Chapter 19: Disclosing Malpractice or Impropriety (‘Whistleblowing’), Allegations of Dishonesty at Work and Crisis of Conscience

1. About this Chapter

1.1 This chapter explains:

• the House of Commons policy on disclosing malpractice or impropriety (‘Whistleblowing’) and the procedures to be followed.
• what you should do if you suspect that a theft or other crime has been committed in the workplace
• what will happen if you suspect, or are suspected of, dishonesty at work
• what you should do if you object strongly to doing, or not doing, something in connection with your work because it appears to be illegal or improper or may raise questions of maladministration (crisis of conscience).

2. Disclosing Malpractice or Impropriety

2.1 The House of Commons Service is committed to maintaining the highest standards of professionalism and integrity. We serve the House of Commons, its Committees and Members, and the public, with honesty, probity and political impartiality. The House Service will, therefore, treat malpractice or impropriety very seriously whether it is committed by managers, employees, suppliers or contractors.

Principles

• Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. You should be watchful for any malpractice or impropriety and report anything of that nature that you become aware of.
• Legitimate disclosures may include an instruction to cover up or not to pursue a concern, even by a person in authority such as your manager. You should not agree to remain silent and can use this policy to raise your concern.
• Any matter raised under this procedure will be investigated appropriately, consistently, fairly and professionally, and the outcome of the investigation reported back to the person who raised the issue.
• Any detriment, or other unfair treatment, towards an individual who raises a legitimate concern under this policy is not acceptable and will be treated as under the disciplinary procedures.
• Deliberately making a false allegation may be treated as a disciplinary offence.
• Concerns can be raised with a number of different people. Advice and support are available if you are considering raising a concern and support is available throughout the process.
When this policy applies

2.2 Although the House of Commons Service is not expressly covered by Part IVA of the Employment Rights Act the procedures below are intended to be broadly in line with Part IVA of the Act. The procedures are designed to encourage and enable employees to raise serious concerns within the House of Commons Service, rather than overlooking a problem or ‘blowing the whistle’ outside the House.

2.3 Concerns regarding malpractice or impropriety by Members should normally be made to the Parliamentary Commissioner for Standards. If employees are unable, or it would not be appropriate to raise their concern with the Parliamentary Commissioner for Standards, they should use this policy to raise concerns. Employees are often the first to realise that there may be something seriously wrong within an organisation and this policy provides a means for them to raise concerns so that these can be investigated properly, sensitively and in confidence.

2.4 Where a concern is proved ill-founded, internal resolution also avoids unwarranted damage to the House’s reputation. The policy is also designed to ensure that individuals are protected from suffering detriment if they have a reasonable belief that they raised a concern in the public interest.

2.5 These procedures provide a means of dealing with issues of malpractice or impropriety such as:

- criminal activity, for instance fraud (see the Finance & Procurement Rules, chapter 5 on Prevention of Theft and Fraud), corruption, bribery or blackmail
- abuse of office or position
- failure to comply with any legal duty
- a miscarriage of justice (or deliberate and serious misrepresentation of information)
- endangering the health and safety of an individual or groups of individuals, including risks to the public
- environmental damage
- any deliberate attempt by any person to conceal any of the above.

2.6 The policy additionally covers any conduct not included above which appears likely to harm the reputation of the House of Commons Service.

2.7 In other circumstances alternative policies, as set out in this Handbook and on the Intranet, should be used when raising and dealing with issues on:

- grievances
- equal opportunities
- discipline matters
- bullying and harassment (Independent Complaints and Grievance Scheme)
- performance management
- health and safety
- safeguarding responsibilities towards children and vulnerable adults
- security.
Confidentiality

2.8 In raising a concern about wrongdoing we will endeavour to make sure that only those appointed to investigate it will know your identity. All concerns will be treated in confidence and every effort made to not reveal your identity outside this group except:

- where we are legally obliged to do so
- where the information is already in the public domain
- on a strictly confidential basis to a professionally qualified lawyer, accountant or other professional when getting advice
- to the police in any proceedings involving a criminal investigation.

2.9 If there are any other circumstances in which we are required to reveal your identity outside those identified above, for instance if concerns cannot be resolved without revealing the identity of the employee raising the concern (for example, if evidence is required in court), we will discuss this with you first and appropriate support will be available to you.

Anonymous allegations

2.10 Anonymous allegations will be taken seriously. However, our ability to ask follow up questions, fully investigate or provide feedback will be limited if you cannot be contacted. It may be possible to overcome these challenges by using telephone appointments or through an anonymised email address.

2.11 Concerns that are expressed anonymously will be considered at the discretion of the investigator in discussion with the Managing Director of People and Culture (or if the allegation concerns that person, with another member of the Board). In exercising this discretion factors to be taken into consideration include the:

- seriousness of the issues raised
- credibility of the concern
- likelihood of being able to confirm the allegation from attributable sources.

Untrue allegations

2.12 If, the investigation shows, or it subsequently becomes clear, that you made an allegation frivolously, maliciously, vexatiously or for personal gain, disciplinary action may be taken against you. If however, you have a reasonable belief that you are making an allegation in the public interest, but it is not confirmed by the investigation, no action will be taken against you as a result of making the allegation.

What happens if I am implicated?

2.13 If you raise concerns and actively cooperate with an investigation in which you may be implicated in any wrongdoing, you are likely to receive a lighter sanction than might otherwise have been the case (unless the misconduct is so serious that no amount of co-operation or other mitigating conduct can justify this).
How do I raise a concern?

2.14 If you have a concern regarding malpractice or impropriety of the type set out above you should raise this with any Managing Director.

2.15 Allegations regarding malpractice or impropriety that involve Members of the House of Commons should be made to the Clerk of the House, if it is not appropriate to raise the concern with the Parliamentary Commissioner for Standards. Concerns regarding Peers should be made to the House of Lords Commissioner for Standards.

2.16 You may wish to seek internal or external support before raising your concern. Sources of support are listed below at section 2.21.

2.17 However, if you feel unable to raise your concern internally, you may raise it externally with a prescribed person. A prescribed person is someone you may approach outside of your workplace to report suspected or actual wrongdoing. The following list of prescribed persons sets out the type of matters that they are able to deal with. You will see that, for House staff, the appropriate person will normally be the Comptroller & Auditor General

List of prescribed persons and bodies

2.18 The House encourages those with a concern to follow the procedures outlined in this policy in the first instance. Other than through discussions with Protect, the Comptroller & Auditor General or another prescribed person, disclosing concerns to anyone outside the House of Commons without first following the House of Commons disclosing malpractice procedures may result in disciplinary action.

2.19 Details of complaints and recommendations made under this policy will be held by the People and Culture team. Notification of allegations should be registered when they are first raised whether or not it is decided that further investigation is appropriate.

2.20 Where possible you should raise your concerns in writing setting out the background and history of your concerns (giving names, dates and places where possible) and indicating the reasons for your concerns. You should make it clear that you are raising concerns under the Disclosing Malpractice or Impropriety Policy.

Where to go for help and advice

2.21 If you feel uncomfortable raising a concern with the people detailed above, or want other sources of advice, guidance and support at any stage of the process, the following internal people are available to help you in confidence:

- Any senior manager who you feel comfortable with
- House of Commons HR Advisory Service (extension 2358)
- PDS HR team - digitalservicehranddevelopment@parliament.uk
- Independent Complaints and Grievance Scheme (ICGS)
- Guardians Network: A Guardian is a trained member of staff who acts as a confidential sounding board; an ambassador of our culture who can offer advice to those who come forward about the various escalation channels available – Guardians SharePoint
• Employee Assistance Programme: The EAP is available 24 hours a day, seven days a week and can give support, advice, and information on any issue affecting you (see chapter 5, section 4 of the staff handbook for further details)
• Trade Union Representative
• Member of the Diversity and Inclusion team (extension 1412)
• The independent charity ‘Protect’ which the House of Commons subscribes to and which gives free and confidential advice on disclosure of malpractice matters: Protect or the Protect Whistleblowing Advice Line (020 3117 2520)

What happens after you raise a formal concern?

2.22 Following discussions with you, the person to whom you have reported your concern will decide how to proceed. Preliminary enquiries may be made to decide whether a further investigation is appropriate and, if so, what form it should take. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted (for example, on health and safety issues).

2.23 You will be informed if, following preliminary enquiries, the person you raised your concern with decides that an investigation would be inappropriate and the allegation is effectively dismissed, for instance if it is decided that:

• there is no substantive case to the allegation
• the issue is trivial
• another procedure is more appropriate, such as the grievance process, disciplinary process or the ICGS.

2.24 Where an investigation is not carried out you may appeal to the relevant Managing Director, or, if they were involved in the decision, to another member of the Board, or the Commons Executive Board.

2.25 If it is decided that an investigation is merited, the person you have raised the concern with may investigate the allegation themselves, or appoint another independent investigator.

2.26 It is not always possible to follow exactly the same procedure as circumstances may differ in each case, and it is important that any investigation is proportionate and as independent as possible. However, if a further investigation is required the investigation will generally follow the steps set out below:

• the investigator will obtain as full details as possible
• any members of staff required to attend meetings held as part of the investigation can be accompanied by a Trade Union Representative or fellow employee of the House of Commons
• you will be informed that an investigation is taking place, and if appropriate, any action taken in relation to your concern.

2.27 The investigator, in consultation with the Managing Director of People and Culture where appropriate, will consider whether to involve the House of Commons auditors or the police. There may be occasions where it is appropriate that external investigations, such as those by the police, are undertaken before any formal internal investigation.
2.28 Owing to the varied nature of potential allegations under these procedures and the possibility of police involvement, it is not possible to lay down precise time scales for investigations. The investigator will aim to ensure that the investigation is undertaken as quickly as possible, without affecting the quality and depth of the investigation.

What happens after the investigation?

2.29 The investigator will write a report setting out their findings in relation to the allegations, containing a conclusion as to their validity, and a recommendation for further action. The report will be sent to:

- the Managing Director responsible for the area concerned
- if the Managing Director responsible for the area concerned conducted the investigation, to another member of the Board or to the Clerk of the House
- if the Clerk of the House conducted the investigation, to the Chair of the Audit Committee.

2.30 The relevant individual listed above acts as the ‘Deciding Officer’ for the case and will decide what action, if any, to take.

2.31 If the allegations are shown to be justified, appropriate action will be taken as quickly as possible. If malpractice or impropriety is found to have taken place, those staff of the House responsible may be subject to House of Commons disciplinary procedure and may be reported to the police if it potentially involved a criminal act.

2.32 Where evidence supports an allegation, and it is believed a member of staff is implicated, the investigator will inform the member of staff against whom the allegation is made, and provide the evidence supporting it, and the member of staff will be allowed to comment before the investigation is concluded and the report made.

2.33 The outcome of the investigation will be communicated, as far as is possible without any infringement of a duty of confidence owed by us to someone else, to:

- you as the person raising the concern
- staff who were interviewed as part of the investigation
- the House of Commons Executive Board
- external authorities, if appropriate, who may need to consider whether other action should be taken on the basis of the findings.

2.34 The outcome provided to the above parties will vary from case to case and may not include specific details of the investigation outcome, in order to maintain confidentiality. In some cases, the Deciding Officer will hold a meeting with you to discuss the findings of the investigation, however you will not normally receive a copy of the full investigation report.

2.35 If you are not satisfied that your concern has been properly dealt with by the investigator you may raise it in confidence with the Chair of the Audit Committee. You may only do so once the investigation has concluded, and normally within three months.

2.36 Records of proceedings will be kept for seven years by the People and Culture team, after which they will be reviewed and destroyed unless there are reasons for their further retention.
3. What to Do if You Suspect that a Theft or Other Criminal Activity has been Committed in the Workplace

3.1 The House of Commons is committed to protecting its assets, including the public funds under its control, from theft or other criminal activity. This section describes what you should do if you suspect that a theft or other crime has been committed in the workplace. The approach adopted may need to be modified if the whistleblowing procedure (see section 2 above) is being used.

How to report a crime

3.2 Any credible evidence that a crime may have been committed should immediately be reported to your Line Manager, your Managing Director or your HR Adviser, who will then report the matter to the Office of Speaker’s Counsel (OSC). If this is not possible the matter should be reported to the Director of the Internal Audit Service (IAS) on ext. 6460, who will again report the matter to the OSC. You should try to preserve any evidence material relating to the event.

3.3 You may report any suspicions you might have anonymously to your HR Adviser or to the Director of IAS. However, information given in this way may be less valuable than information provided by a named person and may not result in appropriate action being taken.

3.4 Staff should not make malicious or unsupported accusations. Making such accusations may lead to disciplinary action.

Investigation process

Preliminary enquiries

3.5 The Line Manager (of the member of staff against whom an allegation is made) will investigate, or if appropriate will nominate another manager to conduct an investigation.

3.6 The investigating Line Manager will begin by undertaking preliminary enquiries. The purpose of these enquiries is to:

- establish the initial facts
- look at any available evidence
- assess the nature and quality of the evidence
- make a written record of facts and any subsequent decisions made or action taken.

3.7 From these enquiries, it will be established with the Office of the Speaker’s Counsel whether a full internal formal investigation, or a criminal investigation, is necessary. Preliminary enquiries can be curtailed and progressed to a full investigation if it becomes obvious that there is a need to do so. If, at this stage, there is evidence that a theft or other crime has been committed, the police will be alerted.

Internal formal investigation

3.8 Where there is only a suspicion that a crime may have been committed, a full internal investigation may be conducted. The relevant HR Adviser, in consultation with their Managing Director, will decide who will carry out the investigation. This may be a different manager from the person who carried out the preliminary enquiries.
3.9 The aim of the internal investigation is to assess fully whether there is enough evidence to warrant referral of the matter to the police as a criminal investigation, and to inform any decision on whether disciplinary action is necessary.

3.10 You are entitled to be accompanied by a colleague or Trade Union Representative during any formal investigation interviews.

**Suspension from duty**

3.11 If you are the subject of an investigation your Line Manager may decide, in consultation with the Human Resources Director to suspend you, with or without pay, pending the conclusion of the investigation. Before reaching their decision they must consult the Office of the Speaker’s Counsel. The Managing Director of People and Culture should be kept informed on any decisions. If the police are conducting their own investigation and decide not to take further action, or if a prosecution is not proceeded with or results in acquittal, your Line Manager, in consultation with the HR Adviser, will consider whether internal disciplinary procedures are appropriate (see chapter 20). You will be informed promptly if it is decided that no action will be taken against you and arrangements will be made for you to return to duties as soon as possible.

**Disciplinary action**

3.12 If, following the preliminary investigation, it is decided that the formal disciplinary process should be followed, then the policy in chapter 20 will apply.

**4. Crisis of Conscience**

4.1 Your personal opinions are not a valid reason for you to refuse to carry out reasonable requests by management or Members. However, you may raise a grievance in accordance with the procedures set out in chapter 21 where you believe that you are being asked to act in a way which:

- is illegal, improper or unethical
- is in breach of a professional code
- may involve maladministration.

4.2 If, however, the matter cannot be resolved through the normal grievance procedure, and you object strongly to doing, or not doing, something in connection with your work because it appears to be illegal or improper, or may raise questions of maladministration, you have the right to appeal to your Managing Director. If your Managing Director is involved you should appeal instead to the Director General of the House of Commons. In the last resort, you may also appeal to the House of Commons Commission.