



**THE CIVIL SERVICE CODE: A
GUIDE FOR CIVIL SERVANTS
BRINGING AN APPEAL TO THE
CIVIL SERVICE COMMISSION**

January 2017

1. Introduction

This guide will help you to decide whether you can bring an appeal to the Civil Service Commission under the Civil Service Code. It explains the appeals process and the likely outcomes.

The Civil Service Commission aim to investigate appeals in an efficient and responsive way that is sensitive to the circumstances of the particular individual and the situation.

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

For further information see our website:

<http://civilservicecommission.independent.gov.uk/civil-service-code/>

2. What is the Civil Service Code?

The Civil Service Code is issued by the Minister for the Civil Service. It outlines the 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 ensure that they are not penalised for raising them.

The Code is part of the contractual relationship between a civil servant and their employer. It is the ethical code for civil servants

The Civil Service Code can be downloaded from our website:

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

3. The Civil Service Code, Whistleblowing and the Public Interest Disclosure Act 1988 (PIDA)

There is often confusion between the Civil Service Code, 'whistleblowing' and the Public Interest Disclosure Act 1988 (PIDA).

'Whistleblowing' is a generic term relating to the disclosure of information to expose something that is going wrong in an organisation. The implication of 'whistleblowing' is that the normal management channels have failed; or the individual has no confidence that if raised through those channels any action, other than a cover-up will take place.

'Whistleblowing' can cover the disclosure of information to someone within the organisation (e.g. internal audit, or a member of the board), or in its more

dramatic form it may mean revealing the information outside of the organisation, for example to a regulator, or to the media.

PIDA, commonly referred to as the whistleblowing legislation, is part of employment law. Under normal circumstances, if a worker revealed information that the employer did not want revealed, it would be a disciplinary offence. If an employee leaked their employer's confidential information to the press, they might expect to be dismissed.

PIDA enables workers who blow the whistle about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected.

The provisions of PIDA have the effect of encouraging organisations to actively put in place ways for their workers to raise concerns within the organisation, and robust systems for investigating concerns and protecting individuals from detriment as a result of raising those concerns.

If a worker is aware of, and has access to, effective internal procedures for raising concerns then PIDA is unlikely to provide protection if they chose to ignore those procedures and reveal information outside the organisation without permission.

The Code is intended to be accessible and comprehensible rather than legalistic. Effectively any information that could be protected by PIDA could be the subject of a Civil Service Code complaint. **The Code goes wider than PIDA:** there are many things that could be raised under the Code that would not be protected by PIDA.

Any information properly revealed as part of a concern raised under the Civil Service Code should meet the first condition that gives protection to a disclosure of information: that it is made 'in good faith to the worker's employer (either directly or through internal procedures authorised by the employer), or to another person whom the worker reasonably believes is solely or mainly responsible for the failure in question.'

4. How to make a complaint

If you are a civil servant and 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 you should ask your department to consider your concern under the Code.

We would normally have expected you to have raised your concern within your own department **before** you bring it to the Commission. In exceptional circumstances we may be able to take a complaint direct, but this would be decided on a case by case basis. The Commission reserves the right to exercise its discretion when deciding whether to take a complaint direct.

In most cases it is better that concerns are dealt with within the department in which they arise, so that the department can address and resolve concerns itself and learn from the process. If you do not wish to raise your concern with your line management, you should approach one of your department's Nominated Officers who are appointed within departments to advise staff on the Civil Service Code. If you do not know who your Nominated Officer is, we may be able to help put you in touch with them.

If you wish to bring an appeal under the Code to the Commission you should send an email to: info@csc.gov.uk or write to us at:

Civil Service Commission
Room G.08
1 Horse Guards Road
London
SW1A 2HQ

You can also contact us by telephone on: 020 7271 0831. However for your concerns to be formally considered by the Commission, you will then have to put them in writing, either by email or post.

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

5. What is a valid appeal 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 first of all raise a concern within your own department.

If you have raised your concern within your own department and you are not happy with the outcome, you may bring an appeal to the Civil Service Commission.

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

The Code does not cover 'human resources management issues'

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

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 usually do not have a public interest dimension to them. Departments will have a grievance procedure for raising such concerns.

The Commission recognises that it is not always easy to make a clear cut distinction between a human resources issue and a concern under the Civil Service Code.

If you are unclear you should contact the Commission who will either be able to deal with the matter or direct you to someone who can.

6. What happens in the appeals process?

When you submit your concern to the Commission in writing we will acknowledge receipt and then aim to make a decision as to whether it falls within our remit for investigation within 15 days. We may need to ask you for further information in order to arrive at this decision.

If the Commission decides that your concerns fall within remit, they will be carefully considered by a panel of up to three commissioners, supported by the Commission secretariat. The Commissioners will carefully consider all of the evidence provided, and they may request additional information from you or your department (we will of course check with you first that you are happy for us to contact your department). The Commissioners may have further questions for you, the department or other witnesses involved and in some circumstances, may want to interview relevant parties (although this is rare).

We do not give timescales for the investigation of Code appeals. This will very much depend on the case itself, but we will update you regularly.

When the panel have reached a decision on your case, you will be sent a copy of their Decision Notice. The department will also be sent a copy of this at the same time. You will both be given 20 days to comment on its **factual accuracy**. After 20 days the Decision Notice will be published on our website. You will not be named in the Decision Notice but the department will be. See our website for examples of published Decision Notices:

<http://civilservicecommission.independent.gov.uk/civil-service-code/complaints-to-the-commission/>

7. What the Commission expects of you

The Commission will be investigating whether there has been a breach of the Civil Service Code, but we also see the appeals 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 appeals 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 us with 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 an appeal, 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 it will lead to the Commission discontinuing the 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.

8. What can I expect of the Commission?

The Civil Service Commission and its staff 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

The Commission recognises that they have a responsibility to all civil servants who may wish to raise an appeal 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 appeals

which we consider, in all the circumstances of the case, to be vexatious or unreasonable.

9. What are the outcomes of bringing an appeal?

The Civil Service Commission may hear and determine appeals under the Civil Service Code and may make recommendations (Constitutional Reform & Governance Act 2010). There is no specified restriction on the recommendations that the Commission may make.

The nature of any recommendations made if an appeal is upheld will very much depend on the individual circumstances of the appeal. If an appeal is upheld, the Commissioners will in effect be agreeing with you that in some way and to some degree the values in the Code have been compromised.

The Commission does not have any power 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 recur. 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 needs. 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 an appeal direct due to the urgency and seriousness of the alleged breach of the Code, and our investigation will prevent the breach from continuing, but this will be rare. In most situations the breach will have occurred some time in the past. In these circumstances we see the primary outcome of our investigation as preventing a future recurrence. 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.

Once the investigation is concluded we will publish the Decision Notice on our website (individuals are not named in this). We may also refer to the case in our Annual Report and Accounts, but again we will not identify individuals. We believe that the publication of Decision Notices is an important part of the appeals process, ensuring transparency, and giving people the opportunity to see what types of concerns are raised under the Code, and the steps taken by the Commission to address them.

10. What next?

There is no mechanism for appealing against the decision of the Civil Service Commission in a Civil Service Code appeal.

Before publication of the Decision Notice you and the department concerned are given 20 working days in which to comment on any factual errors. We will not normally accept a request to review our decision or recommendations if we receive comments 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 then seek to bring the matter to a conclusion.