

Whistleblowing Guidance

Guidance

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What does this guidance do?

This guidance explains what whistleblowing is and how you can blow the whistle on companies we regulate (energy companies, providers of metering services or participants in Government environmental schemes, for instance). We also explain the difference between whistleblowing, complaints, and which department within Ofgem you should contact about these issues. We give you information on your legal rights when dealing with protected disclosures/whistleblowing.

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1. What is whistleblowing?

You blow the whistle when you raise a concern about a wrongdoing, risk or malpractice that you are aware of **through your work**. This can be raised within your workplace as well as externally, such as to a regulator. Some examples of whistleblowing concerns are licence breaches, eg disconnecting vulnerable consumers in winter, or mis-selling energy contracts.

Sometimes it's only through whistleblowing that this information comes to light and can be investigated. You can find out more information on whistleblowing on the [government website](#).

2. What is the difference between making a complaint, raising a grievance and blowing the whistle?

When you **blow the whistle** you are raising a genuine concern about a suspected wrongdoing that affects others, usually customers, members of the public, or your employer. You might not be directly or personally affected by the suspected wrongdoing nor have a personal interest in the outcome of any investigation into your concern, although you might.

When you **complain**, normally you are saying that you have personally been poorly treated or otherwise suffered harm as a consequence of another person's alleged wrongdoing. In the energy business this might include incorrect billing, poor service, or incorrect installation of solar panels etc. Further information about making a consumer complaint is in section 3.

A **grievance** is when you, as an employee, have a dispute about your own employment position. If you are an employee we recommend that you refer to your internal workplace policies.

3. Consumer complaints

If you have an individual consumer complaint, you should raise this with the relevant energy supplier or network business initially. There are more details on who can help in the Ofgem factsheet, '[Domestic customer complaints and enquiries](#)'. This explains how to contact Citizens Advice, and the Energy Ombudsman service.

If you've got a complaint about Ofgem itself, you should write to:

Ofgem Complaints

Ofgem Research & Information Centre

Ofgem

9 Millbank

London

SW1P 3GE

We'll acknowledge your complaint within two working days and will write to you within 20 working days to let you know the outcome. There's more information on our complaints procedure our [website](#).

4. When should I refer a whistleblowing concern to Ofgem?

Energy companies are expected to have procedures to let you, as a worker with a concern, blow the whistle within your own company. Although we hope that procedures within your workplace would allow you to raise a concern internally, you can choose to raise a concern with Ofgem. This might be because:

- there aren't any procedures in your own workplace;
- you're uncomfortable or not confident about using the procedures;
- the procedures have been followed but you're concerned by the nature of the response, or lack of response, by your firm.

In any event, you can contact Ofgem, and we would encourage you to do so as soon as you become aware of a concern related to a wrongdoing, risk or malpractice which may raise breaches of licence or competition obligations or the legal protections against market manipulation or abuse.

5. How do I contact the Ofgem whistleblowing desk?

You can contact our whistleblowing desk by:

Telephone: 0207 901 7121

E-mail: whistle@ofgem.gov.uk

Post:

Whistleblowing desk

Consumer Affairs

1st Floor

9 Millbank

London

SW1P 3GE

6. How can I get legal advice?

Ofgem can't give legal advice to you as a potential whistleblower and it is for you to satisfy yourself that the disclosure you make meets the conditions for protection in the Employment Rights Act 1996 (the Act) (*as amended by the Public Interest Disclosure Act 1998 (PIDA)*). There's more information on this in section 7, but you may want to seek independent legal advice or contact [Public Concern at Work \(PCaW\)](http://www.pcaw.org.uk), an independent charity which specialises in providing confidential and free advice about whistleblowing. PCaW's contact details are:

Website: <http://www.pcaw.org.uk>

Telephone: 0207 404 6609

Email: whistle@pcaw.org.uk

Post:

Public Concern at Work

3rd Floor, Bank Chambers

6 - 10 Borough High Street

London

SE1 9QQ

7. How does the law protect me if I blow the whistle to Ofgem?

You'll only be protected if your disclosure meets the conditions set out in the Act. The first test to be satisfied is that the disclosure is a "qualifying disclosure". A qualifying disclosure is a disclosure of information which you, as a worker, reasonably believe you are making in the public interest and tends to show one or more of certain categories of wrongdoing. These categories include:

- criminal offences;
- a breach of any legal obligation;
- danger to the health and safety of an individual or the environment;
- an attempt to conceal any of the above.

This includes wrongdoing such as financial malpractice or a breach of a licence.

You get protection most easily by disclosing such information to your employer. You may also make a disclosure to Ofgem (which is designated by the Act to receive disclosures in connection with the gas and electricity industry). **You do not need** to make a disclosure to your employer before raising a concern to Ofgem in order to be protected under the Act. However, a further test must be satisfied.

This second test is that you must reasonably believe the wrongdoing falls within Ofgem's area of responsibility (further details below) and that information disclosed, and any allegation in it, is substantially true. Currently Ofgem's areas of responsibility are:

- The generation, transmission, distribution and supply of electricity, participation in the operation of an electricity interconnector or providing a smart meter communication service and related activities.
- The transportation, shipping and supply of gas through pipes, participation in the operation of a gas interconnector or providing a smart meter communication service and related activities.
- The renewable generation of heat.¹

This covers Ofgem's functions within these areas of responsibility, such as setting regulatory policy and licence obligations and administering Government consumer and environmental schemes.

All workers, including temporary agency staff may benefit from the protections from the Act where the conditions of the Act are met. It does not cover the self-employed or volunteers. The Act is also a 'day one' right, meaning that you are covered by the Act from the day you start to work for your employer (ie you do not need a qualifying period of employment).

If you're worried about your legal position, or you want more information, visit www.pcaw.co.uk or speak to the PCaW advice line team on the number in section 6.

¹ As at October 2014 – see Public Interest Disclosure (Prescribed Persons) Order 2014 (as amended).

8. How do I provide information to Ofgem?

We encourage you to give us information in writing, even if initial contact is made with the Whistleblowing Desk by phone.

We encourage you to raise an issue with us either openly or confidentially. However, if you are worried about doing this, we would prefer you to provide an anonymous disclosure to us, rather than not raising concerns about a serious wrongdoing at all.

Raising a concern openly means giving your name without a request for it to be kept private or requiring your consent to disclose. Openness makes it easier to assess the issue, work out how to investigate the matter, understand the issues and get more information. However, it is also possible for you to raise a concern confidentially. This is where you give your name on the condition that it is not revealed without your consent. (Please note there are some circumstances where we may be required to disclose information that would enable a whistleblower to be identified. This is discussed further in section 9). You can also raise a concern anonymously. This is where you do not give your name at all.

If you raise a concern anonymously we will treat the information just as seriously. We recognise that many people are very worried about being identified when they report concerns about their employers. However if you do not tell us who you are it will be harder for us to take up the matter or be sensitive to your position. We will assess the anonymous information as best we can to establish whether there is substance to the concern and whether it can be addressed.

9. Confidentiality

We take the issue of maintaining the confidentiality of any disclosures seriously and we'll protect your identity as far as possible. However, we can't guarantee confidentiality in all cases, for example where:

- the nature of our enquiries makes it possible for the firm to identify the whistleblower; or
- we're required by law to disclose information which would enable the whistleblower to be identified, (for example if a relevant court order to do so is made)

Within Ofgem, your identity will normally only be disclosed to a limited group of people (as appropriate given the nature of your disclosure). In line with the above, we'll restrict access to any documents provided by, or relating to, you.

10. What we'll ask of you

We don't encourage whistleblowers to proactively obtain any further information from any source, whatever the circumstances, as this might infringe privacy rights or other legal requirements. However, whistleblowers may be asked to clarify the information they provide to us.

11. What we do with the information

We'll acknowledge the contact we receive from you. If it's by email, we'll send an email back within two working days. Once the Whistleblowing Desk has evaluated the information, it will refer it to the relevant area(s) in Ofgem to consider further. A whistleblowing handler will be assigned to take your concern forward. We aim to assign a handler within five working days of receipt, and will allocate a member of Ofgem staff who knows about the issue you are disclosing, and who can investigate the issue further.

If necessary, the whistleblowing handler will make contact with you (usually by email) to arrange a suitable time to speak with you to get further details of the concern. We usually conduct interviews over the phone if they're needed, but we may have a face to face interview if we need more detail. Face to face interviews are usually attended by at least two Ofgem staff. We don't visit whistleblowers at home.

We will assess the information provided to decide whether further investigation is warranted at this stage.

We will also consider if there are other agencies or bodies which may have a legitimate interest in the information. If other agencies or bodies appear to us to be more appropriate we will either:

- encourage you to contact the agency/agencies themselves directly
- consider passing on the information to the agency or body itself.

Because potential whistleblowing concerns are varied in nature, it is not possible to give precise timescales for investigating your concerns. But the whistleblowing handler will ensure that your concern is progressed as quickly as possible.

12. Continuing contact with you

Generally, we cannot update you on the progress or outcome of the issue that you have raised. Often it's our governing legislation (for example the Utilities Act 2000) that prevents us from giving detailed information back to you. New investigations are normally published on the website when they are opened. This information is available at: <https://www.ofgem.gov.uk/investigations>.

13. Further information

- The government webpage: <https://www.gov.uk/whistleblowing>
- Public Concern at Work:

Website: <http://www.pcaw.org.uk>

Telephone: 0207 404 6609

Email: whistle@pcaw.org.uk

- The list of prescribed persons and bodies you can make a disclosure to:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf