

Whistleblowing

An employer's guide to responding to
suspected fraud, corruption
or other wrongdoing



You should read this leaflet if you are a manager in:

- a local authority
- NHSScotland
- a department of the Scottish Government
- a police or fire and rescue service
- a further education college
- a government agency
- a non-departmental public body.



Why you should read this leaflet

Fraud and corruption exists in Scotland's public sector and it:

- costs the taxpayer millions of pounds each year
- damages public confidence
- demoralises the workforce who are subjected to unfair criticism.

All public sector organisations are at risk of some fraudulent or corrupt activity. As a manager, it is likely that you will have to deal with cases of or concerns about fraud, corruption or other wrongdoing.

The Public Interest Disclosure Act helps by creating a practical framework for whistleblowing and provides strong protection for genuine whistleblowers. By helping you provide a safe alternative to silence, the Act will help you and your organisation tackle fraud and demonstrate your commitment to good governance.

Your role and responsibility

Your organisation should have:

- formal policies and procedures in place to respond to suspected fraud; and
- a whistleblowing policy which complies with the Public Interest Disclosure Act (see Whistleblower Protection section) and the BSI Whistleblowing Arrangements Code of Practice PAS 1998/2008. Available for free download here: <http://www.pcaw.org.uk/bsi>

You should be familiar with these documents. Your fraud response plan should contain guidance on how to respond to suspected fraud and corruption and detail steps to be taken when investigating suspected fraud. Your whistleblowing policy should tell staff how to raise concerns about fraud or other wrongdoing and explain how you respond to an employee who raises a concern about wrongdoing. It should assure staff that any victimisation of genuine whistleblowers will not be tolerated. As a manager, you should ensure that all your staff know how to raise a whistleblowing concern.

If you need to know more about setting up, reviewing or promoting your whistleblowing policy, contact Public Concern at Work on 020 7404 6609 and at www.pcaw.org.uk.

Investigating suspected fraud

Internal audit are normally the appropriate people to investigate cases of suspected fraud and corruption.

- Fraud and corruption investigations must be well managed and carried out by knowledgeable and experienced staff in order to result in the right outcome.
- There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may adversely affect the outcome of the case.
- Internal audit staff are trained in handling fraud and corruption investigations, and are generally the appropriate people to conduct any further investigative work.
- Remember that a poorly directed investigation may prematurely alert the suspect and result in the destruction of evidence.
- Your primary responsibility is to report the issue and all associated facts promptly and accurately to an appropriate officer. You should then be prepared to cooperate as instructed in any subsequent investigation.
- You should not attempt to investigate the matter further yourself.

Don't delay

If you do not provide a safe alternative to silence for your employees:

- the chances are you will miss an opportunity to deal with a problem before it becomes a crisis
- this will discourage employees from raising concerns in the future and there will be a fear that nothing will be done
- your organisation's ability to control the unfolding situation will be compromised
- your own conduct will become an issue, the reputation and standing of your organisation will fall in the public's perception
- adverse comment could result in greater compliance and regulatory requirements, making your job even more difficult and demanding.

Whistleblowing protection

The Public Interest Disclosure Act protects your staff who suffer or experience reprisal when they raise a genuine concern internally or seek advice from Public Concern at Work or another lawyer on how to raise a concern. The Act also provides protection for those who raise concerns with regulators such as Audit Scotland, Accounts Commission or the Auditor General for Scotland and it can, in certain circumstances, protect workers who raise a concern wider (ie, MPs, the police and the media).

Further advice

If someone with a concern wants further advice, you can refer them to:

- your whistleblowing policy
- your counter-fraud policy
- Audit Scotland's leaflet *What you should do if you suspect fraud or corruption*.

You should be familiar with these documents. Your fraud response plan should contain guidance on how to react to suspected fraud and corruption and it should detail procedural steps to be taken when investigating suspected fraud.

Alternatively, they can telephone:

- Public Concern at Work's confidential advice line on [020 7404 6609](tel:02074046609)
- Audit Scotland on [0131 625 1500](tel:01316251500).



Getting it right

Common sense rules that can be applied in all cases



Do

Do be open to staff concerns

Your organisation needs to encourage staff to raise concerns about malpractice or wrongdoing early and effectively. You should reassure staff that if they raise concerns with you, they will be protected from victimisation or reprisal. You should encourage staff to raise concerns openly but where this is not possible do everything you can to reassure them about confidentiality. If someone wishes to discuss a concern in confidence you should respect it, but tell them that there may be limits to this for instance, where their evidence is needed in court or where the matter cannot be resolved unless their identity is revealed.

Do write down details

Get as much information as possible from the employee. If he or she has made notes, ask for a copy of these. In addition, note any documentary evidence that may exist to support the concern, but do not interfere with the evidence in any way.

Do evaluate the information objectively

Before you take the matter further, you need to determine whether any suspicions appear justified. Be objective when evaluating it. Ask the individual if they have any suggestions as to how the concern may be addressed or investigated. Consider the facts as they appear, based on the information you have to hand.

Do advise the appropriate officer

Your organisation's whistleblowing and fraud response plans will detail who is responsible for handling whistleblowers and for investigating cases of suspected fraud or misconduct. You should liaise with them or alternatively, contact the director of Finance, the head of Human Resources, or your organisation's internal audit service.

Do deal with the matter promptly

The earlier the problem is detected the earlier the damage caused can be repaired.

Do distinguish between whistleblowing and grievances

A whistleblowing concern is about a risk, malpractice or wrongdoing that affects others. It could be something which adversely affects patients, the public, other staff or the organisation itself. A grievance, on the other hand, is a personal complaint about an individual's own employment situation. A whistleblowing concern is where an individual raises information as a witness whereas a grievance is where the individual is a complainant.

Don't

Don't ignore or ridicule concerns raised by staff

Your organisation cannot operate an effective antifraud environment if employees are reluctant to pass on their concerns to management. One reason people are reluctant to raise concerns is fear of ridicule or recrimination. As their manager you should reassure them that they will not suffer reprisal if they are honestly raising concerns (even if they are mistaken), and that victimisation for whistleblowing will not be tolerated.

Don't approach or accuse any individuals directly

If the concern seems credible, don't accidentally tip-off a fraudster in case incriminating evidence could be destroyed.

Don't convey the concern to anyone other than someone with the proper authority

Your organisation should have appointed and trained designated individuals able to deal with, and guide you on, whistleblowing matters.

Don't try to investigate the matter yourself

If the concern seems credible don't rush into investigating the matter yourself. Pass it on or discuss it as soon as possible with the officer or body who has been given that responsibility.



About us

Prepared by:

Audit Scotland Helping to improve by holding to account

Audit Scotland is a statutory body which provides services to both the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Government and the public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.

Public Concern at Work Making whistleblowing work

Public Concern at Work is the whistleblowing charity. Established in 1993, it provides confidential advice to employees, employers and governments. For more information please visit www.pcaw.org.uk.



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