

Making a disclosure in the public interest

“Whistleblowing” Policy and Guide to Staff

The Policy is set out in the Employment Manual

9.11 Whistle-Blowing

The Public Interest Disclosure Act 1988 is designed to protect employees, and other workers such as agency temps, who disclose genuine concerns, which seem to involve unlawful conduct or financial malpractice, from victimisation. The disclosure of wrongdoings is commonly known as “whistle-blowing”.

One of MG ALBA’s key business values is to be a fair and objective employer and so it has developed a procedure to help you raise any concerns about wrongdoings at work, at an early stage, and in the right way.

You can make a protected disclosure by reporting the matter to your Line Manager. If you feel unable to raise the matter with your Line Manager, for whatever reason, you should contact the HR Advisor. Alternatively, you may make a protected disclosure in writing to the Chief Executive.

What should I report?

The UK Government has a useful guide at <https://www.gov.uk/whistleblowing/overview>

If you have a personal complaint relating to your own employment situation, this is a “grievance” and should be dealt with as set out in the Employment Guidelines.

However, if through your work you witness or become aware of risks or malpractice that adversely affects other staff, the organisation or the public, particularly if it involves fraud, bribery, wrongdoing or corruption, you should not turn a blind eye to it. Examples might include:

- someone’s health and safety is in danger
- damage to the environment
- a criminal offence
- the company isn’t obeying the law (like not having the right insurance)
- covering up wrongdoing

Who do I make a disclosure to?

In the first instance you should tell your employer as set out in our Policy – your Line Manager, HR Adviser or Chief Executive.



You may also make a disclosure to a “prescribed person or body” if you think your employer:

- will cover it up
- would treat you unfairly if you complained
- hasn't sorted it out and you've already made a disclosure to them

For MG ALBA the recommended body would be Ofcom, although another regulator or the police are also possible. Contact details are given in the [List of Prescribed People and Bodies](#).

What form should the disclosure take?

There is no standard form of disclosure, but our preference is for you to speak with one of the named individuals first. Guidance issued by Audit Scotland directs readers to impartial and free advice of a practical nature from the [Public Concern at Work Charity](#). [*Note: MG ALBA does not necessarily endorse this or any other charity and the link is provided purely for information*].

What will happen as a result?

The Chief Executive will make an initial decision on whether an investigation is required and, if so, we will commission an investigation from an independent third party. If the Chief Executive does not believe there are sufficient grounds for an investigation he/she will refer the matter to the Chair of the Audit Committee for a second opinion prior to reaching a conclusion. If the Chief Executive forms part of the subject of the complaint, the Chair of the Audit Committee will deal with the matter by commissioning an investigation from an independent third party.

If your complaint relates to an ongoing process, it may be appropriate to suspend that activity pending investigation, particularly if there are health and safety aspects.

Will you maintain confidentiality? And can I remain anonymous?

We understand that you may be concerned about your position.

We would prefer to know who you are when you raise a concern because it is often difficult to conduct an effective investigation without being able to discuss it fully with the person who first brought the issue forward.

However, we understand that some individuals may not be comfortable with what is known as ‘open whistleblowing’, so we will offer the option of keeping your identity confidential unless we are required to disclose it by law, or unless we have your permission. If you wish us to maintain confidentiality, we will always seek to do so.

You can remain anonymous too, but we would prefer you did not as anonymity will often present a barrier to effective investigation. For instance it:

- is harder for investigators to ask additional questions or clarify points on the concern raised;
- does not stop others from guessing or working out who raised the concern;



- may shift the focus from the concern to the whistle-blower because there may be a suspicion that the whistle-blower is just being malicious; and
- is easier to get protection under the Public Interest Disclosure Act if concerns are raised openly.

What will happen to me?

The Public Interest Disclosure Act provides you with a safe alternative to silence and provides strong protection for workers who blow the whistle on – or honestly raise a genuine concern about – malpractice or wrongdoing. The protection is most readily available when the whistle is blown internally.

A worker can't be dismissed because of whistleblowing - if they are, they can claim unfair dismissal - as long as certain criteria are met.

“Qualifying disclosures” are eligible for protection. They include when someone reports:

- that someone's health and safety is in danger
- damage to the environment
- a criminal offence
- that the company isn't obeying the law (like not having the right insurance)
- that someone's covering up wrongdoing

A worker will be eligible for protection if:

- they honestly think what they're reporting is true
- they think they're telling the right person
- they believe that their disclosure is in the public interest

Workers aren't protected from dismissal if:

- they break the law when they report something (eg they signed the Official Secrets Act)
- they found out about the wrongdoing when someone wanted legal advice ('legal professional privilege') - eg if they're a solicitor

More help

We hope this guide has been helpful and assures you that we are an organisation that is committed to being honest and transparent, and encourages you to play a key role in deterring and tackling malpractice or wrongdoing within our organisation. If you need more advice please have a look at the following resources:

Online

Audit Scotland's Guide for Employees of Public Bodies

http://www.audit-scotland.gov.uk/docs/corp/2012/as_120829_whistleblowing_employee.pdf



UK Government advice

<https://www.gov.uk/whistleblowing/overview>

Public Concern at Work – a dedicated charity

<http://www.pcaw.org.uk/>

In person

You may also speak to our HR Adviser in confidence.