

Aim

1. The aim of this policy is to provide staff with a procedure for reporting any unlawful conduct at work and to reassure them that they can feel confident in exposing wrongdoing without any risk to themselves.

Context

2. All of us at one time or another may have concerns about what is happening at work. Usually these concerns can be easily resolved. However, when they are about unlawful conduct, fraud, dangers to the public or the environment, or other malpractice, it can be difficult to know what to do.

3. Many people in this situation worry about reporting their concerns and may feel inclined to keep such concerns to themselves, perhaps because the concern is only a suspicion or it could be described as none of their business. They may not want to feel that they are being disloyal to colleagues, management or to the Department. They may also have concerns about being branded as a trouble maker or even about their own job security or prospects.

[top](#)

Public Interest Disclosure Act 1998

4. The [Public Interest Disclosure Act](#) came into force on 2 July 1999. It enables workers who 'blow the whistle' about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so.

5. The legislation covers workers in the public sector (with some exceptions, eg those who work in the security services) as well as the private sector. For Civil Servants, this legislation needs to be considered alongside the appeals mechanism contained in the [Civil Service Code](#).

What type of disclosure will qualify for protection?

6. A disclosure will qualify for protection ("a qualifying disclosure") if, you reasonably believe, it tends to show one or more of the following has occurred, is occurring or is likely to occur:

- A criminal offence (e.g.: theft and fraud)
- A failure to comply with a legal obligation
- A miscarriage of justice
- Endangering of an individual's health and safety
- Damage to the environment
- Deliberate concealment of information tending to show any of the above

When are disclosures protected?

7. A qualifying disclosure will be protected under the Act when it is made in good faith:

- To your employer
- To a body or person other than your employer *
- To a legal adviser in the course of obtaining legal advice
- To a Minister of the Crown
- To a prescribed body or person, provided that you reasonably believe that the relevant failing falls within matters prescribed to that body or person and that the information is substantially true. For a list of prescribed persons, please refer to the section on [other sources of information](#).

* provided that you reasonably believe that the relevant failure relates solely or mainly to the conduct of that body or person, or relates to a matter over which the body or person has legal responsibility.

Circumstances in which disclosures are not protected

8. The legislation does not introduce a general protection for whistleblowers in all circumstances. Individuals who make disclosures will not be protected by the Act if they commit an offence by making the disclosure ([eg breach of the Official Secrets Act](#))- [please refer to Annex A of this link for a basic guide to the Act]

[top](#)

How to use the DCMS Whistleblowing Procedure

9. The Department's Whistleblowing procedure should be followed if you wish to make a disclosure to your employer. It can be used to report bad practice which threatens the interests of others or the Department. The procedure to follow in order to raise a concern internally is described in the next section.

10. For some instances of possible malpractice, you will need to read this procedure in conjunction with other policies which are already in place. For example, if your concern is about fraud, you should also read the DCMS Fraud policy. The [DCMS Fraud policy](#) sets out your responsibilities regarding both the prevention of fraud and the procedures to be followed where a fraud is detected or suspected. It also explains what fraud is if staff are in doubt. Channels for reporting concerns relating to fraud will normally be as described in the next section of this policy, or depending on the circumstances, as laid down in "Who to report to" in Annex A of the DCMS Fraud Policy.

11. If your concern is regarding the violation of the expected standard of conduct of staff, the following table sets out the other policies with which this policy will need to be read.

Possible examples of bad practice and Policy to be read in conjunction with the DCMS Whistleblowing procedure

- Misuse of information acquired in the course of work - [Confidentiality and the use of official information](#)
- Violation of the Official Secrets Act - [Confidentiality and the use of official information](#)
- Receiving gifts, hospitality or benefits which could compromise an individual's personal judgement or impartiality - [Gifts and Hospitality](#)
- Violation of the Data Protection Act - [Data Protection Act 1998](#)

12. If your concern is one of a personal nature you should follow the Department's [Complaints Procedure](#). If you believe that you are being required to act in a way which is illegal or improper and you want to appeal under the Civil Service Code, you should follow the procedure set out in the [Civil Service Code](#) section.

13. If something is troubling you which you think we should know about, please tell us straight away. We would rather that you raised the matter when it is just a concern rather than wait for proof.

How to raise a concern internally

14. The procedure to follow if you want to raise a concern internally is as follows:

If you have a concern about malpractice, you should raise it first with your **line manager**. This may be done orally or in writing.

If you do not feel able to do so, for whatever reason, please raise the matter with your **Head of Division**, or your **Director** if you suspect that the Head of Division is party to the malpractice.

If you do not wish to use your Divisional 'chain of command', or alternatively, if you are a line manager to whom an issue has been reported, you can raise the matter with the **Head of Personnel and Central Services Division; the Head of Finance; or Head of Internal Audit**.

Please say if you want to raise the matter in confidence so that appropriate arrangements can be made.

If these channels have been followed and you still have concerns, or if you feel that the issue is so serious that you cannot discuss it with any of the above, you can raise the matter directly with the Permanent Secretary.

Our Assurances to you

15. The Department will not tolerate the harassment or victimisation of anyone who raises a genuine concern under this policy. Provided you are acting in good faith, it does not matter if it later transpires that you were mistaken; you will not be subject to disciplinary action as a result.

16. Of course, this assurance does not extend to someone who maliciously raises a matter they know is untrue. Disciplinary action may be taken against staff who deliberately make false allegations.

[top](#)

Confidentiality

17. The Department recognises that you may want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. However, in some circumstances, this may make it more difficult to fully investigate the matter. If the situation arises where we are not able to resolve the concern without revealing your identity, we will discuss with you how we can proceed.

Anonymity

18. Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter or to protect your position or to give you feedback. Accordingly, while we will consider anonymous reports, this policy is not designed to deal with concerns raised anonymously.

How we will handle the matter

19. Once you have told us of your concern, we will look into it to assess initially what action should be taken. You may be asked how you think the matter might best be resolved.

20. If you request, we will write to you summarising your concern and setting out how we propose to handle it. We will tell you who is dealing with the matter, how you can contact him/her and whether your further assistance may be needed.

21. It may be decided that a formal investigation is necessary; in most cases this will be the responsibility of the Head of Personnel and Central Services Division.

22. We will give you as much feedback as we properly can, and if requested, we will confirm our response to you in writing. However, we may not be able to tell you the precise action we take, where this would infringe a duty of confidence owed by us to someone else.

[top](#)

If you are dissatisfied

23. If you are unhappy with our response or with the outcome of the investigation, under the Civil Service Code you may report the matter to the Civil Service Commissioners. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly.

24. For further guidance on how to appeal under the Civil Service Code please refer to the [Civil Service Code](#) section.

Independent advice

25. If after reading this policy, you are unsure whether to use this procedure or you want advice at any stage, you may contact your Departmental trade union representative. A qualifying disclosure will be protected if you make it to your Departmental trade union representative, but only if any formal action you subsequently take under the Public Interest Disclosure Act is in line with the procedure outlined at paragraph 14.

26. Alternatively, you may obtain legal advice, independently, through Public Concern at Work. This is an independent charity and is a leading authority on public interest whistleblowing. They can be contacted on 020 7404 6609 and their web address is <http://www.pcaw.demon.co.uk/>

27. A qualifying disclosure is protected if you make it in the course of obtaining legal advice. When preparing to seek legal advice you should be careful only to give details of the information you propose to disclose *to your legal adviser*. Otherwise there may be a risk that you will make a disclosure that will not be protected by the Public Interest Disclosure Act. Do not make a disclosure over a help-line, use one only to seek an appointment with a legal adviser.

Other sources of information

28. Other sources of information include:

The [Directory of Civil Service Guidance \(section on Whistleblowing\)](#); and;

The [DTI Guide to the Public Interest Disclosure Act](#) (a short employment relations booklet which includes a list of prescribed persons and their areas of responsibility)