



# Whistleblowing

## Guidance to support the Code of Conduct



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## 1. Purpose

As an employer we want to provide our workforce with extra guidance in relation to the Code of Conduct section on 'Reporting Inappropriate Behaviour' (Whistleblowing). This guidance sets out the Care Inspectorate's internal procedure for raising concerns regarding negligence, abuse, fraudulent or corrupt activity or malpractice within the workplace.

## 2. What is 'whistleblowing'?

Whistleblowing is where an individual raises a concern about fraud, misconduct or wrongdoing. Whistleblowing is all about ensuring that if you see something wrong in the workplace, you can raise this within your organisation, to a regulator, or wider.

Whistleblowing ultimately protects workers and the organisation itself by identifying fraud, misconduct or wrongdoing at the earliest opportunity.

The legislation protecting individuals who make a concern, or 'protected disclosure' applies not only to employees but also to any person who undertakes or performs work for services to the organisation. This includes:

- permanent and temporary employees
- agency workers
- contractors
- homeworkers
- non-employees undergoing training or work experience as part of a training course

Volunteers are not covered by the whistleblowing legislation. Volunteers do not have employment rights, however, in line with the Scottish Public Services Ombudsman's (SPSO) national whistleblowing standards we extend support to volunteers who whistle-blow. Further information is provided in section 6 of this guidance.

As an organisation, we attach great importance to maintaining high standards of honesty, openness, integrity and accountability. We want our staff and volunteers to feel safe and confident to come forward with a genuine concern. It is the responsibility of everyone to follow this guidance and ensure that no individual is subject to detriment because they have raised a whistleblowing concern.

## 3. What types of concerns can you raise?

Under the Public Interest Disclosure Act (1998) [or PIDA], our Code of Conduct, other relevant Professional Codes of Practice and this supporting guidance, you can raise concerns relating to:

- a criminal offence (e.g. fraud)
- a breach of a legal obligation
- miscarriage of justice
- a danger to the health and safety of any individual
- damage to the environment
- a deliberate covering up of wrongdoing in the above categories.

Please note that this list is not exhaustive but provides guidance around the types of concerns that you can raise.

In cases where you are raising a concern regarding fraud or bribery, please refer to the Fraud Policy and Response Plan. This can be found under the Finance section of the intranet. You may also find it helpful to read the guidance in the link below produced by Audit Scotland. Audit Scotland is a prescribed person in law for the organisations they audit (which includes the Care Inspectorate).

<http://www.whistleblowing.org.uk/content/4-law-policy/4-document-library/audit-scotland-pcaw-employee-guide.pdf>

#### **Example of whistleblowing in the workplace**

Laura is an inspector and she suspects one of her colleagues accepted inappropriate influence in return for awarding a provider a higher grade.

Tim is concerned that his manager is hiring a friend of his to deliver training on suspicious terms. The fees for the training are high, more courses have been booked than are needed and his friend is always paid when a course was cancelled.

Morgan raises a concern about a serious breach of Health & Safety which has been ignored.

These should be investigated under the whistleblowing procedure.

#### **Example of non-whistleblowing workplace issue**

James is unhappy at work because a person in his team made an offensive and discriminatory comment. This is not a whistleblowing concern. James should raise this with their line manager through the Dignity at Work Policy.

## **4. Will your concern remain confidential/ anonymous?**

If a concern is raised either anonymously or confidentially, an investigation will take place.

If you raise a concern confidentially your identity will never be disclosed to anyone who does not need to know it for the purposes of the investigation. However, you should understand that there may be practical limits to confidentiality. There may be occasions where we may be required to share information about your identity with other agencies involved in the prevention, detection, investigation or prosecution of crime or other unlawful activities. We may also share this information with other

agencies which have a role in the protection of vulnerable people, including local authorities and other regulatory bodies.

You can also raise a concern anonymously. This is where you do not give your name at all. If you raise a concern anonymously, we will treat the information just as seriously. We recognise that many people are worried about being identified when they report concerns. However, if you do not tell us who you are it may be harder for us to take up the matter. It may also be difficult for you to access the protection available to you under the whistleblowing legislation. We will assess the anonymous information as best we can to establish whether there is substance to the concern and whether it can be addressed.

## **5. How do I blow the whistle?**

It is important to speak up in the public interest so that you can be reassured that the appropriate action will be taken. You will be protected by the Public Interest Disclosure Act where you reasonably suspect that the alleged malpractice has occurred, is occurring or is likely to occur. This protection means that you will not suffer any detriment (e.g. harassment, victimisation or dismissal) in your job as a result of raising your concerns.

To be protected by the Public Interest Disclosure Act your concern must be raised in good faith. This means you must honestly and reasonably believe that the information and any allegations within it are true. If through the process, it becomes clear that your concern was not made in good faith and that you were aware that the information you provided was false, you will not be protected by the Public Interest Disclosure Act. Malicious allegations may result in disciplinary action which we will deal with under our Disciplinary Procedure.

Regardless of whether the concern is raised about a person, team or the organisation, there are multiple people you can choose to speak to about your concern and there are also different routes for raising it. This is to provide you with a choice so that you can select the option that would help you to feel safe to speak out. There are also different processes depending on whether you are someone who works for the Care Inspectorate or someone who volunteers with us.

Please see flowchart 1 (on the next page) if you work for the Care Inspectorate and flowchart 2 (also on the next page) if you are a volunteer to find out how to raise a concern. Further information is also available on our intranet and our website.

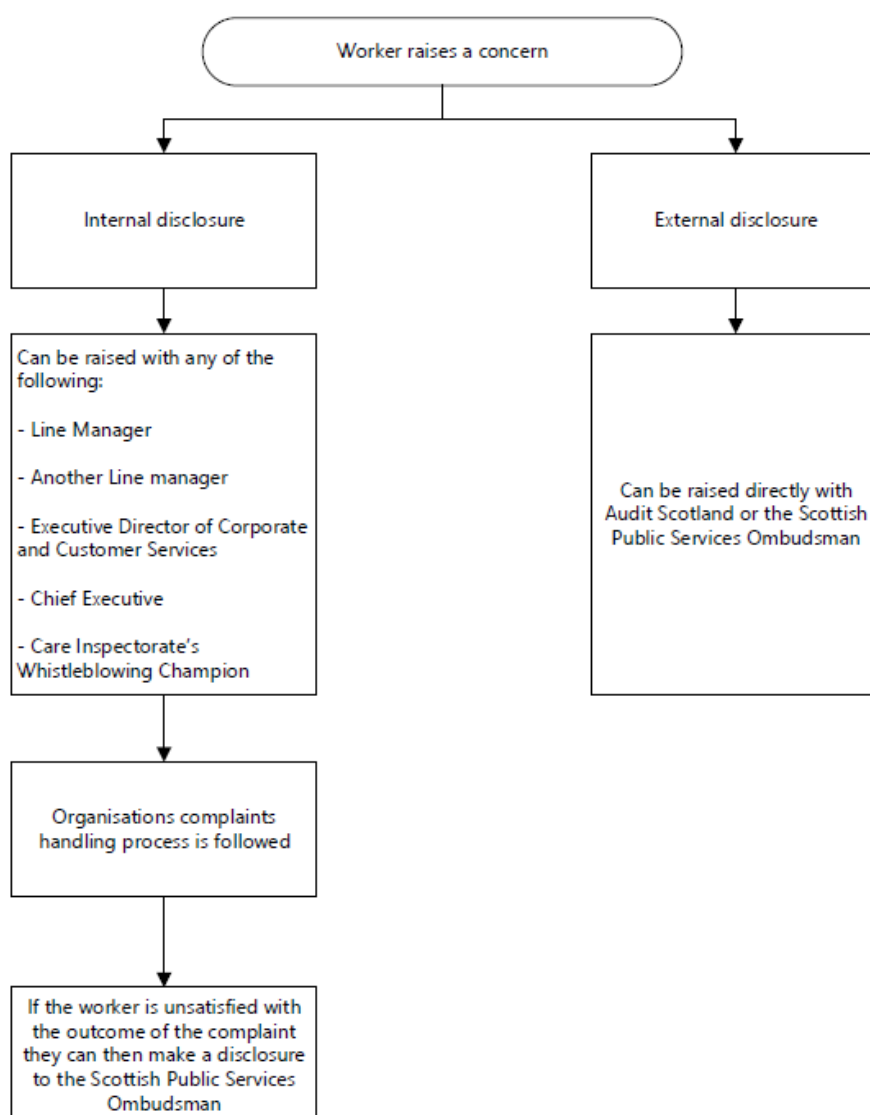
It's not necessary to have absolute proof prior to the start of an investigation – a reasonable belief is enough. If you are unsure about raising a concern, then ask Human Resources or contact the Head of Professional Practice and Standards.

It is important to raise a concern as close as possible to the time that you became aware of the concern.

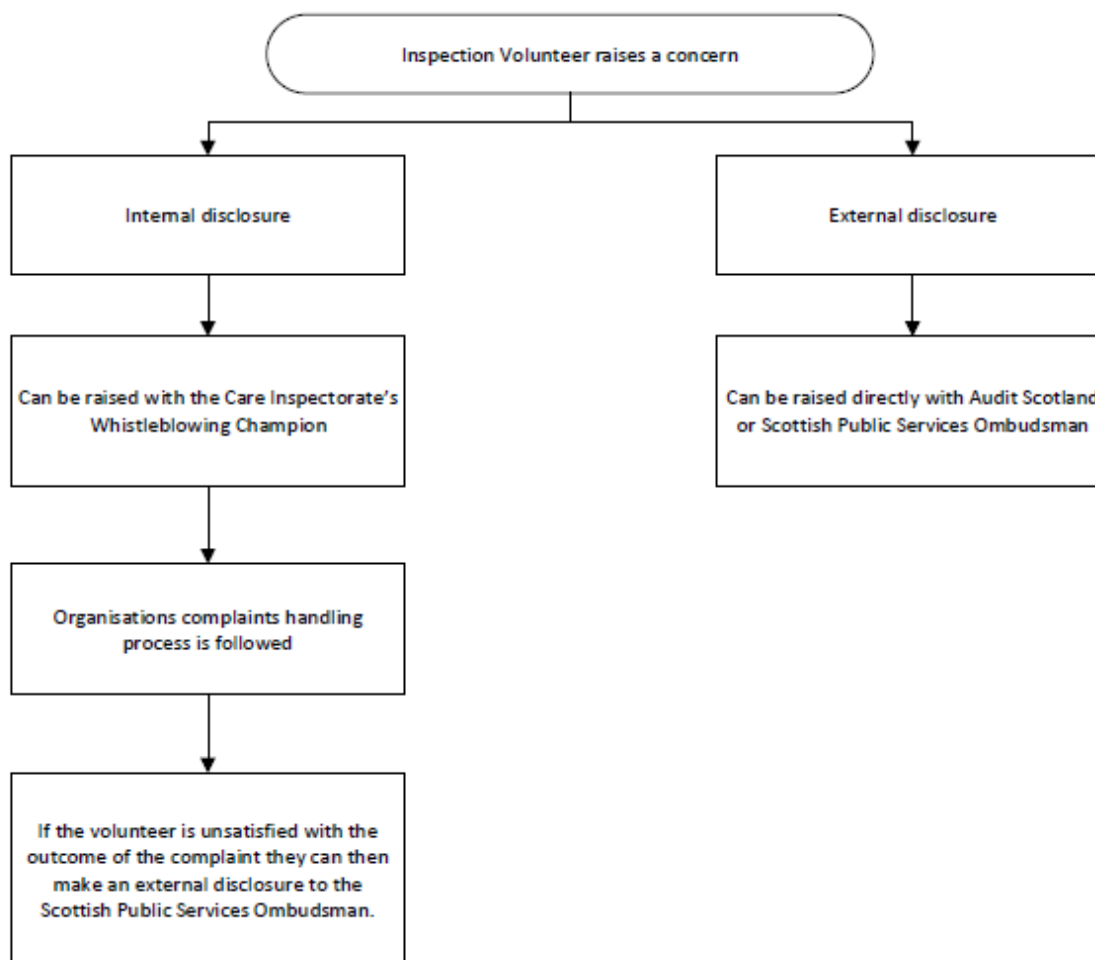
There are two routes available to you to raise a concern whether you are a worker or a volunteer. The first one is to make an internal disclosure. This is where the concern is investigated by the Care Inspectorate. The second one is to make an external disclosure. This is where the concern is investigated by an external prescribed person.

The different routes are summarised in the flowcharts 1 and 2.

### Flowchart 1: Internal Process for Care Inspectorate Workers



## Flowchart 2: Internal Process for Volunteers with the Care Inspectorate



Inspection volunteers should raise their concern with either their staff contact or the Involvement Manager.

Anne Houston, Board member, is the Care Inspectorate's Whistleblowing Champion. If you wish to raise your concern with her, the Executive Personal Assistant with responsibility for the Board will be able to provide contact details. The only information you require to provide is it is in relation to whistleblowing.

### 6. How will we handle an internal disclosure?

Once you have reported a relevant concern we will follow the organisation's complaints handling process.

- We will appoint a senior manager to carry out an investigation of your complaint and to make recommendations to the appropriate Executive Director/Head of Service or Chief Executive

- We will send a written acknowledgement to you within **5 working days** (or earlier in exceptional circumstances). This will advise you who will handle the matter, how they can be contacted, and whether we require further information from you
- We will carry out an investigation to establish the relevant facts prior to making any recommendations
- You will have the right to have support from either a representative from your trade union or a co-worker at meetings discussing the case
- We will update you during the process but if you would like to know how the investigation is going, please contact your line manager or the senior manager. There may be instances where we are unable to tell you how the matter may be handled, or precisely what action will be taken. To do so could be a breach of our duty and confidentiality
- We will complete the investigation within reasonable timescales. We will act as quickly as reasonably possible to ensure we respond to high risk cases in the most appropriate timescale
- We will present a report to the Chief Executive and to the Board's Whistleblowing Champion about how we have addressed the issues raised through your whistleblowing complaint.

## **7. What happens if I make an external disclosure to a prescribed person?**

The internal route should be the first course of action where the concern is about the Care Inspectorate.

If you believe there is malpractice or wrongdoing happening in a public body and want to make an external disclosure to a prescribed person, there are several external bodies to which qualifying disclosure may be made. One such authority is Audit Scotland, who can be contacted on 0845 146 1010 or by visiting their website at [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)

If you are still unhappy once you have gone through the internal procedure or need to make a complaint about the Care Inspectorate, then you can contact SPSO (Scottish Public Services Ombudsman).

Information on this can be found at the link below:

[https://www.spsso.org.uk/sites/spsso/files/communications\\_material/leaflets\\_public/2018%20Care%20Inspectorate.pdf](https://www.spsso.org.uk/sites/spsso/files/communications_material/leaflets_public/2018%20Care%20Inspectorate.pdf)

If you would like to complain to the SPSO you can:

- Write to them using their complaint form found on [www.spsso.org.uk](http://www.spsso.org.uk) where it can be filled in online or printed off to complete.
- Phone their freephone helpline number 0800 377 7330.

## 8. SUPPORT FOR THOSE INVOLVED

Any employee who raises a genuine whistleblowing concern will be supported. We expect no employee to suffer any form of detriment or victimisation as a result of their disclosure.

If you have concerns that you have, or are being, subjected to detriment or victimisation as a result of your disclosure please contact the Human Resources Team for support.

Any employee found to have retaliated against or victimised someone for making a complaint will be subject to our Disciplinary Policy.

Raising a whistleblowing concern can be stressful. Our employee assistance programme offers a free, confidential counselling service that is open 24 hours a day, seven days a week. They can be contacted on 08005 875 670.

## 9. External support

If you need support with whistleblowing you can contact Protect, a UK wide independent whistleblowing charity by visiting their website <https://protect-advice.org.uk/> or calling their free, confidential advice line 020 3117 2520.

You can also receive guidance from organisations such as your trade union or any other professional organisations you are affiliated with.

## 10. Data protection

When an individual makes a disclosure, the organisation will process any personal data collected in accordance with our Data Protection policy.



## Guidance Audit

Partnership Forum Approval Date	Version Control	Change (and reason)	Date of change	Version Control
October 2014	V1.1	<ul style="list-style-type: none"> <li>• Updated terminology in line with the legislative changes approved in parliament on 01 April 2017. <ul style="list-style-type: none"> <li>○ Included 'non-employees undergoing training or work experience as part of a training course' to the list of definitions of a worker</li> <li>○ Updated the language of types of qualifying disclosures (Section 3)</li> </ul> </li> <li>• Updated department and job titles as part of the restructure. <ul style="list-style-type: none"> <li>○ Organisational Development to Human Resources</li> <li>○ Director of Corporate Services to Director of Corporate and Customer Services.</li> </ul> </li> <li>• Removed references to the enquiries mailbox</li> </ul>	April 2017	V1.2
	V1.2	<ul style="list-style-type: none"> <li>• Updated to Executive Director</li> </ul>	January 2019	V1.3
	V1.3	<ul style="list-style-type: none"> <li>• Changed raising a concern from the Chair of the Board to the Whistleblowing Champion</li> <li>• Reference the dual role we have as a regulator and reference role Head of Professional Practice &amp; Standards</li> <li>• Added link to Audit Scotland's guidance for employees on what to do if you suspect fraud or corruption</li> <li>• Removed reference to MSP's as they are not a Prescribed Person in legislation (unlike MP's)</li> <li>• Included details for Protect</li> <li>• Offered assurances about protection/ removed references to discipline as this might put employees off from raising a complaint</li> </ul>	October 2019	V1.4

		<ul style="list-style-type: none"> <li>• Included reference to raising an anonymous complaint</li> <li>• Removed wording on external role in responding to complaints</li> <li>• Explained the situation about volunteers in terms of PIDA and the SPSO.</li> <li>• Added second example of whistleblowing</li> <li>• Removed language on how confidential complaints can be restrictive</li> <li>• Included confirmation to use complaints handling process when whistleblowing</li> <li>• Confirmed we would update the individual who raised concern, throughout the process</li> <li>• Included information on SPSO and contacting external prescribed person for an external disclosure</li> <li>• Added in that employees can contact others such as Trade Unions and other professional bodies for support</li> <li>• Included section on data protection</li> <li>• Included flowcharts to summarise the process for reporting concerns for workers and volunteers (internal and external disclosures)</li> <li>• Stated fraud in the bullet list of types of concerns that can be raised</li> </ul>		
	V1.4	<p>Based on feedback from Protect and the CI Whistleblowing Board Champion, the following changes were made:</p> <ul style="list-style-type: none"> <li>• Section 2 - added statement to confirm that it is the responsibility of everyone to follow this guidance and ensure that no individual is subject to detriment because they have raised a whistleblowing concern.</li> <li>• Updated flowchart 1 to confirm concerns can be raised with another line manager also.</li> <li>• Section 5 – added clarification to define detriment and the expectation of making disclosures in good faith.</li> </ul>	August 2020	V1.5

		<ul style="list-style-type: none"> <li>• Section 5- changed to “Regardless of whether the concern is raised about a person, team or the organisation, there are multiple people you can choose to speak to about your concern and there are also different routes for raising it. This is to provide you with a choice so that you can select the option that would help you to feel safe to speak out. There are also different processes depending on whether you are someone who works for the Care Inspectorate or someone who volunteers with us. “</li> <li>• Please see flowchart 1 (on the next page) if you work for the Care Inspectorate and flowchart 2 (also on the next page) if you are a volunteer to find out how to raise a concern. There is further information available on our intranet, under ‘complaints handing process’ as this is how we manage whistleblowing concerns. We also have information on the Care Inspectorate website.</li> <li>• Section 6- Complaint replaced with ‘relevant concern’.</li> <li>• Added new section 8 – support for people raising whistleblowing concerns including where to go if they are concerned about victimisation.</li> <li>• Section 8- Any employee who raises a genuine whistleblowing concern will be supported.</li> <li>• Removed abbreviations of PIDA and replaced them with the Public Interest Disclosure Act.</li> </ul>		
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