



Institute
and Faculty
of Actuaries

Whistleblowing:

A guide for employers of actuaries



by the Regulation Board

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Introduction

Actuaries aspire, and are held by the Institute and Faculty of Actuaries (“IFoA”), to high standards of professional conduct. Those standards help to enhance public confidence and trust in the profession and the organisations with which actuaries are associated. As such, actuaries add value to any organisation, increasing and inspiring the confidence of clients and regulators alike.

The IFoA promotes these qualities through the Actuaries’ Code, professional education and professional discipline. Actuaries also need the support of their employers to meet these standards.



The IFoA encourages employers of actuaries to provide a working environment, which includes:

- professional leadership;
- teamwork and a culture of openness and learning from mistakes;
- recognition of the specific professional obligations actuaries are under and access to professional counselling and advice; and
- effective procedures for avoiding unreasonable pressures being placed on them.

An important factor in creating an environment which meets these criteria is an effective whistleblowing policy.

Actuaries are trusted to exhibit objectivity and be robust in identifying and resisting pressures to act against their professional judgement or against the legitimate interests of users or potential users of their work. Organisations can support those behaviours in their actuarial members of staff by ensuring that all workers have confidence that concerns raised will be treated appropriately.



Purpose

The purpose of this guide is to help you as an employer of actuaries to understand the whistleblowing obligations that actuaries have, as it will be necessary to take these into account when considering your own approach to whistleblowing.

In practice, the terms “whistleblowing” and “speaking up” are often used interchangeably. In this guide, whistleblowing is used to describe any act of speaking up or of reporting to a third party (whether clients, regulators or relevant authorities), except where the context makes it sensible to preserve the distinction.

Application

Actuaries and their employers must be aware that the provisions of the Actuaries’ Code are applicable to all members of the IFoA (i.e. Students, Student Actuarial Analysts, Certified Actuarial Analysts, Affiliates, Associates, Fellows and Honorary Fellows), regardless of where they practise.

Where this guide makes reference to legislative provisions, those references reflect the UK position.

Why should I have a whistleblowing policy?

You may think that whistleblowing is not an issue within your organisation. However, many workers will have concerns at some point in their career about issues they witness in their workplace.

In addition, actuaries are under specific obligations to raise or report certain matters which come to their attention. For example, as members of the IFoA, actuaries have a professional obligation under the Actuaries' Code to report behaviour that they believe to be unlawful, unethical or improper.

The Actuaries' Code is informed by the expectations of the Financial Reporting Council (FRC), which provides oversight of the IFoA. The FRC expects actuaries to, "speak up whenever they have reasonable concerns arising from actuarial work or the way it is used, and follow the issues through."¹

Some roles held by actuaries also include statutory obligations to report certain information.

Every organisation faces the risk that something will go wrong and ought to welcome the opportunity to address this as early as possible. A whistleblowing policy is a statement of an organisation's commitment to good governance and acts as a guide for workers on how to raise a concern about wrongdoing, risk or

malpractice responsibly. If an employer has a clear procedure for workers to follow when raising a concern, this will help to give workers confidence that their concern will be handled fairly and, as a result, encourage them to report issues of actual and potential malpractice, wrongdoing or risk so that this can be addressed and damage prevented.

Without a safe alternative, a concerned employee may feel that their only option is to say nothing or anonymously to leak information outside the organisation.

As an employer, you will want to ensure that you are aware of any such issues, to give you the opportunity to put them right before they have an adverse impact on clients or others. This will enable you to rectify serious issues as soon as possible and could also mitigate damage to your business or reputation which might occur as a result of public disclosures.

Your organisation may in fact be under an obligation to have a whistleblowing policy in place. For example, provisions C3.5 and C3.6 of the FRC's UK Corporate Governance Code published in September 2014 requires public companies to have whistleblowing policies in place and to ensure that these are regularly audited or to explain why this is not the case.

What should a whistleblowing policy contain?

The purpose of a whistleblowing policy is to make clear to workers what to do if they come across, or suspect, malpractice, wrongdoing or risk in the workplace.



It should encourage workers to inform someone with the ability to do something about the problem. The specific content of such a policy will vary from employer to employer depending on the structure and nature of the business.

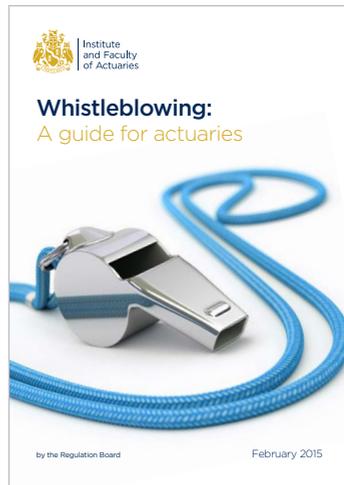
The Whistleblowing Commission Code of Practice recommends that a suitable policy would normally contain the following:

- a clear instruction to workers to inform their line manager (or if the issue involves the line manager, another senior manager) immediately if they become aware that any malpractice or wrongdoing is happening, has happened, or is likely to happen;
- details of any alternative sources of reporting, such as confidential telephone helplines or email boxes;
- the types of concerns to which the policy relates. As an employer of actuaries, this may include reference to obligations under the Pensions Act 2004 or the Financial Services and Markets Act 2000, which contain specific reporting obligations. It would be helpful to include specific examples of unacceptable behaviour;
- an undertaking to treat the concerns in confidence unless disclosure is required by law;
- an undertaking that workers will not be penalised for raising their concerns and informing management about their concerns;

- provide options for reporting matters externally to appropriate regulatory or professional bodies; and
- an explanation that it is a disciplinary matter either to victimise a bona fide whistleblower or for someone maliciously to make a false allegation.

A whistleblowing policy should be distinct from the organisation’s grievance procedure, as whistleblowing generally relates to issues which may not affect the individual worker directly but are of wider public interest.

Employers of actuaries may also find the material set out within the IFoA ‘s publication, “Whistleblowing: A guide for actuaries”, helpful in drawing up their own policies.





How can I ensure that the policy is effective?

As well as publishing the policy and raising awareness with all workers, employers ought to consider providing managers with training to ensure that matters brought to their attention are resolved in line with the policy and in a way which will best serve the public interest and cause least damage to the organisation.

This should include making clear that managers should:

- treat concerns raised under the policy seriously and be seen to have done so;
- investigate properly and thoroughly – keeping such notes as are necessary;
- ensure that such action as is necessary to resolve the concern is taken;

- respect the confidentiality of the employee, where possible;
- keep the employee advised of progress; and
- sanction anyone who is found to retaliate or who knowingly makes false allegations.

Employers should also consider setting up confidential “hotlines” for reporting such issues, ensuring that a designated senior manager is responsible for monitoring and following up on issues raised.



Whistleblowing to regulators and professional bodies

Actuaries have obligations to report certain matters which come to their attention to a regulator or to the IFoA. In such situations, an actuary may have reporting obligations over and above those contained in their employer's whistleblowing policy and would benefit from the support and guidance of their employer and/or senior members of their organisation in fulfilling their professional obligations.

With that in mind, you may also wish to consider establishing an Ethics Committee within your organisation, if you do not already have one. An Ethics Committee, consisting of senior members of your

organisation, may offer valuable support to any actuary who considers that he or she has an obligation to make a report to a third party, not involving either the employer or any fellow workers.

Examples of situations in which an Ethics Committee may be able to provide that support would be where the actuary considers that he or she is required to report the misconduct of another actuary to the IFoA or to report information about a client to a regulatory body, such as the Pensions Regulator.

Other issues to consider

In addition to the obligation to report behaviour that they believe to be unlawful, unethical or improper, actuaries are also under a professional duty to avoid putting themselves in positions where they are unable to comply with their legal, regulatory and professional obligations.

Employers should be made aware that actuaries' professional obligations continue to bind them regardless of any contractual restrictions. Indeed, it may often be an implied term of a contract for professional services that a professional person would

be entitled to disclose to his professional regulatory body information which would otherwise be confidential to the client, where relevant for disciplinary purposes. For that reason, when drafting contracts and in particular the confidentiality clauses of any contracts with third parties, employers may wish to consider expressly including exemptions in relation to whistleblowing. These obligations will also be of importance when considering the terms and conditions of business under which you operate.



Where can I find additional guidance?

This guide is intended only as an indicator of useful considerations and each employer should consider taking their own advice on their individual circumstances.

The following organisations and bodies offer additional guidance which you may find of assistance.

Independent organisations

Public Concern at Work (PCaW)
+44 (0)20 7404 6609
whistle@pcaw.org.uk
www.pcaw.org.uk

This charity provides much useful information to both workers and employers on their respective obligations, on raising concerns and on the legal protections available to whistleblowers under the Public Interest Disclosure Act 1998.

British Standards Institution (BSI)
+44 (0)20 8996 9001
cservices@bsigroup.com
www.bsigroup.com

The British Standards Institution has produced a whistleblowing arrangements code of practice², available on its website,

which sets out good practice for the introduction of effective whistleblowing arrangements.

Regulators

Financial Reporting Council
+44 (0)20 7492 2300
www.frc.org.uk

Financial Conduct Authority
+44 (0)20 7066 9200
whistle@fca.gov.uk
www.fca.gov.uk

The Financial Conduct Authority offers further guidance on whistleblowing, which can be found on the FCA website.³

The Prudential Regulation Authority
++44 (0)203 461 8703
PRAwhistleblowing@bankofengland.co.uk
<http://www.bankofengland.co.uk/prawhistleblowing>

The Pensions Regulator
+44 (0)845 600 7060
wb@tpr.gov.uk
www.thepensionsregulator.gov.uk

The Pensions Regulator has also issued a Code of Practice⁴ giving guidance to those affected by the Pensions legislation.

2| wbhelpline.org.uk/wp-content/uploads/2012/07/PAS1998_Whistleblowing1.pdf

3| www.fca.org.uk/site-info/contact/whistleblowing

4| www.thepensionsregulator.gov.uk/codes/code-reporting-breaches.aspx



Conclusion

This guide is issued by the IFoA for the use and benefit of actuaries and their employers. It sets out the IFoA's view of good practice in relation to whistleblowing. It is not intended to be the only standard of good practice for actuaries and their employers to follow. This guide does not constitute legal advice, nor does it necessarily provide a defence to allegations of misconduct.

While care has been taken to ensure that the contents of this guide are accurate, up to date and useful, the IFoA will not accept any legal liability in relation to them.

Any queries about or comments on this guide or the topic of whistleblowing may be directed to:

Whistleblowing
The Institute and Faculty of Actuaries
Level 2, Exchange Crescent
7 Conference Square
Edinburgh
EH3 8RA

or

whistleblowing@actuaries.org.uk

whistleblowing@actuaries.org.uk



Appendix A:

Extract from the Actuaries' Code

4 Compliance:

Members will comply with all relevant legal, regulatory and professional requirements, take reasonable steps to ensure they are not placed in a position where they are unable to comply, and will challenge non-compliance by others.

- 4.1 Members will speak up to their clients or to their employers, or both, if they believe, or have reasonable cause to believe, that a course of action is unlawful, unethical or improper.
- 4.2 Members will fulfil any obligations to report information to relevant regulatory authorities.
- 4.3 Where there is legal protection available, members will report behaviour that they have reasonable cause to believe is unlawful, unethical or improper, to regulators or other relevant authorities.

In the UK such protection includes: the Public Interest Disclosure Act 1998, sections 342 and 343 of the Financial Services and Markets Act 2000 and section 70 of the Pensions Act 2004.

- 4.4 Members will promptly report any matter for consideration under the Institute and Faculty of Actuaries' Disciplinary Scheme which appears to constitute misconduct or a material breach of any relevant legal, regulatory or professional requirements including Actuarial Profession Standards and Technical Actuarial Standards issued by the Financial Reporting Council, for consideration under the relevant disciplinary schemes. To the extent that the consent of a third party is required for this purpose in order to disclose information, members must take all reasonable steps to obtain such consent.

Appendix B:

Sample whistleblowing policy

Please note that this policy is intended as a starting point for consideration. It includes clauses which may not be appropriate for every organisation and may exclude some factors relevant to your organisation. It therefore should be tailored to your needs in order to ensure that it is fit for purpose.

You may wish to obtain Human Resources or legal advice before implementing a whistleblowing policy.

1 Preamble

- 1.1 Workers are often the first to realise that there may be something seriously wrong within the organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or the organisation. They may also fear harassment or victimisation. In these circumstances it may seem easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The organisation is committed to the highest possible standards of openness, probity and accountability. In line with this commitment, we expect workers and others that we deal with, who have serious concerns about any aspect of the organisation's work, to come forward and voice those concerns. We recognise that most cases will proceed on a confidential basis.
- 1.3 This policy document makes it clear that all workers can do so without fear of victimisation, subsequent discrimination or disadvantage. This whistleblowing policy is intended to encourage and enable workers to raise serious concerns within the organisation rather than overlooking a problem and may avoid the need to 'blow the whistle' to a third party.
- 1.4 The policy applies to all employees and those contractors working for the organisation, for example, [insert appropriate detail]. It also covers suppliers and those providing services under a contract with the organisation in their own premises, for example, [insert appropriate detail].
- 1.5 These procedures exist separately from the organisation's complaints procedures. You are responsible for making service users aware of the existence of these procedures.
- 1.6 This policy has been discussed with the relevant trade unions and employee representatives and has their support.

2 Aims and scope of this policy

2.1 This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for you to raise those concerns and receive feedback on any action taken;
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that your concerns tend to show wrongdoing or malpractice and disclosure of the information is in the public interest.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This whistleblowing policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law;
- disclosures relating to miscarriages of justice;
- health and safety risks, including risks to the public as well as other workers;
- damage to the environment;

- the unauthorised use of public funds;
- possible fraud and corruption;
- abuse of clients; or
- other unethical conduct.

2.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or workers of the organisation or others acting on behalf of the organisation can be reported under the whistleblowing policy. This may be an issue that:

- makes you feel uncomfortable in terms of known standards, your experience or the principles you believe the organisation subscribes to;
- is against the organisation's policies;
- falls below established standards of practice; or
- amounts to improper conduct.

3 Safeguards

3.1 The organisation is committed to good practice and high standards and wants to be supportive of workers.

3.2 The decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

3.3 The organisation will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern.

3.4 No investigation into allegations of potential malpractice will influence or be influenced by any disciplinary, redundancy or other statutory or non-statutory procedures that already affect you.

4 Confidentiality

4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5 Anonymous allegations

This policy encourages you to put your name to your allegation whenever possible. If you choose to make an anonymous allegation it will still be considered taking into account:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

6 Public interest

6.1 If you have a reasonable belief that your concerns tend to show wrongdoing or malpractice and disclosure of the information is in the public interest, but the allegation is not confirmed by the investigation, no action will be taken against you.

7 How to raise a concern

7.1 Consider obtaining advice/guidance on how to pursue matters of concern by telephoning the whistleblowing charity, Public Concern at Work (PCaW) on their confidential helpline:
+44 (0)20 7404 6609
or **whistle@pcaw.org.uk**

If ultimately you feel you have to take the matter externally, possible contacts are listed at Section 10 of this policy.

7.2 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved you should approach [insert detail of a designated alternative person] or an external helpline such as PCaW.

7.3 Concerns may be raised verbally or in writing. Workers who wish to make a written report are invited to use the following format:

- the nature of your concern or of the issue to be reported;
- your reason(s) for believing that what you are reporting is an issue;
- the full name(s) of those involved, including any to whom you have already reported the issue;
- times and dates when your concerns were aroused;

- details of the location(s) concerned;
- details of any evidence;
- details of any witnesses; and
- whether any action has already been taken by anyone.

7.4 The earlier you express the concern the easier it is to take action.

7.5 You may wish to consider discussing your concern with a colleague first. You should however ensure that you are not making frivolous allegations or ‘tipping off’ under the Money Laundering Regulations.⁵ You may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

7.6 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

7.7 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

8 How the organisation will respond

8.1 The organisation will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

8.2 Where appropriate, the matters raised may:

- be investigated by [insert appropriate detail], or through the disciplinary process;
- be referred to the police;
- be referred to the external auditor; and/or
- form the subject of an independent inquiry.

8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

8.5 Within [insert appropriate detail, e.g. ten] working days of a concern being raised, the responsible person will write to you:

- acknowledging that the concern has been raised;
- indicating how we propose to deal with the matter;
- telling you whether any initial enquiries have been made;
- giving an estimate of how long it will take to provide a final response;
- supplying you with information on staff support mechanisms; and
- telling you whether further investigations will take place and if not, why not.

5| Money Laundering Regulations 2007 SI: 2007/2157 under the Proceeds of Crime Act 2002.

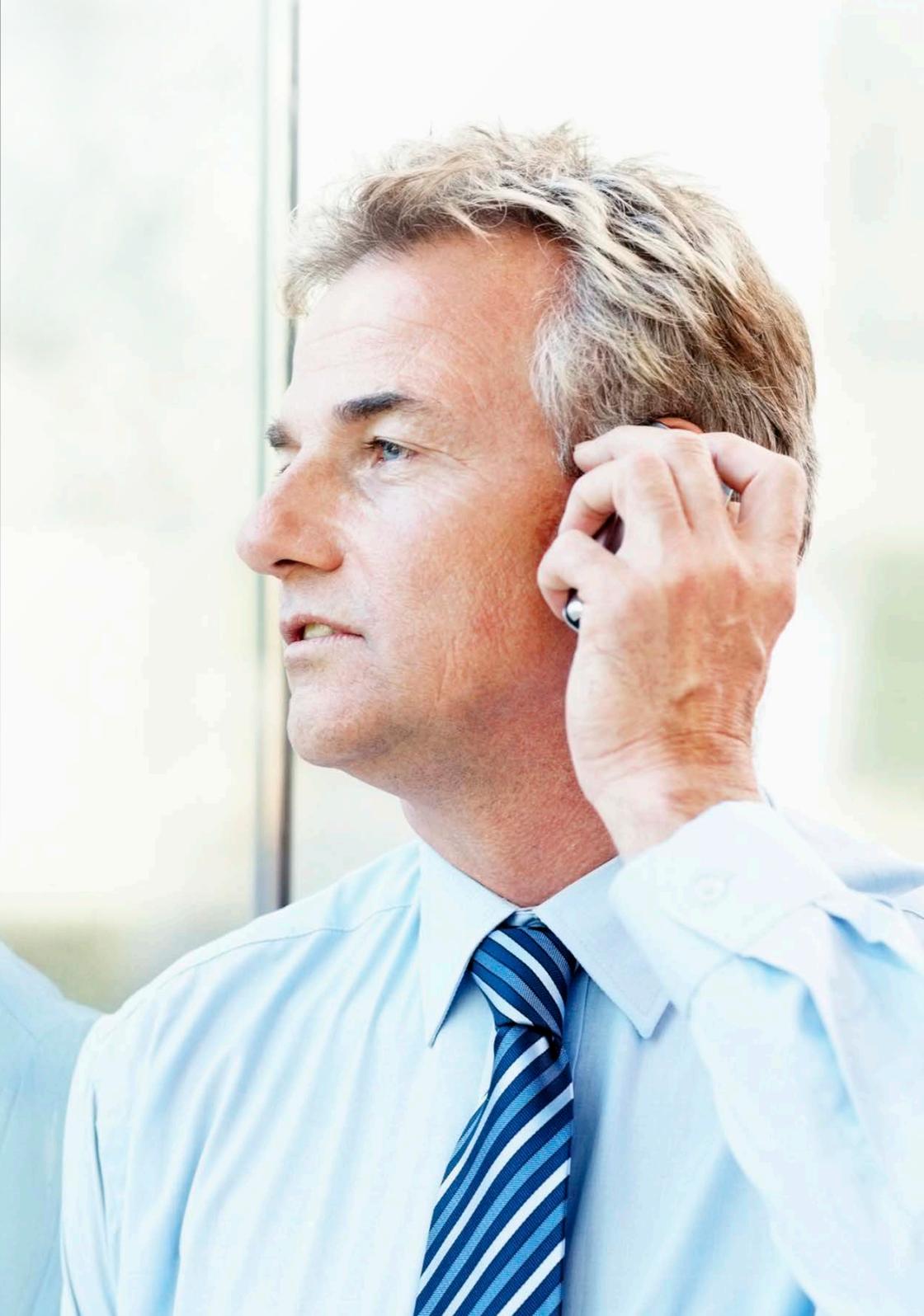
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary the organisation will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 8.8 The organisation will take steps to minimise any difficulties you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the organisation will arrange for you to receive advice about the procedure.
- 8.9 The organisation accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

9 Responsible officer

- 9.1 The [insert appropriate detail] has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcome (but in a form which does not endanger your confidentiality) and will report as necessary to the organisation.

10 Taking matters further

- 10.1 This policy is intended to provide you with an avenue within the organisation to raise concerns. The organisation hopes you will be satisfied with any action taken.
- If you are not, and if you feel it is right to take the matter outside the organisation, the following are possible contact points:
- Public Concern at Work **(+44 (0)20 7404 6609)**;
 - your local Citizens Advice Bureau or other relevant voluntary organisation;
 - relevant professional bodies or regulatory organisations; and/or
 - the police.
- 10.2 If you do take the matter outside the organisation, you should ensure that you do not disclose confidential information unless you have a statutory or professional obligation which overrides your duty of confidentiality to the organisation. Check with your contact point about that.





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