



National Audit Office

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# NAO internal whistleblowing policy



This is a public version of the National Audit Office internal whistleblowing policy. We have removed personal details and links to internal documents.

This whistleblowing policy covers situations where National Audit Office staff need to raise a concern.

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Our vision is to help the nation spend wisely.

Our public audit perspective helps Parliament hold government to account and improve public services.



The National Audit Office (NAO) helps Parliament hold government to account for the way it spends public money. It is independent of government and the civil service. The Comptroller and Auditor General (C&AG), Gareth Davies, is an Officer of the House of Commons and leads the NAO. The C&AG certifies the accounts of all government departments and many other public sector bodies. He has statutory authority to examine and report to Parliament on whether government is delivering value for money on behalf of the public, concluding on whether resources have been used efficiently, effectively and with economy. The NAO identifies ways that government can make better use of public money to improve people's lives. It measures this impact annually. In 2018 the NAO's work led to a positive financial impact through reduced costs, improved service delivery, or other benefits to citizens, of £539 million.

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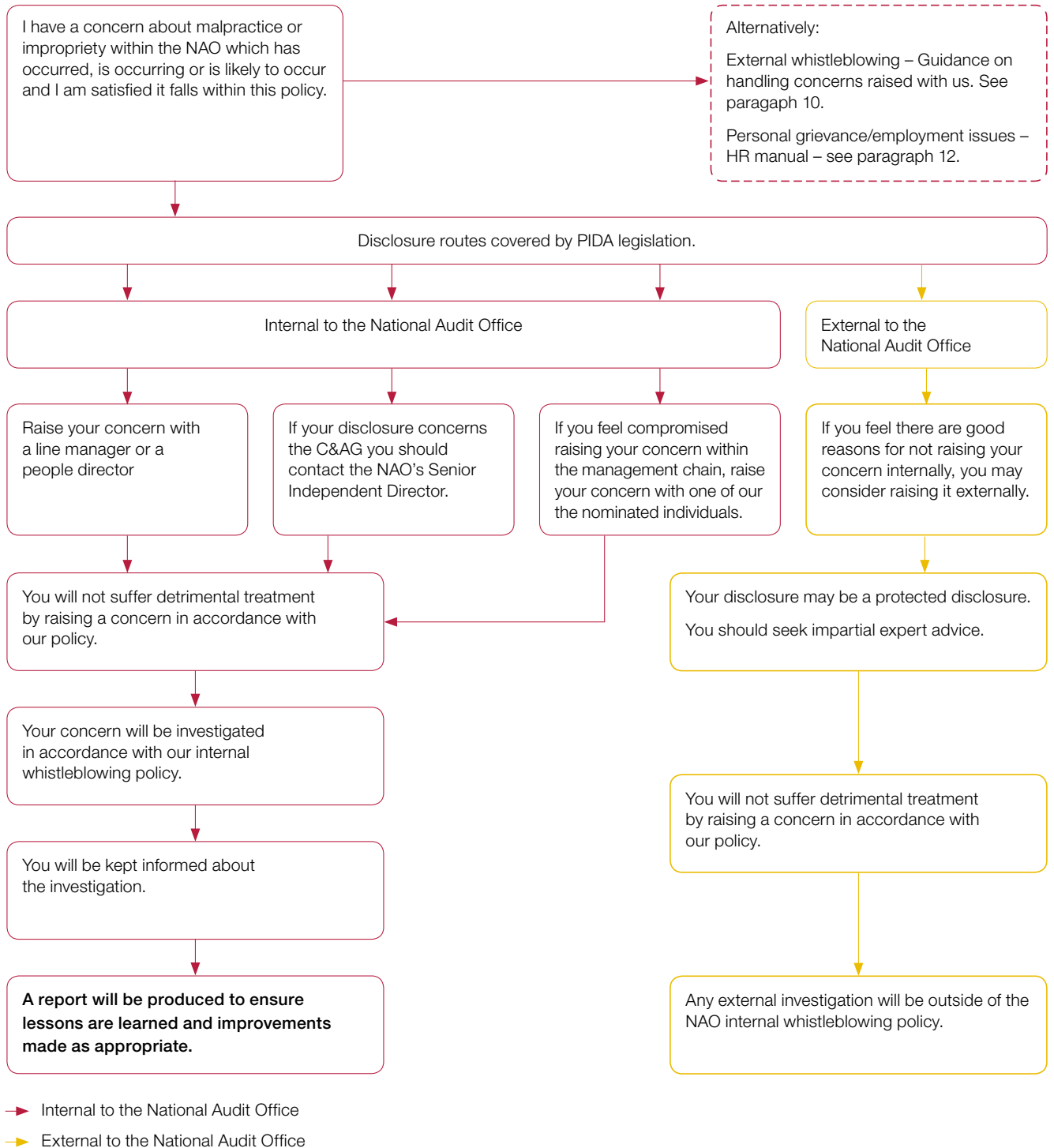
## **Introduction**

- 1** At the National Audit Office (NAO) we are committed to the highest standards of openness, probity and accountability. An important part of this commitment is having this whistleblowing policy, which provides a way for our staff, and others who work for or provide services to the NAO, to raise concerns (see page 6) through an appropriate formal process.
- 2** You should be able to raise a concern without fear of reprisal. This policy sets out what to do if you want to raise a concern about suspected or actual malpractice or impropriety, improper conduct or unethical behaviour within the NAO, which in your reasonable belief has occurred, is occurring or is likely to occur.
- 3** The policy provides a mechanism for you to raise a concern and ensures that you are not disadvantaged as a result. It is based on, but not limited to, the requirements of the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998 (PIDA). For more details, see paragraphs 16 to 21.
- 4** Raising your concern in accordance with this whistleblowing policy (see diagram opposite) will allow us to investigate as swiftly as possible and take whatever action might be appropriate in the circumstances.

## **Who does this policy apply to?**

- 5** This policy applies to everyone who works for the NAO. This includes people employed directly on permanent or fixed-term contracts; trainees, casual and agency staff; and people on secondment to the NAO. Non-executive directors, contractors and consultants who provide services to the NAO may also use this policy to raise concerns.
- 6** You may wish to seek your own independent advice to inform your actions under this policy – in particular, if you are not an employee of the NAO, where the protections available under PIDA may not apply.

Summary of internal whistleblowing process in the National Audit Office



**Note**

1 Please ensure you have read the National Audit Office internal whistleblowing policy.

Source: National Audit Office

### What types of concern are covered by this policy?

7 This policy covers situations where you want to raise a concern about suspected or actual malpractice or impropriety, improper conduct or unethical behaviour within the NAO, which in your reasonable belief has occurred, is occurring or is likely to occur.

8 The types of concern this policy covers will tend to show one or more of the following relevant failures:

- a crime;
- **breach of legal obligation (regulatory, administrative, contract law or common law);**
- miscarriage of justice;
- danger to health and safety;
- **damage to the environment;**
- financial malpractice or impropriety;
- improper conduct or unethical behaviour; or
- **an attempt to cover up any of the above.**

9 The items in **bold** above are specifically listed in PIDA as covered by the Act. Financial malpractice or impropriety and improper conduct or unethical behaviour are specific risks in our area of work. If you have a concern related to any of the failures listed above, you should report it under this policy.

## What to do in other situations

**10** People may also raise a whistleblowing concern about other organisations. In this instance you should follow our policy on how we handle concerns raised with us.<sup>1</sup>

**11** If you are involved in financial or value-for-money (VFM) audit work and you find a concern at a client you should inform your line manager. In addition, you have certain personal legal responsibilities and obligations under anti-money laundering legislation and should also consider the need to complete a report to the Money Laundering Reporting Officer (MLRO) in line with our Money Laundering Reporting guidance.<sup>2</sup>

## What types of concern are not covered by this policy?

**12** If your concern is not included in the list of failures at paragraph 8 or relates to a personal grievance, it may be more appropriate to raise it under our Staff Complaints Procedure, which can be found in the NAO HR Manual.<sup>3</sup>

**13** Whistleblowing is where you have a concern about suspected or actual malpractice or impropriety, improper conduct or unethical behaviour within the NAO that has a public interest aspect to it, for example because it threatens client departments, third parties or the public. This is different from a personal grievance or complaint, which generally relates to your own employment position and does not have an additional public interest dimension.

**14** In most cases, this internal whistleblowing policy does not cover a concern or complaint about your personal employment situation. Personal issues, for example complaints relating to a management decision or terms and conditions of employment, should be dealt with using the relevant procedure in the HR Manual. Equally, this policy does not apply to matters of individual conscience where there is no suggestion of wrongdoing by the NAO.

**15** We have a separate procedure on our external website for people who do not work at the NAO who wish to raise a concern with the Comptroller and Auditor General (C&AG) as a prescribed person for the purposes of PIDA.<sup>4</sup>

<sup>1</sup> <https://nationalauditoffice.sharepoint.com/sites/Merlin/PolicyAndGuidance/Pages/PolicyAndGuidanceAtoZ.aspx?PolicyAndGuidanceCategory=Raising%20Concerns>

<sup>2</sup> <https://nationalauditoffice.sharepoint.com/sites/Merlin/PolicyAndGuidance/Pages/RaisingConcerns/Money%20laundering%20reporting%20home.aspx>

<sup>3</sup> <http://merlin.nao.gsi.gov.uk/manuals/PersonnelManual/contents.htm?source=mm>

<sup>4</sup> [www.nao.org.uk/contact-us/whistleblowing-disclosures](http://www.nao.org.uk/contact-us/whistleblowing-disclosures)

## **Public Interest Disclosure Act 1998 (PIDA)**

**16** PIDA was introduced to protect workers from detriment who report wrongdoing at work. If you raise a concern in the public interest that you reasonably believe fits into the categories of information set out in PIDA as a relevant failure, and you raise that concern with the appropriate person, for example the NAO as your employer or a prescribed person, then raising that concern may be a protected disclosure.

**17** This internal whistleblowing policy covers a wider range of concerns than those listed by PIDA (see paragraph 8) and covers a wider range of people such as non-executive directors, contractors and consultants who provide services to the NAO, who may not have protection under PIDA.

**18** If you make a valid protected disclosure, then you will have a legal right not to suffer detriment – for example, dismissal by your employer – because of raising your concern. In the event of an employment tribunal case, the tribunal will consider your actions and those of your employer in the context of the protections available under PIDA and reach its conclusions accordingly.

**19** PIDA applies different evidential tests depending to whom you raise your concern. If you have any doubts and wish to rely on protection under PIDA, then you should seek independent expert advice. See the sections on ‘Raising your concern externally’ (page 12) and ‘Help and assistance’ (page 14).

**20** You will not be protected under PIDA if, in disclosing information, you commit an offence, for example, if in disclosing information you breach the Official Secrets Act 1911 and 1989.<sup>5</sup>

**21** The charity Protect (formerly Public Concern at Work) website includes a guide to PIDA, which may help you understand the requirements further.<sup>6</sup>

<sup>5</sup> Please refer to the NAO code of conduct for your responsibilities: <http://merlin.nao.gsi.gov.uk/CorporateServices/CodeConduct.htm>

<sup>6</sup> [www.pcaaw.org.uk/law-policy/a-guide-to-pida](http://www.pcaaw.org.uk/law-policy/a-guide-to-pida)



## What to do if you have a concern

**22** If you have a concern about suspected or actual malpractice or impropriety, improper conduct or unethical behaviour within the NAO you should raise it using this policy. You can raise your concern either orally or in writing.

**23** There are routes within this policy for you to raise a concern to take account of differing circumstances. You can raise a concern with:

- a line manager or people director;
- one of our nominated people;
  - Director, Human Resources;
  - Director, Internal Audit;
  - Head of governance; and
- the Senior Independent Director (a member of the NAO Board).

**24** If you feel compromised in talking with a line manager, people director or one of our nominated individuals within the NAO, or where the disclosure concerns the C&AG directly, then you can contact the NAO's Senior Independent Director.

## How we will investigate your concern

**25** In all cases, your concern will be taken seriously by the person with whom it is raised. They will contact you to build their understanding of the issue and take account of any sensitivities – for example, you may wish your identity to be protected. They will also inform the Head of Governance, so we have a record of the case and concern (this will be confidential and will not need to identify you if you so wish).

**26** If there is evidence of criminal activity at any stage in the investigation, the person investigating the concern may contact the police direct, complete a report to the MLRO in line with our guidance or seek further advice. In these situations the NAO's MLRO is available to advise.

**27** The Head of Governance, in consultation with the person you raised your concern with, will determine the most effective way to proceed and will notify the Senior Independent Director as necessary. This will depend on the nature of the issue raised and what actions or events have taken place already. An appropriate response might include:

- investigating the matter themselves or asking someone else to do so;
- enlisting help from within the office to carry out an investigation – for example, where a particular skill-set or expertise is needed to provide appropriate insight;
- raising the matter with or seeking advice from the C&AG, NAO Board members or the Leadership Team; or
- engaging an independent third party to investigate – for example, Internal Audit or an external adviser.

**28** In all cases the officer investigating your concern will fully and impartially investigate the concern raised as swiftly as possible. They will:

- clarify the details of the case with you;
- gather information and evidence to inform their investigation. They may need to interview people and access written records;
- consider whether they need to seek advice from others, including from people external to the NAO; and
- agree with you how to inform you of progress and then do so.

**29** At the end of their inquiries, the person who carried out the investigation will liaise with the person to whom you raised the concern and will:

- produce a report for the C&AG (or the chair if the C&AG is implicated) covering: the concern raised, the investigation process and the outcome including any specific recommendations;
- discuss the next steps with the C&AG (or the chair if the C&AG is implicated) including whether to invoke any corporate disciplinary procedure;
- update the head of governance, who will report the outcome to the senior independent director;
- if appropriate, inform our external auditors to allow them to consider the findings; and
- inform you, where appropriate, of the outcome of the investigation. We may not be able to tell you the full details of the findings nor the details of any disciplinary action we may have taken.

**30** You should treat any information disclosed to you about the investigation as confidential.

### **Timescales**

**31** The person receiving your concern will aim to contact you within three working days of receiving your concern to let you know it has been received and what will happen next.

**32** The investigating officer will aim to contact you as soon as possible after being briefed on your concern. They will agree with you how to keep you updated during the investigation.

**33** The investigating officer will tell you as much as they can about the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent them giving you specific details of the investigation or any disciplinary action taken as a result.

## **What to do if you are not satisfied with how your concern has been dealt with**

**34** If you are not satisfied with how your concern has been dealt with then you should contact the Head of Policy and Legal Advice who will carry out a review or arrange for the case to be reconsidered by a member of staff or board member unconnected with your concern. This review will consider whether due process has been followed consistent with this policy. It will also consider, if appropriate to do so, whether the conclusion reached was rational and reasonable based on the evidence available and whether any further action is necessary. The outcome of this review will be communicated to you and this along with any further action taken, marks the end of our internal whistleblowing policy.

## **Raising your concern externally**

**35** The purpose of this policy is to give you the opportunity, protection and confidence to raise concerns through the appropriate channel. We expect that raising a concern in line with this policy will be the best course of action in most circumstances.

**36** However, there may be circumstances where you feel you cannot raise your concern internally or with the senior independent director and you wish to disclose information externally. In these circumstances you could consider raising your concern with one of the people listed in the PIDA (for example, a prescribed person).<sup>7</sup>

**37** If you decide to raise your concern externally, you must make sure you adhere to the PIDA requirements to ensure your disclosure of information qualifies as a protected disclosure. For example, to make a protected disclosure to a prescribed person, you need to identify the appropriate prescribed person, reasonably believe the information and any allegations are substantially true and that your concern falls within one or more relevant failure categories that they are prescribed for. If you go to the media, there are further tests to meet to ensure your disclosure is protected, including that your disclosure is not made for personal gain and that in all the circumstances, it is reasonable for you to make the disclosure in that way.

**38** We recommend that you:

- consider the guide to PIDA on the Protect website, which may help you understand the requirements;<sup>8</sup>
- remind yourself of the requirements of the NAO Code of Conduct and your duties under the Official Secrets Act 1911 and 1989; and
- seek your own independent advice before reporting a concern externally. (See the section on 'Help and assistance' on page 14).

<sup>7</sup> [www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2](http://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2)

<sup>8</sup> [www.pcaaw.org.uk/law-policy/a-guide-to-pida](http://www.pcaaw.org.uk/law-policy/a-guide-to-pida)

## Safeguards under this policy

### Protection

- 39** This policy aims to protect you if you raise a concern covered by this policy.
- If you have a concern covered by this policy, you should raise it following our procedures, rather than investigate it yourself. This avoids any potential risk to any future investigation, and to you.
  - If you raise a concern under this policy, provided you are acting honestly and reasonably, it does not matter if you are mistaken about your concern.
  - You will not suffer any detrimental treatment through raising a concern in accordance with this policy. This includes dismissal, disciplinary action, threats or other unfavourable treatment. If you believe that you have suffered any such treatment, tell the director of Human Resources immediately. If the matter is not remedied, you should raise it formally using our Staff Complaints Procedure.
  - Colleagues must not threaten or retaliate against those raising a concern in any way. Such conduct may result in disciplinary action.

### Confidentiality

- 40** We hope you will feel able to raise your concern openly under this policy so that issues can be investigated efficiently and effectively.
- If you do want to raise your concern in confidence, we will make every effort to protect your identity. If it is necessary for others to know your identity, for example the person investigating the concern, or we think your identity will be exposed because of the investigation, we will discuss this with you.
  - We recognise that you may wish to remain anonymous and not tell anyone who you are. We would prefer that you raise the concern anonymously than not at all but this may make it difficult for us to investigate. It will be easier to ensure that you do not suffer any detriment in raising your concern if we are aware of your identity.
  - The NAO may be required by law to disclose some or all of the information obtained as part of any investigation to a third party, such as the police. It will normally be the case that we will inform you if such disclosures need to be made; however, there may be occasions when we cannot. You may also need to make a statement during the investigation.

### Allegations found to be untrue

**41** You will not face sanctions where you honestly believe your information is true, irrespective of whether your concern is proved unfounded. However, providing information that you know is untrue may constitute serious misconduct and we may take action under our procedure for managing misconduct as explained in the NAO HR Manual.

### Help and assistance

**42** If you have a concern about internal malpractice or impropriety, you can talk to an independent legal adviser at your own cost, your trade union representative or your professional body. The NAO also has a free confidential care line that you can contact.<sup>9</sup>

**43** The charity Protect (formerly Public Concern at Work) can provide free impartial and confidential advice about possible malpractice at work. Its contact details are:

Tel: 020 7404 6609

Email: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

Web: [www.pcaw.co.uk](http://www.pcaw.co.uk)

**44** The NAO, together with the other UK audit institutions, produced a good-practice guide for workers and employers *Whistleblowing in the public sector* in November 2014.<sup>10</sup>

Please contact the NAO Correspondence Team on [enquiries@nao.org.uk](mailto:enquiries@nao.org.uk) with any queries or suggested amendments to this policy.

<sup>9</sup> <http://merlin.nao.gsi.gov.uk/corporateservices/HR/EmployeeAssist.htm>

<sup>10</sup> [www.nao.org.uk/contact-us/wp-content/uploads/sites/10/2019/04/wb.good.practice.guide.pdf](http://www.nao.org.uk/contact-us/wp-content/uploads/sites/10/2019/04/wb.good.practice.guide.pdf)

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