



Ministry  
of Defence



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Process

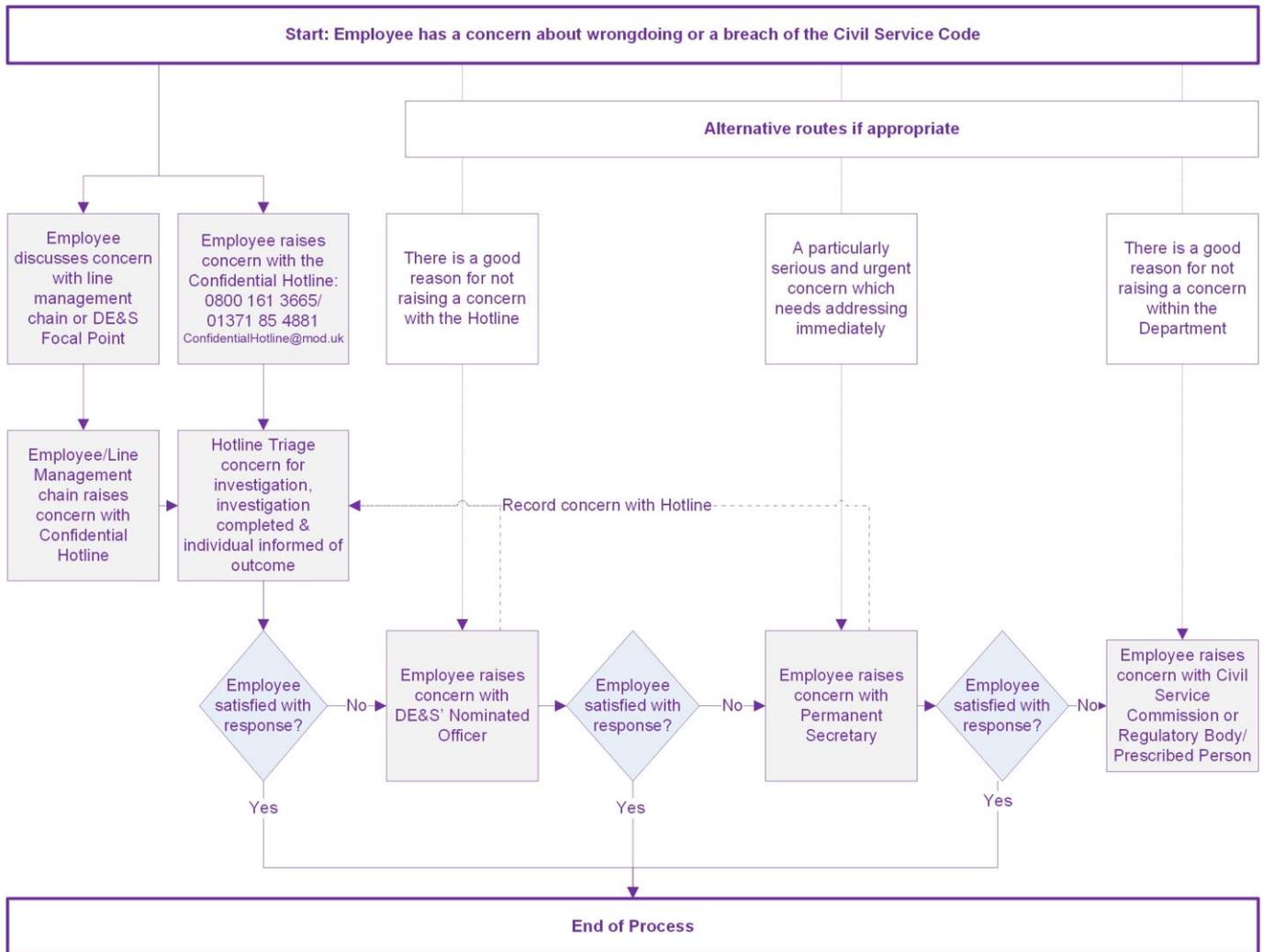
# Whistleblowing and Raising a Concern

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## Introduction

The Whistleblowing and Raising a Concern process outlines the process that DE&S employees should follow when reporting perceived wrongdoing or malpractice within the organisation (which in this context and in this policy includes a potential danger to people), including something they believe goes against the core values in the [Civil Service Code \(the Code\)](#) i.e. integrity, honesty, objectivity and impartiality. The Whistleblowing and Raising a Concern process 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. Civil servants should take time to be clear of their rights and obligations within the Civil Service Code and the Civil Service Management Code. A high level overview of the end to end process is shown below:



It is important this process is followed when raising concerns to ensure the matter is dealt with correctly. Where a relevant concern is raised under this process, the employee will be protected from any unfair or negative treatment. DE&S civil servants can raise concerns through a number of internal departmental routes. Employees can also approach the independent Civil Service Commission, although the Commission will only usually consider a case if it has already been raised and investigated internally within DE&S. The Directory of Civil Service Guidance and the Civil Service Management Code provide more information.

Separate procedures are available for employees who are not civil servants. If it is not clear which process to use, employees should seek advice from the Confidential Hotline, their Line Manager, the



DE&S Nominated Officer (the Director of Corporate Affairs) or the MOD Nominated Officer (the Director of Audit, Risk and Assurance).

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## 1 What is a relevant concern?

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If an employee is asked to do something, or the employee is aware of the actions of another employee, which is considered to be wrongdoing or a breach of the Civil Service Code, then an employee can raise it using this process.

An employee does not need any proof that there is or has been wrongdoing or a breach of the Civil Service Code as it is the responsibility of DE&S to identify this as part of the investigative process. As long as the employee has reasonable belief that the concern is in the public interest, the employee will be protected from any unfair or negative treatment and may also be protected under the Public Interest Disclosure Act.

**Public Interest Disclosure Act (PIDA):** The reporting of a wrongdoing under this policy and process may be covered by the law concerning protected disclosures of information. PIDA applies to people at work raising genuine concerns about crimes, civil offences (including negligence, breach of contract, breach of administrative law), miscarriages of justice, dangers to health and safety or the environment and the cover up of any of these. It applies whether or not the information is confidential and whether the malpractice is occurring in the UK or overseas. The process has therefore been written with reference to the PIDA 1998, which offers protection to employees in both the private and public sectors, who 'blow the whistle', in certain circumstances. The areas which count as qualifying disclosures are:

- Criminal Offences;
- Failure to comply with Legal Obligations;
- Miscarriages of Justice;
- Threats to the Health and Safety of any Individual;
- Damage to the Environment; and
- Deliberate attempts to cover up any of the above.

*This applies in the UK and overseas. However, no protection is afforded for qualifying disclosures when the employee, in making the disclosure, commits an offence – for example, a breach of the Official Secrets Act or misconduct in public office.*

**Who PIDA covers in Law:** In addition to employees, PIDA also covers workers, contractors, trainees, agency staff and home workers. The usual employment law restrictions on minimum qualifying period and age do not apply to this Act. It does not cover the genuinely self-employed, volunteers, the Intelligence Services or HM Armed Forces. A summary of PIDA, the protections it can offer and advice can be found on the website for Public Concern at Work (PCaW), the whistleblowing charity.

**Personal Issues:** This process should not be used to raise concerns of a personal nature, for example, complaints relating to a management decision or terms and conditions of employment. These matters should be dealt with using the appropriate DE&S policy and process. Equally, this policy would not apply to matters of individual conscience where there is no suggestion of wrongdoing by DE&S but an employee is, for example, required to act in a way which conflicts with a deeply held personal belief.

If you are unsure whether a concern should be raised using the Whistleblowing procedure, call or email the Confidential Hotline. Further advice is available in the Whistleblowing and Raising a Concern FAQs and Line Managers and TLB Focal Points will also be able to assist.

If an employee is unsure whether a concern should be raised using the Whistleblowing and Raising a Concern process, the employee should contact Confidential Hotline.



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## 2 Raising a concern

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If an employee has concerns regarding a possible breach of the Civil Service Code, a matter of public interest, of criminal activity or fraud, it is important that the employee raises the concern straight away. Proof is not required as this is the responsibility of DE&S. When raising a concern under the Whistleblowing and Raising a Concern process, an employee should provide the following information:

- The background and reason behind the concern;
- Whether the employee has already raised a concern with anyone and the response;
- Any relevant dates; and
- If applicable, personal interests must be declared from the outset.

This information should demonstrate that there are reasonable grounds for the concern to be acted upon. 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 or is likely to occur.

It is important to follow the correct process when raising a whistleblowing concern. The following routes for raising a concern are available to employees:

### **Routes for raising a concern**

**Confidential Hotline:** The concern should be raised with the Confidential Hotline Team, who can be contacted on 0800 161 3665 (UK), +441371 85 4881 (oversees) or via email at [confidential-hotline@mod.uk](mailto:confidential-hotline@mod.uk). The Confidential Hotline Team will listen to the concerns raised and provide professional advice and guidance as to how to take the matter forward. An employee may choose to raise the concern to the Confidential Hotline anonymously, however, this could affect the ability to properly investigate the concern and the employee will not receive feedback on how the concern has been addressed. The assurances offered to employees under this policy or the protection afforded by PIDA, are not available for an employee whose identity is unknown.

**Line Management:** An employee can discuss the concern with their Line Manager/management chain, who have a duty to provide support. However, if an employee feels unable to do so, the employee should raise their concern with the Confidential Hotline to ensure the matter is properly investigated. If a Line Manager is approached by an employee with a concern, the Line Manager should encourage the employee to report it to the Confidential Hotline. If the employee is not prepared to formally report the concern then the Line Manager should escalate it to the Confidential Hotline. If the Line Manager is unsure of how to deal with the concern, then the Line Manager should call the Confidential Hotline for advice. It is important that there is no hesitation before escalating as any unnecessary delay in dealing with the issue could put DE&S at risk.

### **Alternative routes for raising a concern**

If the employee feels unable to raise the concern with the Confidential Hotline or with line management, the employee can speak to the DE&S Focal Point, a Trade Union (TU) Representative, the DE&S Nominated Officer, the MOD Nominated Officer, or, in certain circumstances the Permanent Under Secretary (PUS).

**Nominated Officer:** If both the employee and the Line Manager feel there is a good reason for not raising a concern with the Confidential Hotline (e.g. that contacting the Confidential Hotline in the first instance may delay the resolution of an urgent matter, or the employee does not feel they have received an adequate response by raising the concern via the Confidential Hotline), then the employee should raise the issue with the DE&S Nominated Officer, the Director of Corporate Affairs, who can be contacted on [DESCDM-Corp-Affairs-Dir@mod.uk](mailto:DESCDM-Corp-Affairs-Dir@mod.uk). Alternatively, an employee or Line Manager can also contact the MOD Nominated Officer, the Director of Audit, Risk and Assurance.



**PUS:** If an employee has a concern that is believed to be particularly serious and urgent which needs addressing immediately (e.g. in the case of National Security) and it cannot be raised with line management, the Confidential Hotline, the DE&S or the MOD Nominated Officer, then it can be raised with PUS. The concern should only be raised in this way if serious consideration has been given to all other internal options. An employee may be asked to explain why the concern was not raised with the Hotline, line management, the DE&S Focal Point, the DE&S or the MOD Nominated Officer.

**The Civil Service Commission:** If an employee has raised a concern with DE&S and has not received what they consider to be a reasonable response, then the employee may raise the concern with the Civil Service Commission (the Commission). The employee may also raise a concern directly with the Civil Service Commission if they believe there is a good reason for not raising a concern within DE&S.

The Commission is an independent body who can hear and determine complaints relating to the Code. For example, if an employee has been required to act in a way that conflicts with the Code, or observe that another civil servant is acting, or has acted, in a way that conflicts with the Code. Civil servants can raise a concern directly with the Civil Service Commission. However, where appropriate, the Commission expects civil servants to have raised concerns within DE&S first. If a concern is raised directly with the Commission, without it being raised within DE&S first, the Commission will ask why it was not appropriate to raise the matter internally first. Further information on the Civil Service Commission can also be found on the Civil Service website.

**Regulatory Disclosures/Prescribed Persons:** PIDA makes special provision for disclosures to prescribed persons. These are regulatory bodies such as the Health and Safety Executive and the Financial Services Authority. Disclosures made to a prescribed person are protected as long as the employee has already followed the internal procedures, reasonably believes that the information and any allegation in it are substantially true and is relevant to that regulator or feels they would be discriminated for raising the matter internally. A list of prescribed persons can be found in the document 'Blowing the Whistle to a Prescribed Person' available on the Government website.

### **Issues relating to security or criminal activity**

In some circumstances, the whistleblower may have an issue relating to matters of security in order to explain the concern. It is important that any such information is shared with Directorate of Business Resilience Defence Security (DBR DefSy) and the employee will not be able to discuss the details with their Line Manager. The role of the Line Manager is to direct the employee to the Confidential Hotline who will direct the matter to DBR DefSy. The Line Manager should also inform the Branch Security Officer.

Any suspected criminal offence must be reported to the Ministry of Defence Police on 01371 854444 or appropriate Service Police authority. An employee can seek advice from them to confirm whether the concern raised is a criminal offence or not. An employee can also contact the Confidential Hotline for policy and process advice. If the whistleblower has been requested to carry out an action which they may think may constitute a criminal offence, the Line Manager should also advise them not to carry out the activity.

### **Making unauthorised disclosures**

It is important that concerns are raised internally, or with the Civil Service Commission, and at the earliest time possible. This will allow DE&S the opportunity to address and resolve any concerns quickly and by the most appropriate means. DE&S is confident that there are sufficient internal avenues available to deal with any concerns raised.

Raising a concern outside the prescribed routes listed in this process, for example, with the media, campaign groups, on social media or with representatives of political parties, is protected by PIDA only in very limited circumstances and could, if it amounts to an unauthorised disclosure of official information



that has been shared or communicated in confidence lead to disciplinary or administrative action being taken. It may also breach the Official Secrets Acts. The authorisation procedures that must be followed before communicating in public are outlined in **DIN 2014DIN03-024: Contact with the Media and Communicating in Public**. Please note that this list is not exhaustive.

Line Managers should be supportive and encouraging to those raising a concern and always direct them to contact the Confidential Hotline, or one of the other official channels set out in this process. However, if an employee indicates that they are considering taking their concerns outside of DE&S, for example, the media or social networking sites, the Line Manager must advise the employee that:

- The Line Manager will not be able to support the employee if they choose to disclose the concern externally;
- Unauthorised disclosures made to bodies other than to a 'prescribed person', for instance, a regulatory board or ombudsman, may not qualify for protection. Details of prescribed persons or bodies can be found in the document, *Blowing the Whistle to a Prescribed Person*, on the Government website;
  - Disclosures to certain regulatory bodies, known as 'prescribed persons' may be permitted by PIDA in certain circumstances. A list of Prescribed Bodies can be found at [www.gov.uk/government-blowing-the-whistle-to-a-prescribed-person](http://www.gov.uk/government-blowing-the-whistle-to-a-prescribed-person)
  - In order to be protected, however, the employee will need to follow the procedure set out in the Act. If the employee maintains that they want to raise a concern in this way, the Line Manager might like to suggest that the employee may wish to seek their own legal advice

The action by the employee may represent an unauthorised disclosure of official information that has been shared or communicated in confidence in which case they could face disciplinary or administrative action. Unauthorised disclosure may also breach the Official Secrets Acts. Furthermore, improperly raising a concern outside of the prescribed routes could result in disciplinary action against an employee and ultimately end in dismissal. The Line Manager should refer the employee to the DE&S policy on unauthorised disclosures of official information.

If an employee confirms they have taken their concern outside of DE&S (other than to a 'Prescribed Person'), then the Line Manager should **report this to their line management and the Confidential Hotline team immediately**. It may also be appropriate to inform the Directorate of Defence Communications team but the Line Manager should seek policy and process advice from DBS before instigating disciplinary or administrative action.

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### 3 How will the concern be handled

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All investigations will be conducted professionally, sensitively, and as quickly as possible. Whilst DE&S cannot guarantee that the outcome would be as the employee may wish, it will handle the matter fairly and in accordance with the Whistleblowing policy and process.

Once a concern has been raised with the Confidential Hotline, the team may arrange a meeting with the employee who raised the concern to determine how the concern should be taken forward which may involve an internal inquiry or a formal investigation. The Confidential Hotline Team will inform the employee of who will be dealing with the matter and written confirmation will be sent, if it has been requested. DE&S will aim to provide this within five working days. However, this may take a little longer depending on the nature of the concern.

If a meeting is arranged the employee may wish to be accompanied by a companion. A chosen companion may be a work colleague (who is not involved in the area of work to which the concern relates), a TU Representative or an official employed by a TU. A TU Representative who is not an employed official must have been accredited by their TU as being competent to accompany an



employee. The companion cannot be a friend or relative unless they are also a colleague. Nor can they be a legal representative. The meeting can be conducted over the telephone or face to face.

DE&S will aim to update the employee on the progress of the concern within 28 calendar days. However, in the event of a formal investigation or the involvement of police/security, it may not be possible or appropriate to provide full details.

DE&S will confirm when the matter is concluded and, if appropriate, the outcome of the investigation, maintaining security and confidentiality for all parties as far as possible. Throughout any investigation, the employee who has raised the concern will be expected to continue their duties/role as normal unless deemed inappropriate.

Where an employee has been victimised for raising a concern, DE&S will take appropriate action against those responsible, in line with the appropriate DE&S policy and process.

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## 4 Confidentiality and anonymity

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The best way to raise a concern is to do so openly, as this makes it easier for DE&S to investigate and provide feedback. Any disclosures made under this process will be treated in a sensitive manner. DE&S recognises that the employee may want to raise a concern in confidence i.e. raising the concern on the basis that the name of the employee raising the concern is not revealed without consent.

DE&S will respect any request for confidentiality as far as possible, restricting it to a 'need to know basis'. However, if the situation arises where it is not possible to resolve the concern without revealing an employee's identity (for example in matters of criminal law), DE&S will advise the employee before proceeding. The same considerations of confidentiality should be afforded to others at the centre of the concern, as far as appropriate.

Employees may choose to raise concerns anonymously, i.e. without providing their name at all. If this is the case, the investigation itself may serve to reveal the source of information. Employees are therefore encouraged, where possible to put their names to concerns raised. However, raising a concern anonymously is preferable to silence about potential serious wrongdoing.

When anonymous concerns are raised they will be treated as credible, unless they are obviously a hoax, and investigated so far as possible. Where concerns cannot be validated, they will be recorded as a concern but no further action will be taken.

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## 6 Roles and responsibilities

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DE&S expects all those involved to implement this policy. The roles and responsibilities are as follows

Role	Responsibilities in carrying out this policy
Employee	The employee is responsible for raising concerns to the appropriate contacts.
Line Managers	Line Managers are responsible for being supportive and encouraging to those raising a concern through the Confidential Hotline, or one of the other official channels set out in this process where appropriate.



<p>Confidential Hotline Team</p>	<p>The Confidential Hotline Team is responsible for listening to concerns raised by employees and for providing professional advice and guidance as to how to take the matter forward. Where applicable, the Confidential Hotline Team will lead an internal inquiry or a formal investigation.</p>
<p>DE&amp;S and MOD Nominated Officer</p>	<p>The DE&amp;S and MOD Nominated Officer are be responsible for recording concerns with the Confidential Hotline Team that have been directly raised to them. The DE&amp;S and MOD Nominated Officer will also be responsible for dealing with employees that are unsatisfied with the response that has been received during the process.</p>
<p>Permanent Under Secretary</p>	<p>The Permanent Under Secretary is responsible for recording concerns with the Confidential Hotline Team that have been directly raised to them. The Permanent Under Secretary will also be responsible for dealing with employees that are unsatisfied with the response that has been received during the process.</p>
<p>Civil Service Commission</p>	<p>The Commission is responsible for receiving complaints relating to the Code.</p>