



## **Whistleblowing and Raising a Concern Policy and Procedure**

This document sets out the FSA's policy and procedure on whistleblowing and raising a concern where the matter concerns an internal issue.

### **Contents**

1 Policy Statement

2 Procedure

**Note: The FSA's Nominated Officer is the FOI, Complaints and Transparency Manager, Noel Sykes**

## 1 Policy statement

- 1.1 The Food Standards Agency (FSA) and its Executive Management Team are committed to ensuring high standards of conduct at all times at work. For civil servants, these standards are reinforced by the Civil Service Code. However, wrongdoing can occur. It is important that we all know what to do if, in the course of our work, we come across something that we think is fundamentally wrong, illegal or endangers others within the Agency or the public. This Policy and related documents will guide you through the process of raising a concern, which is sometimes also referred to as 'whistleblowing'
- 1.2 The following principles underpin this Policy:
- individuals are encouraged to raise any concerns they may have about wrongdoing as soon as possible;
  - individuals raising a concern will be afforded protection as detailed in the procedure;
  - all concerns will be handled responsibly, professionally and in a positive manner; and
  - help and support will be available where concerns are raised under the Policy and Procedure.
- 1.3 This Policy applies to all civil servants in the FSA. In addition, service providers, such as contractors, may use this policy to raise a concern regarding practices within the FSA.

### When to use this Policy

- 1.4 A whistleblowing concern is usually a concern about illegal, immoral, irregular and / or dangerous activity which is under the FSA's control. It may concern a criminal offence, for example, fraud; a danger to someone's health and safety; a risk or actual damage to the environment; a miscarriage of justice; illegal activity; or the covering up of a wrongdoing. The person blowing the whistle is usually not directly / personally affected, i.e. the disclosure should be in the public interest, meaning that the issue must affect others, for example the organisation, work colleagues or the general public.
- 1.5 Examples of whistleblowing concerns might include: requirements imposed on staff which represent a breach of working time regulations, use of unsafe equipment or unsafe working practices; employment of illegal immigrants, false returns to revenue & customs, falsification of financial records and bribery.
- 1.6 In addition, this Policy can be used to raise issues which fall under the Civil Service Code, i.e. breaches of the Code, such as:
- misusing official position, for example by using information acquired in the course of an individual's official duties to further private interests or those of others;

## Version 7: 25 June 2018

- deceiving or knowingly misleading Ministers, Parliament, or others;
- being influenced by improper pressure from others or the prospect of personal gain;
- ignoring inconvenient facts or relevant considerations when providing advice or making decisions;
- frustrating the implementation of policies once decisions are taken, for example, declining to take, or abstaining from, actions which flow from those decisions;
- acting in a way that unjustifiably favours or discriminates against particular individuals or interests;
- acting in a way that is determined by party political considerations, or use official resources for party political purposes; or
- allowing personal political views to determine any advice you give or your actions.

1.7 The above examples are different to personal complaints, i.e. those relating to you as an individual and where you therefore have a personal interest in the outcome of the complaint. The Policy does not cover issues related to your treatment as an employee or personal complaints about your employment, for example, complaints about your terms and conditions, promotion or selection procedures or complaints about harassment, bullying and discrimination. These issues are managed through the appropriate FSA HR policies / procedures.

### Review date

1.8 This policy is due for review in April 2020.

## 2 Procedure

### Introduction

- 2.1 This procedure outlines the process that should be followed when reporting a perceived wrongdoing within the FSA, including something which it is believed to go against the core values in the Civil Service Code (the Code) i.e. integrity, honesty, objectivity and impartiality. This procedure has been written in accordance with the process set out in the Code and the Civil Service Management Code. Under the Code, civil servants have a right and a responsibility to speak up and report behaviour that contravenes the Code's values.
- 2.2 The reporting of a wrongdoing under this procedure may be covered by the law concerning protected disclosures of information. The procedure has therefore been written with reference to the Public Interest Disclosure Act 1998 (PIDA), which offers, in certain circumstances, protection to those in both the private and public sectors, who 'blow the whistle'.
- 2.3 It is important that this procedure is followed when raising any concerns, to ensure that the matter is dealt with correctly. Where a concern is properly raised under this procedure, the individual will be protected from any unfair or negative treatment. As set out in this procedure, individuals can raise concerns through a number of internal routes and civil servants can also approach the independent Civil Service Commission (see below) directly. PIDA protection may also apply.

### What is a relevant concern?

- 2.4 If an employee is asked to do something, or is aware of the actions of another, which they consider to be wrongdoing / a breach of the values of the Code, they can raise it using this procedure. The employee must have a reasonable belief that raising the concern is in the public interest.
- 2.5 Employees should not raise malicious or vexatious concerns. Those who raise concerns with a reasonable belief it is in the public interest to do so, will be given protection under this procedure.
- 2.6 This procedure should not be used to raise concerns of a personal nature, for example, complaints relating to an individual's pay, working pattern, the amount of work they are expected to do or working conditions. These matters should be dealt with using the relevant alternative procedure, for example, the FSA grievance procedure. Equally, this policy would not apply to matters of individual conscience where there is no suggestion of wrongdoing by the FSA but an employee is, for example, required to act in a way which conflicts with a deeply held personal belief.
- 2.7 If unsure whether a concern should be raised using the Whistleblowing and

## Version 7: 25 June 2018

Raising a Concern procedure, further advice is available in the FAQs document which supports this procedure.

### How to raise a whistleblowing concern

- 2.8 If an employee experiences something in the workplace which they consider to be in conflict with the Code and / or perceived wrongdoing, it is important that the concern is raised straightaway. Proof is not required as this is the FSA's responsibility to establish.
- 2.9 It is important to follow the correct procedure when raising a whistleblowing concern. The following steps should be adhered to.
- 2.10 The concern should, in most instances, be raised with the employee's line manager or sent to the manager / responsible person who will know how to handle the matter, or where to go if not.
- 2.11 There may be rare occasions however when this would be inappropriate because, for example, the concern:
- may implicate the manager in some way;
  - is about a senior manager within the same line management chain; or
  - is particularly serious and needs to be dealt with as a matter of urgency;
- 2.12 If it is suspected that the concern may implicate the line manager in some way, then it should be raised with another line manager, or somebody more senior in the line management chain. If unable to do this, the concern should be raised directly with the FSA's Nominated Officer.
- 2.13 If the concern relates to someone senior to the line manager or another senior person in the Agency, it will need to be raised at the appropriate level. If an employee feels uncomfortable doing this, the concern should be raised with the Nominated Officer instead.
- 2.14 If it is felt that the concern is particularly serious and urgent and an employee is worried that approaching their line manager in the first instance may delay the resolution of the matter, for example in the case of National Security, then the concern should be raised immediately with a senior manager or the Nominated Officer.
- 2.15 Where a concern has already been raised within the line management chain, but the employee feels that it has not been adequately addressed, they can raise the concern with a senior manager or the Nominated Officer.
- 2.16 If it is believed that the concern is extremely serious and urgent and it cannot be raised with the line manager, another line manager, Nominated Officer, or a senior manager / Director, then it can be raised with the Chief Executive. The concern should only be raised in this way if the employee has given serious consideration to all other internal options. The employee may be asked to

explain why they did not raise the concern with their manager or Nominated Officer.

- 2.17 If an employee has used this procedure to raise a concern within the FSA and does not receive what they consider to be a reasonable response, they may raise the concern with the Civil Service Commission (the Commission). The Commission is an independent body who can hear and determine complaints relating to the Code. For example, if a FSA employee believes that they have been required to act in a way that conflicts with the Code, or observe that another civil servant is acting, or has acted, in a way that conflicts with the Code. The FAQs provide additional information on the Commission.

#### *Taking concerns direct to the Civil Service Commission*

- 2.18 Civil servants can raise a concern directly with the Civil Service Commission. However, where appropriate, the Commission expects civil servants to have raised concerns within their own organisation first. If a concern is raised directly with the Commission, without it being raised within the organisation first, the Commission will normally ask why it is not appropriate to raise the matter internally first. The FAQs provide details on how to contact the Commission. Further information on the Civil Service Commission can also be found on the Civil service website: <http://civilservicecommission.independent.gov.uk/>

#### **External disclosures**

- 2.19 It is important that concerns are raised internally, or with the Civil Service Commission, and at the earliest opportunity. This will allow the FSA the opportunity to address and resolve any concerns quickly and by the most appropriate means. The FSA is confident that there are sufficient internal avenues available to deal with any concerns raised.
- 2.20 Raising a concern outside the prescribed routes listed in this procedure, for example, with the media, campaign groups, on social media or with political parties, is protected by PIDA only in very limited circumstances and could, if it amounts to an unauthorised disclosure, result in disciplinary action. It may also breach the Official Secrets Act. Where a member of staff is considering acting in this way they are advised to seek professional advice before doing so.

#### **Information needed to raise a concern**

- 2.21 When raising a concern under this procedure, individuals should try to provide the following information:
- the background and the reason behind the concern;
  - whether they have already raised a concern with anyone and the response;
  - any relevant dates.

- 2.22 The information should demonstrate that there are reasonable grounds for the concern to be acted upon. It is important that matters are not investigated by individuals themselves. Remember that proof is not needed - just a reasonable and honest belief that wrongdoing, including breaches of the core values of the Code has, or is likely to occur.
- 2.23 If applicable, personal interests must be declared from the outset.
- 2.24 The FSA appreciates that this might be a difficult time for employees who may feel uncertain about how to progress a concern. Support is available at all stages of the process. For more information see the FAQs.

### **How a concern will be handled**

- 2.25 All investigations will be conducted sensitively, fairly and as quickly as possible in accordance with the Whistleblowing and Raising a Concern procedure.

**Note:** *There is guidance for managers on the Digital Workplace that sets out the actions and process that managers need to follow once a concern is raised with them. If a manager is unsure of how to handle a concern, they should ask for advice from the Nominated Officer.*

- 2.26 Once a concern has been raised say for example with the line manager or Nominated Officer, a decision will be made on the immediate next step. This could involve a meeting being arranged with the employee to determine how the concern should be taken forward. There may need to be further informal enquiries or a formal investigation. The FSA will establish who will be dealing with the matter, for example, the FSA Security Manager or Health, Safety and Wellbeing Team, and a written confirmation will be sent to the employee. The FSA will aim to provide this within five working days. However, this may not always be possible depending on the nature of the concern.
- 2.27 If a meeting is arranged, the employee may wish to be accompanied by a trade union representative or a colleague who is not involved in the area of work to which the concern relates. This meeting can be conducted over the telephone or face to face.
- 2.28 Investigations in response to concerns raised under the Whistleblowing and Raising a Concern Policy should, as far as possible, be completed within three months of the concern being raised. The results of any investigation / outcome of a concern will be reported to the Chief Executive and the Chair of the FSA. The individual raising the concern will also be informed of the outcome of the investigation and what action is to be taken subject to any duty of confidentiality. If no action is to be taken, the reason for this will be explained.
- 2.29 Throughout any investigation, the employee who raised the concern will still be expected to continue their duties / role as normal unless deemed inappropriate.

**Note:** *Concerns in respect of actual or potential fraud, financial irregularities, risk management or governance issues must also be brought immediately to the attention of the Head of Internal Audit. Similarly concerns in respect of health and safety or information security should be referred to the Health, Safety and Wellbeing Manager or Security Manager respectively. This referral should be made by the person to whom the complaint is first made unless the individual has reasonable cause to believe that they should make the referral themselves. The Nominated Officer should also be informed.*

## **Confidentiality / Anonymity**

- 2.30 Any disclosures made under this procedure will be treated in a sensitive manner. The FSA recognises that individuals may want to raise a concern in confidence, i.e. they may want to raise a concern on the basis that their name is not revealed without their consent.
- 2.31 The FSA will respect any request for confidentiality as far as possible, restricting it to a 'need to know basis'. However, if the situation arises where it is not possible to resolve the concern without revealing the individual's identity, (for example in matters of criminal law or where, for practical reasons, an investigation cannot reasonably progress without the identity of the individual becoming apparent), the FSA will advise the employee before proceeding. The same considerations of confidentiality should be afforded to the individual(s) at the centre of the concern, as far as appropriate.
- 2.32 Individuals may choose to raise concerns anonymously, i.e. without providing their name at all. If this is the case, the investigation itself may serve to reveal the source of information. Individuals are therefore encouraged, where possible to put their names to concerns raised. However, raising a concern anonymously is preferred to silence about potential wrongdoing.
- 2.33 Where a concern is raised anonymously it should be treated as credible and investigated as far as is possible.

## **Protection**

- 2.34 If an employee follows the correct procedures when raising a concern they will not be penalised. If a concern is raised in the reasonable belief that it is in the public interest and procedures have been followed correctly, the employee raising the concern will be protected. Where an employee has been victimised for raising a concern, the FSA will take appropriate action against those responsible, in line with the FSA's disciplinary policy and procedures.



**Outcomes, feedback and changes to procedures or policy as a result of whistleblowing**

- 2.35 If changes are made to this policy and procedure as a result of whistleblowing investigations, the FSA will publicise these changes to employees, taking into consideration the importance of protecting the anonymity and confidentiality of individuals.
- 2.36 The Nominated Officer will ensure that the outcome of cases including remedial action taken is fed back to all relevant officials taking into account the importance of protecting the anonymity and confidentiality of individuals.
- 2.37 Where possible, the Nominated Officer will seek feedback from individuals who raise a concern through this policy or through other routes, on whether concerns have been handled responsibly, professionally and in a positive manner. This will be irrespective of whether there is a case to answer or not.