The ethics of whistleblowing

In this factsheet we will cover the ethical responsibilities of whistleblowing.

Introduction

At some point in your career, you may have a concern about an issue you see or hear during the course of your work that affects your business, colleagues or the wider public. Many issues can be easily resolved, but when this is not possible, it can be difficult to know what to do. You may be worried about raising a concern, anxious that doing so may be seen as disloyal and could put at risk your relationships with colleagues or your employer. You may wish to keep the concern to yourself, perhaps feeling that it’s none of your business, or only a suspicion, or that if you raise the matter you will be branded a “trouble maker”.

However as a professional, you have ethical responsibilities to speak up. If the matter relates to suspected money laundering or some taxation issues, you may have a legal obligation to report an issue. You may also be required to report other issues as a member of other professional bodies. This guide seeks to assist you if such a situation arises and can be used in conjunction with your code of conduct.

What is whistleblowing?

“Whistleblowing”, “raising concerns” and “speaking up” are all phrases which describe disclosing information to an employer or where appropriate a regulator, police or the media about malpractice, wrongdoing or a risk to safety.

Why does whistleblowing matter?

We need to ensure that all workers are able to raise concerns about such issues early and effectively, as it is in everyone’s interests that suspected malpractice or wrongdoing is dealt with properly. Speaking up promptly can make the difference between a disaster averted and long term damage to business and the wider public.

What is the difference between making a complaint (grievance) and blowing the whistle?

Typically a complaint or grievance is personal to the complainant and involves being poorly treated, breach of employment rights or bullying. These should be handled under an employer’s complaint or grievance procedure and the complainant is expected to prove their case.

Whistleblowing issues usually involve a risk to others, (e.g. customers, members of the public, or their employer) and the person blowing the whistle may not be directly, personally affected by the malpractice or wrongdoing. Additionally a whistleblower is a witness, passing on information and is not required to prove their case.

What do I do if I witness wrongdoing?

Raising a concern using your employer’s existing whistleblowing policy or procedure would generally be the recommended first step. Your policy should give you options to raise concerns outside line management if you need to.
What information do I need to provide?

It is important that you communicate your concern in a calm and factual manner. Where possible provide details of what you saw, when, who you think may be at risk and any supporting information. Remember you do not need proof to raise your concern with your employer and it is best to raise a concern when suspicion first arises.

Where can I seek advice on whether or how to raise a concern?

Workers including temporary staff and contractors should feel able to seek advice internally or externally from a range of bodies prior to making a decision on whether or not to raise a concern.

If you are worried about a possible breach of the code or ethical issue, you can contact the AAT ethics line on 0845 863 0787 (UK) or +44 (0)20 7397 3014 (outside UK), or email: ethics@aat.org.uk giving all the relevant facts.

Additionally, PCaW are an independent, experienced charity specialising in whistleblowing. They are a legal advice centre staffed by expert lawyers and can provide confidential advice on whether or how to raise a concern. PCaW can be contacted on 0800 652 6577 or email AAT@pcaw.org.uk.

What is the difference between anonymity and confidentiality?

A worker raises a concern confidentially if he or she gives his or her name only on condition that it is not revealed without their consent. A worker raises a concern anonymously if he or she does not give his or her name and no-one knows the identity of the person raising the concern. Usually, the best way to raise a concern is to do so openly. This is not always possible, and so the next step would be to raise the concern confidentially. If you are worried about how to do this or how you might use other means to raise your concern, you can speak to Public Concern at Work.

Should I blow the whistle anonymously?

There are additional risks when workers raise their concerns anonymously. These are:

- others may successfully guess who raised the concern;
- it is harder to investigate the concern if follow-up questions cannot be asked;
- it can lead people to focus on the whistleblower, maybe suspecting that he or she is raising the concern maliciously; and
- if you are victimised, you may risk your protection under the UK Public Interest Disclosure Act as it will be harder for you to show it was because you raised a concern.

If you are unsure about whether or not you should raise your concern anonymously, we recommend seeking advice from one of the sources above.

Do whistleblowers have legal protection?

Almost all workers with a UK employment contract (save the armed forces, intelligence officers, volunteers and the self-employed) are protected by the Public Interest Disclosure Act 1998 (PIDA). PIDA provides workers in the UK with a safe alternative to silence. It enables workers to raise concerns about
PIDA protects workers who raise a concern about wrongdoing internally and, in most cases, with a regulator. It also protects workers who make wider disclosures where there is a valid reason to go wider, and the particular disclosure is reasonable.

The purpose of PIDA’s protection is for a concern to be raised so that it can be addressed, and any wrongdoing corrected. If the sole or main reason a worker blows the whistle is to pursue a personal vendetta (or has some other ulterior motive), which is defined as “bad faith" then this protection may well be lost.

For more information on PIDA, including a copy of the Act visit http://www.pcau.org.uk/guide-to-pida.

Although PIDA does not protect the self-employed, whistleblowing policies can provide assurances beyond the legislation and can explicitly cover the self-employed. This is a principle supported by the Whistleblowing Arrangements Code of Practice issued by the British Standards Institution.

**Does the Public Interest Disclosure Act say that a worker must raise a concern about possible wrongdoing with their employer in the first instance?**

PIDA does not require a worker to raise a concern about wrongdoing with their employer before they speak to anyone else. Rather, PIDA encourages workers to approach their employer first by:

- making this the easiest way to obtain legal protection; and
- making it more likely that a subsequent disclosure of the same information to an outside body will be protected.

However, it is not mandatory to go to your employer first, as there can be legitimate reasons why a worker may be worried about doing so, PIDA protects such disclosures providing the worker acts in the responsible ways set out in the Act. PIDA also readily protects individuals who approach the prescribed regulator, such as the Financial Services Authority or the Financial Reporting Council.

This approach of PIDA promotes accountability and good internal governance by:

- encouraging employers to solicit and be open to whistleblowing concerns;
- reassuring employees there is a safe alternative to silence; and
- helping employers to address any wrongdoing properly, in the knowledge that if they do not the concern can readily be raised outside in an appropriate way.

If you are not sure whether or not you will be protected for raising a concern we recommend that you seek advice from one of the sources above.

**Where to go for further information**

If you are worried about a possible breach of the code or ethical issue, you can contact the AAT ethics line on 0845 863 0787 (UK) or +44 (0)20 7397 3014 (outside UK), or email: ethics@aat.org.uk giving all the relevant facts.

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