

Whistleblowing and Raising a Concern

Policy and Procedure

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About this guide

The Competition Appeal Tribunal/ Competition Service (CAT/CS) is committed to ensuring high standards of conduct in all that it does. These standards are reinforced by the CAT/CS's discipline and grievance policies and procedures. However, wrongdoing or malpractice in the workplace can occur and therefore it is important that employees know what to do if, in the course of their work, they come across anything that they think is fundamentally wrong, illegal or endangers others within the CAT/CS or the public.

The Whistleblowing and Raising a Concern policy and procedure, included within this document, will guide employees through the process of raising a concern, which is sometimes referred to as 'blowing the whistle'. Whistleblowing is important to protect and reassure the workforce and to maintain a healthy and efficient working culture.

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1. Whistleblowing and Raising a Concern Policy

1.1 Principles

The following principles underpin the Whistleblowing and Raising a Concern policy:

- employees are encouraged to raise any concerns they may have about wrongdoing or malpractice in the workplace as soon as they notice it;
- employees raising a concern will be afforded protection as detailed in the procedure;
- all concerns raised will be handled responsibly, professionally and in a positive manner; and
- help and support will be available to employees where concerns are raised under the Whistleblowing and Raising a Concern procedure.

1.2 Scope

This policy applies to all permanent and temporary employees of the CAT/CS, as well as to the CAT members. Service providers, such as contractors, are not explicitly covered, but the general principles outlined above still apply to them and their doings.

1.3 Summary

Key areas covered by this policy and its procedures include:

- what is a relevant concern;
- how to raise such a concern;
- how a concern will be handled;
- confidentiality; and
- provision of protection and support to employees.

This policy is owned by the CAT/CS Director, Operations.

2. Whistleblowing and Raising a Concern Procedure

This procedure outlines the process that employees should follow when reporting a perceived wrongdoing or malpractice in the workplace within the CAT/CS, including something they believe goes against the values of integrity, honesty, objectivity and impartiality.

The reporting of a wrongdoing or malpractice under this procedure 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.

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 properly raised under this procedure, the individual will be protected from any unfair or negative treatment. As

set out in this procedure, employees can raise concerns through a number of internal routes. PIDA protection may also apply.

3. What is a relevant concern?

If an employee is asked to do something, or is aware of the actions of another, which they consider to be wrongdoing or malpractice, they can raise this using this procedure. The employee must have a reasonable belief that raising the concern is in the public interest.

Employees should not raise malicious or vexatious concerns unless they reasonably believe it to be in the public interest. Those who raise concerns with a reasonable belief that raising the concern is in the public interest will be given protection under this procedure.

This procedure should not be used to raise concerns of an HR/personal nature, for example, complaints relating to a management decision or terms and conditions of employment unless the employee reasonably believes it is in the public interest. These matters should be dealt with using the CAT/CS's grievance procedure. Equally, this policy would not apply to matters of individual conscience where there is no suggestion of wrongdoing by the CAT/CS but an employee is, for example, required to act in a way which conflicts with a deeply held personal belief.

If unsure whether a concern should be raised using the Whistleblowing and Raising a Concern procedure further advice is available from HR. Line managers will also be able to assist.

4. Raising a concern

If an employee experiences something in the workplace which they consider to be perceived to be wrongdoing or malpractice it is important that the concern is raised straight away. Proof is not required as this is the CAT/CS's responsibility. The employee must, however, have a reasonable belief that disclosing the information is in the public interest before raising a concern externally.

It is important to follow the correct procedure when raising a whistleblowing concern.

CAT Members should raise a whistleblowing concern with the President of the CAT, in the first instance. Members of staff should adhere to the following steps.

4.1 Raise with the line manager

The concern should, in most instances, be raised with the employee's line manager or sent to the line manager/ responsible person who will know how to handle the matter, or where to go if not.

There may be certain rare occasions, however, when this would be inappropriate 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; or
- is particularly serious and needs to be dealt with as a matter of urgency.

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.

4.2 Raise with another line manager or somebody more senior in the line management chain

If it is suspected that the concern may implicate the line manager in some way, then it should be raised with another line manager, or somebody more senior in the line management chain.

If the concern relates to someone senior to the line manager or another senior person in the CAT/CS, it will need to be raised at the appropriate level.

4.3 Raise immediately with a senior manager

An employee may feel that their concern is particularly serious and urgent and be worried that approaching their line manager in the first instance may delay the resolution of the matter, for example in the case of national security. In these circumstances, the concern should be raised immediately with a senior manager.

Where a concern has already been raised within the line management chain but the employee feels that it has not been adequately addressed they can raise the concern with a senior manager.

5. External disclosures

It is important that concerns are raised internally and at the earliest time possible. This will allow the CAT/CS the opportunity to address and resolve any concerns quickly and by the most appropriate means.

Raising a concern outside the prescribed routes listed in this procedure, for example with the media, campaign groups, on social media or 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.

6. Information needed to raise a concern

When raising a 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; and
- any relevant dates.

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 has or is likely to occur.

If applicable, personal interests must be declared from the outset.

The CAT/CS 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.

7. How the concern will be handled

All investigations will be conducted sensitively and as quickly as possible. While the CAT/CS cannot guarantee that the outcome would be as the employee may wish, it will handle the matter fairly and in accordance with the whistleblowing procedure.

Once a concern has been raised with the line manager, 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.

Whistleblowing concerns will usually be investigated by the CAT/CS Non-Executive Director, with the support of a member of the CS Board, a member of the CS Audit and Risk Assurance Committee, the Registrar or the Director, Operations, as appropriate and depending on the circumstances.

If the employee is concerned that the CS Non-Executive Director is involved in the wrongdoing or has failed to make a proper investigation or to report the outcome of the investigation, they should inform the Registrar. The Registrar will arrange for another manager to review the investigation carried out, make any necessary enquiries and make their own report.

If a meeting is arranged, the employee may wish to be accompanied by a trade union representative or a colleague who is not involved in the area of work to which the concern relates. The meeting can be conducted over the telephone rather than face to face.

The CAT/CS will aim to update the employee on the progress of the concern within 28 days where possible. 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.

The CAT/CS 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 will still be expected to continue their duties/role as normal unless deemed inappropriate.

8. Confidentiality and Anonymity

The best way to raise a concern is to do so openly as this makes it easier for the CAT/CS to investigate and provide feedback.

Any disclosures made under this procedure will be treated in a sensitive manner. The CAT/CS recognises that the employee may want to raise a concern in confidence, i.e. on the basis that their name is not revealed without their consent.

The CAT/CS 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 issue without revealing the employee's identity (for example in matters of criminal law), the CAT/CS will advise the employee before proceeding. The same conditions of confidentiality should be afforded to the employee(s) at the centre of the concern, as far as appropriate.

Employees may choose to raise concerns anonymously, i.e. without providing their names 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. It should be stressed that raising a concern anonymously is preferred to silence about potential serious wrongdoing or malpractice.

When anonymous concerns are raised they will be treated as credible, unless they are obviously a hoax and investigated as far as possible. Where concerns cannot be validated, the CAT/CS's Whistleblowing and Raising a Concern policy owner must be informed for future reference.

9. Protection

If an employee follows the correct procedures when raising a concern, they will not be penalised. If a concern is raised in the reasonable belief that it is in the public interest and procedures have been followed correctly, then the employee raising the concern will be protected. Where an employee has been victimised for raising a concern, the CAT/CS will take appropriate action against those responsible, in line with the CAT/CS's disciplinary policy and procedure.

10. Changes to procedure or policy as a result of whistleblowing

If changes are made to the CAT/CS policies and processes as a result of whistleblowing investigations, the CAT/CS will publicise the changes to employees. This will take into consideration the importance of protecting the anonymity and confidentiality of individuals.