Steps One and Two, and your report concerns a breach of the *Civil Service Code*, you may refer the matter in writing to the Civil Service Commissioners at:

Office of the Civil Service Commissioners  
3rd floor, 35 Great Smith Street  
London SW1P 3BQ

For further information is available from the Commissioners web site at [www.civilservicecommissioners.gov.uk](http://www.civilservicecommissioners.gov.uk) or by telephone on 020 7276 2604.

If after whistleblowing you have suffered a detriment as a result of making a valid report, you have the right to file a grievance and, ultimately, if you have gone through MoJ's internal procedures, to file a complaint to the Employment Tribunal.

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