



## Whistleblowing to OSCR

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## Whistleblowing to OSCR

This document provides you with information about raising a concern under the Public Interest Disclosure Act 1998 (PIDA), also known as ‘whistleblowing’.

### What is PIDA?

PIDA is the legislation that protects paid workers from unfair dismissal or treatment from their employer if they report wrongdoing.

### What does OSCR have to do with PIDA?

OSCR is a ‘prescribed person’ under PIDA. This means that it is allowed to accept disclosures from people who carry out paid work for a charity. This is because, in our role as regulator of all Scottish charities, we work to ensure that charity trustees comply with their legal duties in controlling and managing the administration of their charities.

We consider it best practice for charities that employ people to have whistleblowing procedures in place, but paid workers can contact us if:

- There are not any whistleblowing procedures in the workplace
- If the paid worker is uncomfortable or not confident about using the procedures in the workplace
- If the paid worker has used the procedure, but is concerned about the response they have received or if they have not had a response at all.

### Who is protected by PIDA?

It protects most workers in the public, private and voluntary sectors. It essentially covers employees, certain agency workers, certain independent<sup>1</sup> contractors, home workers, trainees, or those gaining experience. It also includes medical and dental workers.

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<sup>1</sup> There are conditions applied to these categories, please check the legislation to see if this includes you.

It does **not** apply to voluntary workers (charity trustees and charity volunteers). If you are a volunteer or charity trustee who has a concern about a charity, please see our [Inquiry Policy](#) and factsheet [“I have a concern about a Scottish Charity”](#).

### What type of concern can I raise under PIDA?

A concern or ‘making a disclosure in the public interest’ raised under PIDA must relate to:

- A criminal offence has been, or is likely to be, committed
- The charity not obeying the law
- Someone’s health and safety is in danger
- Where there has been, or is likely to be, damage to the environment
- A miscarriage of justice – this means that an innocent person has been incorrectly convicted
- Where there is deliberate covering up of matters relating to one of the issues listed above.

These are the only areas that qualify for protection under PIDA.

You must have a reasonable belief that the information you are providing shows that one or more of the issues is happening, has happened, or is likely to happen in the future.

### What qualifies as a ‘protected disclosure’?

To qualify for protection, the disclosure is subject to certain conditions. You would have to:

- Make the disclosure in the public interest
- Reasonably believe that the issues raised relate to a failure in the administration of the charity or a risk to/improper use of funds given or held for charitable purposes, and
- Reasonably believe that the information provided, and any allegations made in the disclosure, are substantially true.

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PIDA means that if you are dismissed because of whistleblowing on wrong doing it is automatically considered 'unfair dismissal'. If you decide to pursue the matter further in an employment tribunal your claim of unfair dismissal is against your employer and not OSCR.

### Where can I find out more about PIDA?

The GOV.UK website has useful information on [whistleblowing](#).

[Public Concern at Work](#) provide free confidential advice to workers who have concerns about wrongdoing. You can contact their advice line on 020 7404 6609. They also have guidance available on their website.

[ACAS](#) also have useful information. You can contact them via their website or on 0300 1231100.

### How do I make a disclosure under PIDA?

You can:

- complete our online Whistleblowing form
- call us during business hours (08:30 to 16:30) on 01382 220446. Please ask to speak to an officer in the Compliance & Investigations team
- send an email to [C&I@oscr.org.uk](mailto:C&I@oscr.org.uk)

### How will OSCR deal with my disclosure?

We will process your disclosure in line with our [Inquiry Policy](#). That is:

- You will receive an acknowledgement within 15 days of submitting your disclosure.
- We will decide whether the information received falls within PIDA, and if there are any regulatory matters for us to take forward. We will do this within six to eight weeks of the disclosure being submitted.
- We will notify you of the outcome of our assessment.
- If we determine that there are regulatory matters, we will conduct further inquiries.
- We may determine that it is appropriate for another organisation to receive the information. This may include organisations that are listed as Prescribed Persons, but it may not. If we determine this, we will either encourage you to contact the organisation directly yourself, or consider passing the information to the organisation directly. We will try to gain your consent to do this, however, we do retain the discretion to pass this information on if we deem it necessary.
- Once we have completed our inquiries, we will write to you and let you know the outcome in general terms.

**Please note:** the charity will not be told who has made the disclosure to us without your permission. However, there may be legal circumstances where we have to do so, for example if we are required to do so by a Court. Additionally, your identity may be obvious to the charity because of the type of issues that you have raised.

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APS Group Scotland 370099 (04/15)



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