



THE CIVIL SERVICE CODE

A GUIDE TO BRINGING A COMPLAINT TO THE CIVIL SERVICE COMMISSION

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1. Introduction

This Guide will help you to decide whether you can bring a complaint to the Civil Service Commission under the Civil Service Code. It explains the complaint process and the likely outcomes.

The Civil Service Commission aims to investigate complaints in an efficient and responsive way that is sensitive to the circumstances of the particular individual and situation. We do recognise that it can be difficult for civil servants to sometimes say that they believe that things are going wrong in their department.

The Commission's investigation of a complaint will be fair and objective and governed by an independent, honest, confidential and impartial approach.

Please see section 22 of this Guide for an indication of the possible outcomes of a successful complaint.

We also publish a Guide for Departments, *The Civil Service Code-A Guide for Departments subject to a complaint under the Civil Service Code*. In addition we publish our *The Civil Service Code-Policies and Procedures* which outlines, among other things the legal basis for the Commission's role; delegated responsibilities; and the service standards that the Commission works to.

2. What is the Civil Service Code?

The Civil Service Code is issued by the Minister for the Civil Service, as required by part one of the Constitutional Reform and Governance Act 2010. The Act establishes some minimum requirements for the Code, including the requirement for civil servants to serve a duly constituted administration, whatever its political complexion, with integrity, honesty, objectivity and impartiality.

The Code outlines these core values of the Civil Service and gives illustrations of the standards of behaviour expected from civil servants.

It also explains the duties of departments to make civil servants aware of the Code and its values. Departments must consider concerns raised by civil servants under the Code and must ensure that civil servants are not penalised for raising concerns.

The Code is part of the contractual relationship between a civil servant and their employer.

3. What is a valid complaint under the Civil Service Code?

The Civil Service Code outlines the core values of the Civil Service: Integrity; Honesty; Objectivity; Impartiality. It describes the standards of behaviour expected of civil servants against each of these four values.

If you are asked to do something which conflicts with the values in the Code, or are aware that another civil servant is acting in conflict with the values, you should raise a concern within your own department.

If you have raised your concern within your own department you may bring a complaint to the Civil Service Commission. The Commission may also take a complaint direct. In section 8 of this Guide we outline situations where we might decide to take a complaint direct (without it being first investigated by your department).

You must be a civil servant to bring a complaint under the Civil Service Code.

The Code does not cover 'human resources management issues'.

The Civil Service Code states that the Civil Service core values:

support good government and ensure the highest possible standards in all that the Civil Service does. This in turn helps the Civil Service to gain and retain the respect of Ministers, Parliament, the public and its customers.

The Code is concerned with the outward-facing roles of civil servants rather than their internal relations. There is therefore likely to be a public interest dimension to a concern raised under the Code.¹

The Commission recognises that it is not always easy to make this clear cut distinction between a human resources management issue and a concern under the Civil Service Code. Situations which primarily touch on an individual's employment may also, in some circumstances, have a public interest aspect.

¹ Departments will usually have their own mission and values statements that explain the standards expected in relations between civil servants. In addition, the relationship between a civil servant and their employing department will be subject to employment legislation. These are inward facing relationships and do not have a public interest dimension. Departments will have a grievance procedure for raising such concerns

4. What is the Civil Service Commission?

The Civil Service Commission is independent of Government and of the Civil Service.

The Commission consists of the Civil Service Commissioners and our staff. Civil Service Commissioners are recruited on merit following public advertisement and a fair and open selection competition. From our different careers and interests we bring experience of the public, private and voluntary sectors, and a clear and independent perspective.

You can find out more about us and our work on the Commission's website <http://civilservicecommission.independent.gov.uk/>

5. What does the Civil Service Commission do?

The Civil Service Commission has two primary functions, as detailed in the Constitutional Reform and Governance Act 2010.

First, the Commission is responsible for upholding the principle that selection to appointments in the Civil Service must be on merit on the basis of fair and open competition.

Second, the Commission can hear and determine complaints raised by civil servants under the Civil Service Code.

We also work with departments to help them promote the Code and the core values of the Civil Service that it describes.

6. Who can make a complaint under the Civil Service Code?

As a civil servant you may bring a complaint to the Civil Service Commission if you believe that you have been asked to behave in a way that goes against the values in the Civil Service Code, or have witnessed such behaviour from another civil servant.

We will normally expect that you have raised your concern within your own department before you bring it to the Commission. We can take a complaint direct without the issue being raised with your department if we judge it right to do so. We explain in this guide the circumstances that might lead us to accept a complaint direct.

In this Guide 'concern' means any issue raised by a civil servant relating to the values and standards described in the Civil Service Code. If a concern is brought to the Civil Service Commission and it is one that can be investigated, then it is termed a 'complaint'.

The Commission is not a body that can hear complaints from members of the public about the behaviour of civil servants.

Most complaints of this nature can be dealt with by the Parliamentary and Health Service Ombudsman. Their web site explains more about their role, www.ombudsman.org.uk/

7. Do I have to raise my concern with my department first?

In most cases it is better that concerns are dealt with within the department in which they arise. If a department can address and resolve concerns itself then it can learn from the process.

The Commission would expect you, in most cases, to raise your concern within your own department and to allow the department time to carry out a full investigation.

If you do not wish to raise your concern with your line manager, or within your line management chain, you should approach one of your department's Nominated Officers. Nominated Officers are appointed within each department to advise staff on the Civil Service Code. Details of your department's Nominated Officers should be available on your internal website or from your Human Resources department. If you cannot discover who your department's Nominated Officer is, we may be able to help put you in touch with them.

However there may be circumstances in which the Commission would take a complaint for investigation direct (without internal departmental processes having been fully followed).

8. In what circumstances would the Commission take a complaint direct (without it having been raised within the department first)?

There may be a number of reasons why it would be appropriate for the Commission to take a complaint direct.

This will depend upon the individual facts of the case but these might include:

- Situations where the managers above the civil servant are involved in the matter of concern.
- Situations where the Permanent Secretary, or Chief Executive, are involved in the matter of concern.
- Situations in which the issue of concern is time-limited, urgent and serious.
- Situations where the Commission believed that the civil servant may have suffered a detriment as a result of raising a concern or is likely to suffer a detriment in future.

9. How do I raise a concern within my own department?

You should normally raise a concern by talking to your line manager or someone else in the line management chain.

If for any reason this would be difficult, you can raise the matter with one of your department's Nominated Officer. Nominated Officers are appointed within each department to advise staff on the Code.

If you have raised a concern within your department but do not receive what you consider to be a reasonable response, you may bring a complaint to the Civil Service Commission.

10. What is the objective of the complaint process?

The Commission will be investigating whether there has been a breach of the Civil Service Code.

If your department has already investigated your concern we will consider the outcome of that investigation. We are not principally concerned with process. Our focus is on upholding the Civil Service values and the right of civil servants to raise concerns. We may however make recommendations to your department on how it might improve its processes in future.

If we conclude that there has been a breach of the Code we will be making recommendations to address the situation and to ensure that it is not repeated.

Ultimately the Commission is upholding the effectiveness of the Civil Service by providing an independent and objective element to the investigation of concerns. We also provide a strong independent voice to try to ensure that those who raise concerns are not penalised for doing so.

11. What if I have a concern but I am not sure if I want to bring a complaint to the Commission?

Your department should encourage you to raise a concern, or even a doubt, about an issue that touches on the core Civil Service values outlined in the Code at any time.

If you do not feel comfortable raising an issue with your line manager, or someone else in the line management chain, then you can contact one of your department's Nominated Officers.

You may also contact one of the staff of the Commission to talk the matter through. Please see our website for details on how to contact our office. Our staff will be happy to talk to you, but we would urge you to raise the matter internally if that is possible.

12. How can I make a complaint?

The Commission believes that there should be a range of straightforward and easily accessible routes available for civil servants to bring requests for complaint investigations under the Code. The Commission does not prescribe any particular mode of access.

There are clear details of how to contact us on our website which provides a variety of routes of access.

Website: <http://civilservicecommission.independent.gov.uk>

General e-mail address: info@csc.gsi.gov.uk

Postal address:
Room G/8
1 Horse Guards Road
London
SW1A 2HQ

General telephone number: 020 7271 0831

The staff in our office will be happy to talk to you on the telephone to discuss your concerns. For your concerns to be formally considered by the Commission you will then have to put them in writing, either e-mail or post.

If you have difficulty using any of these routes of access, please contact our office to discuss what other arrangement may suit your needs.

We will liaise with your representative, for example a trade union representative, if that is what you wish. However it must be clear that it is you who is bringing the complaint, and that you are a civil servant.

13. What information do I need to provide?

To help us with our initial consideration of your case it would be very helpful if you could provide a clear and concise summary of the issue, and details of how we may contact you. You should include the following:

- Your name
- The department or agency you work for
- Confirmation that you are a civil servant
- Your preferred method of communication-e-mail, letter etc
- An address for communication (post or e-mail)
- A telephone number
- A brief summary of your concern under the Code
- An explanation of why you think the values in the Code have been breached
- Details of how your department has handled your concern: has there been an investigation; what was the outcome?
- An indication, if you can, of how you would like the issue to be resolved

Please provide what supporting documentation you think would be useful for the Commission to have at this stage. If you have a letter or report from your department which outlines their investigation of the matter, it would be helpful to send a copy of that.

We will aim to acknowledge your complaint request within 5 working days of receipt.

We will be trying to form an initial understanding of your concern. If you have a great deal of information it may not be necessary to send all of it at this stage.

14. Can I bring a complaint without revealing my identity?

We do not encourage anonymous approaches. Anonymity puts enormous barriers in the way of any successful investigation. It does not allow us to establish that the approach has come from a civil servant. It is also difficult to exclude the possibility that an anonymous approach is motivated by malice.

We believe a good organisational culture is one where staff who have concerns are confident that it is safe, acceptable and indeed encouraged to raise them openly. If you have concerns about raising an issue within your department you may discuss these concerns with our staff.

15. What happens if my complaint is accepted for investigation?

The information that you provide will be carefully studied within our office. If we cannot decide on the basis of the information you have supplied that we believe you have a valid complaint for investigation we will contact you for further information or clarification.

If we decide to accept your complaint for investigation we will contact you to inform you, and to explain how we will go about our investigation.

We will aim to write to you within 15 working days of receiving your request to let you know whether or not we have accepted your complaint for investigation. If we decide that your complaint cannot be accepted we will explain why. If you have not provided us with enough information to decide either way, we will ask you for more information to allow us to decide. We will aim to let you know within 15 days of receipt of the additional information.

16. How will my complaint be investigated?

We do not have a rigid approach to our investigations. We tailor our approach to the particular circumstances of each case.

Generally the investigation and testing of the evidence will in the first instance be carried out by the staff of the Commission. We usually then appoint a panel of Civil Service Commissioners, usually three of us, to consider the complaint.

The panel is presented with an analysis of the facts of the case produced as a result of the investigations of the Commission's staff. The panel members will decide whether on the evidence presented to them there has been a breach of the values and standards in the Civil Service Code. The panel may call upon the services of outside experts to help them.

As part of the panel's consideration of your complaint you may be asked to meet the members of the panel, who may ask you questions about the case. This is not a formal process: you will not be in the dock. We will usually be seeking to understand your concerns more and to ask questions that have arisen from our consideration of the information you supplied. The panel may also want to talk to representatives of your department. This will be done at a separate session from when they talk to you.

The method of our investigation will vary according to the facts of the case. Some cases are decided on an examination of written evidence alone.

17. What can I expect of the Commission?

We strive to treat all civil servants and members of the public according to the highest standards of behaviour, which will include:

- Politeness
- Efficiency - adhering to the standards established by the Commission
- Openness - being pro-active in providing relevant information
- Fairness – providing the same high standards to all without favour or discrimination
- Honesty – stating the facts of a situation clearly
- Clarity – communicating in ways that are easy to understand

We will provide you with an explanation of the decision we make in your complaint case and the factors we have taken into consideration in reaching our decision. This will be provided in confidence.

We recognise that we have a responsibility to all civil servants who may wish to bring a complaint to the Commission under the Code.

Vexatious and unreasonable requests can have the effect of reducing our ability to provide an appropriate standard of service to all, by commanding a disproportionate share of resources. The Commission will not accept complaints which we consider, in all the circumstances of the case, to be vexatious or unreasonable.

18. What will the Commission expect of me?

The Commission will be investigating whether there has been a breach of the Civil Service Code. But we also see the complaints process as one which allows departments to continuously improve: acknowledging where things may have gone wrong and learning lessons for the future. It is not an adversarial process and should not be pursued or responded to in a spirit of conflict.

The complaints process works best when there is open, responsive dialogue between our office and you. We may need to clarify points with you and seek further information. It will be helpful if you could attend to these requests as soon as you can. If an early response is not possible, it would be helpful if you could provide an estimated date for reply.

If you are away, or likely to be out of contact for a while, it would be very helpful if you could notify us of this in advance.

In addition to our responsibilities to civil servants who may want to bring a complaint, we also have responsibilities to our staff. These include the responsibility to provide a workplace free of harassment of any kind. So, discourteous or aggressive behaviour will not be tolerated. If such behaviour persists we will discontinue our investigation.

This is not a step that the Commission will take lightly but it will be the consequence of persistent or extreme behaviour that is unacceptable.

19. How long will the investigation take?

The length of the complaints procedure will depend on the nature of the concern, its complexity, and the amount of documentation involved. We aim to deal with all enquiries and complaints in a timely manner.

Given the wide variety of complaints it is not possible to give a precise timetable for our investigation. However, we will seek to establish good and regular communications and to keep you informed of progress.

As a guide, it is our intention is that any individual step of our investigation should be accomplished within 20 working days.

When contacting you, or your department, seeking information, we will usually provide target dates by which we want a response.

When you are awaiting a response from us, you will receive a target date for the response. If we are not able to meet the target date we will contact you before the target date with a revised timetable.

20. What if my concern is urgent?

The Commission's usual approach to complaints is to deal with them as they are presented; essentially on a 'first-come, first-served' principle.

However we may consider that it appropriate to give urgent consideration to a complaint; in effect to let it 'jump the queue'.

While each case will be judged on its merits, factors which might suggest that a complaint should be fast-tracked include:

- If the issue of concern is time-limited, urgent and serious.
- Situations where we believe that a civil servant has suffered a detriment as a result of raising a concern or is likely to suffer a detriment in future.
- Where there is evidence that serious and irrevocable action is about to be undertaken that might be prevented by the early intervention of the Commission.
- If the health of a civil servant was being affected by the subject or circumstances of their concern.
- If the complaint was of significant wider public interest.
- If early investigation of the complaint might prevent disproportionate expenditure of resources that could be involved if the investigation was delayed.

21. Can I withdraw my complaint?

We believe that it is better that concerns about the Civil Service values are dealt with within the department in which they arise, if that is possible.

The Commission will be investigating whether there has been a breach of the Civil Service Code. But we also see the complaints process as one which allows departments to continuously improve: acknowledging where things may have gone wrong and learning lessons for the future. The Commission will therefore support a mutually agreed conclusion to a complaint at any stage of the investigation. Neither you, nor your department, should feel that you are locked into an adversarial contest from which there is no escape.

However the Commission is concerned that at no stage should you feel that you are being pressured not to bring a complaint or to withdraw one. If you seek to withdraw your complaint we will wish to satisfy ourselves that this is done freely and is not as a result of any kind of pressure or coercion.

22. What are the outcomes of bringing a complaint?

The Constitutional Reform and Governance Act 2010 states that the Commission 'after considering a complaint, [under the Civil Service Code] may make recommendations about how the matter should be resolved'. There is no specified restriction on the recommendations that the Commission may make.

The nature of the recommendations that the Commission might make in upholding a complaint will very much depend upon the individual circumstances of the complaint. If a complaint is upheld the Commission will in effect be agreeing with you that in some way and to some degree the values in the Code have been compromised.

It should be understood that the Commission does not have any powers to award compensation.

Our focus will be to ensure that the department has taken effective steps to ensure that such a breach of the values is unlikely to reoccur. If the reason for the breach was to do with systems and processes, we will recommend that changes be made to those systems and processes. If the breach was due to human error then our recommendations are more likely to focus on management and training issues. It might be that one of our recommendations is a simple apology. It will depend upon the facts of the case.

There may be situations where we have accepted a complaint direct due to the urgency and seriousness of the alleged breach of the Code, and our investigation will prevent the breach occurring. But in most situations the breach will have occurred some time in the past. In these circumstances we see the primarily outcome of our investigation as preventing a future reoccurrence. First, because the department will recognise where the breach occurred and will learn from that; and second, because we may make practical recommendations to ensure that it does not happen again.

In some cases our recommendation might be that another body should look at the issue. It may be that another regulator would be more experienced and better equipped to investigate the matter. Or we might conclude that, where appropriate, the concerns should be looked at by a parliamentary body or an independent enquiry.

23. What will happen if my department ignores the Commission's recommendations?

There is no specific obligation in the Constitutional Reform and Governance Act 2010 on a department to follow the Commission's recommendations. In practice we believe that if our recommendations are ignored, there are levers of significant power available to us.

The most obvious of these is to draw public and parliamentary attention to the fact that our recommendations have not been actioned. It is not our usual practice to 'name and shame'. Experience indicates that departments will take action when an independent, outside regulator finds that their actions have fallen short of the required standard.

When we uphold a complaint we return to the department later to ensure that our recommendations have been implemented. If we were not satisfied that our recommendations had been followed we would raise the matter with the Permanent Secretary or Agency Chief Executive concerned and, if judged necessary, with the Cabinet Secretary.

If this did not produce action then we would have to draw the matter to the attention of other appropriate bodies. These would probably include the Public Administration Select Committee of the House of Commons and the Committee on Standards in Public Life.

24. How will the result of my complaint be reported?

We will send the report of our investigation of your complaint to you and to your department in confidence.

The outcomes of all settled complaints are included in the Commission's Annual Report, which is usually published in July. The name of the department and the name of the civil servant who brought the complaint are not given in the Annual Report. Only a summary is given of the nature of the complaints.

We believe the complaints process works best when civil servants and departments understand that it is intended to be confidential. All sides can share information and, where appropriate, admit to errors.

The Civil Service Commission is mindful of the legal constraints that preclude an absolute assurance of confidentiality, for example, the Freedom of Information Act 2000. We do however believe that confidentiality is important and we will argue this to the Information Commissioner and other relevant authorities.

We might consider making more details public where this appears to us the only, or best, way to prevent further breaches of the Code.

25. What if I am still not satisfied?

There is no mechanism for appealing against the decision of the Civil Service Commission in a Civil Service Code complaint case. The Public Interest Disclosure Act 1998 and general public law remedies may be relevant in some cases.

The Commission will consider any representations from you or your department for review of our decision and recommendations that suggest that we have made factual errors or errors of factual interpretation in our decision making. We will not normally accept a request to review our decision or recommendations if it is received more than 20 working days after the date of our decision.

We do not believe that it is constructive to continue a protracted conversation with you or your department about a decision made by the Commission. If we have reviewed our decision on factual grounds, having received a request to do so, we will seek to bring discussion of that complaint to a conclusion.

26. What will happen to me if I bring a complaint?

We recognise that some civil servants may feel nervous about raising a concern or bringing a complaint to the Commission. You may be worried that you will be seen as a trouble maker and that your career may suffer.

The Civil Service Code is clear that you should not suffer a detriment as a consequence of raising a concern:

'If you believe that you are being required to act in a way which conflicts with this Code, your department or agency must consider your concern, and make sure that you are not penalised for raising it.' (para. 15)

The Commission believes that departments should encourage their staff to raise concerns and should actively support them in doing so.

We will take very seriously any suggestion that you have been penalised for raising a concern. We would want you to approach us at any time if you believe this is the case. We would be prepared to use all the remedies available to us to prevent and rectify any penalisation.





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