



Whistleblowing Policy and Procedure

Version Date: September 2022

Version: 3.4

Approved by: Executive team and ARAC

Policy Owner: Legal Manager

Review date: September 2023

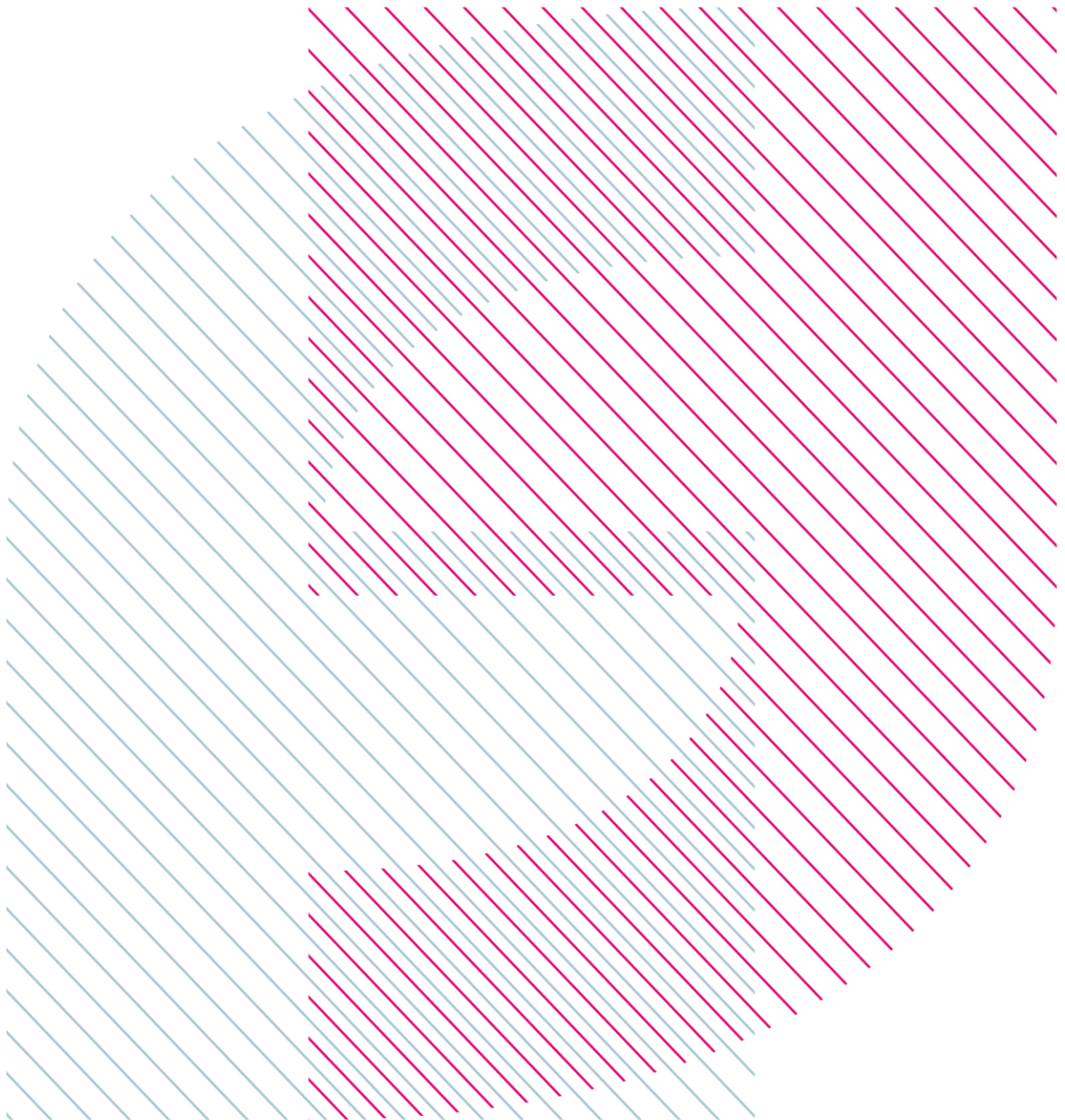


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Latest update

Briefly list the changes that have been made to the previous version. Minor changes such as correcting spelling and grammar will not need to be mentioned.

Version	Date (dd/mm/yy)	Summary of Changes	Actioned by (role)
	July 2022	Removed FAQ section as now incorporated into the body of the document	Legal Manager
	July 2022	'Purpose' – Addition: that staff, as well as management, are accountable for their actions	Legal Manager
	July 2022	'Scope' – Addition: There is no minimum length of service required in order to raise a concern. Deletion of: consultants and contractors – replaced with workers	Legal Manager
	July 2022	1.1 'Breaking the law' amended to 'failure to comply with any legal obligation'	Legal Manager

	July 2022	2.1 Addition that disclosures can be made verbally	Legal Manager
	July 2022	2.2 'complaint' amended to 'concern'	Legal Manager
	July 2022	2.4 Addition that: The disclosure must contain sufficient factual information and be sufficiently specific, as opposed to an opinion, in order for it to be investigated as a qualifying disclosure. 2.5 Addition of: If you want to you can use the template that is available from Protect https://protect-advice.org.uk/templates/	Legal Manager
	July 2022	Changes to confidentiality. 3.1 removal that all disclosures will be treated as confidential to include circumstances where it may not be possible to treat them as confidential	Legal Manager
	July 2022	3.4 every effort to protect your identity – amended to 'reasonable efforts'	Legal Manager
	July 2022	4.2 addition of (with the consent of the person)	Legal Manager
	July 2022	4.4 expansion of what the investigation manager will be responsible for to include – investigating the concern and writing a report at the conclusion of the investigation. 4.4 addition of other relevant third party – not just the Police or auditors 4.4 deletion of ensuring that the worker understands the policy amended to 'has a copy of the policy.'	Legal Manager
	July 2022	6.2 Addition of 'qualifying' disclosure Addition: The Legal Manager will consider what action to take. If the matter relates to the Legal Manager this should be raised with the Chief Ombudsman. Addition: provided that the allegation is not malicious or vexatious. Deletion: If the matter is not remedied you should raise it formally using our Grievance Procedure.	Legal Manager

	July 2022	6.4 Addition of (if appropriate)	Legal Manager
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Purpose

The OLC is committed to good governance within the Legal Ombudsman and wants to create an environment in which all staff understand their responsibilities and in which all staff and management are accountable for their actions.

We recognise that staff are often the first to realise that something may be wrong within the organisation, so staff are encouraged to raise reasonable concerns about wrongdoing at the earliest possible stage. This is known as 'whistleblowing'.

The aims of this policy are:

- To encourage staff to report suspected wrongdoing as soon as possible, safe in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected if requested, in so far as possible.
- To provide staff with guidance as to how to raise those concerns.
- To reassure staff that they should be able to raise concerns without fear of reprisals, even if they turn out to be mistaken.

Scope

The policy applies to all employees, workers, officers, volunteers, casual workers and agency workers. There is no minimum length of service required in order to raise a concern.

The policy does not form part of any employee's contract of employment and it may be amended at any time.

Responsibilities

The OLC Board has overall responsibility for approving the policy, and Audit & Risk Assurance Committee (ARAC) has responsibility for overseeing and reviewing the effectiveness of actions taken in response to concerns raised under the policy and to provide assurance to the Board.

A recipient of a whistleblowing disclosure as set out in this policy (at section 5) will, within two working days, report the receipt of a complaint and the proposed investigation procedure to ARAC. If a disclosure has been made confidentially, the name of the worker will not be included in this report without the worker's prior consent.

The Legal Ombudsman's Legal Manager is the designated Whistleblowing Officer and has day-to-day operational responsibility for the policy and must ensure that anyone who investigates matters under this policy is suitably experienced or trained. The policy will be reviewed by the Legal Manager at least once a year through the governance review arrangements for policies agreed by ARAC. Where the Legal Manager has a conflict of

interest in dealing with any particular disclosure raised the designated officer will be the Chief Ombudsman who may act as designated officer or appoint another person.

Line managers will ensure that any matters raised are treated seriously and dealt with in accordance with this policy and procedure. They will ensure that the Whistleblowing Officer is aware of all reported concerns.

Staff, Board Members and everyone working on behalf of the Legal Ombudsman are responsible for the success of the policy and are encouraged to suggest ways in which it might be improved by sending these to the Legal Manager.

Whistleblowing

1. Disclosure

- 1.1. A 'whistleblowing disclosure' is a report of information which an individual reasonably believes shows that one of the following has occurred or is likely to occur:
 - a. a criminal offence has been committed, is being committed or is likely to be committed. This includes any wrongdoing that you reasonably believe breaks the law; for example: fraud, financial irregularity, improper or unauthorised use of public funds, bribery or corruption etc;
 - b. someone's health and safety is put in danger;
 - c. damage to the environment;
 - d. a miscarriage of justice;
 - e. a failure to comply with a legal obligation e.g. breaking the law by not having the correct insurance, etc.
 - f. covering up or concealing wrongdoing described in a-e above.
- 1.2 Workers who have information about suspected wrongdoing or danger in relation to our activities should report it under this policy. You must have a reasonable belief that raising the concern is in the public interest and should not raise malicious or vexatious matters that are not in the public interest.
- 1.3 The policy should not be used for complaints relating to your own personal circumstances, such as the way you have been treated at work where these do not have a wider public interest. In such circumstances, you should use relevant HR policies.
- 1.4 Whistleblowing is covered by the Employment Rights Act 1996 Part IVA, as amended by the Public Interest Disclosure Act 1998.
- 1.5 If you are unsure about whether anything is within the scope of this policy you should seek clarification from the Legal Manager.

2. How to make Disclosure

- 2.1 Disclosures can be made in person, verbally or in writing. If you feel comfortable doing so, you should report your concerns to the Legal Manager who is the

designated Whistleblowing Officer. Alternatively, you can report them to a line manager or any other manager.

- 2.2 You can also raise the matter with any member of OLC Board including the Chair of the OLC Board. If the disclosure relates to the Legal Manager, you should raise the concern with the Chief Ombudsman. If the concern is against or in any way related to the actions of the Chief Ombudsman, you should raise your concern with the Chair of ARAC, Harindra Punchihewa via email Harindra.Punchihewa@legalombudsman.org.uk
- 2.3 When making a disclosure under this policy, you should try to provide the following information:
- the background and any reason behind the concern
 - whether you have already raised the concern with anyone and their response
 - any relevant dates and times; and
 - if you have a personal interest in the matter, you should declare this when raising the concern
 - why you believe that raising the concern is in the public interest
- 2.4 The disclosure must contain sufficient factual information and be sufficiently specific, as opposed to an opinion, in order for it to be investigated as a qualifying disclosure.
- 2.5 If you want to you can use the template that is available from Protect - <https://protect-advice.org.uk/templates/>

3. Confidentiality and anonymity

- 3.1. The Legal Ombudsman will treat all disclosures in a sensitive manner.
- 3.2 If requested by the worker, the Legal Ombudsman will take steps to ensure that confidentiality is maintained in so far as possible. It may not be possible to maintain confidentiality if the information is already in the public domain, there is a legal obligation to disclose the information or there is another compelling reason that means it is not possible to maintain confidentiality.
- 3.3 You are encouraged to put your name to any report you make. Disclosures made without giving your name will be considered at the designated officer's discretion but they are more difficult to investigate fully. The factors that the designated officer will take into account in deciding whether to exercise discretion to investigate disclosures made anonymously are:
- the seriousness of the issue(s) raised;
 - the credibility of the concern; and
 - the likelihood of being able to investigate the allegation.
- 3.4 If you put your name to your report, you may ask that your identity be kept confidential; the recipient of your disclosure will make reasonable efforts to protect your identity, subject to 3.2 above.

4. Investigation

- 4.1. Following receipt of a disclosure, the person contacted must report the matter to the Legal Manager who will make a decision on how to proceed. If the Legal Manager is subject to a conflict of interest or if the disclosure relates to the Legal Manager, the report should be made to the Chief Ombudsman.
- 4.2. If it appears to the recipient (the Legal Manager or the Chief Ombudsman) that the disclosure is actually a grievance properly handled under the Grievance Policy, the recipient will discuss this with the whistle-blower to determine whether the issue is in the public interest. If not, then with the consent of the whistle-blower, the recipient will bring the disclosure to the attention of the Head of People Strategy and Services and the matter will be dealt with under the Grievance Policy. If the matter is dealt with under the Whistleblowing policy, the following provisions will apply.
- 4.3. The Legal Manager (or Chief Ombudsman) will lead the investigation and/or appoint an investigation manager and/or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter including external investigators. The investigation must be conducted thoroughly and impartially in line with the Legal Ombudsman's values and customer service principles.
- 4.4. The investigation manager will be responsible for:
- sending a written acknowledgement of the disclosure to the reporting worker, if the reporting worker has given their name
 - ensuring the worker is aware of and has a copy of this policy;
 - protecting the identity of the worker, where possible, in accordance with section 3 above;
 - informing the person/people against whom the disclosure has been made as soon as possible - but not at a time or in such a way as to impede a thorough and full investigation;
 - conducting a full investigation where appropriate
 - ensuring the allegation is investigated as quickly as possible without affecting the depth and quality of the investigation;
 - protecting the effective operation of the organisation to the extent possible in the circumstances of the case;
 - consider whether internal or external auditors, the Police or other relevant third parties need to be involved;
 - keeping the worker informed in writing of the progress of the investigation and its likely timescale;
 - preparing a report on the outcome of the investigation
- 4.5. Usually you will be offered a meeting in confidence as soon as practicable after the initial disclosure in order for an initial assessment to be carried out. You can be accompanied by another member of staff for support at the meeting.
- 4.6. We will give you feedback about how we intend to deal with the disclosure made. This may be the Legal Manager, investigation manager or the person you reported the concern to. You may be invited to attend additional meetings in order to provide further information.

5. Outcome

- 5.1 Sometimes the need for confidentiality may prevent us giving you specific details of the investigation or any disciplinary action taken as a result. You must treat any information about the investigation as confidential.
- 5.2 The investigating manager may make recommendations in a report to the Legal Manager (or the Chief Ombudsman) for changes to enable us to minimise the risk of future wrongdoing and may also recommend disciplinary action or a wider investigation.
- 5.3 The Legal Manager will submit a report and recommendations to the appropriate person or body, who will consider the report and may accept the recommendations in whole or in part and arrange for a nominated individual to put arrangements in place to implement the recommendations. The Legal Manager will submit the report to the Chair of ARAC. If considered more appropriate the report may be referred to the OLC Board who will then consider the report and may accept the recommendations in whole or in part. The OLC Board may direct the Legal Manager to put into effect arrangements for implementing the recommendations.
- 5.4 If you are dissatisfied with the outcome, you may raise your concern with the Chief Ombudsman, if you are further dissatisfied you may raise this with the Chair of OLC and if you remain dissatisfied you may raise it with the Ministry of Justice which is the government department responsible for the Legal Ombudsman.
- 5.5 If you need further help or advice you can obtain this from the charity Protect (formerly Public Concern at Work) which has a confidential helpline and website offering guidance on whistleblowing. Details are at the end of this document in the contacts section.
- 5.6 The OLC recognises the rights of people to make disclosures to prescribed persons such as the Health and Safety Executive and the National Audit Office, or, where justified, elsewhere. A full list of these prescribed bodies or persons can be found on the gov.uk website

6. Protection and Support for whistle-blowers

- 6.1 It is understandable that those making qualifying disclosures are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise reasonable concerns under this policy, and no action will be taken if the investigation does not confirm the allegation made, provided that the allegation is not malicious or vexatious.
- 6.2 Anyone making a qualifying disclosure must not suffer any detrimental treatment as a result of making a qualifying disclosure. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with making a disclosure. If you believe that you have suffered any such treatment, you should inform the Whistleblowing Officer, the Legal Manager, immediately. The Legal Manager will consider what action to take. If the matter relates to the Legal Manager this should be raised with the Chief Ombudsman.

- 6.3 The Legal Ombudsman will not tolerate any harassment or victimisation of staff raising concerns in the public interest. You must not threaten or retaliate against anyone raising a concern in any way. If you are involved in such conduct you may be subject to a disciplinary process. If you believe that you have suffered any such treatment, you should inform the Whistleblowing Officer, the Legal Manager, immediately.
- 6.4 During an investigation into a disclosure, every effort will also be made to protect staff and/or other persons cited within the disclosure, and steps may (if appropriate) include:
- not identifying those concerned before any investigation of the disclosure has been completed, except where there is a legal obligation to do so, or to a professionally qualified lawyer to get legal advice or unless not identifying them would be prejudicial to the investigation; and
 - in some cases, moving anyone involved from the area of work concerned whilst the investigation is being carried out.
- 6.5 Staff who make disclosures in the public interest have access to the Legal Ombudsman's employee assistance programme. All records relating to disclosures, subsequent investigation and actions taken must be managed in compliance with the Data Protection Act 2018 and the Legal Ombudsman's Retention and Disposal Policy.
- 6.6 You can also obtain confidential advice from Protect (formerly Public Concern at Work). This is an independent charity and is a leading authority on public interest whistleblowing.
- 6.7 The Chair of OLC Board will consider whether any form of public reporting through its Board and/or Committees is appropriate.

7. Contacts

- 7.1 Protect (formerly Public Concern at Work) 020 3117 2520 or <https://protect-advice.org.uk/>
- 7.2 LeO's Legal Manager
- At Edward House personally or in writing marked "Official Sensitive to be opened by addressee only"
 - By telephone 07775937960
 - By post at Edward House, Quay Place, Birmingham, B1 2RA marked "Official Sensitive to be opened by addressee only"
 - By email to laura.stockin@legalombudsman.org.uk marked "Official Sensitive Whistleblowing Policy"
- 7.3 Board Member:
- At Edward House personally or in writing marked "Official Sensitive to be opened by addressee only"
 - By Post at Edward House, Quay Place, Birmingham, B1 2RA marked "Official Sensitive to be opened by addressee only"
 - For the ARAC Chair, by email to Harindra.Punchihewa@legalombudsman.org.uk marked "Official Sensitive Whistleblowing Policy"

- By email to the Board Secretary kay.kershaw@legalombudsman.org.uk marked “Official Sensitive Whistleblowing Policy FAO [name Board member]”
- The names of the Board members are on the LeO external website

7.4 Chief Ombudsman

- At Edward House either personally or in writing marked “Official Sensitive to be opened by addressee only”
- By Post at Edward House, Quay Place, Birmingham, B1 2RA marked “Official Sensitive to be opened by addressee only”
- By email to Paul.McFadden@legalombudsman.org.uk marked “Official Sensitive Whistleblowing Policy”

Related documents

[Grievance Policy and procedure.pdf](#)

Useful resources

[Whistleblowing for employees: What is a whistleblower - GOV.UK \(www.gov.uk\)](#)

[Whistleblowing or grievance? | Protect - Speak up stop harm \(protect-advice.org.uk\)](#)

Further information

If you have any queries, please email the Legal Manager at laura.stockin@legalombudsman.org.uk