

# WHISTLEBLOWING

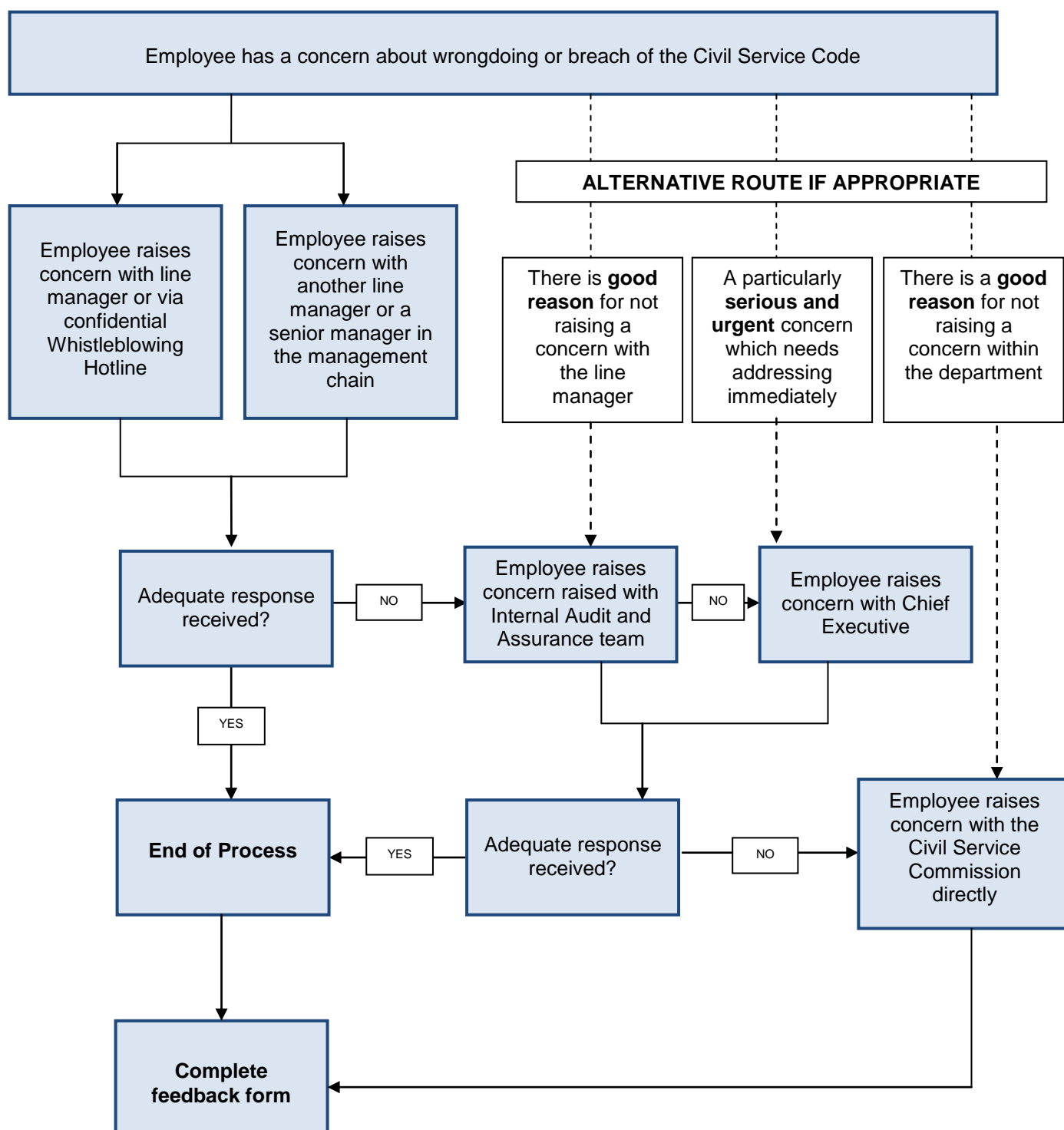
## PROCEDURE

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## Flow Chart 1: Process Overview

An accessible version of the flowchart is enclosed in Annex Two.



## 1. Introduction

- 1.1 Whistleblowing is when an employee reports suspected past, present or imminent wrongdoing, or an attempt to conceal wrongdoing. Officially this is called 'making a disclosure in the public interest'. Whistleblowing is important to safeguard the effective delivery of public services, and to ensure value for money. It serves to protect and reassure the workforce, increasing public confidence and to maintain a healthy working culture and an efficient organisation.
- 1.2 This procedure outlines the process that employees should follow when reporting a perceived wrongdoing within the CPS, including something they believe goes against the core values in the [Civil Service Code](#) (the Code) i.e. integrity, honesty, objectivity and impartiality. This procedure has been written in accordance with the process set out in the Code and the Civil Service Management Code. Under the Code, civil servants have a right and a responsibility to speak up and report behaviour that contravenes the Code's values.
- 1.3 The reporting, under this procedure, of wrongdoing may be covered by the law concerning protected disclosures of information. The procedure has therefore been written with reference to the Public Interest Disclosure Act 1998 (PIDA), which offers protection to those in both the private and public sectors, who 'blow the whistle', in certain circumstances. The [Directory of Civil Service Guidance](#) and the [Civil Service Management Code](#) provides more information.
- 1.4 It is important that this procedure is followed when raising any concerns, to ensure that the matter is dealt with correctly. Where a concern is raised using the correct procedure, the individual will be protected from any unfair or negative treatment (see section 11). As set out in this procedure, employees can raise concerns through a number of internal routes and can also approach the independent Civil Service Commission directly. PIDA protection may also apply.
- 1.5 The CPS wishes to encourage all employees and other workers (see 'Scope' in [Whistleblowing Policy](#)), who have concerns about wrongdoing or malpractice involving any aspect of the department's work, to feel able to come forward and voice these without fear and in confidence. It is important that concerns are raised at the earliest time possible as this will allow the opportunity to address and resolve any concerns quickly. Employees will be able to do this through using this procedure to alert the appropriate people about such issues.
- 1.6 Sources of advice and support can be found in Annex One.

## 2. Roles and Responsibilities

- 2.1 Roles and responsibilities applying across all CPS HR Policy and Procedures are detailed within the document [Standard Terms and Information Applying to All HR Policy & Procedures](#). The additional roles and responsibilities which apply in relation to the Whistleblowing Policy include, but are not limited to:

### **Directors/ CCPs/ Area, CCD or HQ Business Managers**

- Promoting and providing a safe culture and environment where employees and other workers are confident that they can speak up about concerns without fear of reproach or recrimination.
- Ensuring that mechanisms are in place within the Area/ Division or Directorate to inform the Internal Audit and Assurance team of any matters of concern which are raised.

### **Line Managers**

- Providing a safe environment where CPS employees and other workers are comfortable speaking up about matters of concern.
- Ensuring that any matters raised are treated seriously and dealt with promptly in accordance with this policy and procedure, including informing the Internal Audit and Assurance team of all concerns reported to them.
- Maintaining confidentiality, as appropriate, of the employee(s) involved in the concern.
- Not deterring, bullying, isolating or otherwise victimising anyone using these procedures or destroying information about malpractice, all of which may result in disciplinary action.

### **Employees and Other Workers**

- Reporting and pursuing concerns reasonably believed to be in the public interest (see Section 3).
- Raising concerns to the appropriate person in the appropriate way in line with this policy.
- Not raising or pursuing any malicious or vexatious allegations relating to the department or colleagues.

### **Human Resources Directorate (HRD)**

- Monitoring matters raised in liaison with the Internal Audit and Assurance team to ensure that there is minimum risk of malpractice and unethical behaviour.
- Where appropriate, ensuring steps are taken to prevent re-occurrence of any concerns.
- Each year, HRD and the Internal Audit and Assurance team will be required to satisfy the Whistleblowing Champion that the process is working and provide assurance that the arrangements in place are effectively communicated.

### **Internal Audit and Assurance Team (see Annex One)**

- Managing the Whistleblowing Hotline
- Acting as a point of contact, via the Whistleblowing Hotline for workers who feel uncomfortable raising a matter of concern through their normal line management chain.
- Ensuring matters raised are handled properly.
- Monitoring whistleblowing cases, in liaison with HRD, to report on the use of this procedure and the outcome of investigations, including disclosures where no further action is taken.
- Where appropriate, ensuring steps are taken to prevent re-occurrence of any concerns.
- Satisfy the Whistleblowing Champion, with HRD, that the process is working, and provide assurance that the arrangements in place are effectively communicated.

### **Whistleblowing Champion (a nominated Non-Executive Director)**

A Non-Executive Director will be nominated to act as a Whistleblowing Champion, who will have a responsibility to ensure that the department has effective processes for reporting concerns. Roles and responsibilities will also include:

- Seeking to satisfy themselves that the whistleblowing processes and arrangements in place are working and are effectively communicated.
- Acting as a point of contact for board members who feel uncomfortable about raising a concern via other avenues.
- Reporting concerns raised directly with them to the Internal Audit and Assurance team, and advising whether the team should be involved in the investigations.
- Recommending how investigations may proceed where a concern of malpractice involving a board member has been raised.

### **Departmental Trade Unions (DTUS)**

- Directing members to the policy to ensure concerns are raised in the correct manner.
- Providing support and advice to members when they raise a concern and making them aware of the correct routes as per this policy.
- Reminding members of the importance of following the correct procedures to ensure they are afforded the appropriate protection.
- Accompanying members raising a concern at any formal meeting under this policy, where requested.
- Treating matters raised under this policy in confidence, as set out in Section 9.

## **3. What is a relevant concern?**

3.1 Concerns can relate to matters of policy or misinterpretation of policy or it can relate to (but not limited to) the following when they are carried out either by the CPS, part of the CPS or by an individual(s) in their role or capacity within the CPS:

- Criminal offence,
- Unlawful acts,
- Improper and/or unethical behaviour;
- Endangering the health or safety of any individual;
- Miscarriage of justice;
- Financial malpractice, impropriety or fraud;
- Mishandling or risks to data and/or information;
- Failure to comply with a legal obligation;
- Breaches of Departmental policies and procedures, or of the [Civil Service Code](#), only where an employee does not feel able to report their concerns through the grievance procedure, e.g. because they have witnessed wrongdoing or because they are fearful that doing so would result in a significant threat to themselves or any other person or they have reasonable grounds to believe that it may result in further harassment;
- Deliberate concealment of any of the above.

3.2 Furthermore, if an employee is asked to do something, or is aware of the actions of another, which they consider to be wrongdoing/a breach of the values of the Code, they can raise it using this procedure. The employee must have a reasonable belief that raising the concern is in the public interest.

- 3.3 This procedure should not be used to raise concerns of an HR or personal nature, for example, complaints relating to a management decision or terms and conditions of employment. These matters should be dealt with using the relevant alternative procedure, for example, the CPS [Grievance Procedure](#). Equally, this policy would not apply to matters of individual conscience where there is no suggestion of wrongdoing by the department but an employee is, for example, required to act in a way which conflicts with a deeply held personal belief.
- 3.4 If unsure whether a concern should be raised using the Whistleblowing procedure, further advice is available in the [FAQs](#). Line managers or the Internal Audit & Assurance team will also be able to assist.

#### **4. Raising a concern**

- 4.1 If an employee experiences something in the workplace which they consider to be in conflict with the Code and/or perceived to be wrongdoing, it is important that the concern is raised straight away. Proof is not required as this is the CPS's responsibility to acquire. The employee must, however, have a reasonable belief that disclosing the information is in the public interest before raising a concern using the procedure set out in this policy. The following paragraphs outline the different ways in which to raise a concern.
- 4.2 The concern should, in most instances, be raised with the employee's line manager though it is important that the concern is raised with the person best placed to deal with the matter and with whom the employee feels most comfortable.
- 4.3 There may be certain rare occasions, however, when it would be inappropriate to raise the concern with the line manager because, for example, the concern:
- may implicate the manager in some way,
  - is about a senior manager within the line management chain or somewhere else in the department,
  - is particularly serious and needs to be dealt with as a matter of urgency.
- 4.4 Employees can raise a concern using the Whistleblowing Hotline. This may also be a more appropriate route if:
- it is suspected that the concern may implicate the line manager in some way,
  - the concern relates to someone more senior in the line manager or another senior person in the CPS,
  - it is felt that the concern is particularly serious and urgent and the employee is worried that approaching the line manager in the first instance may delay the resolution of the matter, for example in the case of National Security,
  - an employee has raised a concern with the line manager but does not feel it has been adequately addressed.
- 4.5 Concerns can also be raised with a senior manager if it is not appropriate to raise the concern with the line manager or the employee feels more comfortable doing so.
- 4.6 If it is believed that the concern is extremely serious and urgent and it cannot be raised with the line manager, another line manager, a senior manager, or the Internal Audit and Assurance team, then it can be raised with the Chief Executive. The concern should only

be raised in this way if the employee has given serious consideration to all other internal options.

- 4.7 If an employee has used this procedure to raise a concern within the CPS and does not receive what they consider to be a reasonable response, they may raise the concern with the [Civil Service Commission](#) (the Commission).
- 4.8 The Commission is an independent body which can hear and determine complaints relating to the Code. Examples of complaints the Commission can hear include if the employee has been required to act in a way that conflicts with the Code, or observes that another civil servant is acting, or has acted, in a way that conflicts with the Code. The [FAQs](#) provide additional information on the Commission.
- 4.9 Employees who are the subject of an ongoing investigation or procedure e.g. disciplinary or redundancy will not necessarily have their investigation or the procedure halted or suspended should they raise a concern under this policy. The decision in relation to this will be made by the HR Director in consultation with the Internal Audit and Assurance team.
- 4.10 The CPS appreciates that this might be a difficult time for employees, who may feel uncertain about how to progress a concern. Support is available at all stages of the process and a contact list is included in Annex One and accompanying FAQs.

## **5. Taking concerns direct to the Civil Service Commission**

- 5.1 Civil servants can also raise a concern direct with the Civil Service Commission. However, where appropriate, the Commission expects civil servants to have raised concerns within their own department first. If a concern is raised directly with the Commission, without it being raised within the department first, the Commission will ask why it is not appropriate to raise the matter internally first. Annex One and the accompanying FAQs document provides details on how to contact the Commission. Further information on the Civil Service Commission can also be found on their website:  
<http://civilservicecommission.independent.gov.uk/>

## **6. External Disclosures**

- 6.1 External disclosures may be made in the following circumstances and individuals are advised to seek their own legal advice before doing so. External disclosures may be made:
- on a confidential basis directly with bodies such as the National Audit Office (NAO) or other appropriate public body or such person as may be prescribed by the Secretary of State under [Section 43F of the Public Interest Disclosure Act 1998](#). Before taking any such action employees are encouraged to inform the Internal Audit and Assurance team,
  - if they have reasonable grounds for believing that disclosure would lead to evidence being concealed or destroyed or that they will be subjected to a detriment as a result of making the disclosure;
  - on a confidential basis for the purpose of seeking legal advice.
- 6.2 Raising a concern outside the prescribed routes listed in this procedure, for example, with the media, campaign groups, on social media or with political parties, is protected by PIDA only in very limited circumstances and could, if it amounts to an unauthorised disclosure, result in disciplinary action. It may also breach the [Official Secrets Act](#). Please note that this list is not exhaustive.

## **7. Information needed to raise a concern**

- 7.1 When raising a concern under this procedure, an employee should provide the following information where possible:
- the nature of the concern and its key elements,
  - when it happened,
  - who was involved.
- 7.2 In addition to details of the concern, an employee should try to provide the following information:
- the background and reason behind the concern;
  - whether they have already raised a concern with anyone and the response;
  - any other relevant dates;
  - if applicable, any personal interests must be declared from the outset.
- 7.3 It is important that matters are not investigated by employees themselves. Proof is not needed, just a reasonable, honest belief that wrongdoing, including breaches of the core values in the Code, has occurred or is likely to occur.

## **8. Procedure for Dealing with Concerns**

- 8.1 All investigations will be conducted sensitively, as quickly as possible, and under this procedure. The investigation should be concluded within three months of the matter being raised, though some scenarios may result in a longer timeframe. While the CPS cannot guarantee that the outcome will be as the employee may wish, the matter will be handled fairly and in accordance with the Whistleblowing Procedure.
- 8.2 Once line management or other appropriate person has been approached about a concern they must inform their Area/Division/HQ Business Manager or Level E manager immediately of the concern, maintaining confidentiality if this has been requested by the employee who raised the matter. Where a concern from a board member has been reported directly to the Whistleblowing Champion, they will inform the Internal Audit and Assurance team of the concern.
- 8.3 The Area/Division/HQ Business Manager or Level E manager must report **all** whistleblowing concerns (see section 3) to the Internal Audit and Assurance team and to the relevant Human Resources Adviser (HRA), even if it is identified that the matter should be managed under a different policy or appears to have no substantive basis.
- 8.4 Once a concern has been raised by an employee with the line manager or the Internal Audit and Assurance team, a meeting may be arranged with them to determine how the concern should be taken forward. This may involve an internal inquiry or a formal investigation. It will be established at the meeting who will be dealing with the matter, for example, the Departmental Security Unit or Health and Safety Team.
- 8.5 If a meeting is arranged, the employee may be accompanied by a trade union representative or a colleague who is not involved in the area of work to which the concern relates if they wish. If the employee prefers, the meeting can be conducted over the telephone rather than face to face.



- 8.6 Where a concern has been raised which suggests malpractice involving a board member, the Internal Audit and Assurance team will advise the Whistleblowing Champion. In these circumstances the Whistleblowing Champion may advise the Internal Audit and Assurance team on how the investigation should proceed.
- 8.7 Once the Internal Audit and Assurance team has been approached about a matter of concern they will formally acknowledge receipt of the concern within three working days to either the line manager, the Area/HQ Business Manager or direct to the employee, depending upon who referred the concern to them originally. Within 10 working days they will also confirm in writing:
- how it is proposed to deal with the matter;
  - whether further investigations will take place, or if not deemed appropriate, why this decision has been made;
  - an estimate of how long it might take to provide a final response;
  - what support can be offered to the individual raising the concern.
- 8.8 The Internal Audit and Assurance team will discuss the concern, where appropriate, with HRD. A decision will be made on whether the concern should be investigated internally under this policy or the Grievance, Disciplinary or another policy, as appropriate. It may also be decided that the matter should:
- be referred to the Department Security Unit, and/or
  - be referred to the Police, and/or
  - be referred to the external auditor, and/or
  - be the subject of an independent inquiry; or
  - have no further action taken.
- 8.9 Some concerns may be resolved by agreed action without the need for formal investigation. If urgent action is required, this may be taken before any investigation is conducted.
- 8.10 The CPS may decide that no further action will be taken under this policy in the following (not exhaustive) set of circumstances:
- if, after investigation, there is no evidence that malpractice within the meaning of this procedure (see paragraph 3.1) has occurred, is occurring or is likely to occur;
  - if the matter concerned is already the subject of legal proceedings, or has already been referred to the police or other public authority;
  - if the matter is already, has already been, or should be, the subject of proceedings under one of the other CPS procedures.
- 8.11 The department will aim to update the employee on the progress of the concern within 28 days of it being raised, where possible. However, in the event of a formal investigation or the involvement of police/security, the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern is being dealt with.
- 8.12 Once the investigation has concluded, the individual will receive an explanation about how the matter has been addressed. If there are legal constraints, e.g. in a criminal investigation,

the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern has been dealt with. If no further action is proposed the Internal Audit and Assurance team will inform the reasons for this in writing to the individual who has raised the concern.

- 8.13 If the investigation is not completed within three months or in the time originally estimated for the investigation, the Internal Audit and Assurance team will provide regular updates as agreed with the individual.
- 8.14 Throughout any investigation, the employee will still be expected to continue their duties/role as normal unless deemed inappropriate.
- 8.15 A summary of the procedure can be found in the flowchart: *Process Overview* at the beginning of this document.

## **9. Confidentiality**

- 9.1 The best way to raise a concern is to do so openly as this makes it easier for the CPS to investigate and provide feedback. However, the CPS recognises that many people may not express their concerns due to fear of reprisal, worry of not being taken seriously or of being perceived as 'disloyal.'
- 9.2 Any disclosures made under this procedure will be treated in a sensitive manner. The CPS recognises that the employee may want to raise a concern in confidence, i.e. they may want to raise a concern on the basis that their name is not revealed beyond the disclosure route without their consent.
- 9.3 The CPS will take steps in the investigation to ensure that confidentiality is maintained as far as possible and will endeavour to protect the identity of the person who raised the concern. This should be possible in the majority of cases. Thus, any document, report or recommendation prepared by the CPS in relation to the matter will not identify the person raising the concern unless:
  - the person has consented to their identity being exposed in writing, or
  - there is evidence to show that the person who raised the concern has acted maliciously, or
  - the CPS is under a legal obligation to do so, or
  - the information is already in the public domain, or
  - it is necessary for the matter to be dealt with properly or fairly, or
  - it is on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- 9.4 All parties will be under an obligation to use all reasonable endeavours to ensure that they keep the matter and all information relating to the disclosure strictly confidential except, as permitted under this procedure, as required by law or until such time as it comes into the public domain.
- 9.5 The same considerations of confidentiality should be afforded to the employee(s) at the centre of the concern as far as appropriate.

## **10. Anonymous Allegations**

- 10.1 Employees may choose to raise concerns anonymously, i.e. without providing their name at all. The CPS prefers that allegations are not made anonymously as it enables the matter to be investigated more fully. It is also easier to protect someone raising a concern if the CPS knows their identity. However this is a matter of choice and depending on the concern raised, there may be the rare occasion where the employee may feel uncomfortable revealing their identity when making an allegation. However, raising a concern anonymously is preferred to silence about potential serious wrongdoing.
- 10.2 If a concern is raised anonymously it will be treated as credible, unless it is obviously a hoax, and investigated so far as possible. The allegation will be considered at the discretion of the CPS. In exercising this discretion factors to take into account would include:
- the seriousness of the concern raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegations from an attributable source – that is someone other than the anonymous source

## **11. Protection**

- 11.1 An employee will not be penalised for raising a concern, when using the most appropriate route, where they feel they are being required to act in a way which conflicts with the code. This is a requirement of the Civil Service Code.
- 11.2 The policy seeks also to implement the statutory protection, given under the Public Interest Disclosure Act, to workers who raise concerns in accordance with this policy. The CPS will protect any person who raises a concern in the belief that it is in the public interest to do so, from victimisation or reprisals such as being subject to discipline, dismissal or any other detriment as a result of raising the concern.
- 11.3 Where an employee has been victimised for raising a concern, the CPS will take appropriate action against those responsible, in line with the CPS [Disciplinary policy](#).
- 11.4 If an allegation is made in the belief that it is in the public interest to do so, but is not confirmed by the subsequent investigation, no action will be taken against the employee.

## **12. Other documents accompanying this Procedure**

- 12.1 This procedure is accompanied by [Frequently Asked Questions](#) and [Guidance for Managers](#) where employees can find more information.

## **Annex One: Sources of Advice**

### **Whistleblowing Hotline**

Employees and other workers are encouraged to raise matters of concern with their line manager in the first instance. However, where this is not appropriate or possible, the Whistleblowing Hotline number, managed by the Internal Audit and Assurance team (see below), can be used to report any concerns about wrongdoing, malpractice or fraud.

Whistleblowing Hotline	0300 047 5200 (Monday – Friday, 9am – 5pm with voicemail facilities outside of these hours)
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Mailbox	<a href="mailto:fraudreporting@justice.gsi.gov.uk">fraudreporting@justice.gsi.gov.uk</a>
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### **Internal Audit and Assurance team**

In line with the Civil Service Reform move to greater use of shared services across government, the CPS Internal Audit function transferred to the Ministry of Justice (MOJ) and began being delivered under a Service Level Agreement (SLA) between MOJ and CPS Accounting Officers from April 2014.

This status enables the Internal Audit and Assurance team to facilitate, monitor and/or investigate any issues of malpractice or misconduct brought to them by CPS employees where it has not been appropriate or possible to inform line management, without risk of interference or intimidation by management.

### **Alternative Contacts**

Employees and other workers are able to make an external disclosure using the following routes to raise a matter of concern should they feel uncomfortable using the procedure outlined in this document. This list is not exhaustive.

Please note; individuals are advised to seek legal advice before making an external disclosure.

National Audit Office	020 7798 7999 (Monday – Friday, 9am – 5pm with voicemail facilities outside of these hours)
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Civil Service Commission	<a href="mailto:info@csc.gsi.gov.uk">info@csc.gsi.gov.uk</a>
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### **Sources of Advice and/or Support**

Public Concern at Work (Independent charity)	020 7404 6609 (Monday – Friday, 9am – 6pm) <a href="mailto:whistle@pcaw.org.uk">whistle@pcaw.org.uk</a>
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Workplace Wellness (CPS employee assistance)	0800 1116 387 (Monday – Sunday, 24 hours a day)
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## **Annex Two: Accessible version of Flowchart 1**

### **Employee has a concern about a perceived wrongdoing or breach of the Civil Service Code.**

#### **Step 1**

If you have a concern about a perceived wrongdoing or breach of the Civil Service Code you should raise it within the Department, go to Step 2.

However, if you have a concern about your line manager, go to step 3.

If there is a good reason for not raising the concern with line manager, go to step 4.

If you have a particularly serious and urgent concern which needs addressing immediately, go to Step 9.

If you have a good reason for not raising the concern within the department, go to Step 10.

#### **Step 2**

Concerns should be raised with your Line manager or via the confidential whistleblowing hotline, please refer to Annex One. Then go to Step 7.

#### **Step 3**

If your concern is regarding your line manager you should refer your concern to another line manager or a senior manager in the management chain, go to Step 7.

#### **Step 4**

If there is a good reason for not raising a concern with the line manager or senior manager in the line management chain, go to Step 8.

#### **Step 5**

If you have a particularly serious and urgent concern, which cannot be raised via the management chain or Internal Audit and Assurance, go to Step 9.

#### **Step 6**

If you have a good reason why your concern cannot be raised in the Department, go to Step 10.

#### **Step 7**

If you were unable to raise your concern with the appropriate manager or no adequate response was received, go to Step 8.

If you have raised your concern with the appropriate manager and received adequate response go to Step 11. This concludes the process.

#### **Step 8**

Raise concern with Internal Audit and Assurance.

If you were unable to raise your concern with the Internal Audit and Assurance or no adequate response was received, go to Step 9.

If you have raised your concern with the Internal Audit and Assurance and received adequate response, go to Step 11. This concludes the process.

### **Step 9**

Raise the matter with the Chief Executive.

If you were unable to raise your concern with the Chief Executive or no adequate response was received, go to Step 10.

If you have raised your concern with the Chief Executive and received adequate response, go to Step 11. This concludes the process.

Complete feedback form.

### **Step 10**

Raise concern with the Civil Service Commission.

### **Step 11**

This concludes the process.

Complete feedback form.