

WHISTLEBLOWING

Version 1

1. INTRODUCTION

- 1.1 This guidance is provided to members to assist you in understanding what whistleblowing is and what you should do if you think you need to blow the whistle on your employer.
- 1.2 The aim of this guidance is to support members to report suspected wrongdoing as soon as possible; and to provide guidance on how to raise concerns appropriately.
- 1.3 This guidance does not constitute legal advice, and IMechE will not be held responsible for any loss suffered as a result of reliance on this guidance. We would strongly urge members to take legal advice on their own position.
- 1.4 You can also seek guidance through publications and via helplines such as Protect, ACAS and the Government.

2. WHAT IS WHISTLEBLOWING?

- 2.1 Whistleblowing is the general term used to describe when a worker shares information about a wrongdoing. This is called a disclosure, and the individual who makes the disclosure is called a whistleblower.
- 2.2 Whistleblowing law is contained within the Employment Rights Act 1996. This provides that workers can bring a claim in the employment tribunal if they have lost their job or been mistreated because they blew the whistle.
- 2.3 In order to benefit from these protections a worker must reasonably believe that:
 - 2.3.1 they are acting in the public interest; and
 - 2.3.2 that the disclosure tends to show wrongdoing falling within one of the following categories is taking place or is likely to take place:
 - (a) damage to the environment;
 - (b) criminal offences or activity;
 - (c) failing to comply with a legal, regulatory or professional obligations or requirements;
 - (d) danger to someone's health and safety;

- (e) miscarriages of justice; and/or
- (f) covering up wrongdoing in one of the above categories.

3. HOW DO I BLOW THE WHISTLE TO MY EMPLOYER?

- 3.1 Your employer is likely to have a whistleblowing policy in place, which sets out how you should go about raising your concerns.
- 3.2 If they do not have a whistleblowing policy we recommend that, if you feel comfortable, you raise your concerns with your line manager. You may feel more comfortable putting your concerns in writing, or may be asked to do so by your line manager.
- 3.3 If the matter is particularly serious or you feel your line manager has not addressed or would not address your concerns appropriately, you may prefer to raise your concerns to someone more senior within your organisation. This could be to a senior manager, a member of the Human Resources Team, a member of the legal team, or a Director.
- 3.4 Your employer may also authorise you to make a disclosure to a third party. For example, an external hotline or regulator.
- 3.5 After raising your concerns, it is likely that your employer will arrange a meeting with you to discuss your concerns and gather details about the wrongdoing.
- 3.6 Your employer should then investigate the disclosures you have made keeping you informed of the progress, and inform you of the outcome and any recommendations to prevent future wrongdoing.
- 3.7 We would recommend that you keep a note of your concerns including what, when, where, who and how, as well as when you raised your concern and to whom you raised it.

4. WHAT HAPPENS NEXT?

- 4.1 If your employer has not given you feedback, this does not mean that they have not investigated your concerns. Due to the need for confidentiality they may be prevented from providing you with specific details of the investigation or any disciplinary action that may be taken against your colleagues as a result.
- 4.2 If your employer has failed to act on your concerns, you can escalate your concerns both within your employer to a senior member of staff or externally.
- 4.3 If you have been mistreated or dismissed and you feel this is because you raised your concerns as this is likely to be unlawful. If you feel this is the case you should seek legal advice.

5. WHAT IF I DON'T FEEL COMFORTABLE RAISING CONCERNS OPENLY?

- 5.1 If you do not feel comfortable reporting your concerns openly, and so that you can be identified as the person raising the concerns, you should check your employers policy for raising concerns anonymously. They are likely to have a procedure for making disclosure anonymously.
- 5.2 Reporting concerns anonymously can make it difficult for your employer to investigate the disclosure. They are likely to need further information from you in order to conduct their investigation. It could also make it difficult to demonstrate that you have been mistreated or dismissed because of your disclosure.
- 5.3 You can also ask that your disclosure is treated confidentially so that your identity is not revealed.

6. HOW DO I BLOW THE WHISTLE EXTERNALLY?

- 6.1 It may be appropriate for you to report your concerns to an external body such as a regulator; if you no longer work for your employer (though please note that the whistleblowing protections apply to workers only); or if you are not confident that your employer will investigate your concerns.
- 6.2 The independent whistleblowing charity, Protect, provides confidential advice. You can access their website using here: <https://protect-advice.org.uk/>. It operates a free confidential helpline and can be contacted by email.
- 6.3 Protect can provide advice on how to raise your concerns, and help you identify the right third party to raise your concerns with (when appropriate).

7. WHAT ABOUT MY CONFIDENTIALITY OBLIGATIONS TO MY EMPLOYER?

- 7.1 Most employers will have confidentiality obligations in a staff handbook or in individual contracts of employment. A provision that attempts to prevent you from making a disclosure is unlawful and void.
- 7.2 Where a disclosure of information meets the criteria outlined above, there will be no breach of any contractual obligations you may be bound by, even if you make your disclosure to a third party.