

ENGINEERING COUNCIL



GUIDANCE ON WHISTLEBLOWING
for engineers and technicians

Guidance on Whistleblowing for engineers and technicians

This guidance is intended to support all engineers and technicians who have concerns about wrongdoing, risk or malpractice affecting others. It sets out the issues, options and professional duty that engineers and technicians should consider in raising such a concern and where to get advice.

- 1 What is whistleblowing?**
- 2 What are my obligations if I have a concern?**
- 3 What protections are there?**
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- 5 Where can I get advice?**

The Engineering Council's Policy Statement on Whistleblowing sets out expectations on registrants and licensed professional engineering institutions with respect to reporting and supporting whistleblowing concerns and is available on the Engineering Council website www.engc.org.uk/whistleblowing.

If you are a member of a professional engineering institution (PEI), your institution will require you to adhere to their ethical principles and Code of Conduct. This will include a responsibility to challenge actions that cause you professional concern and to support others who raise legitimate concern(s).

The Engineering Council will review this guidance periodically and welcomes comments on it. PEIs may wish to use it to assist them in developing guidance for their members.

1

What is whistleblowing?

'Whistleblowing' is defined by the UK Whistleblowing Commission as '...the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others'. For engineers and technicians, 'risk' is interpreted to mean 'inadequate quantification and management of risk' which may or does affect others. A concern may include something which you may not be directly involved in but become aware of in the course of your work.

Concerns are not limited to technical and engineering issues alone, for example they can also include financial and ethical issues and workplace conduct, eg bullying, harassment and discrimination in any form, which is unacceptable and should be challenged.

In the UK the statutory categories for wrongdoing are:

- a criminal offence
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health and safety of any individual
- damage to the environment
- deliberate concealment of information about any of the above



Examples of wrongdoing might include (but are not restricted to):

- a criminal offence – for example, fraudulent activity
- the breach of a legal obligation by an organisation – for example, an employer has not taken action to prevent sexual harassment of workers by a third-party
- a miscarriage of justice – for example, a member of staff has been dismissed for something that turned out to be a computer error
- someone's health and safety being in danger – for example, an employer has not provided or required workers to wear appropriate personal protective equipment
- damage to the environment – for example, an employer has been regularly polluting local rivers
- a culture of bullying and/or harassment
- deliberate concealment of any of the above

The Whistleblowing Commission definition covers the raising of concerns in the widest sense, and often these can be resolved quickly and constructively when brought to the attention of the organisation(s) involved. For example, many organisations have procedures in place to support workers to raise concerns, and it is often possible to resolve the concern through these internal means.

Whistleblowing is an important mechanism by which risks and wrongdoing are brought to light. The Engineering Council and PEIs value whistleblowers and support workers who come forward with disclosures in the public interest.

If your complaint is about your personal employment, or how you have been treated, it is likely the matter will be more properly dealt with through your employer's grievance procedures. Whistleblowing is primarily for concerns where the public interest is at risk, which includes a risk to the wider public, customers, staff or the organisation itself.

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What are my obligations if I have a concern?

You have a legal obligation to comply with the laws of the country in which you operate.

You also have an ethical responsibility to take action when you encounter a material and unmanaged risk, danger, malpractice or wrongdoing which adversely affects others.

If you are a member of a PEI, you have a professional obligation to act in line with your institution's Code of Conduct.

- As a professional engineer or technician, you should be able to make a considered judgment on whether an issue warrants whistleblowing. In doing so you should seek expert opinion to test the legitimacy of your decision
- If you fail in your professional obligations, you may be subject to your PEI's disciplinary procedures and you could, if professionally registered, face removal from the Engineering Council's Register. You may become liable in law if you fail to take appropriate action when it is part of your own professional duty
- Your PEI's Code of Conduct may have changed since you joined, so it is important to ensure that you stay up to date on your obligations

Sources of further information can be found at the end of this document.



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What protections are there?

The general principles of this guidance apply in whichever country engineers and technicians are working. However, the laws affecting whistleblowing vary widely from country to country. Some countries may have little or no protective legislation in place, or it may favour the state or the employer more than UK legislation does.

In the UK, workers who blow the whistle are protected by The Public Interest Disclosure Act (PIDA), which amends the Employment Rights Act 1996. The PIDA protects whistleblowers from detrimental treatment by their employer as a result of making a public interest disclosure.

- Concerns can relate to a broad range of wrongdoing, including breaches of the law, codes or standards, risks to health and safety, environmental damage, and bullying or harassment of all kinds. Concerns can cover all aspects of a business, eg technical, financial, organisational, etc
- PIDA protects whistleblowers from detrimental treatment by their employer when a disclosure is 'in the public interest', which broadly means that it affects people other than yourself
- Disclosures can be made internally to your employer, or externally to, say, a regulator, or a confidential reporting scheme, but different legal tests apply depending on where a whistleblower reports the issue
- The Act provides that gagging clauses that seek to silence a whistleblower will be void

Knowing when the law applies, whether in the UK or overseas, can be complex. If you are considering raising a concern, you should contact a support organisation who may be able to provide free and confidential advice. If you are a member of a PEI, you should contact your PEI who will be able to offer support and guidance.

If you are considering whistleblowing outside the UK, you should also ensure that you are aware of local legislation and local culture. Your employer should be able to advise you on this. You can also contact the UK-based embassy of the country concerned www.gov.uk/working-abroad/working-abroad-for-uk-employer

It is your responsibility to ensure you understand the laws and protections applicable to the jurisdiction(s) in which you practice.

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How do I raise a concern?

If you cannot easily address a concern on your own you should discuss it with, or report the concern to, your immediate employer or manager.

If your concern is not addressed, you should ensure you are aware of, and make use of, existing company and industry sector regulatory reporting systems. Where there is no whistleblowing policy, you should raise it with your line manager or consider who else in a more senior position than you is capable of receiving and acting on your concerns.



Some examples of confidential reporting schemes and industry regulators can be found in the Further Information section at the end of this guidance.

If this approach has not resolved the concern, or your immediate employer/manager is part of the cause, then you should seek advice (through your PEI and/or support organisation) on how to escalate your concern which could mean raising it externally.

Reporting a concern internally will usually be the safest and most effective route. However, the law does not require you to report it internally first and there may be circumstances where you feel it is necessary to immediately report your concerns to an external body.

It is not advisable to use social media or other public facing routes to raise a concern.

Provided you believe that you are acting in the public interest and have a reasonable belief (ie a rational conviction based on factual evidence) in the wrongdoing, risk or malpractice, UK law offers you protection from action taken by your employer for simply reporting a concern.

Your industry may be regulated. You should make use of any reporting systems which have been put in place by, for example the Health and Safety Executive (HSE); Civil Aviation Authority (CAA); Maritime and Coastguard Agency (MCA); Office of Rail and Road (ORR) or other prescribed persons or bodies. Further information can be found at the end of this guidance.

If you are a member of the Armed Forces or involved in protecting National Security you may, in exceptional circumstances, not be protected by PIDA. In such circumstances you will be required to work through the military chain of command and not externally. You should check with your employer.

You should not try to use the protection that relevant legislation may offer whistleblowers simply to air or extend a personal disagreement or grievance with your employer.

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Where can I get advice?

If your concern is a technical one which does not go beyond the application of engineering principles, your PEI may be able to provide details of organisations that can help you. Alternatively, you may want to consider approaching an independent whistleblowing support organisation.

If the concern is of a legal or Human Resources nature then it will normally be better to seek advice from your industry regulator, trade union, employee legal assistance programme or independent whistleblowing support organisation. Your institution may be able to help identify the most appropriate organisation(s) to contact.

If you are in a position of responsibility in an organisation without a clear ethical code of conduct and whistleblowing policy, you should take steps to ensure these are put in place. Useful reference sources include BS ISO 37002:2021 Whistleblowing Management Systems Guidelines, the UK Whistleblowing Commission Report recommended Code of Practice, and the Department of Business and Trade Whistleblowing Guidance for Employers.

Whoever you decide to seek advice from (and this may be more than one organisation) you should ensure that you provide all information as truthfully, objectively and clearly as possible. You should ensure that you understand and fully consider all the advice/options that you are given.



Glossary

Engineers and technicians: individuals who practise engineering in any discipline and sector.

Licensed PEI: an organisation licensed by the Board of the Engineering Council to assess and nominate individuals for registration as a Chartered Engineer, Incorporated Engineer, Engineering Technician or ICT Technician.

Professional Engineering Institution (PEI): an organisation that is a licensed PEI or Professional Affiliate of the Engineering Council.

Professional engineers and technicians: Chartered Engineers, Incorporated Engineers, Engineering Technicians and Information and Communications Technology Technicians registered with the Engineering Council, and other members of professional engineering institutions who are bound by that institution's Code of Conduct.

Reasonable belief: a rational conviction based on factual evidence.

Further information

Engineering Council

www.engc.org.uk/whistleblowing

Protect

Advice for individuals and employers:

www.protect-advice.org.uk

For free and confidential legal advice, you may contact the independent charity Protect on 020 3117 2520 or via their website. Their advisers can talk you through your options and help you raise a concern about malpractice at work.

UK Whistleblowing Commission

A Guide to the Public Interest Disclosure Act 1998:

www.protect-advice.org.uk/wb-commission

European Commission

www.commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/protection-whistleblowers_en

Department for Business and Trade

Blowing the Whistle to a Prescribed Person – List of prescribed persons and bodies:

www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies

Whistleblowing Guidance for Employers and Code of Practice:

www.gov.uk/government/publications/whistleblowing-guidance-and-code-of-practice-for-employers

UK-based embassies and missions:

www.gov.uk/working-abroad/working-abroad-for-uk-employer

Health and Safety Executive

www.hse.gov.uk

Report a concern:

www.hse.gov.uk/contact/whistleblowers.htm

Whistleblowing and Whistleblowers – Operational Guidance:

www.hse.gov.uk/foi/internalops/og/og-00033.htm

British Standards Institute

BS ISO 37002:2021 Whistleblowing Management Systems Guidelines:

www.knowledge.bsigroup.com/products/whistleblowing-management-systems-guidelines

CIPD

Whistleblowing Resources:

www.cipd.org/uk/topics/whistleblowing

Civil Aviation Authority

www.caa.co.uk/our-work/make-a-report-or-complaint/report-something/report-a-safety-concern/

Maritime and Coastguard Agency

www.gov.uk/government/organisations/maritime-and-coastguard-agency

www.gov.uk/government/organisations/maritime-and-coastguard-agency/about/complaints-procedure

Office of Rail and Road

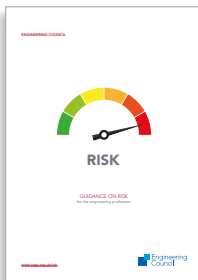
www.orr.gov.uk

www.orr.gov.uk/guidance-compliance/rail-guidance-and-compliance/health-safety/reporting-riddor-incidents

Collaborative Reporting for Safer Structures UK

www.cross-safety.org/uk

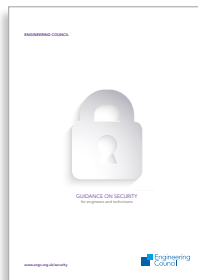
Other guidance we publish



Risk



Sustainability



Security



Ethical Principles



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