

**Whistleblowing to the Children's
Commissioner about the rights, welfare and interests of children in England
Policy and guidance for whistleblowers**

This document outlines the Children's Commissioner's processes and procedures for dealing with whistleblowing referrals about matters relating to the rights, welfare and interests of children in England.

Children's Commissioner
Sanctuary Buildings,
Great Smith Street,
London SW1P 3BT

Tel: 0207 783 8330

childrenscommissioner.gov.uk

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Introduction

1. The Children's Commissioner is named in the [Prescribed Persons Order 2014](#) as someone to whom whistleblowers can raise concerns relating to the rights, welfare and interests of children.
2. This document sets out the Children's Commissioner's processes and procedures for handling whistleblowing referrals about matters relating to the rights, welfare and interests of children in England. This document is derived from April 2017 Prescribed Person's Guidance for Whistleblowing, published by the Department for Business, Energy and Industrial Strategy.
3. The document is for guidance only - we do not provide legal advice to workers or employers about disclosing information to us.

What is whistleblowing?

4. Whistleblowing is the term used when a worker passes on information about wrongdoing, risk or malpractice that they are aware of, typically (although not necessarily) through their work. It is different from making a **complaint** or lodging a **grievance** because it generally applies when a person is acting as a witness to misconduct or malpractice that they have observed, and which threatens other people.
5. The [Public Interest Disclosure Act 1998 \(PIDA\)](#) amends the [Employment Rights Act 1996](#) and offers protections to workers from any detriment from their employer that arises from the worker making a protected disclosure ('a qualifying disclosure').
6. To be covered by whistleblowing law the disclosure must, in the reasonable belief of the worker making it, be in the public interest and show that one or more of the following has occurred:
 - a criminal offence
 - a breach of a legal obligation
 - a miscarriage of justice
 - danger to the health or safety of an individual
 - damage to the environment, or

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- the deliberate covering up of wrongdoing in the above categories.
7. A disclosure of information is not a qualifying disclosure if the person making it commits an offence by doing so.
 8. A worker must make the qualifying disclosure to one of a number of specified persons as follows:
 - to their employer or
 - to another responsible person, if the worker reasonably believes the information relates to that person's conduct or a matter for which they are responsible
 - to a prescribed person set out in the [Public Interest Disclosure \(Prescribed Persons\) Order 1999](#).
 9. The Public Interest Disclosure Act 1998 covers all workers, including temporary agency staff. It does not cover people who are self-employed or volunteers. For more information on the law visit: <https://protect-advice.org.uk/a-guide-to-pida/>

What to do if you are concerned about issues relating to children's rights, welfare and interests

10. In the first instance, you should raise your concern internally, for example with your line manager. If you are unable to do this, you should raise your concern with the person nominated in your organisation's whistleblowing policy.
11. If you are worried about raising your concern, you should seek independent advice at the earliest opportunity. You may be able to do this through your union, professional body or Protect, whose contact details are as follows:
Protect Advice Line: 020 3117 2520 (* option 1)
Email: whistle@protect-advice.org.uk
Postal address: The Green House, 244-254 Cambridge Heath Road, London E2 9DA
For further information please see their website at www.pcaw.co.uk

When to make a disclosure to the Children's Commissioner

12. If you have raised your concern internally but feel it has not been properly addressed, or if you feel unable to raise it within your organisation, you may need to do so outside your place of work. It is advisable, in terms of both addressing the

concern and securing your own protection as a whistleblower, to do this first with a body that has some oversight of the work of your employer. This may be a governing body, the local authority, a funding agency or a national regulator. The Children's Commissioner is a prescribed person for whistleblowing matters relating to the rights, welfare and interests of children.

13. The Children's Commissioner's role as a prescribed person is to provide workers with a mechanism to make their public interest disclosure to an independent body where the worker does not feel able to disclose directly to their employer and where the body might be in a position to take some form of further action on the disclosure. The decision on what actions will be taken in relation to disclosures will be based on the legal remit of the organisation. The Children's Commissioner is not a regulatory body and does not have enforcement powers, but will consider your concerns, ensure they are passed to the responsible bodies and will seek reassurance that the correct processes have been followed (See 'what to expect if you decide to contact the Children's Commissioner').
14. If your concern is about an immediate or current risk to an individual child or children, it is important that you follow the child protection procedures that apply to your organisation and share this information with the appropriate authorities immediately.
15. If you approach the Children's Commissioner with a concern about a child protection issue, we will always refer it to the appropriate authority to seek reassurance that the child or children are being safeguarded. We do not conduct child protection investigations nor do we have the ability to overturn the decisions of local authorities in relation to their functions.
16. Advice is also available from the NSPCC, via their dedicated whistleblowing helpline on 08000280285 [Whistleblowing Advice Line | NSPCC](#)

Confidentiality in whistleblowing allegations

16. It is best to raise your concerns openly with us, because that makes it easier for us to follow them up. However, we recognise there may be circumstances when you would like us to keep your identity confidential. If you ask, we will do our best to ensure that your identity is not disclosed, unless legal constraints or obligations make this impossible (for example if a child is at risk – see below). We will do this

whether you have written a letter, sent an email or telephoned us. You should also bear in mind that others may guess who has contacted us, or that we may not be able to fully investigate the issue you have raised without your identity being disclosed (for example if your evidence is essential to the matter, but could not have been provided by anyone else).

17. If a letter or email does not say whether or not you are happy for us to disclose the source of the information, we will check this with you using the contact details you have provided.
18. If you come to us anonymously we will treat your allegations just as seriously as if you have given us your personal details. However, it will be harder for us to take up the matter or be sensitive to your position, for example, in determining whether there is any information in your allegations that could tend to identify you. We would encourage either open or confidential whistleblowing as the best means for you to be protected and for the concern to be properly addressed.
19. If you are disclosing information about a child at risk, then we **must** pass this information on to the appropriate local authority child protection service or the police in order to protect the child. This has to take priority over any request you may make not to be identified. As long as you have given us your contact details, we will let you know if we are taking this action.

What to expect if you decide to contact the Children's Commissioner

20. If you call or email the Children's Commissioner, we will ask you whether you believe that a child is in imminent danger. If you do, we will advise that you should contact the appropriate local authority children's services department or the police straight away. Although we will also make this contact, it will save time if you do so directly.
21. We may then ask you whether you have raised the issue with your employer already and/or with any other organisation (for example another regulator). To protect your own interests, we may also suggest that you seek advice, for example from Public Concern at Work or from an independent legal adviser, union or professional body.

22. If you have raised the issue already, we will ask you about how you raised it (that is, did you do it openly, confidentially or anonymously), how it was handled, what you think should be done and whether you have had a formal response.
23. We will also ask you about how you think we may help and whether you want us to keep your identity confidential. Whether we can do this, will depend on the issue you have raised. If it relates to a child at risk, then we must pass this information on to the local authority child protection service in order to protect the child, even if it risks identifying you – if this is the case, we will let you know. In cases where a child is at immediate risk, we may need to identify you in order that the issue can be fully investigated.
24. Every disclosure will be reviewed on a case by case basis to ensure that the correct and appropriate response is being considered.
25. If we write to an organisation and you have asked us not to reveal your identity, we will not attach your letter or email to correspondence we have with them without your permission, because this could identify you. However, we will use the information from your telephone call, letter or email in our discussions with them.

What action will we take?

26. Once we have gathered the information we need to progress your disclosure, we will take the following action depending on the nature of the disclosure:
 - if it is about a child protection issue concerning a 'risk of harm' to a specific child or children, we will immediately refer the matter to the appropriate local authority's child protection team or police for urgent attention
 - if it raises specific concerns or allegations about wider or systemic failure in safeguarding practice, we will raise it with the appropriate regulatory authority or responsible body to seek reassurance that the matter has been or will be investigated fully.
 - if it is about an individual concern or complaint, we will provide advice on how you can take it forward.

- the Children's Commissioner's legal remit restricts what actions can be taken as a response to public interest disclosures. We are not a regulatory body, we do not possess any enforcement powers and we are prohibited from conducting investigations in to individual cases. Our function is focused on raising awareness around issues relating to the rights, welfare and interests of children and, as such, we promise to raise concerns with responsible bodies and to robustly seek reassurance that concerns have been or will be looked in to. Issues and trends relating to public interest disclosures will be considered in a yearly report and this information will be used when planning our wider investigations in to issues impacting children.
- we will provide you with a formal written response outlining what action we have taken in relation to your concerns and, if appropriate, what further action we may recommend you take. It is recommended that you seek your own independent legal advice to ensure that you are being fully and appropriately advised.
- if you are ultimately unhappy with the response from the Children's Commissioner's Office, you can make a complaint.
- you can also escalate your concerns to the [Parliamentary and Health Ombudsman](#) who will consider your complaint.

How will we keep you informed?

27. If you have provided an email or postal address, we will send you an acknowledgement. We will then consider your concerns and then write to you to tell you what action we are taking.
28. If we have asked an organisation to investigate your concerns and let us know the outcome, we will try and give you as much feedback on the matter as we properly can. However, we may be constrained by the law in what we can tell you.

Contacting the Children's Commissioner

29. Whistleblowing disclosures can be sent to the Children's Commissioner
 - by email to: Help.team@childrenscommissioner.gov.uk
 - by post to:

The Children's Commissioner's Office

Sanctuary Buildings

Great Smith Street

London

SW1P 3BT

- by phone: 08005280731