



## **Raising concerns policy**

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## (i) Version control

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### Version History

<b>Version</b>	<b>Date</b>	<b>Description</b>
1.0	May 2010	Original
1.1	May 2012	Update of relevant contact details
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2.1	October 2013	Presented to Audit and Risk Committee for approval.
2.2	November 2014	Update of relevant contact details
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3.0	September 2016	Full review and update including name change from IPCC Internal Whistleblowing Policy

## 1. Introduction

Legal protection for employees who raise concerns in the public interest is provided by the *Public Interest Disclosure Act 1998 (PIDA)*. The *PIDA* protects employees against victimisation if they make a protected disclosure and raise their concerns regarding conduct or practice within the IPCC which is potentially illegal, corrupt, improper or unsafe.

This policy applies to all IPCC staff, including full, part time and temporary staff (including those on secondment to the IPCC), and to individuals undertaking work experience at the IPCC.

## 2. Aims and scope of the policy

This policy aims to:

- Only cover concerns that are raised in the public interest (section 3 a-f). This policy is not for use by staff who wish to raise a grievance.
- Give confidence to members of staff that they will not be directly or indirectly disadvantaged or victimised if they raise a legitimate concern.
- Advise members of staff about the avenues available to raise concerns and where they can seek independent advice.

- See that concerns are given due consideration and that those who have raised a concern receive an appropriate response.
- Provide assurance to stakeholders that suitable mechanisms are in place for the reporting of suspected wrongdoing.

### 3. Qualifying disclosure

A qualifying disclosure, within the terms of *PIDA*, means a disclosure of information, which is in the public interest, relating to one or more of the following:

- a. That a criminal offence has been, is being, or is about to be committed.
- b. That a person has failed, is failing or is likely to fail, to comply with any legal obligation to which they are subject.
- c. That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- d. That the health or safety of any individual has been, is being, or is likely to be endangered.
- e. That the environment has been, is being, or is likely to be, damaged.
- f. That information tending to show any matter falling within any one of the preceding items has been, is being, or is likely to be, deliberately concealed.

Examples of such wrongdoing include:

- abuse of authority
- unauthorised use of public or other funds, or breaches of financial regulations or policies
- action that has caused, or is likely to cause or risk, serious damage to IPCC property

It is important to state that it is not necessary for the information and allegation disclosed to be true, or even for the person raising the concern to believe it is true. The only requirement is a reasonable belief that the information disclosed may be true. There is no requirement for the individual raising the concern to prove that an allegation is true and they should not attempt any kind of investigation before (or after) making a disclosure.

It should be made clear that this policy is only intended to assist individuals who reasonably believe they have discovered a wrongdoing which is not in the public interest and wish to make a disclosure. It is not designed to raise or resolve personal issues with colleagues or line management, which should be resolved, for example, under the Conflict and Dispute Resolution Policy (or another suitable HR policy). If, in making a disclosure, a criminal offence may be being committed (for example, it would be prohibited by the Official Secrets Act 1989), then it may not be protected.

The *PIDA* sets out the full statutory rights and obligations of members of staff wishing to raise concerns or report suspected wrongdoing. If members of staff

are unclear about any aspect of *PIDA* they can contact Public Concern at Work (PCAW) for further advice.

PCAW is an independent charity. It offers free, independent and confidential advice about raising concerns that are in the public interest (telephone 0207 404 6609 or visit [www.pcaaw.co.uk](http://www.pcaaw.co.uk) for more information). **It should be noted that, while PCAW can offer advice and give support, it is not a prescribed body for the purpose of receiving disclosures.**

#### **4. Malicious or frivolous allegations**

Anyone who abuses this procedure by making allegations that are malicious or frivolous, or for their own personal gain, may be subject to sanctions. If you make a disclosure in good faith, but the suspected wrongdoing is not confirmed by subsequent investigation, no action will be taken against you.

If you choose to make a disclosure to the media, without making any attempt to raise your concerns internally or to the external parties described in section 6, it is unlikely to be considered as a protected disclosure and may be deemed to be a breach of the Code of Conduct.

#### **5. Confidentiality and anonymous disclosures**

The IPCC aims to be a place where it is safe and acceptable for staff to raise a genuine concern about potential wrongdoing and where this is encouraged by staff. The IPCC will protect an individual's identity if they request this. However, it may not always be possible to resolve a concern without revealing a person's identity. For example, where personal evidence is essential (e.g. in a court case).

The IPCC will always give due consideration to proceeding with investigating any concern raised, including those made on an anonymous basis. Issues raised anonymously may, however, be more difficult to investigate and this may ultimately prevent an investigation from proceeding. The opportunity to provide any feedback to someone who remains anonymous at the end of the investigation is reduced by their anonymity.

Please note that anonymous disclosures are preferred if the alternative is that a serious concern will not be raised at all.

#### **6. Procedure for raising a concern**

The IPCC encourages staff in the first instance to raise any concerns with their line manager or with another manager in their own directorate. The IPCC recognises, however, that members of staff may sometimes be uncomfortable with doing so for a variety of reasons.

Disclosures can be made in person, in writing, by telephone or by any other suitable means. At no point will an individual be required or pressured to put their concern in writing.

If the member of staff raising the concern has any personal interest in the matter raised, this must be disclosed at the outset (for example, if they believe they may have knowingly or unwittingly participated in the wrongdoing).

It is advised that staff speak to an independent source for example, a trade union or other representative (see section 10) before raising a concern under this policy. A disclosure made to a union official or independent source, while seeking legal advice, is protected. The source will be able to provide advice about how to raise a concern. Alternatively, a concern may be discussed with another colleague first. It may be easier to raise the matter if there are two (or more) staff with the same concern.

Contact detail is listed on the IPCC Staff Intranet.

It is recognised that staff may not always feel that they can express their concerns to anyone in the IPCC. There are options for raising concerns outside of the organisation to a prescribed person. A prescribed person is someone who is approved (by statute) to receive a qualifying disclosure. These are usually regulators and are only able to receive an allegation in relation to their area of oversight.

The IPCC also recognises that if a member of staff is not satisfied with the organisation's response to an internal disclosure they still have the right to make a disclosure to a prescribed person.

The following are the appropriate external parties to receive disclosures. It is important to raise a concern with the right prescribed body, i.e. something within its area of concern, otherwise it will not be considered a protected disclosure by an employment tribunal.

The names and contact details of the appropriate bodies are listed on the IPCC Staff Intranet.

### **Wider disclosures**

A direct disclosure to a non-prescribed external party, for example, the police or the media, may be protected by *PIDA* if the disclosure is reasonable in all circumstances, is not for personal gain, *and* at least one of the following criteria is met:

1. The person raising a concern believes they would be victimised if they raised the matter internally or with a prescribed body.
2. There is no prescribed body and there is a reasonable belief that evidence is likely to be concealed or destroyed.

3. The matter has already been raised internally or with a prescribed body.
4. The matter is of an exceptionally serious nature.

It should be noted that making a public disclosure via any form of social media is unlikely to be protected by the Act.

If a member of staff is considering making a wider disclosure they are strongly advised to first seek further specialist guidance (see section 10).

## **7. Safeguards against reprisal, harassment and victimisation**

The IPCC recognises that the decision to report a concern is a difficult one and that this will not be made any easier if there is a fear of repercussions or reprisals as a result of taking such action. *PIDA* protects individuals from being subject to any detriment, by any act or omission by their employer, because they have made a protected disclosure. For example:

- dismissal
- change of duties
- a forced change of location
- denial of training

If this does occur, an Employment Tribunal has the power to order re-instatement, re-engagement, or order the award of compensation to successful claimants.

The IPCC will not tolerate harassment or victimisation of someone who has raised a concern by any other member of staff. Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with this policy will be dealt with under the IPCC's staff disciplinary procedures.

If a member of staff believes that they are suffering a detriment for raising a concern they should report this to any of the internal staff noted in section 6.

It should, however, be noted that if a member of staff is already subject to disciplinary proceedings at the time of making a disclosure, doing so will not prevent the proceedings continuing.

It may also be noted that *PIDA* continues to provide protection after someone has left the organisation where they made a protected disclosure. This is to prevent an employer giving an untrue or even defamatory reference. For example, one that labels them as an agitator or troublemaker.

## **8. Response to a disclosure**

### **Internal disclosures**

All disclosures will be taken seriously and the following procedure will be used.

Any disclosure under this policy will be acknowledged in writing, to confirm that the matter will be assessed and investigated if appropriate.

The person to whom the initial disclosure is made, along with another management colleague (who is not implicated in any wrongdoing) will assess the disclosure to determine if there are grounds for a more detailed investigation to take place. If appropriate, a suitable person will be instructed to conduct an investigation into the disclosure. The chosen person will, where possible, be from a different directorate and will in any instance have had no involvement in the area of concern. This investigation will be a Management Investigation as defined in section 3.1 of the IPCC Disciplinary and Dismissal Policy.

The IPCC's approach will be informed by three main obligations:

1. To investigate disclosures appropriately.
2. To provide support and protection to the person(s) who have raised concerns, while safeguarding their right to confidentiality.
3. To act in the public interest.

The IPCC will aim to start the investigation within ten working days of the initial disclosure being made. The length of time the investigation takes will depend on the individual circumstances of the disclosure.

During the course of any investigations, further contact with the person who has expressed concern will depend on the nature of the matters raised. If necessary, the IPCC will seek further information from the person who has expressed concern.

Where meetings are arranged with the person who has raised concerns, the IPCC will:

- Hold meetings away from the workplace or IPCC premises, if this is preferred by the person(s) who have raised concerns.
- Allow the person(s) who expressed the concern to bring a trade union representative or a work colleague if they wish.

The investigation report will be reviewed by the Chair of the IPCC Audit and Risk Committee (or the Chief Executive if appropriate). The member of staff making the disclosure will receive a written notification of the outcome of the investigation (unless the disclosure was made anonymously). This may not necessarily include all of the details or be a full copy of the investigation report.

Following the investigation a number of outcomes are possible:

- If wrongdoing is identified action will be taken to minimise the risk of a similar situation occurring in the future.
- If appropriate, disciplinary action may be taken against the wrongdoer as per the IPCC Disciplinary and Dismissal Policy.
- If there is insufficient evidence to support an allegation of wrongdoing no further action will be taken.
- If the disclosure is shown to be malicious or in bad faith disciplinary action may be taken against the person who made it, as per the IPCC Disciplinary and Dismissal Policy.
- If any identified wrongdoing is deemed serious enough, an appropriate external party will be contacted. For example, the police or the Health and Safety Executive.

The IPCC will endeavour to inform the person who raised the concern if a referral to an external authority is about to, or has, taken place although there may be a need to make such a referral without the knowledge or consent of the person raising the concern.

The IPCC will do whatever it can to minimise any difficulties people may face as a result of raising a concern. For instance, if somebody is required to give evidence in criminal or disciplinary proceedings, we will arrange for them to receive advice about the procedures involved.

If any recommendations for improvement are made following the investigation of an incident, the most appropriate director will be responsible for receiving and implementing them.

## **9. Guidance for managers who are notified of concerns**

If a member of staff approaches you to raise a concern you must listen to their concerns. Attempting to deter any employee from raising a concern about potential wrongdoing will be considered a disciplinary matter. You must also deal with any anonymous disclosure that you receive and not ignore them.

If you believe you may have a conflict of interest, you should suggest a more appropriate person to speak to (and advise that person of your initial contact).

You should respect the confidentiality of the person raising the concern, but advise them that in order to fully investigate their concerns it may not always be possible to guarantee their confidentiality.

You should be mindful of any concerns they may have about their own career.

You should advise them that as far as is possible following any investigation they will be advised of the findings and any related recommendations.

As soon as is practicable, after receiving a disclosure you must inform your director, unless they are implicated by the disclosure. In which case you must contact another senior manager. Between you determine if a full investigation

needs to be conducted and if so appoint and brief a suitable person to conduct it.

If managers require any further guidance please contact the Director of Resources or the Risk and Audit Manager.

## **10. Sources of further independent advice for employees**

**It should be noted that while all of these organisations can offer independent advice and provide support they are not prescribed bodies for the purpose of receiving protected disclosures (see Prescribed Bodies).**

If you are an employee who is concerned about possible malpractice or wrongdoing within the IPCC, you can discuss your concerns in confidence with the charity PCAW before raising them within the IPCC. PCAW is able to provide independent and confidential advice to workers who are unsure whether or how to raise a public interest concern. PCAW's advice line is managed by qualified lawyers with experience in this area.

To contact Public Concern at Work:

Public Concern at Work  
Suite 301  
16 Baldwins Gardens  
London  
EC1N 7RJ

Tel (general enquiries & helpline): 020 7404 6609  
Fax: 020 7403 8823  
Email: UK Advice Line: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

Hours: The UK office and the helpline are open Monday to Friday, 9.00am-6.00pm. There is an out-of-hours answering machine.

Or you may also wish to seek advice from your trade union, either through your local representative or direct to:

Public and Commercial Service Union  
PCS Head Office  
160 Falcon Rd  
Wandsworth  
London  
SW11 2UK

Tel: 020 7924 2724

Or through the Employee Assistance Programme:

Tel: 0800 269616 (24 hours a day, 365 days a year)

## **11. Policy distribution and publicity**

This policy will be published on iNet. A redacted version is also published on the IPCC's website.