

Whistleblowing Policy

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Introduction and Scope

1. Consumer Scotland is committed to achieving the highest possible standards of service and ethical practice in its activities. For civil servants, these standards are reinforced by the Civil Service Code¹
2. The purpose of this policy is to ensure that Consumer Scotland has procedures in place to enable all those who work with or within the organisation to raise their concerns about wrongdoing at an early stage and in the right way, and how those concerns will be investigated. This includes permanent, temporary and agency staff, contractors, and third parties.
3. An annual submission on whistleblowing will be included as part of the annual report and accounts.
4. Further advice on whistleblowing is available in the:
 - Whistleblowing for employees guide published by gov.uk²
 - Whistleblowing: list of prescribed people and bodies to whom wrongdoing can be reported³

Policy Overview

5. The Public Interest Disclosure Act 1998⁴ enables staff who 'blow the whistle' about any of the instances of wrongdoing set out in the Act to complain to an employment tribunal if they suffer any form of detriment for doing so, or in the case of a dismissal.
6. Alongside the provisions of the Public Interest Disclosure Act 1998, employees have the protections set out in the Civil Service Code (see paragraph 1 and footnote 1).

What is whistleblowing?

7. Making a qualifying disclosure under the Public Interest Disclosure Act 1998 (PIDA) is often called “whistleblowing”. When an individual raises a concern about past, present or imminent issues, or an attempt to cover up those issues it may be regarded as a qualifying disclosure in specific circumstances. The individual must reasonably believe that the disclosure of information is in the public interest and that the information tends to show one or more of the following has been, is being or is likely to occur:
 - A criminal offence, e.g. fraud
 - Someone’s health and safety is in danger
 - Risk or actual damage to the environment
 - A miscarriage of justice
 - Your employer is not complying with the law.

¹ Civil Service Code ([link](#))

² Whistleblowing for employees ([link](#))

³ List of prescribed people and bodies ([link](#))

⁴ Public Interest Disclosure Act 1998 ([link](#))

8. The above list is not exhaustive and what amounts to a qualifying disclosure is fully set out in the PIDA. PIDA protects an individual, who has made a qualifying disclosure, from detriment arising in consequence of the disclosure.
9. This policy provides a process by which the above concerns can be raised within Consumer Scotland. 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
10. The **type of information** being disclosed must fall within the specified criteria above (paragraph 6) and the **manner in which the disclosure is made**, and whom it is made to, must fall within the specified criteria below (paragraph 16).
11. It is important to understand that if by making a disclosure you would commit a criminal offence (for example under the Official Secrets Acts), that disclosure will not be a qualifying disclosure under the Public Interest Disclosure Act.

Categories of concerns that can be raised under this policy

12. Civil Service Code concerns:

- misuse of official position, for example by using information acquired in the course of one's official duties to further one's private interests or those of others
- deceiving or knowingly misleading Ministers, Parliament, or others
- being influenced by improper pressure from others or the prospect of personal gain
- ignoring inconvenient facts or relevant considerations when providing advice or making decisions
- frustrating the implementation of policies once decisions are taken, by declining to take, or abstaining from, actions which flow from those decisions
- acting in a way that unjustifiably favours or discriminates against particular individuals or interests
- acting in a way that is determined by party political considerations, or using official resources for party political purposes
- allowing one's personal political views to determine any advice you give or your actions

13. General concerns - If you are unsure whether your concern is relevant under this policy, it is still important that you raise it so that it can be considered and investigated if appropriate. Further advice is available from your manager or a Nominated Officer (Director of Operations for the purposes of this Policy).

Concerns that you cannot raise under this policy

14. This policy should not be used to raise concerns of a HR or personal nature, for example, complaints relating to a decision by managers, terms and conditions of employment and complaints against ministers. Such concerns should be raised under the relevant alternative policy, for example, CS's Grievance Policy.
15. This policy also does not apply to complaints from a member of the public about the service Consumer Scotland provides. Such complaints will be dealt with under CS's complaint handling process.
16. This policy does not apply to matters of individual conscience where there is no suggestion of wrongdoing by an individual or a directorate but an individual is, for example, required to act in a way which conflicts with a deeply held personal belief.

When are disclosures protected?

17. You qualify for protection under the Act if your disclosure is a qualifying disclosure (under one of the headings listed above in paragraph 7), and is made to one or more of the following:
 - in good faith to Consumer Scotland
 - in good faith, where you reasonably believe that the relevant failure relates solely or mainly to the conduct of a person other than your employer or where the matter is one for which your employer does not have legal responsibility, to that other person
 - to a legal adviser in the course of obtaining legal advice
 - to a person or body prescribed by the Secretary of State (Statutory Instrument 1999 No 1549) ('a prescribed person'), such as the Health and Safety Executive
18. In the case of the final bullet point above you must make the disclosure in good faith and reasonably believe that the information and any allegation in it are substantially true. In addition you must reasonably believe that the matter falls within the description of matters for which the person has been prescribed.
19. Qualifying disclosures will also be protected if they are made other than described above, **provided that** the individual makes the disclosure in good faith, reasonably believes that the information and any allegation contained in it are substantially true, and does not act for personal gain. **One or more of the following conditions must also apply:**
 - the individual reasonably believed that he or she would be victimised if he or she had made the disclosure to the employer or to a prescribed person
 - there was no prescribed person and the individual reasonably believed that disclosure to the employer would result in the destruction or concealment of evidence
 - the individual had already disclosed substantially the same information to the employer or a prescribed person.

20. It must also be **reasonable** for the individual to make the disclosure. In deciding the reasonableness of the disclosure, an employment Tribunal will consider all the circumstances, including:
- the identity of the person to whom the disclosure was made
 - the seriousness of the concern
 - whether the failure is continuing or likely to occur
 - whether the disclosure breached a duty of confidentiality which the employer owed a third party
 - what action has been taken or might reasonably be expected to have been taken if the disclosure was previously made to the employer or a prescribed person
 - whether the worker complied with any approved internal procedures if the disclosure was previously made to the employer
21. A disclosure about an "exceptionally serious" failure made other than described in paragraph 9 ("When are disclosures protected"), will be protected:
- if the individual makes the disclosure in good faith and reasonably believes the information disclosed and any allegation contained in it are substantially true and does not act for personal gain
 - provided that it is reasonable for the individual to make the disclosure, having regard in particular to the identity of the person to whom the disclosure is made.
22. It will be for the employment Tribunals to consider whether any particular failure is "exceptionally serious"; this is a matter of fact, not just an individual's personal belief.

What should I do if I become aware of wrongdoing?

23. If you have a concern about wrongdoing or a breach of the Civil Service Code, in the first instance you should normally report the matter to your immediate line manager. If you feel unable to raise the matter with your **line manager**, you should contact another line manager or a senior member in the management chain.
24. If this does not resolve the issue, or if there is a good reason for not raising a concern within the line management chain, you should report the matter to the **Director of Operations and Partnerships** (acting as the Consumer Scotland's Nominated Officer for the purposes of this Policy) who will investigate your concerns and let you know what action should be taken.
25. If you believe that the response from Consumer Scotland's Nominated Officer does not represent a reasonable response to your concerns, you may report the matter to the **Chair** of Consumer Scotland.
26. If you have a particularly serious and urgent concern, which cannot be raised via the management chain or Nominated Officer, you should report the matter to a **member of the Board** or ultimately to the **Chair** of Consumer Scotland.

27. If you believe that the response from the Chair of Consumer Scotland does not represent a reasonable response to your concerns, you may report the matter to the **Civil Service Commission**.
28. If there is a good reason why your concern cannot be raised within Consumer Scotland, you may report the matter directly to the **Civil Service Commission**.
29. Paragraphs 23-28 above outline the recommended process for reporting concerns. Ultimately it is for you to decide what action to take, taking account of the provisions of the Public Interest Disclosure Act 1998 and of the Civil Service Code. It is preferable to raise the matter internally if appropriate and practical. If you are in any doubt, you should speak in confidence to the Nominated Officer.
30. You should also use these procedures if you wish to make any other disclosure not covered by the Public Interest Disclosure Act 1998.

Confidentiality

31. All concerns will be treated in confidence as far as possible, and every effort will be made not to reveal your identity if you so wish. However, you may need to come forward as a witness.
32. You are encouraged to put your name to your concern whenever possible. Please note that employees must:
- believe that the disclosure of information is in the public interest
 - believe it to be substantially true
 - not act maliciously or make false allegations; and
 - not seek any personal gain

Where can I get independent advice?

33. If you would like independent advice at any stage, you can speak to your trade union, if applicable, or contact the independent charity Protect (formerly Public Concern at Work) for confidential advice on 020 3117 2520 (* option 1) or by email at whistle@protect-advice.org.uk. Alternatively, visit their website at <https://protect-advice.org.uk/>

Responsibilities

Role	Responsibility
Senior Information Risk Owner	Ensure that staff are aware of the process set out in this Policy for reporting and responding to whistleblowing
Line Manager	Ensure that the Policy is known and understood by all staff and that action is taken in line with the policy if necessary
Nominated Officer – Director of Operations and Partnerships	Follow the principles set out in this policy and act as an impartial intermediary between any individual raising a concern and other parties
Board Member/Chair of Consumer Scotland	Follow the principles set out in this policy and act as an impartial intermediary between any individual raising a concern and other parties