

Directorate	Corporate Services
Topic	Whistleblowing and Raising a Concern – NRS Staff FAQs
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What is Whistleblowing?

'Blowing the whistle' occurs when a person raises a concern about past, present or imminent wrongdoing, or an attempt to cover up wrongdoing, in an organisation or a body of people.

What can I raise under the Whistleblowing Procedure?

The Whistleblowing Procedure provides a number of options for raising a concern. One of these is with the Civil Service Commission that is able to consider concerns relating to the Civil Service Code. It is important that any concern you may have, whether you think it falls under the Code or not, is raised as soon as possible and according to the Whistleblowing Procedure.

Below is a list of concerns which fall under the Civil Service Code and may therefore be raised with the Commission:

- 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
- Act in a way that unjustifiably favours or discriminates against particular individuals or interests
- Act in a way that is determined by party political considerations, or use official resources for party political purposes
- Allowing one's personal political views to determine any advice you give or your actions.

You may find that your concern relates to general wrongdoing and does not fall under the Code. It is still important that you raise it according to the Whistleblowing Procedure, but the Commission may not be able to hear it. Concerns may include, but are not limited to:

Not following security procedures:

- Failure to follow security vetting procedures
- Falsifying documentation

Failure to comply with legal obligations:

- Not protecting personal data as required by the Data Protection Act 1998, Health and Safety regulations or any other relevant legislation.

Danger to the environment:

- Improper disposal of hazardous materials.

The above list includes, but is not limited to, the type of information set out in the PIDA legislation.

What is the Civil Service Code?

The Civil Service Code sets out the duties and responsibilities of civil servants. Civil servants are expected to carry out their role with dedication and a commitment to the Civil Service and its four core values: integrity, honesty, objectivity and impartiality.

The Code can be accessed online on the gov.uk website:

<https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>

The Code forms part of the terms and conditions of employment of all civil servants.

What is the Civil Service Commission and what type of concern can I raise with them?

The Civil Service Commission has been helping to uphold the standards of the Civil Service since their original appointment in 1854. The current Commission was established as an executive Non Departmental Public Body (NDPB) under the Constitutional Reform and Governance Act 2010. The Commissioners are appointed by the Crown following open competition. The Commission and its Commissioners are therefore independent of the Civil Service.

The Commission has powers under the Act to hear and decide on complaints raised by civil servants under the Civil Service Code specifically. It does not hear complaints on issues outside of the Civil Service Code, for example personnel management grievances.

How can I contact the Civil Service Commission?

Further information on how to raise a concern with the Commission is available from:
Civil Service Commission

G/8

1 Horse Guards Road

London

SW1A 2HQ

Email: info@civilservicecommission.org.uk

Tel: 020 7271 0831

Can I take my concern straight to the Civil Service Commission?

You may raise a concern direct with the Commission, however where appropriate the Commission will expect that you have raised the concern within your own organisation first. If you raise a concern directly with the Commission, without the issue being raised within the organisation, the Commission will ask why it is not appropriate to raise the matter internally first. The Commission will inform you directly about whether they are prepared to investigate the concern.

What is not covered by the Whistleblowing Procedure?

Issues around your treatment as a member of staff or personal complaints about your employment, for example: complaints about your terms and conditions; promotion or selection procedures are not covered by the Whistleblowing Procedure. Any other complaints connected to your working conditions, including harassment, bullying and discrimination are also not covered by the Whistleblowing Procedure.

These would normally be dealt with by your line manager through day-to-day management action, or through appropriate organisational procedures.

What is the difference between whistleblowing and a personal grievance?

Concerns raised under the Whistleblowing Policy should address wider issues that concern your organisation, colleagues or public in general, rather than personal complaints that you may raise under other policies. For civil servants, they will usually relate to the Civil Service values, as outlined in the Civil Service Code.

Personal grievances and complaints, including complaints of bullying, harassment and discrimination will not be accepted under the whistleblowing policy and should be raised under the organisation's separate appropriate policy.

Is a 'crisis of conscience' complaint the same as blowing the whistle?

A 'crisis of conscience' may occur when you are asked to do work which conflicts with your faith or personal beliefs. This is not the same as whistleblowing where there is suspicion of wrongdoing, or a breach of the values in the Civil Service Code, by or within NRS. If you have a crisis of conscience you should discuss this with your line manager in the first instance.

Do I need to formally raise a concern under the Whistleblowing Procedure?

You and your line manager should engage in regular, open discussion about your work and working environment. If something is on your mind, you may wish to informally discuss this with your line manager before raising it more formally under the Whistleblowing Procedure. What is important is that it is raised within the organisation, not how it is done.

I don't have any proof of my concern yet. What should I do?

You do not need to wait for proof when reporting a concern. When raising a concern with for example, your line manager or Nominated Officer, you only need to have a reasonable belief that wrongdoing has occurred, is occurring or is likely to occur. It is not for you to investigate or prove that your concerns are justified, as that is the responsibility of NRS.

Why should I follow the Whistleblowing Procedure?

The Whistleblowing Policy and Procedures have been designed to:

- Offer you protection when raising a concern that is accepted under the Policy
- Ensure that your concerns are addressed and resolved at the right level and as quickly and effectively possible.

What are the benefits of Whistleblowing?

A positive whistleblowing culture has numerous advantages. For example, it can:

- Encourage an open culture where employees feel confident that concerns can be raised and dealt with quickly and that they will be protected for doing so
- Detect and deter wrongdoing
- Provide managers with the information they need to make decisions and control risk
- Save lives, the environment, property, jobs, money and both personal and organisational reputations
- Reduce the chance of anonymous or malicious leaks (including to the media)
- Reduce the chance of legal claims against the organisation.

Will there be repercussions if I blow the whistle?

NRS Whistleblowing Procedures, if correctly followed, will afford you protection from any detrimental treatment or victimisation on the grounds of raising your concern.

I am a contractor or temporary agency staff. Would procedure apply to me?

If you are working with NRS as a contractor or through an agency as a temporary worker, you will be treated as being subject to the Civil Service Code, you should therefore follow the Whistleblowing Procedure when applicable.

Where can I go for support during this process?

We recognise that you may experience anxiety when raising or considering whether to raise a concern. There are various channels of support available to you throughout the process:

- Your line manager, or another locally based manager and a Nominated Officer can advise you on available support.
- You can use the employee assistance programme provided by NRS. You can contact them by calling 0800 587 5670 or visit their website at www.sg.helpeap.com
- Trade union members can seek advice from their representatives
- You may all seek advice from Public Concern at Work. They are the Whistleblowing charity and are contactable via www.pcaw.org.uk.

Please note however that these sources of support, other than line managers and Nominated Officers, are not themselves bodies to whom you can raise your concern. They can only provide help and advice and you should not divulge details of the matter itself to them.

What is a Nominated Officer and how might I contact them?

Nominated Officers are employees, of any grade, who can offer impartial support and advice, outside of the management chain, to those who have potential whistleblowing concerns. They are able to provide advice on:

- The Civil Service Code

- Whether your concern falls under the Whistleblowing Policy
- The appropriate channels available for you to raise your concerns
- The alternative channels to follow where your concern falls outside of the Whistleblowing and Raising a Concern Policy
- Whether the CEO needs to be consulted or informed
- What the next steps should be.

The Nominated Officer in NRS is: Linda Sinclair and is contactable via email at linda.sinclair@nrscotland.gov.uk

Will my identity remain confidential?

The best way to raise a concern is to do so openly, as this makes it easier for the organisation to investigate and provide feedback. You can however request that the organisation keeps your identity confidential and they will respect this request as far as possible. If requested, your identity will be restricted to a 'need to know basis'. However, a situation may arise where it is not possible to resolve the concern and guarantee confidentiality (for example, in matters of criminal law). If this is the case, the organisation will advise you of this before proceeding.

Can I raise a concern anonymously?

If you raise your concern openly, this makes it easier for NRS to investigate your concern and provide feedback. You may choose to raise concerns anonymously, i.e. without providing your name at all. However, the investigation itself may serve to reveal the source of information. Employees are therefore encouraged, where possible, to put their names to concerns raised, but raising a concern anonymously is preferred to silence about potential serious wrongdoing.

Will I be able to find out the outcome of the investigation?

NRS will try to keep you informed of progress, and where possible provide you with an update within 28 days. You will be advised when the matter has been concluded. However it cannot be guaranteed that you will be given all the details of the investigation and the final outcome will be disclosed. Security and confidentiality must be maintained for all parties.

I am not happy with the outcome of the investigation, what now?

If you have raised the concern with your line manager, someone else in your management chain or the Nominated Officer in accordance with the Whistleblowing Procedure and you do not think that you have received a satisfactory outcome, you may raise your concern with the CEO and from here, the independent Civil Service Commission. Although NRS cannot guarantee that the outcome would be as you may wish, it will seek to handle the matter fairly and correctly.

Can I go straight to the CEO with a concern?

You may raise a concern directly with the CEO if you feel that it is justified. Normally the justification for taking a concern directly to the CEO would be that the concern

relates to the Nominated Officer. If your concern is taken to the CEO and does not relate to the Nominated Officer, the CEO may refer you to the Nominated Officer to look into the concern. You can also raise concern directly with CEO when Nominated Officer is absent and your concern is urgent.

What would happen if an employee acted in bad faith or raised malicious, vexatious or knowingly untrue concerns?

If an employee acts in bad faith or raises malicious, vexatious or knowingly untrue concerns in order to harm colleagues or NRS, they may face disciplinary action.

This could result in dismissal unless they can demonstrate a reasonable belief that the concern was raised in the public interest.

What would happen if an employee is treated badly by a co-worker because they raised a concern?

It is the responsibility of NRS to stop any bad treatment and take reasonable steps to prevent any further issues arising. If an employee feels they are being treated badly because they have raised a concern, they should report this to their line manager or someone else in their line management chain, or they should seek advice from the Nominated Officer.

Where an employee has been victimised for raising a concern, NRS will take appropriate action against those responsible, in line with our disciplinary policy and procedures.

What is PIDA and how does it link with NRS' Whistleblowing Procedure?

The Public Interest Disclosure Act 1998 (PIDA) is more commonly known as 'whistleblowing legislation' and is part of employment law under sections 43A-L and 103A of the Employment Rights Act 1996. However, NRS' whistleblowing procedure primarily focuses on breaches of the Civil Service Code, although PIDA legislation may also be relevant.

Whilst not permitted under the Whistleblowing Policy, disclosures to certain regulatory bodies, known as 'prescribed persons' can be permitted by PIDA in certain circumstances.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43122/1/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf

In order to be protected, however, an employee will need to follow the procedure set out in the Act. If you wish to raise a concern in this way, it would be advisable to seek legal advice.

What are the responsibilities of managers under the Whistleblowing Procedure?

If the member of staff raises a concern to you directly, you should bring the Whistleblowing and Raising a Concern Procedure and any other relevant procedures or policy e.g. SG Fairness at Work Policy to their attention.

If the person would like to raise a concern under the Whistleblowing and Raising a Concern Procedure you should escalate it to the Nominated Officer, Linda Sinclair by

sending an email containing records of communication to date to Linda.Sinclair@nrscotland.gov.uk with 'Whistleblowing' clearly stated in the email title.