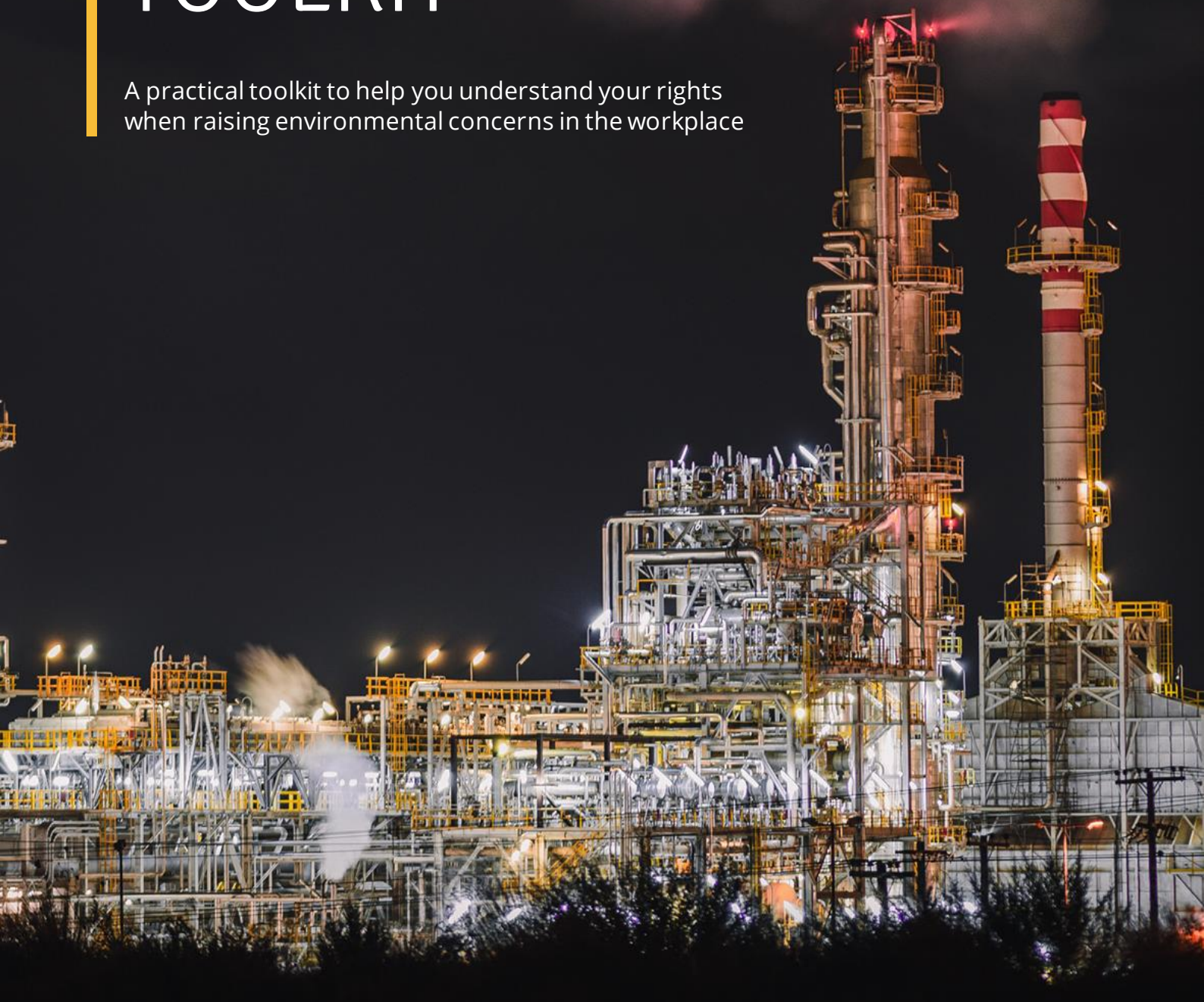


ENVIRONMENTAL WHISTLEBLOWING TOOLKIT

A practical toolkit to help you understand your rights
when raising environmental concerns in the workplace



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Disclaimer

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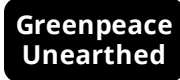
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1

Introduction

What is the purpose
of this toolkit?



Climate change threatens the very existence of life on this planet.¹ International experts tell us that we need to act urgently as widespread change has already occurred.² If we are to prevent further environmental harm and keep global warming below the 1.5°C that scientists say is required to prevent catastrophic damage, we need to use every tool in the box.³ Whistleblowing is one of these tools.

Protect has designed this practical toolkit to help you speak up in order to prevent environmental harm. Drafted with the assistance of trade unions, lawyers, Non-Governmental Organisations (NGOs) and journalists, it offers guidance on whistleblowing in the workplace, to help you raise environmental concerns safely and with maximum impact.

Whistleblowing can be a risky business and we would recommend that you read this guide and seek advice from [Protect's free and confidential Advice Line](#) before raising concerns.

Why do we need environmental whistleblowing?

Addressing climate change, protecting the natural environment and preventing environmental harms are all vitally important. Good governance and transparency are key to ensuring we meet environmental targets such as net zero emissions. Whistleblowing is an effective tool to ensure accountability within this process.⁴

Workers are the eyes and ears of an organisation and are particularly well placed to spot when things go wrong. By exposing environmental wrongdoing and providing information about environmental issues, whistleblowers help ensure that organisations are accountable for their climate impact, action is taken to prevent or mitigate environmental harm, and there is appropriate intervention where required.

Environmental whistleblowers have already played a crucial role in exposing and preventing environmental harm. In the US, nuclear whistleblower Rick Parks helped to ensure accountability for residents when they and the natural environment were exposed

to nuclear radiation. In Germany, Desiree Fixler's whistleblowing on greenwashing by asset management firm, DWS, led to police raids and fines. In England, anonymous whistleblowers helped to expose the English environmental regulator's failure to prevent water pollution.⁵

Who is an environmental whistleblower?

Environmental whistleblowers are people in the workplace who raise concerns about wrongdoing, risk or malpractice that pose a threat to the environment. Whistleblowing includes raising a concern with your employer, as well as taking matters outside of your own workplace to a regulator, MP, MSP or even the press.

This can be in any sector, industry or function. You could be a finance worker disclosing concerns about misrepresentation of a fund's ESG credentials, a farm worker worried about a pesticide spill, a seafarer highlighting water pollution or a communications officer challenging greenwashing.

Under UK law, only workers and employees currently have whistleblowing employment rights that protect them if they blow the whistle; see [Section 7.1](#) below. Other individuals such as volunteers and trustees may nonetheless wish to raise whistleblowing concerns. If you are unsure what your legal rights are when speaking up, [contact Protect](#) for further advice.

Whistleblowing is speaking up to stop harm: all staff have the power to play a crucial role in shaping their organisation's response to climate change.

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2

Environmental Whistleblowing in the UK – the story so far

Environmental Whistleblowing in the UK – the story so far



Public awareness of the severity of climate change is growing. The past decade has seen a surge in climate activism and climate anxiety in the UK is at an all-time high; three in four adults in Great Britain report feeling worried about climate change^{6, 7} and yet, Protect’s free and confidential whistleblowing legal Advice Line receives surprisingly few calls from whistleblowers reporting environmental concerns. In 2022, only 6 of the 2,500 calls received by Protect related to environmental concerns.⁸

This is perhaps even more surprising given that the past decade has seen a growth in environmental regulation. [The Environment Act 2021](#) introduced a new framework for environmental protection in the UK and established the [Office for Environmental Protection \(OEP\)](#).⁹ The same year also saw the creation of [Environmental Standards Scotland \(ESS\)](#), which, like the OEP, acts as a super regulator, holding both government and other public authorities to account on environmental matters.¹⁰ In other areas, regulators have expanded their remit or taken an increasingly keen interest in environment and climate matters. For example, the Competition and Markets Authority (CMA) has published guidance and commenced investigations into companies seen to be breaching its ‘[Green Claims Code](#)’, whilst the Financial Conduct Authority (FCA) is currently updating its [Sustainability Disclosure Requirements](#).¹¹ What is clear is that the regulatory landscape continues to develop and there is an ever-growing web of complex environmental and climate-related legislation.

Yet, many of the UK’s environmental regulators report receiving only a handful of whistleblowing disclosures. The environmental regulator for Scotland, The Scottish Environment Protect Agency (SEPA), received [26 whistleblowing disclosures](#) between April 2021 and March 2022.¹² In the same period, the equivalent regulator for England, The Environment Agency, only [received 8 whistleblowing disclosures](#), while its Welsh counterpart, Natural Resources Wales, received just [4 whistleblowing disclosures](#).¹³ The Department of Agriculture, Environment and Rural Affairs (DAERA), the government body with oversight of environmental matters in Northern Ireland, does not publicly report on how many external whistleblowing disclosures it receives per year.¹⁴

As part of this project, Protect reached out to regulators who have some oversight of environmental matters but for whom that is not their primary focus. Of those who responded, only the Prudential Regulation Authority (PRA) and Food Standards Authority (FSA) reported receiving environmental or climate related concerns.¹⁵ The PRA reported receiving 2 disclosures which were linked to climate change concerns in the 2022/23 year, which accounted for 1% of their overall whistleblowing referrals. The FSA reported anecdotally that over the past few years they have received a range of concerns that have touched on environmental issues such as illegal waste and animal by-product disposal. Despite their Green Claims Code, the CMA reported that they have never received whistleblowing disclosures related to environmental matters to date. Similarly, the Water Industry Commission for Scotland, the Utility Regulator for Northern Ireland, Food Standards Scotland, the Office for Rail and Road, and the Civil Aviation Authority reported having never received environmental or climate-related whistleblowing disclosures.

Exactly why these figures are so low is unknown. It may be related to the way in which environmental regulators record whistleblowing disclosures. It may be that workers are unsure about their concern or confused about exactly where and how they should report it. It may also be linked to a lack of awareness of the laws that protect whistleblowers; indeed, Protect’s 2023 YouGov survey showed that only a third of workers know that they can raise environmental issues and be protected.¹⁶

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Environmental Whistleblowing in the UK – the story so far



Fear of victimisation or fear that whistleblowing regarding the environment will not be listened to may also deter workers from raising concerns. Unfortunately, such fears would not be entirely unfounded. 74% of the environmental whistleblowers who contacted Protect over the last 10 years reported receiving negative treatment for raising their concerns.¹⁷ This is higher than the average rate of victimisation for reporting any type of concern, which stood at 65% for the same 10-year period.¹⁸ In the past two years, only 15% of workers reported raising an environmental concern at work, of these 33% say that their concerns were ignored.¹⁹

Whistleblowers have far too important a role to play in addressing environmental issues for them to be ignored and victimised. Protect continues to campaign for better protections for whistleblowers. We hope that this toolkit offers a starting point for workers to understand their rights and to assist them in raising environmental concerns both safely and effectively.

Whilst the statistics may paint a worrying picture, the personal stories of environmental whistleblowers serve as a strong reminder of the vital part whistleblowers have to play in preventing environmental harm. Protect has spoken to several of these courageous environmental whistleblowers over the years.

Two of their stories are featured below. Please note that all case studies from our Advice Line have been anonymised.

36%

of workers are aware of their right to raise environmental issues and be protected.

33%

of workers raising environmental issues reported their concerns were ignored.

74%

of workers received negative treatment for raising their environmental concerns.

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CASE STUDY: TOM, GAS PLANT LEAK WHISTLEBLOWER



Tom was a manager of a gas plant. He discovered serious regulatory breaches, including defects in the structure of the plant, which meant it was not properly cooled and dangerous

gases were leaking through the plant's membrane. Not only did this damage the environment but there were serious health and safety repercussions. Tom initially alerted his line manager, who ignored his concerns. He then escalated his concerns to senior management who rebuffed them. During this time, Tom's employer began to victimise him, altering his duties and subjecting him to an unusual performance review. Undeterred by this and determined to ensure the serious concerns were addressed, Tom eventually escalated his concerns confidentially to the company's board of directors. The board of directors then instructed a third-party company to investigate them. Whilst their investigation corroborated many of Tom's concerns, the final report named Tom, thus breaching his confidentiality and exposing his identity to his employer. Tom was dismissed within seven days of the publication of the report.

Tom contacted Protect's free Advice Line. Protect advised Tom that he might have a claim under whistleblowing law and that he could apply for [interim relief](#).²⁰ Just before the [interim relief](#) hearing the employer offered Tom a settlement agreement.

“ Whilst their investigation corroborated many of Tom's concerns, the final report named Tom, thus breaching his confidentiality and exposing his identity to his employer. Tom was dismissed within seven days of the publication of the report ”

Tom was initially concerned that this would prevent him from whistleblowing to a regulator, but, following advice from Protect that settlement agreements cannot prevent you from whistleblowing, Tom signed the agreement, achieved personal closure and received substantial financial compensation. Tom subsequently took the report's findings to the regulator. Its investigation into Tom's concerns resulted in the company being subjected to a significant fine. Tom's case clearly demonstrates the vital role whistleblowers play in protecting the public interest but also the serious personal ramifications that all too often confront whistleblowers.



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CASE STUDY: JENNY, WILDLIFE WHISTLEBLOWER



Jenny worked as a Biodiversity Officer for a large commercial farm. While cleaning a lake, she found a wren's nest containing eggs that was jeopardised by nearby tree felling. Under the Wildlife and

Countryside Act 1981 it is an offence to intentionally take, damage or destroy a wild bird's nest while it's being used or built. Jenny was concerned that if the tree felling continued, the nest might be damaged; this could leave the farm in breach of the law and its owner potentially liable for a hefty fine and even imprisonment.

Jenny raised her concerns with the manager responsible for the tree felling. She showed them the wren's nest; they agreed that the felling posed a risk and should be stopped. When, however, the farm owner found out that the felling had been paused, he responded negatively. The farm owner told Jenny that he was concerned about her actions. He placed her on garden leave with immediate effect and asked to meet with her the following day. Jenny then contacted Protect who advised her that she might have made a whistleblowing disclosure; if so, she had a right not to be treated negatively as a result, and could potentially bring a claim for victimisation. At the meeting, the owner was furious and told Jenny she should have kept quiet. Unwilling to be silenced, and committed to protecting wildlife, Jenny resigned. Whilst this came at great personal cost, Jenny's actions ensured the felling of the trees had been paused.

“ Jenny raised her concerns with the manager responsible for the tree felling. She showed them the wren's nest; they agreed that the felling posed a risk and should be stopped. ”

3

What is an environmental concern?

- 3.1 Environmental damage
- 3.2 Environmental crime
- 3.3 Breach of a legal obligation
- 3.4 Health and safety
- 3.5 Miscarriage of justice
- 3.6 Cover up or concealment
- 3.7 Public interest

What is an environmental concern?



The types of environmental concerns that you will come across will depend on the sector in which you work. For example, you are more likely to encounter inaccurate climate-related financial reporting when working in the finance sector and sewage pollution when working in the water supply sector.

Protect's [Advice Line](#) has advised environmental whistleblowers from a range of sectors raising diverse concerns, from tech workers worried about greenwashing, to energy sector workers challenging their employer's failure to recognise liability for an oil spill and government employees disclosing a failure to rectify marine pollution.

Whistleblowing rights are **employment-based** rights, which [employees and workers](#) receive from their **first day** in employment. You can find the law on whistleblowing in the [Employment Rights Act 1996](#).²¹

Nothing prevents you from raising any type of environmental concern with your employer, but to get the whistleblowing protection afforded by the law, you must raise specific types of environmental concerns in the correct way.

To begin with, for your environmental whistleblowing to be protected under the law, you must reasonably believe that what you raise tends to show one or more of the six categories of wrongdoing set out in the law. You must also reasonably believe that the concerns are in the public interest. You can raise concerns about any of these types of wrongdoing, whether it has occurred, is currently occurring or is likely to occur (risk).

The six categories of wrongdoing are:

- [1. Environmental damage](#)
- [2. A criminal offence](#)
- [3. Failure to comply with a legal obligation](#)
- [4. Endangerment to the health and safety of any person](#)
- [5. A miscarriage of justice](#)
- [6. Deliberate concealment of any of the above categories \(cover-up\)](#)

Environmental concerns could touch on any of these categories and more information on each, as well as the public interest requirement, can be found below.

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What is an environmental concern?



3.1 Environmental damage

Whistleblowing law does not define what types of risk, damage or wrongdoing fall under the 'environmental damage' category, nor does it indicate the severity of damage that comes within its scope. This means it is potentially a broad category, encompassing a variety of damage.



Environmental damage may be occurring in the UK or abroad, which may be relevant if you work for an international organisation. You are most likely to raise concerns about environmental damage caused by your employer, but you can also raise concerns about the actions of other individuals or organisations, such as suppliers in your employer's supply chain.

Since whistleblowing law was introduced, employment tribunals have interpreted the 'environmental damage' category as relating to

the **living or natural environment**, as opposed to a personal environment. This was demonstrated in the 2018 case of [Phillips v BCA Logistics Ltd: 1600973/2018](#) where the tribunal said a concern regarding workers being asked to drive in poor weather conditions, and the consequential personal risk this posed to other road users, did not fall within the 'environmental damage' category under whistleblowing law.²²

To date, there have been very few employment tribunal whistleblowing cases where it was argued that the concern raised fell under the category of 'environmental damage'. This means it is a relatively **untested** category of wrongdoing in the tribunal system.

In the table below, the claimants were successful in establishing that their whistleblowing disclosures fell within the 'environmental damage' category and were protected under whistleblowing law:

 Employment Tribunal Case	 Environmental damage concern
<p><i>Wharton v Ward Recycling Ltd</i> ET/2800817/2008; 2801242/2008</p>	<p>The Claimant worked in recyclable material collections and made 'protected disclosures' (disclosures that are found by an Employment Tribunal judge to meet the necessary legal tests to be protected by whistleblowing law) regarding what he believed to be the burying of recyclable paper at his employer's depot. The Claimant ultimately won his whistleblowing unfair dismissal claim.</p>
<p><i>Mr M Wakefield v Adomast Manufacturing Ltd:</i> 1801196/2020²³</p>	<p>The Claimant worked in sales for a chemicals manufacturer and raised concerns about potential environmental damage caused by waste and overspill from interceptor tanks on his employer's land. It was accepted by his employer that he had made protected disclosures but, in this case, the tribunal found the Claimant was dismissed for reasons other than whistleblowing.</p>

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Based on current environmental issues, below are examples of the types of environmental damage that have the potential to fall within the category of environmental damage:

Examples of environmental damage concerns



Shipping

Bilge/oily water pollution

Bilge pollution is a form of water pollution which occurs when untreated bilge water in a ship's hull is discharged into the ocean.

The water can contain any material brought to the engine room, such as oil, sewage, rust, dust and chemicals. If the bilge water is left untreated and released, it can cause damage to the environment.

In 2016, Princess Cruises' Caribbean Princess was [fined \\$40 million](#) for dumping bilge into the waters of the British coast.²⁴ Investigators of the incident noted that whistleblowing disclosures from an engineer aboard the ship were crucial to exposing the company's systemic use of illegal polluting practices.

Dumping of oily water is illegal in many countries. For example, in the United States, it is illegal under the Act to Prevent Pollution from Ships (APPS). The APPS applies to both U.S. commercial and non-U.S. commercial vessels operating in U.S. waters or a port of U.S. jurisdiction. The APPS also has a whistleblower reward provision attached.²⁵



Fossil fuel protection

Methane leak

After carbon dioxide, methane gas emissions, which can be released during fossil fuel production, are the second biggest contributor to climate change.²⁶

Satellite imagery is making it increasingly easy to identify large leaks of methane gas. Such leaks can show that companies which say they are investing in infrastructure to abate methane emissions, are in fact not.

It is arguable that a tribunal would accept that leaks of methane fall within the category of 'environmental damage'.



Oil extraction

Oil Spill

An oil spill or leakage – most often into oceans – can cause damage to the surrounding environment due to the toxic chemicals which are released. Some spills can sink to the seabed or drift to the shoreline.

Oil spills occur for a wide range of reasons including accidents in the storage, handling and transportation of oil, as well as offshore drilling.

The [Deepwater Horizon Disaster](#) is one of the largest environmental disasters in history. In 2010, a BP contracted rig in the Gulf of Mexico blew up, ejecting more than 200 million gallons of oil into the sea.

Whistleblowers have been crucial in uncovering why the disaster occurred and exposing further harm caused in the clean-up operation, which is still being felt today.²⁷



Agriculture

Pesticide and fertiliser runoff

Agricultural runoff occurs when water does not sufficiently sink into the soil, but instead moves over the ground, picking up fertilisers, pesticides and other pollutants that have been used on crops or applied to the soil. Eventually, the runoff finds its way into waterways such as rivers and lakes.

Research suggests that agricultural runoff is one of the single biggest sources of water pollution in England.²⁸ The Farming Rules for Water were introduced in 2017 to prevent pollution by agricultural runoff and are enforced by the Environment Agency.²⁹

Whilst there have been numerous recorded violations of the legislation, it was not until 2023 that a farmer was prosecuted for being in breach of the legislation.³⁰

Whistleblowers working on farms around agricultural land may have an important role to play in ensuring that farms stick to the legislation and apply fertilisers and pesticides in a safe manner.

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What is an environmental concern?



3.2 Environmental crime

There are hundreds of criminal offences relating to environmental damage, which can be committed by both businesses and individuals. Environmental crime is as an illegal act which directly harms the environment and includes activities affecting wildlife, biodiversity and natural resources.

Environmental regulators such as England’s Environment Agency and the Scottish Environment Protection Agency, along with local authorities, the police, and other bodies, have powers to investigate and prosecute environmental crimes.³¹ See [here](#) for every criminal offence the Environment Agency regulates, including those covering climate change, environmental damage, waste and water sources.³² The Environment Agency makes [enforcement decisions](#) regarding criminal offences that have been committed, by weighing up evidence with the public interest.³³ Factors relevant to whether there is a public interest in enforcement action being taken are: intent, foreseeability, environmental effect, the nature of the offence or breach, whether there is financial motivation, deterrence aims, previous history and repeat offending, and the attitude and personal circumstances of the offender.

Examples of environmental crimes include:

- Unauthorised or harmful deposit, treatment or disposal of waste/illegal discharges to air, land and water;
- Waste crimes, including large scale dumping, illegal waste sites, illegal burning of waste, mis-description of waste to avoid fees and taxes and illegal export of waste;
- Fly tipping;
- Killing, destroying, possessing or trading protected wild plant species;
- Conducting a variety of unauthorised activities without an environmental permit e.g. radioactive substances activity, water discharge activity

Some economic crimes may also encompass environmental harm. For example:

- Bribing officials to cover up environmental damage or to establish environmentally damaging activities, such as mining in a nature reserve or allowing illegal dumping;
- Committing fraud, by intentionally making untrue or misleading statements about an organisation’s impact on the environment to secure unfair or unlawful gain i.e. criminal greenwashing; or
- Money laundering, embezzlement or corruption, where there is an environmental angle.

The police, the National Crime Agency and regulators such as the Financial Conduct Authority and the Competition and Markets Authority have powers to regulate and/or take enforcement action regarding such activity.

It is important to understand that for your disclosure to qualify for protection under the law, when raising your concern, you do not necessarily have to identify (or even be right about) the relevant criminal offence. You do, however, need to have **reasonable belief** that the information you provide is tending to show that an offence has been committed, is being committed or is likely to be committed and this can be more easily demonstrated if you do identify the offence in your disclosure. This will also make your disclosure more effective because those you approach with your concern will be able to quickly understand the issue and investigate.

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CASE STUDY: JOE, ILLEGAL WASTE SITE WHISTLEBLOWER



Joe was an environmental whistleblower who worked as a waste collection truck driver. Whilst working, he discovered the biggest illegal waste dump in Europe at a site in Mobuoy outside Derry in Northern

Ireland. Over one million tons of illegal waste, some of it toxic, was secretly and illegally dumped at the site. Joe dedicated his life to tracking the waste criminals and observing their operations. Crucially, before his death in 2016, Joe left an audio recording of his findings which was passed to his son and investigative journalists.

Acting on Joe's information, investigative journalists and environmental activists discovered that the site sat five metres away from the River Faughan, which was a local drinking supply, meaning the illegal site was posing a threat to public health. Environmental activists also uncovered that government officials may have broken the law in their handling of the dump. Indeed, it appeared that a key memo in which civil servants and officials in the Northern Ireland Government admitted that they may have broken the law in their handling of the site may have been left out of the activists' Freedom of Information requests to the government.

The criminals in charge of the scheme were ultimately prosecuted. In September 2022, three out of five defendants pleaded guilty to waste offences connected to the Mobuoy dump. Journalist Dan Ashby described Joe as, "[the] type of eco hero we never hear, never see. Beaten back, without power or money, but relentless in his quest for justice. His story is a beacon of light in this dark saga."³⁴ Although Joe was unable to see justice himself, his work helped put a stop to a practice that posed a risk to both human life and the environment.

Joe's work shows how important whistleblowing is to help stop environmental crime and damage.

“ [the] type of eco hero we never hear, never see. Beaten back, without power or money, but relentless in his quest for justice. His story is a beacon of light in this dark saga. ”

What is an environmental concern?



3.3 Breach of a legal obligation

Very often, if the environment is harmed, a legal obligation will have been breached. This is nothing new: in 1306, King Edward I passed legislation which temporarily banned coal fires in London, because of the smoke they caused. The category of failure to comply with a legal obligation is wide-ranging; it includes obligations spelt out in legislation as well as contractual, tortious, trust-based, international and regulatory obligations. The environment is a devolved matter in the UK, meaning each of the devolved nations has its own environmental laws, legal obligations and regulatory obligations. It is important to note that raising a concern about breaches of internal policy or codes that are not underpinned by a legal obligation may not satisfy this category.

There are more and more environmental regulations in every sector. For example, in the construction sector, planning applications for projects which are likely to have a significant impact on the environment must provide an [Environmental Impact Assessment](#)³⁵ which assesses the likely impact on the environment so this can be taken into account when deciding whether the project should go ahead. In the financial sector, under the [Companies \(Strategic Report\) \(Climate-related Financial Disclosure\) Regulations 2022](#), climate-related financial disclosures are mandatory for certain banks, insurance companies and large private companies. These disclosures should cover how climate change is being addressed in corporate governance, how climate-related risks and opportunities are managed and the performance measures and targets applied in managing these issues.

More generally, misrepresenting the truth or making untrue or misleading statements can be a breach of a legal obligation. The following examples were provided by the Prudential Regulation Authority (PRA), a financial regulator, as to the types of concerns they expect to see reported, which could all be linked to misrepresentation:

- Senior managers in finance firms failing to understand climate change and manipulating audits or misleading regulators about the progression of Climate Change work and failing to comply with a firm's commitments on climate change.
- Risk Groups within financial firms providing incorrect or misleading information to the Board and regulators. If this process is self-managed by the Risk team, they are effectively 'marking their own homework'.
- Manipulation of ESG ratings and providing misinformation around climate change data. These issues are often based on a lack of knowledge and understanding but they can lead to long term environment, social and governance risks.

You do not necessarily have to identify the legal obligation that you believe is being breached at the time of raising your concern; it is, however, easier to demonstrate that your belief in the wrongdoing is reasonable if you do so and it assists those investigating the concern.

If you work in a regulated industry, it is likely that you will be aware of the legal obligations which your employer is subject to.

In Focus: Greenwashing

Greenwashing is when an organisation disingenuously represents how environmentally sustainable their products or business operations are. This includes claiming a product has a positive environmental impact when it does not, or that it has no negative environmental impact when it does. A range of consumer and business protection laws prevent organisations from falsely marketing themselves or their activities as 'green'. These include the Consumer Protection from Unfair Trading Regulations 2008, Business Protection from Misleading Marketing Regulations 2008, Section 90A (and Schedule 10A) of the Financial Services and Markets Act 2000 and contract law.

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What is an environmental concern?



Regulators are also taking a keen interest in greenwashing. In 2021, The Competition and Markets Authority (CMA) published the '[Green Claims Code](#)' which sets out guidance on making claims of an environmental nature, focussing on six principles based on consumer law.³⁶ The Financial Conduct Authority is expected to publish its own [greenwashing rules](#) in 2023, including restrictions on how the terms such as 'ESG', 'green' and 'sustainable' can be used by financial institutions.

The CMA is currently focusing on greenwashing in the fashion retail sector. In 2023 they launched investigations into three fashion brands, [ASOS](#), [Boohoo and ASDA](#), following concerns over the way that their products are being marketed to customers as eco-friendly.³⁷

In Focus: Company Directors' Duties

Section 172 of the Companies Act 2006 places an obligation on company directors to act in good faith to promote the success of the company and in doing so to 'have regard' for the impact of the company's operations on the community and **environment**, as well as the likely long-term consequences of any decision.³⁸ Section 174 of the Act requires directors to exercise **reasonable care, skill and diligence** in respect of their section 172 duties.³⁹ In recent years, there have been several claims brought against company directors for alleged breach of these duties.

The type of strategic litigation demonstrated by ClientEarth and the claimants in USSL, as discussed on the next page, is on the rise, which shows the growing focus on company directors' duties, regarding the environment. Launching this type of litigation will, however, not be a viable option for individuals, due to the expense required to fund such legal action. Even so, those working within an organisation are often the first to recognise wrongdoing so whistleblowers can play an important role as regards directors' duties. If whistleblowers raise concerns at an early stage, this may enable the issues to be addressed before a claim becomes necessary. Whistleblowers can also strengthen a strategic litigation case, by providing information to organisations launching claims. See [section 6.5](#) on how to raise concerns to an NGO.

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CASE STUDY:

ClientEarth v Shell



In 2023, in its capacity as a shareholder, environmental advocacy group ClientEarth sought to bring a claim against the Board of Directors of oil and gas company Shell.⁴⁰ The group argued

that Shell was failing to adopt and implement an adequate Energy Transition Strategy that aligned with the Paris Agreement on climate change⁴¹ and this failure was exposing the company to legal, commercial and reputational risk. The group asserted that the Board of Directors was breaching its duties under the Companies Act 2006, by mismanaging the risks posed to the company. This was the first time worldwide that shareholders brought a claim to argue that corporate directors should be held personally liable for their failure to prepare for the energy transition. In May 2023, the High Court refused ClientEarth's application to bring

the claim, deciding the group had not made out a case for permission to bring the claim against Shell's directors. ClientEarth's appeal against the decision was unsuccessful. Other claims of this nature are likely to face significant legal challenges, but the case indicates that directors will increasingly be scrutinised on their approach to climate change.

“ This was the first time worldwide that shareholders brought a claim to argue that corporate directors should be held personally liable for their failure to prepare for the energy transition. ”



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CASE STUDY: *McGaughey v Universities Superannuation Scheme Ltd (USSL)*



Two members of a large UK pension scheme sought permission to bring derivative claims (a claim on behalf of the company against the directors) against the directors of USSL – the corporate

trustee which administers the pension scheme and limited company. They alleged that the directors of USSL were in breach of their duties under the Companies Act 2006, including section 172. The Claimants sought to argue that the company's absence of a divestment plan from fossil fuel related investments – despite the company's target to be carbon neutral by 2050 – amounted to a breach of statutory and fiduciary duties which caused loss to the company. The High Court, in August 2022, refused the claimant's permission to proceed, which was then upheld by the Court of Appeal in July 2023.

“ The claimants sought to argue that the company's absence of a divestment plan from fossil fuel related investments...amounted to a breach of statutory and fiduciary duties... ”

What is an environmental concern?



3.4 Endangerment to the health and safety of any individual

Wrongdoing that damages the environment, such as the dumping of asbestos or sewage into a river, will often also impact the health and safety of human beings. Under the health and safety category of wrongdoing, you can blow the whistle regarding the endangerment to the health and safety of *any individual*. This means you can raise concerns that affect a wide variety of people, including your colleagues, the public, consumers and communities abroad.

For example, in the case of *Collins v National Trust (ET, Case No 2507255/05)*, National Trust warden Mr Collins raised concerns about the risk of asbestos being dumped on a local beach that was owned and managed by the National Trust. His whistleblowing showed concerns both for the environment and the health and safety of the public accessing the beach. In the case of [Cambridge v Mott MacDonald Ltd: 1400498/2021](#) the claimant's concerns centred on his employer's plans and advice on construction and alteration of drains and sewers serving domestic dwellings, commercial premises and public highways. The claimant believed the errors increased the risk of flooding, escape of sewage and damage to watercourses, which posed a risk to health and safety. The case did not reach a full hearing for procedural reasons.⁴²

3.5 Miscarriage of Justice

Miscarriage of justice includes matters likely to lead to a wrongful conviction, such as reliance on unsound forensic techniques, failure to disclose evidence to the defence, or perjury (though this would come both under this heading and that covering criminal offences). This category could be relevant if for example, incorrect or tampered evidence was used to defend an environmental criminal offence.

3.6 Cover up or concealment

This category of wrongdoing covers deliberate concealment of any of the types of wrongdoing covered by whistleblowing law. For example, this could include a company concealing the fact that they are failing to comply with environmental legal obligations that apply to them or environmental criminal activity within the organisation.

3.7 The Public Interest

For your disclosure to be protected by whistleblowing law, you must reasonably believe that you are making the disclosure in the [public interest](#). In order to assess this, an Employment Tribunal will use a two-stage test. Firstly, they will decide whether you (subjectively) believed that making the disclosure was in the public interest and secondly, they will decide whether that belief was (objectively) reasonable.



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Whistleblowing law does not define 'public interest'. In practice, making a disclosure about wrongdoing you have witnessed, and which impacts other people, is more likely to be in the public interest compared with an issue that only affects you. This is because the public interest element of the law is there to prevent workers using whistleblowing law to bring claims that are only about their own contracts and rights. This means that personal [grievances](#) generally do not come within the scope of whistleblowing law.⁴³

When making a whistleblowing disclosure you should explain what the **impact** of the wrongdoing is and identify **who** is impacted by it. For example, concerns relating to the dumping of sewage into rivers or misleading statements on the sustainability of dairy milk alternatives have an objective and direct impact on the public at large – anyone using the river, and anyone interested in buying the milk alternatives, will be impacted. As empirical research behind the causes and impact of environmental damage grows, the public interest may become easier to demonstrate. For example, [there is evidence proving the negative impact that single use plastic has on the environment](#).⁴⁴

What if I am also impacted by the wrongdoing?

There will be concerns where you, as well as others, are impacted by the wrongdoing. This means you are not simply an objective witness to the wrongdoing, and this can make demonstrating the public interest trickier. In such circumstances, the employment tribunal case of [Chesterton Global Limited v Mohamed Nurmohamed \[2017\] EWCA Civ 979](#)⁴⁵ provides four factors to consider when assessing whether the public interest element is satisfied:

1. The **number of people** affected by the wrongdoing (generally, the larger the group the more likely it is that the public interest requirement is satisfied);
2. The **severity** and **extent of the impact** of the wrongdoing (if the impact is serious and long-lasting, as opposed to a one-off incident with no ongoing repercussions, it is more likely to be in the public interest);
3. The **nature of the alleged wrongdoing** disclosed (intentional wrongdoing is more likely to be considered in the public interest than accidental); and
4. The **identity of the alleged wrongdoer** (if the perpetrator is senior, such as a CEO or a large national company, it is more likely to be considered in the public interest).

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CASE STUDY: *Mr M Carr v Bloomberg L.P.: 2205003/2020*⁴⁶ and the public interest



Mr Carr was a journalist working for Bloomberg L.P. who believed his employer was underreporting on the severity of the climate crisis and by doing so was indirectly contributing to fossil

fuel emissions and therefore damaging the environment and deliberately concealing the extent of environmental damage (cover up). Carr ultimately failed to establish he made whistleblowing protected disclosures, and he lost his case, but the judgment made some interesting points about the public interest:

- the public interest test is whether the worker reasonably believed that making the disclosure was in the public interest – this is different to reasonably believing the topic relates, in general terms, to something that is of public interest;

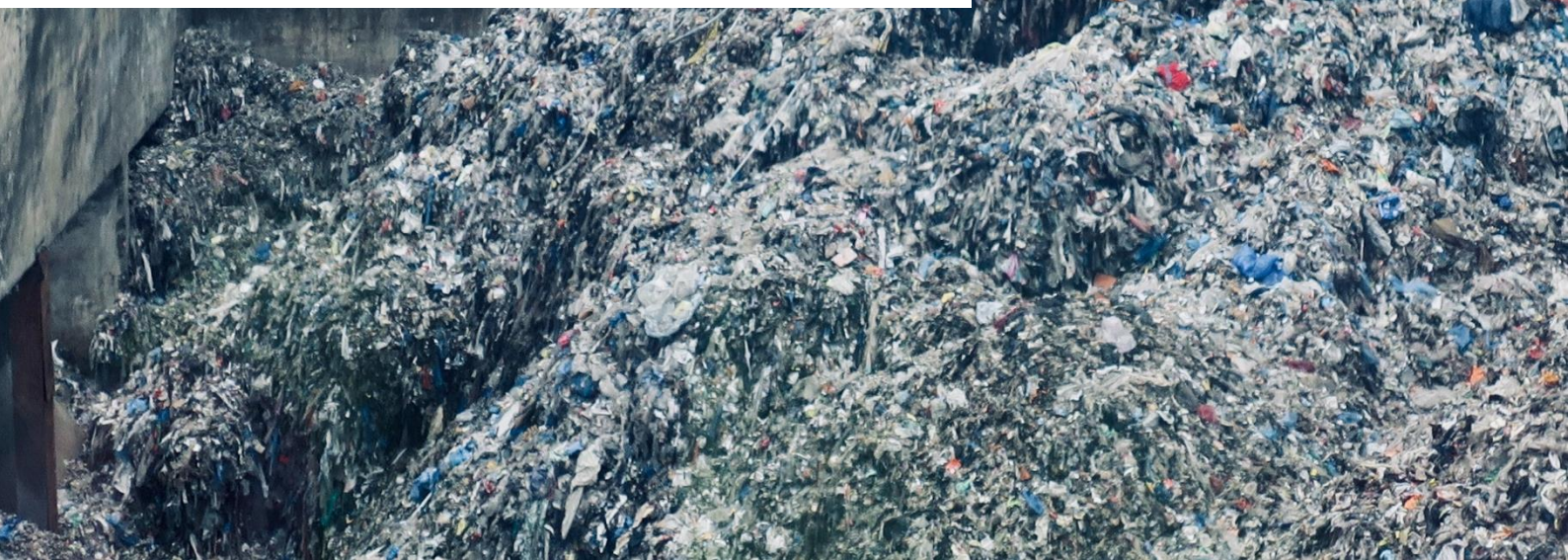
- being able to identify a specific act or omission that is leading to the wrongdoing is relevant to the assessment of the public interest; and
- the public interest test is more likely to be satisfied by a specific communication about a company that, for example, is dumping toxic waste in a particular river, than it is by a general observation that the polar icecaps are melting.

“ being able to identify a specific act or omission that is leading to the wrongdoing is relevant to the assessment of the public interest ”

4

What information do you need to raise an environmental concern?

- 4.1 Information v allegation
- 4.2 Should you collect or provide evidence?



What information do you need to raise an environmental concern?



4.1 Information v allegation

For your disclosure to be protected under whistleblowing law, you must provide information when you raise your concern. This means being specific and providing sufficiently factual content.

The information disclosed must, in your **reasonable belief**, tend to show one of the categories of wrongdoing as set out in [section 3](#) of this toolkit. Disclosing information is different from other modes of communication. Asking a question, giving a personal professional opinion, making a loose allegation or giving a generalised observation that does not contain sufficient factual content and which is unspecific will not satisfy the information criteria. For example, simply saying to your employer “You are not doing enough about climate change” is unlikely to qualify for protection because this is an allegation, lacking specific and factual information.

It is best to disclose (as much as is possible) what you have seen **first-hand**. This is because it is generally more difficult to disclose information which you have received from someone else. You should try to focus on the Five Ws (who, what, when, where and why) when making your disclosure. Explaining **why** you think the information shows wrongdoing is crucial.

The context of disclosures can also be relevant.

For example, taking your manager to a river, pointing to hazardous waste your employer is disposing into it and stating, “You are not complying with environmental safety requirements” is more likely to be a disclosure of information, because specific information is communicated through the context of the disclosure.

Disclosures can be made through spoken or written words or can even be non-verbal. It is possible for any form of recorded information to be a disclosure. For example, this could include handing your manager a video of an oil spill caused by your employer. But it is always a good idea to keep a written record of any disclosure you make.

Further things to note:

1. You may still be protected if you disclose information that your employer is **already aware of**;
2. It is possible for your disclosure to be protected even if you are mistaken and an investigation finds no wrongdoing to have occurred, as long as you have a reasonable belief that the wrongdoing occurred, was occurring or was likely to occur in future;
3. It is possible for **several communications taken together** to amount to a disclosure of information;
4. A disclosure will **not be protected if you commit a criminal offence while making it**, for example if you work in national security and are subject to the Official Secrets Act 1989 and breach it when making a disclosure.

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CASE STUDY: *Mr M Carr v Bloomberg L.P.* continued



In the previously mentioned case of *Carr v Bloomberg L.P.*, all of Mr Carr's disclosures were ultimately not considered to be protected disclosures.

The courts said they lacked specificity and sufficiently factual content that tended to show relevant wrongdoing. Instead, they were ruled to be expressions of Carr's **personal and professional opinions** around what editorial direction Bloomberg should be taking on climate talks as well as the restrictions he felt were being imposed on his own reporting on environmental issues.

“ Instead, they were ruled to be expressions of Carr's personal and professional opinions around what editorial direction Bloomberg should be taking on climate talks ”

What is an environmental concern?



4.2 Should you collect or provide evidence?

Making a disclosure of information is **not** the same as gathering and handing over evidence. For your disclosure to qualify for protection under UK whistleblowing law, you do not need to provide evidence to prove your concern. Once you have disclosed your information, it is for your employer (or a regulator) to investigate.

Downloading, forwarding or sending yourself your employer's information via your work email or accessing work systems without permission to try to evidence your concerns may amount to misconduct. It could also cause you more problems in the long run by leaving you at risk of legal claims including [breach of GDPR](#), [misuse of private information](#) or [breach of confidence](#).⁴⁷

Whilst we caution against such action, there may be circumstances where evidence is necessary to expose wrongdoing. There have been high profile cases where documentary evidence has indeed played a crucial role in raising concerns. Circumstances where you may feel gathering evidence is necessary include where evidence which shows serious environmental wrongdoing is being destroyed, or wrongdoing is being openly admitted and an audio recording could capture this and there is no alternative evidence, or where a regulator is directly asking you to provide such evidence.

One well known whistleblowing case where evidence was pivotal to exposing wrongdoing was that of Facebook whistleblower Frances Haugen. In 2021, she disclosed documentation she had accessed to a US government agency and news outlet which exposed Facebook's impact on young people, the weaknesses in Facebook's response to human trafficking and vaccine misinformation on the platform. Rather than download documentation or take screenshots, Haugen took photographs of the documents on her personal mobile phone.⁴⁸

In all circumstances, you should think very carefully before gathering evidence and you should seek legal advice first.

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CASE STUDY: Johannes Stefansson The Fishrot Whistleblower

Johannes Stefansson is the former Director of Operations in Namibia for the Icelandic fishing company Samherji. Johannes blew the whistle on corruption and bribery in the allocation of Namibian fishing quotas by publicly disclosing 30,000 documents that evidenced his concerns. The subsequent fallout became known as the 'Fishrot Scandal'. Johannes's courageous whistleblowing resulted in the resignation of two Namibian government officials and the suspension of Samerji's CEO. A criminal investigation is still ongoing. The evidence Johannes collected was crucial to the investigation. Johannes has personally been subject to a sustained campaign of harassment and intimidation by those he exposed.

Protect spoke to Johannes to find out more about his whistleblowing journey. Johannes said that despite everything he has gone through he would still blow the whistle if he had his time again. Johannes said the bribery and corruption he exposed took important natural resources away from local people and undermined sustainable development in Namibia. He was motivated to whistleblow to ensure that fishing quotas were placed back in the hands of Namibian people.

“ Johannes's courageous whistleblowing resulted in the resignation of two Namibian government officials and the suspension of Samerji's CEO. ”

5

Practical tips: what should you consider when raising a concern?

- 5.1 Should you share your identity when whistleblowing?
- 5.2 Top Tips: before, during and after raising an environmental concern
- 5.3 Can you still whistleblow if you have signed an NDA or settlement agreement?

Practical tips: what should you consider when raising a concern?



Blowing the whistle on environmental harm can be risky, so it is important to think practically about how you want to raise your concerns and steps you can take to mitigate risk when doing so. Before you blow the whistle, you should consider the following tips.

5.1 Should you share your identity when whistleblowing?

It is important to consider whether you want to share your identity when raising a concern. Ensuring your identity is not widely known or associated with the whistleblowing can be one way to reduce the risk of victimisation, but there can be downsides to remaining anonymous. Broadly speaking, there are three ways to raise a whistleblowing concern:

- **Anonymously:** this means you do not disclose your identity at all when raising your concern. This may seem an attractive option, but it may mean you cannot be contacted to provide further information regarding your concern, and you may be less likely to receive any feedback. It may also make it harder to protect you from victimisation and, if you subsequently feel that you have been treated negatively **because** you raised concerns, it may be more difficult to establish the link between your whistleblowing disclosure and the victimisation you suffered.
- **Confidentially:** this means you share your identity with the individual receiving the concern on the basis that they protect it.
- **Openly:** you share your identity with the individual receiving the concern who proceeds without the need to protect your identity.

Raising your concerns openly or confidentially means that follow-up questions can be asked, action can be taken against any victimisation, and you can more easily demonstrate that you have blown the whistle, if later required for the purposes of bringing an Employment Tribunal claim. Even for confidential whistleblowing, the individual who receives the concern may promise to protect your identity, but in some circumstances this may not be possible: your identity may be guessed by others (for example, if you are the only person who could have known about the wrongdoing due to your job role) or there may be occasions when your employer is required by law to disclose your identity (for example during a criminal investigation), although the latter is relatively rare.

5.2 Top Tips: before, during and after raising an environmental concern

Before you blow the whistle, it is important to consider a range of practical factors. You should think about what your aims are but also the potential risks. Unfortunately, many whistleblowers are victimised and getting advice on responsible whistleblowing can make all the difference. If you are thinking about blowing the whistle, contact Protect's free [Advice Line](#) for both practical and legal advice.

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Practical tips: what should you consider when raising a concern?



Before raising an environmental concern:

1. Are you a member of a union or do you have legal insurance?

It is worth considering if you could afford legal advice if you suffer victimisation or lose your job – if not, consider taking out insurance **before** you raise a concern. Legal insurance sometimes comes with your home insurance or is included with trade union membership. If you are a member of a union, you may be able to access legal advice and representation via their legal department.

You may wish to consider informing a union representative that you are raising concerns before you do so. However, it should be noted that trade unions are not prescribed persons, this means that if you disclose your whistleblowing concerns to your union and your employer becomes aware of it and treats you negatively, legal protection under whistleblowing law may be more difficult to access. Your employer may argue that you have made a wider disclosure, which requires you to satisfy tougher legal tests than when you make a disclosure to your employer ([see diagram](#) in section 7.1)

2. Are you implicated in the wrongdoing?

Whistleblowing does not shield you from sanctions if you have also done wrong. You may need to seek independent legal advice if you are implicated.

3. Is collective concern raising an option?

If your colleagues are also concerned, consider whether you could collectively raise your concerns. Raising concerns as a group can add weight to the disclosure and may encourage the person with whom you are raising them to take them more seriously. Collective concern raising can also help safeguard against victimisation, as it is generally harder to victimise a group than an individual. It is still worth seeking legal advice, on an individual basis, before raising concerns as a collective.

4. What outcome do you want?

Whistleblowers are generally witnesses and not complainants, so the usual outcome would be that you want your concern to be investigated.

5. Do you have a support network?

Whistleblowing can be stressful so consider what support you have around you and how you will look after [yourself](#).

6. Assess the risk of victimisation by considering the following factors:

- a. How has your employer treated people in the past when they whistleblew?
 - b. Will it be obvious you are the whistleblower?
 - c. If you are planning to leave employment, could you wait until after you have left to raise your concerns?
 - d. If colleagues share your concerns, could you raise your concerns collectively?
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Practical tips: what should you consider when raising a concern?



When raising an environmental concern:

1. Follow the rules

Check whether your employer has a whistleblowing policy. This should identify who to approach with your concerns and the procedure to follow. You are, however, not required by law to follow your employer's whistleblowing policy; you can simply raise a concern with someone more senior than you in your organisation. Even so, your employer may be more receptive and be able to act quicker if you do follow their whistleblowing policy.

2. Are others affected?

Check that you propose to raise a concern that affects others, rather than something that only affects you [personally](#).

3. The Five Ws

Check you are providing information covering who, what, when, where and why.

4. Watch your tone

Check you are raising your concerns in an objective and professional manner – you can legitimately be dismissed or disciplined if your employer believes you have raised your concerns in an unreasonable way. Refrain, as much as possible, from direct criticism of individuals unless key to your whistleblowing concern.

5. Follow up

If you make your disclosure orally, send a follow up email noting the disclosure so it cannot be disputed in future that you made one.

After raising an environmental concern:

1. Keep a private diary

Keep note of what you raised, how you raised it, when and to whom. Keep an ongoing diary of any actions taken and any changes in treatment you feel are negative towards you.

2. Ask for feedback and timeframes

The law is silent regarding how employers should deal with whistleblowing concerns and there is no legal duty (outside of the Financial Services Sector) to provide whistleblowers with feedback. Ask your employer about timeframes and feedback and hold them to it.

3. Act quickly if you want to take legal action

There is a time limit of 3 months minus one day to [bring a claim in the Employment Tribunal](#) if you are victimised and/or dismissed for whistleblowing. If you are dismissed, you may be able to bring a claim for [interim relief](#) which has a time limit of 7 days.

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Practical tips: what should you consider when raising a concern?



5.3 Can I still whistleblow if I have signed an NDA or settlement agreement?

A non-disclosure agreement (NDA), settlement agreement or confidentiality clause cannot prevent you from making a whistleblowing protected disclosure. Any clause that tries to do so is **void under section 43J of the Employment Rights Act 1996**. However, if you have signed a settlement agreement and wish to whistleblow, you should act with extra caution and seek legal advice before doing so. Only a judge can decide whether a whistleblowing disclosure is a protected disclosure. This means that when making a disclosure you can never be certain that it will be protected. If your employer threatens you with legal action (such as injunction proceedings for breach of confidence) because you have made, or are intending to make, what you think is a whistleblowing disclosure, you may be able to seek protection from section 43J of the Employment Rights Act 1996 or using the common law public interest defence, it may be argued that the public interest in a disclosure outweighs the public interest in maintaining confidentiality. If in doubt, seek legal advice.

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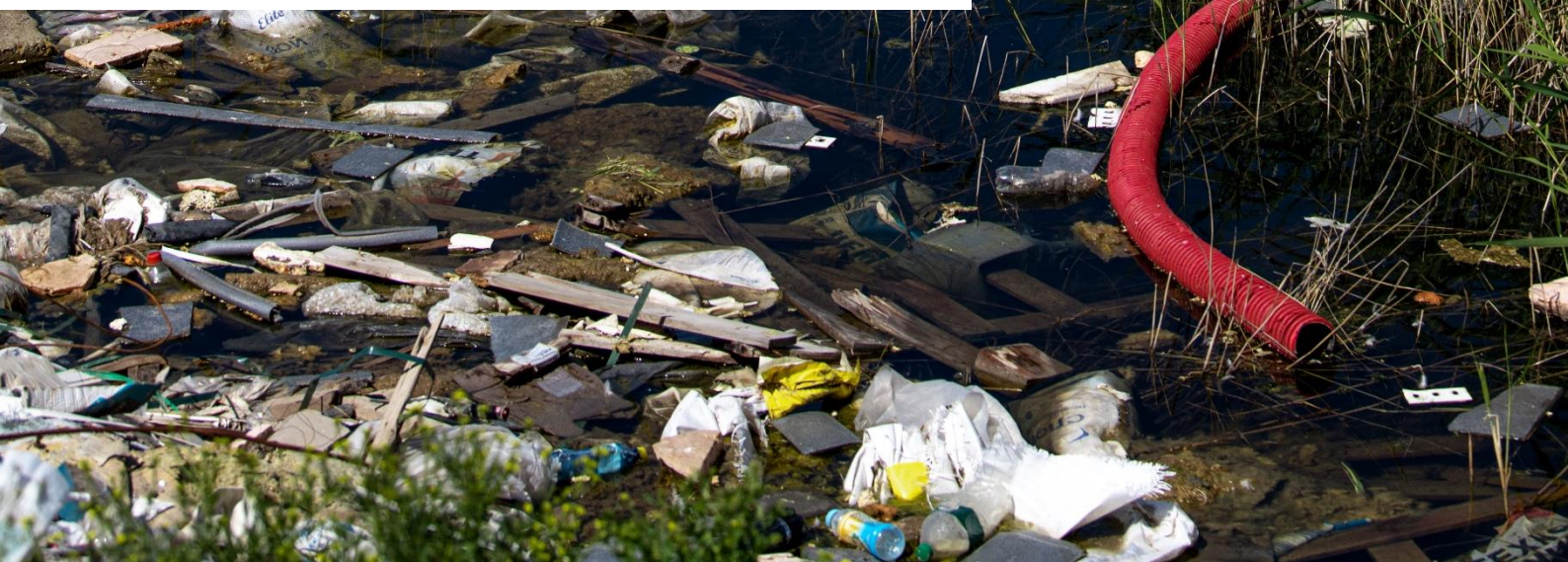
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Who should you raise an environmental concern with?

- 6.1 Raising environmental concerns with your employer
- 6.2 Raising environmental concerns with a legal adviser
- 6.3 Raising environmental concerns with a relevant regulator
- 6.4 Raising environmental concerns with an MP or MSP
- 6.5 Raising environmental concerns externally with someone else, or on social media
- 6.6 Raising environmental concerns with journalists



Who should you raise an environmental concern with?



For your whistleblowing disclosure to be effective and impactful, it needs to be raised with the most appropriate person.

In most cases the simplest, safest, and most effective way to report environmental concerns will be to raise them directly with your [employer](#).⁴⁹ However, it will sometimes be necessary to raise concerns with someone else. For example, if your employer is likely to victimise you for raising concerns, or if your employer keeps ignoring your concerns, you may want to raise them with a regulator, an MP or, in exceptional circumstances, the media.

More information about when each of these routes might be appropriate can be found below (we would encourage you to seek [advice](#) before raising concerns externally, outside your workplace):

- 6.1 Raising environmental concerns with your employer**
- 6.2 Raising environmental concerns with a legal adviser**
- 6.3 Raising environmental concerns with a relevant regulator**
- 6.4 Raising environmental concerns with an MP or MSP**
- 6.5 Raising environmental concerns externally with someone else, or on social media**
- 6.6 Raising environmental concerns with journalists**

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Who should you raise an environmental concern with?



6.1 Raising environmental concerns with your employer

You should always think about raising concerns with your employer in the first instance. Your employer will generally be able to act more quickly to resolve your concerns than an external body and will have a chance to put things right straight away. It is also the easiest way to gain [protection under whistleblowing law](#).⁵⁰ More information on the law that protects whistleblowers can be found in [section 7.1](#).

Who is my employer under whistleblowing law?

Legally speaking, raising concerns with your employer means raising concerns with anyone senior to you (those with express or implied management responsibilities over you, such as your Line Manager). If your organisation has a whistleblowing policy (sometimes referred to as a 'Speak Up Policy' or 'Raising Concerns' policy), it is advisable to follow it, though, as noted above, the policy is not legally binding.

Raising concerns with an external person or body who is authorised as a point of contact in your employer's internal policies, such as the whistleblowing, safeguarding or health and safety policy may be treated as a disclosure to your employer even though they are not your employer. For example, if your employer provides an external reporting hotline, and refers to it in their policy, then you can raise a concern that way and it may still be treated as an internal disclosure.

In certain instances, if you reasonably believe that someone other than your employer bears sole or primary responsibility for the malpractice in question, then a disclosure to that other person may also qualify for protection. For example, if you are an agency worker you may be able to raise a concern with the organisation for whom you are working, rather than the agency who employs you. Similarly, if you are a worker in an auditing firm, you may be able to raise a concern with a client you are auditing.

Who should I speak to within my organisation?

Generally, going to your Line Manager or supervisor will be the most straightforward choice. If, for

whatever reason, you cannot raise your concerns with them – maybe they are involved in the wrongdoing, you do not trust them to act properly, or you fear victimisation – then you may wish to consider raising your concerns with someone else.

When doing this, you should draw on your knowledge of the organisation and think carefully about what is best. The CEO of an organisation may be the person best placed to remedy wrongdoing, but it is very unlikely that they will carry out the investigation personally. Consider the following questions: is going straight to the head of the organisation proportionate? How do you think particular managers will react? Is there someone else senior who you trust?

You could consider approaching the whistleblowing policy contact (if your employer has a whistleblowing policy) or a senior individual with expertise in the area relevant to your concerns (for example, you might raise concerns with the audit team about the misreporting of climate-related data), the HR department, or a manager, director or trustee who you trust.

Note that if you are employed by an individual or a body appointed under statutory powers by a Minister of the Crown or a member of the Scottish Executive (this could include a government agency, a utility regulator, a statutory tribunal or a non-departmental body), a disclosure made to the government minister or member of the Scottish Executive will be treated like a disclosure to your employer (i.e. it will be subject to the same legal tests were you to bring an Employment Tribunal claim).

What do I need to consider when raising concerns with my employer?

Before you raise concerns with your employer, consider the Top Tips in [Section 5](#) which include guidance on whether to raise your concerns [confidentially, openly or anonymously](#).⁵¹ If your employer has a dedicated process for anonymous concern raising, such as a whistleblowing reporting hotline, then this may make it easier for you to keep your identity a secret from those you work with. If you have a [union](#), you may also be able to seek their support in raising your concern.⁵²

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Who should you raise an environmental concern with?



6.2 Raising environmental concerns with a legal adviser

You are able to seek legal advice about a concern and be fully protected when doing so. In practice, however, this protection is less commonly relied on as you can usually rely on legal professional privilege. When seeking legal advice, any communication between you and your lawyer is confidential.

6.3 Raising environmental concerns with a relevant regulator

If you cannot disclose your concern directly to your employer, or if you have done so but they have been ignored or you are not satisfied with their response, then you may consider raising your concern externally, with a relevant regulator. There are many factors to consider before taking this step – for example whether the information is sensitive and could sharing it could be a breach of data protection law, whether there is a risk of victimisation, and who the most appropriate regulator might be. These considerations can be particularly complex if you are still working for your employer, and we would recommend seeking advice before taking this step.

What is a regulator and what does it mean if a regulator is a “Prescribed Person”?

A **regulator** is an organisation that the Government has granted powers to regulate and supervise a specific sector or area. For example, the Financial Conduct Authority (FCA) regulates the financial services sector and so may receive a range of concerns related to financial services companies. The Environment Agency regulates the environment in England. It has oversight of a whole range of different organisations and individuals, insofar as their conduct impacts the environment.

Some, but not all, regulators are “**Prescribed Persons**”. Prescribed Persons are regulators or other bodies that the Government has designated as responsible for hearing and dealing with whistleblowing concerns in their respective sectors.

It is easier to gain protection under whistleblowing law, if you raise your concern with a regulator that is a Prescribed Person rather than with one that is not. It is therefore best to check whether there is a relevant Prescribed Person before you raise concerns.

Which regulator should I contact?

Regulators have specific remits, which will determine the types of concerns they can investigate. It is not always easy to identify the right regulator, particularly where more than one might have an interest. To help decide, you can have an anonymous, hypothetical conversation with the regulator’s whistleblowing team, both to check whether they are the right regulator for your situation and to gain more information about their whistleblowing process.

You can also look at [Annex 1](#) to this guide for a list of key Prescribed Persons with oversight of climate-related/environmental matters, their remits and contact details. You can find the full list of Prescribed Persons for England, Wales and Scotland at: [Whistleblowing: list of Prescribed people and bodies - GOV.UK \(www.gov.uk\)](#), and for Northern Ireland at: [Public interest disclosure \(PID\) guidance \(economy-ni.gov.uk\)](#).⁵³ If you are unsure, please do contact Protect for [advice](#).

How do I contact a regulator?

Most regulators will allow you to raise concerns via a webform, email or telephone call: check [Annex 1](#) to this guide or the government list of [Prescribed Persons](#) to find their contact details.⁵⁴ Generally, it is useful to have a written record of what you raise to the regulator and confirmation that you have raised your concern with them. If you raise your concern in writing, the regulator will often provide this automatically; if you do so over the phone, you may need to request written confirmation. You should inform the regulator if you wish them to maintain your confidentiality. You should also inform them if you think your employer might victimise you for escalating concerns.

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What will the regulator do with my environmental concern?

How each regulator handles concerns, what action they will take and when, and whether they will provide feedback varies between regulators and will also depend on the concern and its severity. Whilst regulators may have the power to investigate and to take enforcement action where appropriate, this does not mean they always will. However, even if your disclosure does not lead to an immediate investigation, the regulator may still log your concern, and it could be used as valuable intelligence in the future (for example, to establish a pattern of behaviour).

6.4 Raising environmental concerns with an MP or MSP

If you have raised a concern with your employer and/or a regulator and the concern has been ignored, or the action taken has failed to address the concern, it may be useful to contact an MP or MSP. MPs and MSPs are, like some regulators, **Prescribed Persons**. This means it is easier to be protected by [whistleblowing law](#) if you raise a concern with them.

The environment is a devolved matter. This means that the Senedd Cymru (Welsh Parliament), the Northern Ireland Assembly, and the Scottish Parliament, as well as the Westminster Parliament in England, all have powers to make laws and regulations about the environment. As of August 2023, however, Members of the Legislative Assembly in Northern Ireland and Members of the Senedd in Wales are not Prescribed Persons. This means that if you raise concerns with a member of one of these bodies, it will be harder to get protection under whistleblowing law than it would be if you raised concerns with an MP or MSP.

What can an MP or MSP do?

MPs and MSPs cannot investigate your concern, but they can be a useful “pressure mechanism” to help get more information, to persuade an organisation to take action, or to bring public attention to an issue. They may be able to help by:

- writing to your employer to seek feedback or ask for an explanation for why the concern has not yet been addressed, and/or request an investigation into the concern;
- writing to a regulator or a Prescribed Person to seek feedback, to ask for an explanation for why the concern has not yet been addressed and/or request a regulatory investigation into the concern;
- sending the concern to a relevant Select Committee for consideration;
- raising a question in Parliament.

MPs and MSPs have a duty to respond to their constituents but take action at their discretion. To help an MP/MSP assess what help they can provide, it is important that you explain what the concern is, who has already been informed of it and what their response has been. If you want the MP/MSP to maintain your confidentiality, or if you think you may be at risk of negative treatment from your employer/ex-employer as a result of raising concerns, then you should mention this explicitly to the MP/MSP.

Which MP or MSP should I approach?

MPs and MSPs will usually only act on behalf of people who live in their constituency, so generally it is best to raise concerns with your constituency MP/MSP. But if, for example, the concern relates to pollution in some other location, then it may be more appropriate for that constituency’s MP/MSP to be contacted. If your concern has a national or cross-constituency impact, it may be best to contact an MP/MSP with a special interest in this type of issue. It is possible that the other MP/MSP will need permission from your constituency MP/MSP to work on your case. More information about contacting MPs can be found here: [Contact your MP – UK Parliament](#).⁵⁵ More information about contacting MSPs can be found here: [What issues an MSP can help you with | Scottish Parliament Website](#).⁵⁶

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6.5 Raising concerns externally with someone else, or on social media

If you have raised concerns with your employer, a prescribed person or an MP/MSP, without success, or if there is not an appropriate Prescribed Person for your concerns, then you may need to consider raising them elsewhere. Possible options include making a disclosure to a regulator that is not prescribed, a funder who has some oversight of the organisation or the concerns, an environmental NGO with expertise relevant to the concerns, the police, shareholders, your union, or another relevant body.

Raising concerns with anyone who is not your employer and who is not prescribed would be considered a 'wider disclosure' and there are tougher legal tests you have to meet to be protected by whistleblowing law. You should therefore seek advice before making a wider disclosure.

When making a wider disclosure, it is even more important to carefully consider what you are hoping to achieve by raising the concern with a particular organisation, and whether it can realistically be expected to help achieve that goal. For example, an NGO may be able to investigate, verify or direct public attention to your concerns and thus apply pressure to another organisation to take action, but they will not be able to resolve the concerns themselves. Who to approach will very much depend on the nature of the concerns, who you have previously raised them with and the sector in which you work.

Raising concerns on social media

It can feel very tempting to use social media to raise concerns, but this can be risky, with no guarantee that it is going to be effective. The risk of victimisation is higher, as your employer and some of your colleagues may be able to see that you have posted on social media. Your employer may have a social media policy and posting something work-related on your social media may amount to misconduct. If you make allegations about your employer and/or your colleagues, or post confidential information, there is also a risk that your employer could bring claims against you for defamation or breach of confidence, and it may not

be worth the risk! Your posts may not be viewed (or taken seriously) by the individuals who have the power to take action regarding your concerns. This does not mean that you should never post an environmental concern on social media, but if you do so, think carefully about how you do it and what you want to achieve. Raising concerns on social media would be considered a 'wider disclosure' and as mentioned, there are much tougher legal tests to meet for such a disclosure to be protected by whistleblowing law. One of these tests is that you must show that posting your concerns on social media was a 'reasonable' thing to do. As the nature of social media means that most posts are public and/or indiscriminate, it may be difficult to show that it was reasonable to raise your concerns in this way.

6.6 Raising environmental concerns with journalists

In certain circumstances, the press can be an important way to escalate your concerns. A disclosure to the media is a "wider disclosure" with tougher legal tests than raising a concern to a prescribed person or your employer. The Bureau of Investigative Journalists has set out some practical tips for making disclosures to the press.

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By Josephine Moulds: Finance and climate reporter for The Bureau of Investigative Journalism (TBIJ)

THE BUREAU OF INVESTIGATIVE JOURNALISM

Blowing the whistle in the media can have a hugely positive impact. After Desiree Fixler, head of sustainability at the asset

management giant DWS, [accused her company of greenwashing](#), regulators in the US and Europe launched investigations and the chief executive resigned.⁵⁷ The episode is thought to have prompted regulators to clamp down on greenwashing more broadly – potentially transforming the entire financial industry for the good of the planet.

Fixler is not alone. It is common for someone to be happy in their job and yet uncomfortable with certain aspects of it – and to want those troubling details out in the open. What’s concerning you may be something specific to your organisation, or it may be a common practice in your industry that could be stopped or better regulated if people knew about it.

But it can be daunting to raise those concerns within your organisation, and with good reason. You might fear being branded a troublemaker, or feel unable to question something that appears to be standard practice. In those circumstances, another option is to approach the media.

Anonymity

The first thing to know is that going to the media does not mean your name will be made public.

Journalists are always keen on speaking to people “off the record” – which means nothing you say to them can be published. Off the record conversations are vital for journalists because they tell them where a big story might be, and where they should start looking for evidence. It was conversations like this with bankers that

prompted me to look into what banks were calling “sustainable finance”. I found that billions of dollars of supposedly green finance was in fact funding companies [fuelling the climate crisis](#), including one that was bulldozing a village [to expand a coal mine](#).⁵⁸

Alternatively, you might want to hand over material to be used in a story but still keep your identity anonymous. A good journalist will carefully support their source with this, spending time discussing how to ensure that anything they publish cannot be traced back to them.

My colleagues at TBIJ, for instance, were approached by a former meat inspector – who wanted to remain anonymous – [and told](#) that poor hygiene and ineffective regulations in abattoirs had left consumers at risk of potentially fatal food poisoning.⁵⁹ The abattoir in question was eventually prosecuted.

Equally, you might want to go fully public with your story. But you should discuss what level of anonymity you need with a journalist before any information is shared.

Who should you go to?

It is important to take care when choosing who you approach. Find a journalist or a publication that is already covering the area well. At TBIJ, we publish in partnership with major outlets such as the BBC and the Financial Times. We are experienced in dealing with sources that want to remain anonymous and we can act as a buffer between a source and a big outlet that might be under more time pressure to land an exclusive story. Our investigations often take months of reporting, partly because we make sure to give sources as much time as they need.

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“ Blowing the whistle may be nerve-racking but it can have a huge impact. Since my investigation into “sustainable finance”, we’ve heard that one major bank is developing new guidelines on the basis that industry standards are not good enough ”

There are some basic precautions to take if you are approaching a journalist and don't want your employer to know.

- First, make sure all communications are from a device that you do not use for work.
- Do not forward any messages or documents directly from a work email account – instead take photos of the screen and share them.
- Try to use messaging apps, such as Signal and Telegram, which are end-to-end encrypted so only the sender and recipient can access the messages.

Blowing the whistle may be nerve-racking but it can have a huge impact. Since my investigation into “sustainable finance”, we’ve heard that one major bank is developing new guidelines on the basis that industry standards are not good enough. In another report we revealed that the high prices charged by two huge companies had caused a shortage of medical oxygen across Africa. That led to the World Health Organization adopting a landmark resolution which could hugely reduce the number of deaths every year. None of that would have happened without brave company insiders coming forward. Blowing the whistle to the media does not have to cost you your career. But it can be necessary in order to drive meaningful change.

Who should you raise an environmental concern with?



What risks are associated with raising environmental concerns to a journalist?

Making a disclosure to the press is a decision that should not be taken lightly. In some cases, it may be the only option left to drive meaningful change, but it comes with a number of significant risks to you, the whistleblower.

Firstly, you may have very little control over how the journalist presents your story. Their article may paint you, or the concern, in a totally different light to what you expected. It is therefore vital that you approach a journalist you trust and agree some key guarantees before revealing the story.

If your story and your name are in the media, you may also face backlash from people angered by it, such as climate deniers wanting to protect the accused organisation. Retaliation or abuse in response to your concerns could occur both on social media and in the real world, and getting it to stop may be difficult; the police are only likely to intervene in the most serious cases.

In addition, as the whistleblower, you risk getting sued or punished in some other way by your employer or ex-employer for disclosing your story to the press. The key risks associated with a press disclosure are:

- **Suffering workplace or post-employment detriment** – if your employer or ex-employer discovers that you have gone to the press, you may risk being victimised. Once your story is on the internet, your name is likely to be permanently linked to your whistleblowing. This might be career ending: many employers still see whistleblowers as ‘troublemakers.’ Many of the prominent whistleblowers whose stories have received heavy media coverage in recent years have had to completely change careers after going public; consider [Katharine Gun](#), [Frances Haugen](#) and [Desiree Fixler](#).⁶⁰ You may be able to claim a right not to be [victimised](#) for raising whistleblowing concerns, even when disclosing to the media. If you have done so and been victimised by your employer or ex-employer, call Protect for [advice](#).

- **Being sued for defamation** – if your employer believes that the concerns that have been published are false and have caused, or are likely to cause, serious harm to their reputation or to that of one of their employees, they may consider suing you for defamation. Defamation law is complex. More information can be found here: [Defamation and whistleblowing - Protect - Speak up stop harm \(protect-advice.org.uk\)](#).⁶¹

- **Being sued for breach of confidence** – you employer may consider suing you for breach of confidence if you disclose or use confidential information that could damage their business, clients, or employees. More information about this complex area of law can be found here: [Breach of confidence and whistleblowing - Protect - Speak up stop harm \(protect-advice.org.uk\)](#).⁶²

Defending a claim for breach of confidence or defamation is likely to be complicated and expensive, even though there are defences that a whistleblower may be able to successfully use. If you are considering making a media disclosure, seek legal [advice](#) first. If you are facing a claim from your employer for breach of confidence or defamation, seek specialist legal advice.

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CASE STUDY: The anonymous Environment Agency water pollution whistleblowers



Anonymous whistleblowers from the Environment Agency (EA), the environmental regulator for England, have made a number of press disclosures in the past few years. In September 2022,

staff members spoke to ENDS Report to disclose the agency's failure to prevent water companies dumping sewage into the River Severn against environmental regulations. The EA had reported in 2019 that just 45 of the 462 water bodies that make up the Severn were in good ecological condition. Additionally, in 2021, there were 20,000 reports of instances of sewage disposal into the river. The EA, however, failed to take any action. The whistleblowers highlighted that cuts to the EA budget are making it impossible for it to fulfil its

duty to protect water, land and biodiversity, and ensure that companies and the general public comply with environmental law.⁶³

The EA whistleblowers helped to bring public attention to the specific issue of water companies' illegal pollution of rivers, as well as to the wider regulatory failures of the Environment Agency.

“ The EA had reported in 2019 that just 45 of the 462 water bodies that make up the Severn were in good ecological condition ”



7

Will you be protected if you raise an environmental concern?

- 7.1 Whistleblowing claims
- 7.2 Equality Act claims
- 7.3 Other claims

Will you be protected if you raise an environmental concern?



If you experience negative treatment as a result of raising environmental concerns, you may be able to bring a whistleblowing claim against your employer in the Employment Tribunal.

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If you experience negative treatment as a result of raising environmental concerns, you may be able to bring a whistleblowing claim against your employer in the Employment Tribunal.

In certain circumstances, other legal mechanisms may be available. If you think that your climate-related beliefs constitute a philosophical belief, you may be able to bring a claim under the Equality Act 2010. If whistleblowing law does not apply and you have experienced harm as a result of the way your employer handled your concerns, you may be able to bring a negligence claim in the High Court. Both of these methods are relatively new and untested, so it is important to access legal advice before attempting to use them. Below you can find more information about each of the following claims:

- 7.1 Whistleblowing claims
- 7.2 Equality Act Claims
- 7.3 Other Claims

7.1 Whistleblowing claims

It is unlawful for an employer to dismiss an employee or victimise a worker for making a **Protected Disclosure** (raising whistleblowing concerns). If you are subjected to such treatment, you may be able to bring a claim in the Employment Tribunal for financial compensation and/or for reinstatement or re-engagement.

It is important to note that there are **strict time limits** for bringing whistleblowing claims. You must bring your claim in the tribunal within **three months minus one day** of the last act of detriment (victimisation) or the effective date of dismissal.⁶⁴

There are four key elements to a successful whistleblowing claim. The tribunal must find that the following points are true:

- 1. You are an employee, worker, ex-employee or ex-worker;**
- 2. You made a Protected Disclosure;**
- 3. You have been dismissed or treated detrimentally;**
- 4. You have been dismissed or treated detrimentally because you made a Protected Disclosure.**

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- 1. You are an employee, worker, ex-employee or ex-worker.**

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Whistleblowing rights are employment rights. You must therefore be an employee or a worker to access protection. A worker is someone who personally performs work for another. This work must not be part of the worker's own limited company in an arrangement where the 'employer' is a customer or client.

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[Section 43K of the Employment Rights Act 1996 \(ERA\)](#) provides a wider definition of 'worker' which extends protection to many different types of employment relationships and working arrangements including agency workers, certain NHS practitioners and nurses and midwives in training.⁶⁵ More information about worker status can be found here: [Who is Protected by PIDA? - Protect - Speak up stop harm \(protect-advice.org.uk\)](#).⁶⁶ If you are unsure whether you have worker status you should seek [legal advice](#).

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2. You made a Protected Disclosure.

'Protected Disclosure' is the legal term for raising the types of concerns that fall within the scope of whistleblowing law, and for raising them in the correct way. The information in sections 3, 4 and 5 of this Toolkit will help you to ascertain whether the concerns you have fall within the scope of whistleblowing law and if so, how they should be raised to be protected. Different legal tests apply depending on who you raise your concerns with. Below is a summary of the legal tests for each of the three disclosure categories:

3. You have been dismissed or treated detrimentally.

Detriment (the legal term for victimisation) is any form of action, disadvantage or intentional inaction that has occurred in the work context that a reasonable worker would believe to be negative treatment. In other words, anything that makes doing your job difficult could be a legal detriment:⁶⁷ bullying; demotion; ostracism; misuse of disciplinary processes; change of responsibilities; denial of promotion; post-employment detriment in the form of a negative or withheld reference.

Disclosure to Employer	Disclosure to a "Prescribed Person", i.e. a regulator or MP/MSP	Wider Disclosure, i.e. disclosure to the press or the police
<p>The concern in your reasonable belief shows one of <u>six categories of wrongdoing</u> and is in the <u>public interest</u>.</p> <p>You have provided specific <u>information</u> that tends to show one or more listed wrongdoings.</p>	<ul style="list-style-type: none">+ You reasonably believe the information to be substantially true.+ The concerns fall within the remit for which the person is prescribed.	<ul style="list-style-type: none">+ It is reasonable in all the circumstances to make the disclosure.+ The disclosure is not for personal gain.+ There is a valid cause to go wider:<ul style="list-style-type: none">• Fear of detriment; or• No prescribed person and fear of cover up; or• Already disclosed to employer or Prescribed Person; or• Issue is exceptionally serious.

Dismissal – dismissal includes being dismissed by your employer, being made redundant or you resigning because you think your employer has seriously breached your employment contract (this is known as “constructive dismissal”).⁶⁸

Interim relief for dismissed employees – Interim relief is an order by the Employment Tribunal that preserves your employment (at least so far as pay is concerned) until after the tribunal has decided your claim for unfair dismissal. It is only available to **employees** who have just been dismissed and can show that they are *likely* to win their whistleblowing dismissal claim.

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Applications for interim relief must be made **within seven days of the effective date of dismissal**.⁶⁹ Interim relief is very difficult to win, and you should access legal advice before proceeding with an application. More information about interim relief can be found here: [What is Interim Relief | Protect - Speak up stop harm \(protect-advice.org.uk\)](https://protect-advice.org.uk/what-is-interim-relief/).⁷⁰

4. You have been treated detrimentally or dismissed because you made a Protected Disclosure

The trickiest aspect of most whistleblowing claims is showing that you have been treated negatively or dismissed because you made a Protected Disclosure. This is called 'causation'. The legal tests to show causation in detriment and dismissal claims are different.

Causation test for whistleblowing detriment claim – to succeed in a detriment claim, the Employment Tribunal must find that your Protected Disclosure **"materially influenced"** the negative treatment of you. This means that, whilst the Protected Disclosure may not be the only reason you were treated that way, it must have had more than a negligible impact on the treatment. A detriment claim may be brought against your employer, who is vicariously liable (i.e. legally responsible) for their employees' actions, and/or against an individual colleague who is responsible for the victimisation.

Causation test for whistleblowing automatic unfair dismissal claim – to succeed in an automatic unfair dismissal claim, the Employment Tribunal will need to find that the **principal reason** for your dismissal was that you made a Protected Disclosure. If the employer can show that the principal reason for dismissal was some other legitimate reason unconnected to whistleblowing, the whistleblowing claim will fail. Note that only employees, not workers, can bring automatic unfair dismissal claims.

How can the link between my whistleblowing and the negative treatment be established?

Proving causation can be challenging — it requires the tribunal to decide why an individual behaved as

they did. The tribunal cannot read minds so it will look for evidence to help determine what influenced the behaviour of the person who treated you negatively or the decision-maker who dismissed you.

It is useful to consider what your relationship with your employer was like before you raised concerns. Positive formal feedback such as appraisals or performance reviews, a pay rise, promotion, positive informal feedback such as praise for your work, the assignment of extra responsibilities or important tasks/clients immediately before your whistleblowing can all help to demonstrate that your employer was previously happy with your conduct. If there were no substantial changes other than your whistleblowing, this may help show a link between your whistleblowing and the negative treatment. Another factor that may help to establish this link is the impact of your whistleblowing on the person responsible for the negative treatment or dismissal (for example, if this person is complicit in the wrongdoing you have highlighted and liable to face disciplinary action as a result, this may indicate that their treatment of you was influenced by your concern-raising).

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What happens if I am successful at the Employment Tribunal?

If you are successful in bringing your claim to the Employment Tribunal, you may be awarded [compensation](#) for any financial loss you have suffered. If bringing a detriment claim, you may also receive a sum for what is known as '[injury to feelings](#)'. There is no cap on the amount of compensation the Employment Tribunal can award in successful whistleblowing claims. This means you may sometimes see very substantial financial awards. If you have been dismissed, it is also possible for the judge to order that you be [reinstated or re-engaged](#) in a similar role. More information about compensation and remedies in whistleblowing claims can be found here: [Remedies in Whistleblowing Cases - Protect - Speak up stop harm \(protect-advice.org.uk\)](#).⁷¹

7.2 Equality Act 2010 Claims

It may be possible to bring other claims in relation to your whistleblowing, and sometimes it may be more effective to do so. The Equality Act 2010 (the Equality Act) is a separate piece of legislation that prohibits any discrimination, harassment or victimisation that is based on a 'protected characteristic'. One of the protected characteristics is having a 'philosophical belief', which could include climate-related beliefs. In *Grainger plc and others v Nicholson [2010] IRLR 4* a belief in man-made climate change, and the resulting moral imperatives was found to be capable of being a philosophical belief.⁷² If you suffer negative repercussions because of these beliefs, you may have recourse to a remedy under the Equality Act.

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CASE STUDY: Mr Casamitjana and League Against Cruel Sports (LACS)



[Mr Casamitjana](#) worked with anti-hunting charity the League Against Cruel Sports (LACS).⁷³ He realised his employer's pension funds were being invested in organisations that tested on animals and

compromised the environment (pharmaceutical firms AstraZeneca and GlaxoSmithKline, oil company Royal Dutch Shell and tobacco companies). After his bosses failed to carry out a promise not to invest his contributions in the funds, Mr Casamitjana informed his colleagues about the investments, and was fired for gross misconduct. He brought a claim using both whistleblowing law and the Equality Act. The latter proved more effective. The Employment Tribunal agreed that ethical veganism was a philosophical belief, and

therefore a protected characteristic under the Equality Act. Mr Casamitjana received financial compensation through a settlement with LACS. LACS conceded his actions were "genuine and correct" and changed its pensions policy to make them ethical.⁷⁴

“ He realised his employer’s pension funds were being invested in organisations that tested on animals and compromised the environment ”

Will you be protected if you raise an environmental concern?



What is a philosophical belief under the Equality Act?

There are several conditions that must be satisfied for your beliefs to be protected including that the belief must be:

- genuinely held;
- more than an opinion;
- cogent, serious and applicable to an important aspect of human life or behaviour.

If you are arguing that you have been victimised because of your climate-related beliefs you will need to show that these beliefs significantly inform the way you live your life. It is not enough for your beliefs to dictate just what you eat (or do not eat). It should also dictate other aspects of your life such as what you wear, where you work, how you travel, what products you buy, who you spend your time with, etc. The beliefs must have 'a certain level of cogency, seriousness, cohesion and importance' and must 'be worthy of respect in a democratic society'.⁷⁵

As this is a new area of law, seek advice before starting a claim.

What claims are available under the Equality Act?

If you think you have a protected belief, the next stage is to consider what claims you might have under the Equality Act. There are four main claims:

1. **Direct discrimination** – where you are treated less favourably because of your protected belief. For example, you are disciplined because your employer disagrees with your views on climate change;
2. **Indirect discrimination** – where your employer has a provision, criterion or practice (PCP) that puts you (and others who share your protected belief) at a disadvantage. This could be a workplace policy that conflicts with your climate-related views. In this situation the employer may be able to defend the claim if it can show that it has a legitimate aim, and the PCP is a proportionate means to achieve that aim;

3. **Harassment** – where you are the victim of unwanted conduct that has the purpose or effect of violating your dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment (for example, a co-worker making offensive comments to you or others about your climate-related beliefs);
4. **Victimisation** – where you have done a protected act (e.g. made a complaint of discrimination) and as a result you are subjected to detrimental treatment. For example, you complain that you have suffered discrimination based on your protected views, and you are dismissed as a result.

Should I claim under whistleblowing law or the Equality Act?

The claims under whistleblowing law and the Equality Act are different, and you should consider whether you could have a claim under either one or both. Each claim has a number of different elements that would need to be satisfied.

With a claim under the Equality Act, the discriminatory treatment you suffer, whether negative treatment or dismissal, must be 'because of' your protected belief (or, for harassment, 'related to' that belief). These tests are similar to that which applies to a whistleblowing detriment claim, where your treatment must be 'on the ground that' you made a Protected Disclosure.

For an Equality Act claim or a whistleblowing detriment claim, it is sufficient that the protected belief or protected disclosure had a material influence on your treatment; it does not need to be the principal reason for it, as it does for a whistleblowing unfair dismissal claim. So, if you are bringing a dismissal claim, it may be easier to do so under the Equality Act than under [whistleblowing law](#).

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Under both the Equality Act and whistleblowing law, it may be possible to distinguish between the protected belief or protected disclosure itself and the manner in which it was expressed. If your employer can show that they treated you badly, not because of your protected belief or protected disclosure, but the way in which it was expressed, then your claim may not succeed.

As with whistleblowing claims, Equality Act claims are made to the Employment Tribunal and must be made within three months minus one day from the relevant act. The usual remedy is compensation for any financial loss you have suffered. You may also receive a sum for 'injury to feelings' when bringing an Equality Act claim. Getting your job back is not possible under the Equality Act.

It is best to get legal advice before making the decision about which claim to bring. If you are unable to access any legal advice, it may be better to bring both claims as it is easier to withdraw than to add a claim. More information on where to seek advice can be found in [section 9](#).

7.3 Other claims

Today, more and more companies have operations that span multiple countries, creating extra challenges for potential whistleblowers. Even if the company you are working for has headquarters in the UK, if you are performing your work abroad and your contract is with a foreign entity that is registered abroad, it is very unlikely that you will be entitled to whistleblowing rights under UK law. This may be the case even if you have been told to direct your whistleblowing reports to the UK head office. The (non-UK) law that is applicable to the jurisdiction in which you are working, may not give rights to whistleblowers and so offer no effective remedy. Until recently, whistleblowers in this type of situation were thought to have very few rights. However the successful case of *Rihan v Ernst & Young Global Ltd & Ors [2020] EWHC 901 (QB)*, has expanded the tort of negligence and in doing so, created a potential avenue for whistleblowers to obtain justice.⁷⁶

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CASE STUDY: *Rihan v Ernst & Young Global Ltd & Ors*



Mr Rihan was an auditor in Dubai for the UK-based accountancy firm EY. Whilst conducting an assurance audit in Dubai for a gold-refiner called Kaloti Jewellery International, he came to suspect that Kaloti was involved in money laundering.

Among other things, Mr Rihan discovered that Kaloti was knowingly dealing in gold that was coated in silver to avoid Moroccan restrictions on gold exports.

When Mr Rihan raised his concerns with EY's UK-based global executives, they tried to cover-up his concerns. He felt he had no choice but to escalate his concerns to global anti-corruption NGOs and media organisations. These disclosures ultimately led to the convictions, for money laundering and drug trafficking, of the individuals responsible. Mr Rihan, however, was effectively blacklisted from the audit industry following his whistleblowing.

Mr Rihan was unable to bring a whistleblowing claim under the Employment Rights Act 1996 against the UK headquarters of EY, as he was working for the

Dubai office. Instead, the law firm he instructed, Leigh Day, brought a claim in negligence, arguing that EY's UK headquarters had breached a common law duty of care to Mr Rihan.⁷⁷

The court found that EY owed Mr Rihan a legal duty to take reasonable steps to prevent him from suffering loss of earnings by reason of their failure to perform the audit in an ethical and professional manner. The company were held responsible for the losses which Mr Rihan suffered after he was compelled to resign from the company and blow the whistle publicly. Mr Rihan won his case and was awarded \$10.8 million as compensation.

“ These disclosures ultimately led to the convictions, for money laundering and drug trafficking, of the individuals responsible ”

Will you be protected if you raise an environmental concern?



The “audit duty” established in Rihan v EY was an extension of the tort of negligence.

Whilst the audit duty refers to the relationship between an auditor and the headquarters of the auditing company, this legal decision may mean other cases could be brought by whistleblowers who do not have rights under UK whistleblowing law. When a whistleblower cannot bring a whistleblowing claim, but the dispute is in some way connected to the UK (for example, because the company that caused the harm is based in the UK), then a negligence claim may provide an alternative way of obtaining justice.

If you are a whistleblower in any of the following situations, then you may be able to bring a negligence claim if one of the following applies:

- You do not work in the UK, but have suffered harm because the UK arm of your employer became involved in your whistleblowing situation;
- You are UK-based, but do not fall within the scope of UK whistleblowing law protection because (for instance) you are an office holder rather than employee, or because your complaint is not against your employer; or
- You are UK-based and resigned because of the way your company was dealing with the whistleblowing issues, but the company did not directly retaliate against you for raising whistleblowing concerns.

These are, however, complex legal claims that require the involvement of specialist legal teams. Further advice should be sought in these circumstances.

There may be other claims that you could bring – do seek legal advice.

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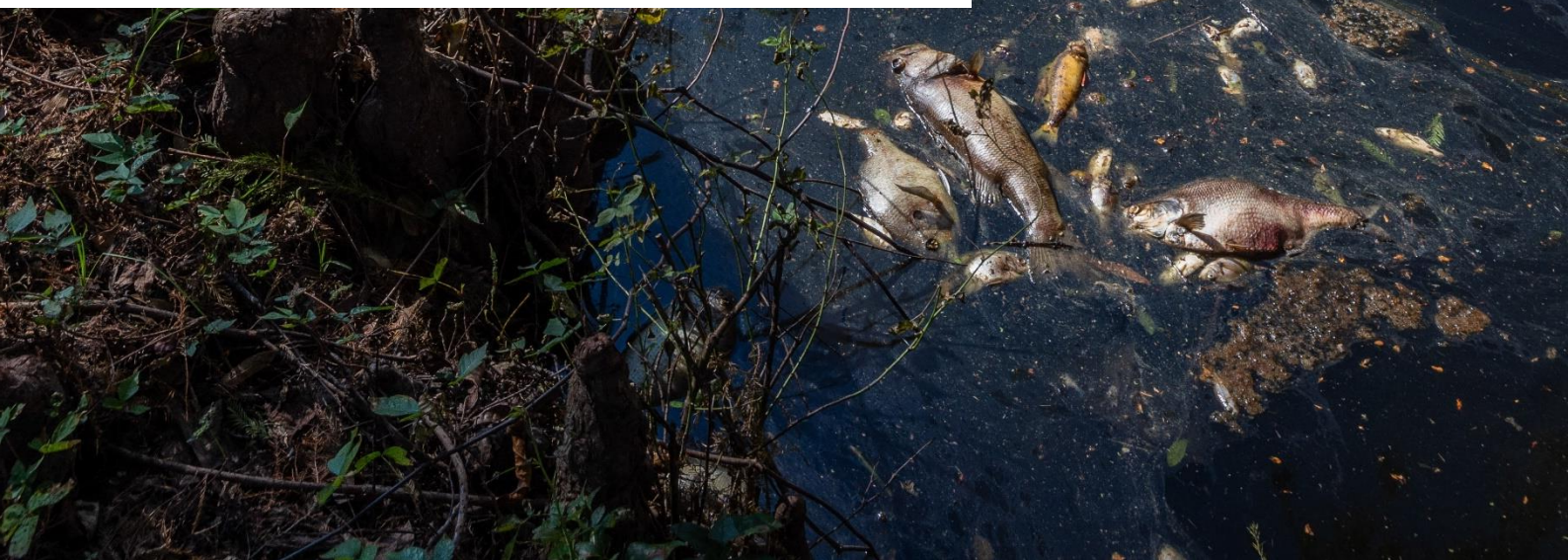
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8

Other ways to get an environmental concern addressed

- 8.1 Support from your trade-union
- 8.2 Lobbying your employer



Other ways to get an environmental concern addressed



Whistleblowing is just one way to address environmental concerns in the workplace. In some circumstances, other tools may be more effective, such as asking your union to help you take action in relation to the concern or lobbying your employer to make specific changes. These are not Protect’s area of expertise, and you should seek advice from your union or a [lawyer](#) before taking these actions.

8.1 Support from your trade-union

8.2 Lobbying your employer

8.1 Support from your union

Your union can be an important resource to help you negotiate with your employer or take action to challenge your employer’s approach to an environmental concern. If your workplace has a recognised trade union, you may be able to discuss the concerns with your union’s Workplace Environmental (green) rep, or use formal routes (e.g., the health and safety committee or collective bargaining structures) to help you raise and resolve your concerns with your employer.

Trade unions have a long history of taking action when firms or industries impact the health and safety not only of workers, but of the communities in which they live and work. In 1973, the Oil, Chemical and Atomic Workers (OCAW) union in the US went on strike against Shell Oil in a fight for health and safety.⁷⁸ The Shell refinery was seen as a danger to workers, because chemicals used in the refinery led to a lung disorder known as 'rainbow lung', and a danger to the community because of the air pollution the refinery generated. OCAW leaders considered that taking action regarding environmental concerns was key to keeping workers safe. The action succeeded in compelling Shell to settle with its workers.

In 2019, the UK student strikers’ network [called](#) on trade unions to join a mass ‘Earth Strike’ action and many trade unionists were sympathetic but engaging in the strike would have been complicated. Striking on environmental grounds in the UK is not straightforward.⁷⁹ There is no positive legal right to

strike in the UK and protest strikes may be illegal.⁸⁰ Industrial action, which can include other forms of labour withdrawal such as overtime working, is only legally permissible if organised under the conditions set out in the [Trade Union and Labour Relations \(Consolidation\) Act 1992](#).⁸¹ This is complex legislation, for which the Institute of Employment Rights provides a guide.⁸²

Workers considering taking industrial action regarding environmental concerns should discuss it with union reps or union officials. You can also check trade union websites for information on industrial action, green reps or negotiated agreements for your sector.

It is important to note that trade unions are not Prescribed Persons. If you disclose your whistleblowing concerns to your union and your employer becomes aware of it and treats you negatively, legal protection under whistleblowing law may be more difficult to access. Your employer may argue that you have made a wider disclosure, which requires you to satisfy tougher legal tests than when you make a disclosure to your employer (see [diagram 1](#) in section 7.1).

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Other ways to get an environmental concern addressed



8.2 Lobbying your employer

Lobbying is the act of trying to persuade someone to do or change something. For example, you could lobby your employer to stop a practice that is environmentally harmful, such as air travel or to make its whistleblowing policy more environmentally friendly.

Lobbying your employer to make its whistleblowing policy more environmentally friendly

It is best practice for employers to have a whistleblowing policy, and it may be useful for it to specify that workers have a right to raise concerns about environmental issues. A [global network of lawyers and business leaders](#) has drafted an environmentally friendly whistleblowing clause called *Sasha's Clause*, which can be adapted by companies and inserted into their whistleblowing policies.⁸³ Including this clause helps to encourage environmental whistleblowing and to ensure that environmental harm is prevented.

A company that adopts *Sasha's Clause* is agreeing to put in place an internal channel for people working with it to report their concerns (anonymously, if requested) about any breaches of the company's environmental policies. There must be an internal assessment and investigation of reported concerns within a specified timeframe. If the concern is upheld it must be reported to the board. There should also be an option for the whistleblower to receive feedback about the concern once the investigation has finished. Whilst lobbying may be a useful and effective tactic at times, it is also a risky one. Some of these tactics may offend your employer and could lead to a deterioration in the working relationship or even disciplinary action. You should think carefully about the risks before taking such action. If you are a member of a union, you should contact them for advice on launching a lobbying campaign.

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How to approach your employer



Aims

Identify your aims (e.g., getting your employer to incorporate *Sasha's Clause* within its whistleblowing regime), ways to achieve them, and resources available for the campaign (e.g., like-minded people working in your organisation).



Target audience

Examine your organisation's structure and identify the person who can actually implement the change (is it the CEO, the Head of Compliance or some other relevant person?). That person will be the ultimate target for the lobbying – they cannot make the change if they do not know what is needed.



Plan the campaign

Be realistic about how long it will take to have the change implemented: it could take weeks or months, depending on the size of the organisation and the interest from management.

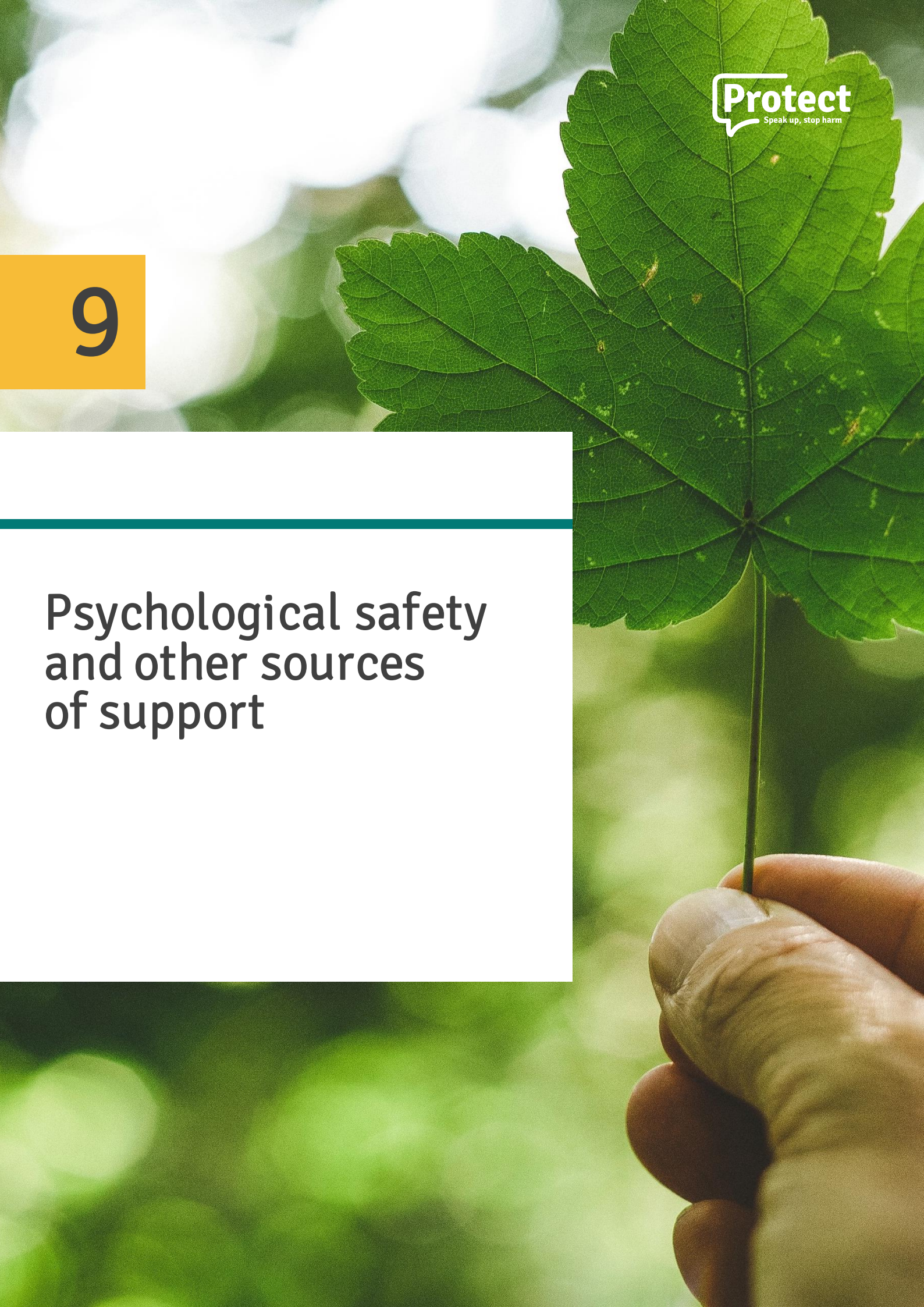


Tactics

Consider the different tactics you can use to lobby your target person, which could include writing letters, putting out leaflets, holding coffee mornings and campaign meetings and inviting external speakers.

9

**Psychological safety
and other sources
of support**



Blowing the whistle on environmental concerns fulfils a crucial public service but it can be a risky, isolating and stressful process. Many whistleblowers suffer victimisation as a result of their concern-raising. 72% of whistleblowers contacting Protect in 2022 say they were victimised by management or colleagues for raising concerns.⁸⁴ Isolation is another common theme across Protect’s Advice Line. Even when they are not subject to deliberate victimisation, many whistleblowers report feeling alone during their whistleblowing journey.

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The case of Jonathan Taylor, an oil industry whistleblower, is an extreme example of the great personal sacrifices some whistleblowers make. Whilst Taylor’s whistleblowing on fraud and corruption led to huge fines against his former employer, as well as criminal convictions of individual executives, he personally suffered a great deal. He was subjected to reprisals, including house arrest and professional blacklisting, and experienced personal difficulties as a result.⁸⁵

Everyone has different personal and financial circumstances, which will impact an individual’s appetite for risk. Whistleblowing can be a long journey; it is not always as simple as giving someone a tip-off and walking away. Victimisation following whistleblowing, or the isolation of the whistleblowing process, can have a detrimental impact on whistleblowers’ mental health and wellbeing. Whistleblowing can also negatively impact personal relationships as well as professional development and finances. Furthermore, if you are treated negatively for whistleblowing and you decide to bring a claim in the Employment Tribunal, it can take 1-2 years to get to a final hearing. Bringing a claim can be a long, stressful, and expensive process.

Before you blow the whistle on environmental concerns, it is therefore important to think carefully about how you might be impacted. You should ask yourself what the professional, financial, personal and emotional ramifications might be. Are you willing to take the risk?

Below are some points to consider before blowing the whistle on environmental concerns:

Risk

- Consider what outcome you are hoping to achieve by raising concerns. Do you think this outcome is realistic? How will you feel if this outcome is not achieved? Escalating concerns can be time-consuming and stressful – are you prepared for this?
- Consider your risk of victimisation at work. Do you know how your employer has previously responded to whistleblowing concerns? If you think the risk is high, seek advice before raising concerns and consider whether there are steps that can be taken to mitigate the risk of victimisation. You could suggest these to your employer when you raise concerns.
- Consider whether colleagues have voiced similar concerns. If so, might there be scope to raise the concerns collectively? This could reduce the sense of isolation as well as the risk of victimisation, as it can be harder to victimise a group of people.
- Consider how your family and friends might be affected by your whistleblowing. They might not understand your reasons for raising concerns, so before you decide to blow the whistle you may wish to discuss your decision with them.

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Personal and emotional support

- Consider who your personal support networks are and reach out to them for support. Do bear in mind that you may not be able to share with them all the details of your whistleblowing.
- Consider where you might be able to access independent emotional support. Does your employer have an Employee Assistance Programme? Do you have funds to pay for a therapist if this is required? You can find suggestions for independent sources of [emotional support below](#).

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Psychological safety and other sources of support



Advice

- Access [advice](#) from Protect, your union, or a lawyer with whistleblowing expertise before you raise concerns. They will be able to help you consider the personal and professional risks you face when raising a concern and can advise you on the safest way to do so.
- Consider whether you can access legal advice or representation if things go wrong and you need to submit a grievance or bring a whistleblowing claim in the Employment Tribunal. If you are a member of a union, they should be able to represent you. If not, check to see whether you have legal cover under an insurance policy, such as home insurance. Do you have the funds to pay for private representation if needed? Some organisations can provide free representation, but this can never be guaranteed. More information about free advice and representation can be found [below](#).

Job prospects

- Consider how easy it might be to secure a new job if things go wrong and you need to leave your current role. Get a sense of the job market by researching similar roles and reaching out to recruitment agencies.
- Consider preparing and updating your CV. In particular, it is useful to identify and document all your achievements during your time in your role.

You may want to use some of the prompts in this list to write a list of pros and cons to raising your environmental concern. You can use this list to help you make an informed decision about whether to raise an environmental concern.



“ It was not easy to blow the whistle, but I don't think I could have done anything else. I had to do what I knew was right. I'm very glad I found Protect. The advice and support they gave me really helped to hold the company to account for wrongdoing and to defend my rights as a whistleblower. ”

Anonymous Environmental Whistleblower

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Psychological safety and other sources of support



Organisations that you can contact for further advice and support

Whistleblowing advice

[Protect](#)

(England, Scotland, Wales and Northern Ireland)

For free and confidential whistleblowing advice.

Telephone: 020 3117 2520

Monday, Tuesday, Thursday: 9:30am – 1pm, 2pm – 5:30pm; Wednesdays and Fridays: 9:30am – 1pm

Webform: [Contact our Advice Line - Protect - Speak up stop harm \(protect-advice.org.uk\)](#)

[Climate Whistleblowers](#) (International)

For climate whistleblowing support and advice.

Telephone: +33 7 52 02 46 97

Email: info@climatewhistleblowers.org

Other contact options set out here:

[Blow the whistle - Climate Whistleblowers](#)

[Whistleblowing International Network \(WIN\)](#) (International)

For suggestions of country-specific whistleblowing advice centres, the following lists provide links to whistleblowing organisations around the world.

WIN members: [Our Members - Whistleblowing International Network \(whistleblowingnetwork.org\)](#)

WIN associates: [Our Associates - Whistleblowing International Network \(whistleblowingnetwork.org\)](#)

Organisations that can help you with other areas of employment law

Your Union

For support, advice and representation.

[Advisory, Conciliation and Arbitration Service \(ACAS\)](#) (England, Wales and Scotland)

For information and help on employment issues and dispute resolution.

Telephone: 0300 123 1100

Monday – Friday: 8am - 6pm

[Labour Relations Agency](#) (Northern Ireland)

For advice and help on employment law issues and dispute resolution.

Workplace Information Service: 03300 555 300

Information on active conciliation, mediation or arbitration cases: 03300 552 220

[Citizens Advice Bureau](#)

(England, Wales and Scotland)

For information and advice on employment issues.

Wales: 0344 4772020

England: 03444 111444

Scotland: 0800 028 1456

[LawWorks](#) (England, Wales and Scotland)

For employment law advice and advice on other areas of law.

This tool can help you find your local free employment law advice centre: [Find a legal advice clinic near you | LawWorks](#)

[Law Centre Northern Ireland](#) (Northern Ireland)

For employment law advice.

Telephone: 02890244401

Email: admin@lawcentreni.org

[Law Centres Network](#)

(England, Wales and Northern Ireland)

For employment law advice and advice on other areas of law.

Find your local Law Centre here: [Law Centres Alphabetically](#)

A private lawyer - the following websites can help you to search for employment lawyers:

[The Law Society](#) has a helpful online tool for finding a solicitor to assist with your case: [Find a Solicitor - The Law Society](#)

[The Bar Council](#) has a directory of barristers who are qualified to receive instructions directly from a client rather than via a solicitor: [Homepage \(directaccessportal.co.uk\)](#)

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[Equality Advisory and Support Service \(EASS\)](#)

(England, Scotland and Wales)

For advice on discrimination issues and the Equality Act 2010.

Telephone: 0808 800 0082

Monday - Friday: 9am - 7pm

Saturday: 10am - 2pm

[Equality Commission Northern Ireland](#)

(Northern Ireland)

For advice on discrimination issues.

Telephone 028 90500600 (10am - 4pm)

Organisations that may be able to help with representation in your legal proceedings, or to negotiate settlement with your employer

Your union

If you want to bring a claim or negotiate a settlement, your union's legal department should be able to assess whether you have a claim under employment legislation and if so, what your prospects of success are at the Employment Tribunal. They may also be able to provide legal advice and representation.

Insurance policy

You may have an insurance plan, such as a home or life insurance policy, that includes legal representation. They can help to finance any legal expenses or support with your claim. Check your policy or call the insurer to check if this is the case.

[Your Employment Settlement Service](#)

(England and Wales)

For means assessed and advice and representation to reach settlement.

Telephone: 020 3701 7530

Monday - Friday: 9:30am - 5:30am

[Advocate](#) (England and Wales)

For free legal help from barristers for people who cannot get public funding (legal aid) and cannot afford to pay.

Webform: [Application form for individuals \(tfaforms.com\)](#)

Email: enquiries@weareadvocate.org.uk

(you should send a copy of the application form, a link to which can be found on this webpage: [Find out the different ways in which you can contact Advocate \(weareadvocate.org.uk\)](#))

Telephone: 020 7092 3960 for a voicemail only service

[Employment Lawyers Litigants-in-Person Scheme \(ELIPS\)](#) (The following tribunal centres: London Central, Bristol, Cardiff, Manchester, Midlands West, Newcastle, or Leeds).

For free advice and representation for individuals bringing an Employment Tribunal claim and who have an upcoming hearing.

Email: elips@elaweb.orgdotuk

[Free Representation Unit \(FRU\)](#)

(If your claim is at a tribunal centre in London or the Southeast of England)

For free representation for those who cannot afford a lawyer. FRU will only accept referrals from their referral agencies [Referral Agencies | FRU](#) (thefru.org.uk)

Telephone: 020 7611 9555

Monday - Friday - 2pm - 4pm

[Free Legal Services Unit](#) (Scotland)

For free legal advice and representation from volunteer advocates for those who cannot afford the legal help they need and who cannot obtain assistance from any other source.

Email: FLSU@advocates.org.uk

Telephone: 01312605689

[Support Through Court](#) (England and Wales)

For practical support to prepare for tribunal (please note they do not provide advice or representation).

National Helpline Telephone: 0300 081 0006

Monday to Friday 9:30am - 4:30pm

National Helpline Email:

nationalhelpline@Supportthroughcourt.org

Search for your local service: [Support Through Court](#)

A private lawyer (details on how to search for a private lawyer can be found above).

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Organisations that can provide emotional support

[Samaritans](#) (UK)

For someone to talk to, whatever you are going through.

Telephone: 116 123 (available 24/7)

Email: jo@samaritans.org

[Lifeline](#) (Northern Ireland)

For Northern Ireland's crisis response helpline.

Telephone: 0808 808 8000 (available 24/7)

Textphone: 18001 0808 808 8000

[SANE](#)

For an out-of-hours mental health helpline offering specialist emotional support, guidance and information to anyone affected by mental illness, including family, friends and carers.

Telephone: 0300 304 7000 (4 - 10pm, 365 days a year)

[National Suicide Prevention Helpline UK](#)

For a supportive listening service to anyone with thoughts of suicide.

Telephone: 0800 689 5652 (6pm - midnight everyday)

[Anxiety UK](#)

For support and advice in relation to anxiety.

Helpline: 03444 775 774

Text support: 07537 416 905 (9.30am - 5.30pm Monday to Friday)

[Campaign Against Living Miserably \(CALM\)](#)

For mental health support for men aged 15 to 35.

Telephone: 0800 58 58 58 (5pm - midnight, 365 days a year)

Webchat: [Homepage | Campaign Against Living Miserably \(CALM\) \(thecalmzone.net\)](#)

[Mind](#) (UK)

For information on mental health problems, where you can get help near you, as well as treatment options and help accessing advocacy services.

Telephone: 0300 123 3393 9am to 6pm, Monday to Friday

Email: info@mind.org.uk

[National Bullying Helpline](#)

For information and advice for anyone dealing with bullying.

Helpline: 0300 323 0169 9am - 5pm Monday - Friday

Telephone: 0845 225 5787 9am - 5pm Monday - Friday

Email: help@nationalbullyinghelpline.co.uk

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Annex

- 10.1 Annex 1 – Prescribed regulators table
- 10.2 Annex 2 – Non-prescribed regulators table
- 10.3 Endnotes

Below is a table of some of the regulators that are Prescribed Persons and have some oversight of environmental and climate-related matters (accurate as of August 2023). Please check the government website for the most up-to-date list of Prescribed Persons ([Whistleblowing: list of prescribed people and bodies - GOV.UK \(www.gov.uk\)](#)) and here for Northern Ireland ([The Public Interest Disclosure \(Prescribed Persons\) \(Amendment\) Order \(Northern Ireland\) 2022 \(legislation.gov.uk\)](#))⁸⁶

The Natural Environment

Regulator	Department of Agriculture, Environment and Rural Affairs, Northern Ireland (DAERA) (Northern Ireland)
Prescribed Person Remit	<p>Matters relating to acts or omissions:</p> <ul style="list-style-type: none"> - which could breach or potentially breach the Northern Ireland Cross-Compliance Verifiable Standards; - which have an actual or potential effect on the environment or the management or regulation of the environment including acts or omissions relating to pollution. <p>Matters relating to acts or omissions which have an adverse or potentially adverse effect on:</p> <ul style="list-style-type: none"> - animal health, veterinary public health or animal welfare; - fish in the sea and fish health; - forests, tree or plant health; - inland fisheries or on migratory eels, salmon or trout.
Confidentiality	<p>DAERA advise that individuals should ask for confidentiality at the outset, when making a report, so that appropriate arrangements can be made. DAERA accept anonymous reports.</p>
Feedback?	<p>If concerns are not raised anonymously DAERA say that the whistleblower will be informed of the general outcome of the concern, but not of specific action as this could infringe upon a duty of confidence owed to another. DAERA are unable to give a general timeframe for receiving feedback as this will differ from case to case.</p>
Contact details	<p>Email: designatedofficer@daera-ni.gov.uk</p> <p>Website: Reporting wrongdoing ("whistleblowing") - how to raise a concern Department of Agriculture, Environment and Rural Affairs (daera-ni.gov.uk)</p>

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The Natural Environment

Regulator	Environment Agency (EA) (England)	Section 1
Prescribed Person Remit	<p>The EA investigates acts and omissions that have an actual or potential effect on the environment or the management or regulation of the environment in England.</p> <p>This includes acts or omissions relating to pollution, abstraction of water, flooding, the flow in rivers, inland fisheries and migratory salmon or trout.</p>	Section 2
Confidentiality	<p>The EA say that they will take steps to protect confidentiality.</p> <p>The EA accept anonymous reports.</p>	Section 3
Feedback?	The EA may provide feedback but this is not guaranteed.	
Contact details	<p>Telephone: 03708 506 506</p> <p>Telephone from outside the UK (Monday to Friday, 8am to 6pm GMT): +44 (0) 114 282 5312</p> <p>Website: Whistleblowing about environmental malpractice: annual report 1 April 2021 to 31 March 2022 - GOV.UK (www.gov.uk)</p> <p>Address: National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY</p>	Section 4
		Section 5
Regulator	The Scottish Environment Protection Agency (SEPA) (Scotland)	Section 6
Prescribed Person Remit	<p>The SEPA investigates acts and omissions that have an actual or potential effect on the environment or the management or regulation of the environment in Scotland.</p> <p>Their remit includes oversight of regulations relating to flood warning systems and pollution in Scotland.</p>	Section 7
Confidentiality	<p>The SEPA say that they will take steps to protect confidentiality.</p> <p>The SEPA accept anonymous reports.</p>	Section 8
Feedback?	<p>The SEPA aim to provide feedback within 3 months; however, they are unable to commit to providing ongoing or interim feedback.</p> <p>The level of feedback provided will depend on the initial information provided and actions SEPA have or propose to take.</p>	Section 9
Contact details	<p>Email: whistleblowing@sepa.org.uk</p> <p>Website: www.sepa.org.uk</p> <p>See their website for issue specific contact numbers.</p>	Section 10

The Natural Environment		
Regulator	Environmental Standards Scotland (ESS) (Scotland)	Section 1
Prescribed Person Remit	ESS has oversight of public authorities' (such as government departments or local authorities) compliance with environmental law, as well as the effectiveness of environmental law, and the way it is being implemented and applied in Scotland. ESS may investigate concerns about the way a public authority is handling its environmental responsibilities. More information about ESS' regulatory remit can be found here: Regulatory responsibilities .	Section 2
Confidentiality	ESS says that the identity of whistleblowers will be treated as confidential. They will not explicitly reveal a whistleblower's identity to their employer without their consent, or unless required by law. The ESS accept anonymous reports, though they recommend that a confidential disclosure is likely to be more effective.	Section 3
Feedback?	ESS will acknowledge a whistleblowing report within three working days. If the whistleblowing report leads to an investigation, ESS will publish this on their website and will inform the whistleblower of this. ESS notes that, as cases vary in complexity, they do not commit to a general timescale for providing feedback, although they do aim to provide updates on progress.	Section 4
Contact details	Telephone: 0808 196 4000 Email: representations@environmentalstandards.scot Website: Whistleblowing - Environmental Standards Scotland	Section 5
Regulator	Office for Environmental Protection (OEP) (England and Northern Ireland)	Section 6
Prescribed Person Remit	The OEP has oversight of public authorities' (such as government departments or local authorities) compliance with environmental law. They have a mission to protect and improve the environment by holding government and other public authorities to account.	Section 7
Confidentiality	The OEP say that they will take steps to protect confidentiality. The OEP accept anonymous reports.	Section 8
Feedback?	The OEP will confirm receipt of a report if contact details are provided. They are not able to provide periodic updates on the progress of an investigation, but they will inform you if your disclosure leads to an investigation.	Section 9
Contact details	Telephone: 03300 416 581 Email: whistleblowing@theoep.org.uk Website: Our whistleblowing policy Office for Environmental Protection (theoep.org.uk) Address: The Disclosure Team, Office for Environmental Protection, Worcestershire County Hall, Spetchley Road, Worcester, WR5 2NP	Section 10
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The Natural Environment

Regulator	Natural Resources Wales (NRW) (Wales)	Section 1
Prescribed Person Remit	<p>NRW has regulatory oversight of the environment and natural resources in Wales, as set out in the Natural Resources Body for Wales (Establishment) Order 2012. Some examples of NRW's regulatory oversight include:</p> <ul style="list-style-type: none"> - major industry (refineries, chemicals, cement, power stations, iron and steel, food and drink etc.); - waste industry (storage, treatment, disposal); - European protected species licensing, marine licensing; - tree felling licensing; - water discharges (surface and groundwater). <p>More information on NRW's regulatory responsibilities can be found here: Natural Resources Wales / Regulatory responsibilities.</p>	Section 2 Section 3
Confidentiality	<p>NRW say that they treat all reports confidentially and make every effort to protect your identity.</p> <p>NRW accept anonymous reports.</p>	Section 4
Feedback?	<p>NRW will acknowledge your concern within 10 working days of receipt. If NRW investigates, they say that you will be kept informed of progress and given a written summary of the outcome of the investigation.</p>	Section 5
Contact details	<p>Telephone: 0300 065 3000 (press '1' when prompted; open 24 hours, 7 days a week) Contacts Incident Communications Centre</p> <p>Online form: Natural Resources Wales / Whistleblowing</p> <p>Address: Head of Governance and Head of Internal Audit, Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP</p>	Section 6 Section 7
Regulator	The Loughs Agency of the Foyle, Carlingford and Irish Lights Commission (Northern Ireland)	Section 8
Prescribed Person Remit	<p>The Loughs Agency have oversight of acts or omissions that have an adverse or potentially adverse effect on inland fisheries or on migratory salmon or trout in Northern Ireland.</p>	Section 8
Confidentiality	<p>The Loughs Agency say that they will do their utmost to protect a whistleblower's identity if they do not want their name to become known; however, they note that it must be appreciated that the investigation process may lead to disclosure of the whistleblower's identity.</p>	Section 9
Feedback?	<p>The Loughs Agency has not confirmed its approach to feedback.</p>	Section 10
Contact details	<p>Telephone: 02871 342100</p> <p>Email: info@loughs-agency.org</p> <p>Address: Director of Corporate Services, Loughs Agency, 22 Victoria Road, Prehen, Derry-Londonderry, BT47 2AB</p> <p>Website: External Whistleblowing - Loughs Agency (loughs-agency.org)</p>	Appendix

Water and sewerage		
Regulator	Water Services Regulation Authority (Ofwat) (England and Wales)	Section 1
Prescribed Person Remit	Ofwat has oversight of matters relating to the economic regulation of the water and sewage sector in England and Wales.	Section 2
Confidentiality	Ofwat say that they will endeavour to keep a whistleblower's identity confidential, unless there is an overriding interest for it to be disclosed. They accept anonymous reports.	Section 3
Feedback?	Ofwat will try and keep the whistleblower informed of any progress in general terms. Legal restrictions may prevent Ofwat from giving detailed feedback.	Section 3
Contact details	Telephone: 0121 644 7500 Email: mailbox@ofwat.gov.uk online form Webform: Submit an Enquiry · Customer Self-Service (ofwatcaseportal.org.uk) Address: Ofwat, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA Website: Whistleblowing - Ofwat	Section 4 Section 5
Regulator	The Water Industry Commission for Scotland (WICS) (Scotland)	Section 6
Prescribed Person Remit	WICS is the economic regulator of Scottish Water. They have oversight of matters relating to the supply of water and provision of sewerage services in Scotland.	Section 7
Confidentiality	WICS say that all concerns raised will be treated in confidence and every effort will be made not to reveal the identity of an individual who raises a concern. WICS does allow for anonymous reports and are able to have a hypothetical call to explain their approach to handling concerns.	Section 8
Feedback?	For non-anonymous disclosures, WICS say they will keep whistleblowers informed of the progress of the investigation carried out, when it is completed, and give an indication of timings for any actions or next steps that they will take. They say they will not, however, be able to inform the whistleblower of any matters that would infringe a duty of confidentiality owed to others.	Section 9
Contact details	Telephone: 01786 430200 Email: enquiries@watercommission.co.uk Address: Water Industry Commissioner for Scotland, First Floor Moray House, Forthside Way, Stirling, FK8 1QZ Website: Whistleblowing policy WICS	Section 10 Appendix

Water and sewerage

Regulator	Northern Ireland Authority for Utility Regulation (the Utility Regulator) (Northern Ireland)	Section 1
Prescribed Person Remit	The Utility Regulator is the regulator of the electricity, gas, water and sewerage industries in Northern Ireland. This includes regulation of the abstraction, treatment, distribution and supply of drinking water to the public and activities ancillary to these matters, as well as the regulation of the collection, treatment and disposal of wastewater and sewage sludge and activities ancillary to these matters.	Section 2
Confidentiality	The Utility Regulator say that they will take steps to protect a whistleblower's identity and will only disclose it with their consent or if directed to do so by a Court. They accept anonymous reports.	Section 3
Feedback?	The Utility Regulator will try and keep a whistleblower informed of any progress in general terms. Legal restrictions may prevent the Utility regulator from giving detailed feedback.	Section 4
Contact details	Telephone switchboard: 028 9031 1575 Email: info@uregni.gov.uk Address: Utility Regulator, Queens House, 14 Queen's Street, Belfast, BT1 6ED Website: https://www.uregni.gov.uk/ Whistleblowing policy: Guide Section 5.1 - External Whistleblowing Guide (December 2018)_0.docx(live.com)	Section 5
Regulator	Drinking Water Inspectorate (DWI) (England and Wales)	Section 6
Prescribed Person Remit	DWI has oversight of the quality and sufficiency of water supplied by the water industry, as well as the security of network and information systems within the drinking water supply and distribution sector.	Section 7
Confidentiality	DWI say that they will take steps to protect confidentiality. However, they do note that in certain circumstances they may be required by law to reveal it. DWI accept anonymous reports and are able to have a hypothetical call to explain their approach to handling concerns.	Section 8
Feedback?	DWI say that they do not offer feedback regarding the outcomes of investigations into concerns raised.	Section 9
Contact details	Telephone: 0330 041 6501 Email: dwi.enquiries@defra.gov.uk Website: https://www.dwi.gov.uk/whistleblowing/	Section 10

Appendix

Energy		
Regulator	Ofgem (The Gas Electricity Markets Authority) (England, Wales and Scotland)	Section 1
Prescribed Person Remit	Ofgem are the energy regulator for Great Britain. They have oversight of the generation, transmission, distribution and supply of electricity, the transportation, shipping and supply of gas through pipes, smart meter communication service and ancillary activities, as well as the renewable generation of heat.	Section 2
Confidentiality	Ofgem say they will take steps to protect confidentiality; however, they cannot guarantee confidentiality in all cases (for example, they may be required by law to disclose the identity of a whistleblower). Ofgem accept anonymous reports.	Section 3
Feedback?	Generally, Ofgem cannot update whistleblowers regarding the progress or outcome of an investigation. New investigations are normally published on Ofgem's website.	Section 4
Contact details	Telephone: 020 7901 7121 Email: whistle@ofgem.gov.uk Address: Whistleblowing Desk, Ofgem, 10 South Colonnade, Canary Wharf, London, E14 4PU Website: Guidance on Whistleblowing to Ofgem Ofgem	Section 5
		Section 6
Regulator	Northern Ireland Authority for Utility Regulation (the Utility Regulator) (Northern Ireland)	
Prescribed Person Remit	The Utility Regulator is the regulator of the electricity, gas, water and sewerage industries in Northern Ireland. It has oversight of matters relating to the regulation of the generation, transmission, distribution and supply of electricity, and activities ancillary to these matters, as well as the regulation of the conveyance, storage and supply of gas through pipes, and activities ancillary to these matters.	Section 7
Confidentiality	See NIAUR entry above.	Section 8
Feedback?	See NIAUR entry above.	Section 9
Contact details	See NIAUR entry above.	

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Green Claims / Greenwashing

Regulator	Competition and Markets Authority (CMA) (England, Wales, Scotland and Northern Ireland)	Section 1
Prescribed Person Remit	The CMA has oversight of matters concerning the sale of goods or the supply of services that adversely affect the interests of consumers or competition that affects markets in the UK. The CMA has scope to investigate misleading 'green' claims.	Section 2
Confidentiality	CMA say that they will take steps to protect confidentiality. The CMA accept anonymous reports. They can have a hypothetical call to explain their approach to handling concerns.	Section 3
Feedback?	If contact details are provided, the CMA aim to contact the whistleblower within 2 working days. Further contact with and/or feedback to whistleblowers will depend on the concerns themselves.	Section 4
Contact details	Telephone: 020 3738 6556 Email: whistleblower@cma.gov.uk Address: Competition and Markets Authority, The Cabot, 25 Cabot Square, London, E14 4QZ Website: Guidance on whistleblowing - GOV.UK (www.gov.uk)	Section 5

Green Claims / Climate finance

Regulator	Financial Conduct Authority (FCA) (England, Wales, Scotland and Northern Ireland)	Section 6
Prescribed Person Remit	The FCA have oversight of matters regarding money laundering, financial crime and other serious financial misconduct, in connection with activities regulated by the FCA. Their remit could include concerns about climate-related financial disclosures and greenwashing.	Section 7
Confidentiality	The FCA say that they will take steps to protect confidentiality. The FCA accept anonymous reports.	Section 8
Feedback?	The FCA say that whistleblowers can request quarterly updates on progress, but these will often be limited in detail.	Section 9
Contact details	Telephone: +44 (0)20 7066 9200 between 9am to 12pm and 2pm and 5pm Email: whistle@fca.org.uk Website: Whistleblowing FCA Webform: https://fca.clue-webforms.co.uk/webform/fca/en Address: Financial Conduct Authority (FCA), Intelligence Department (ref PIDA), 12 Endeavour Square, London, E20 1JN The FCA are willing to organise in-person meetings if appropriate	Section 10

Appendix

Green Claims / Climate finance

Regulator	Prudential Regulation Authority (PRA) (England, Wales, Scotland and Northern Ireland)	Section 1
Prescribed Person Remit	The PRA have oversight of matters relating to the carrying on of deposit-taking business, insurance business, or investment business and the safety and soundness of persons authorised for such purposes. This could include firms suspected of greenwashing or other environmental damage, concerns that senior managers fail to understand climate change, manipulate audits, or mislead regulators about the progression of Climate Change, as well as the manipulation of ESG ratings and misinformation regarding climate change data.	Section 2
Confidentiality	The PRA say that they are committed to protecting confidentiality. The PRA accept anonymous reports.	Section 3
Feedback?	The PRA say that they will try to keep individuals updated as their case progresses, they provide limited feedback about the outcome to the whistleblower and may be unable to discuss in detail what they have done with the information provided.	Section 4
Contact details	Telephone: 020 3461 8703 Email: whistleblowing@bankofengland.co.uk Address: Bank of England, Intelligence and Whistleblowing Team, Threadneedle Street, London, EC2R 8AH Website: Whistleblowing and the Bank of England Bank of England	Section 5
		Section 6

Health and safety

Regulator	The Health and Safety Executive (HSE) (England, Wales and Scotland)	Section 7
Prescribed Person Remit	The HSE is responsible for enforcing the health and safety of individuals at work, or the health and safety of the public arising out of, or in connection with, the activities of persons at work.	Section 8
Confidentiality	The HSE's webform requests name and contact details, but they note that they will not disclose whistleblower's names to their employer if they do not want them to. Whistleblowers should ask for confidentiality when reporting. HSE say that if an individual does not give them their phone number or email address, and there is not enough information in the report, they may not be able to do anything about the concern.	Section 9
Feedback?	The HSE say that they may call or email a whistleblower for more information within 3 working days. The HSE aim to email the whistleblower within 15 working days to provide the outcome of their report.	Section 10
Contact details	Telephone: 0300 003 1647 Webform: www.hse.gov.uk/contact/concerns.htm Website: Whistleblowers - Contact HSE	Appendix

Health and safety		
Regulator	Health and Safety Executive for Northern Ireland (HSENI) (Northern Ireland)	Section 1
Prescribed Person Remit	HSENI have oversight of matters that may affect the health and safety of any individual at work or the health and safety of any member of the public, arising out of, or in connection with, the activities of persons at work.	Section 2
Confidentiality	HSENI say that all complaints (not only whistleblowing concerns) will be treated in confidence unless they are required by law to disclose an individual's identity. HSENI ask that, where possible, individuals should provide their contact details to allow them to obtain further information.	Section 3
Feedback?	HSENI say they will not contact an individual unless further information is required or a return call has been previously agreed.	
Contact details	<p>Email: mail@hseni.gov.uk</p> <p>Telephone: 0800 0320 121</p> <p>General webform: Report of a complaint about unsafe work activities</p> <p>Address: Health and Safety Executive for Northern Ireland, 83 Ladas Drive, Belfast, BT6 9FR</p> <p>Website: Complaints about unsafe and unhealthy work activities Health and Safety Executive Northern Ireland (hseni.gov.uk)</p>	Section 4
		Section 5
Regulator	Office for Nuclear Regulation (ONR) (covers the UK but is only prescribed for England, Wales and Scotland – not for Northern Ireland)	Section 6
Prescribed Person Remit	The ONR's remit includes matters that may affect the health and safety of individuals on a nuclear site, an authorised defence site or a new nuclear build site. They are also interested in the health and safety of any member of the public in connection with the activities of persons at work, on premises which are, or are on, such sites.	Section 7
Confidentiality	<p>The ONR say that a whistleblower's identity can still be protected, even if they share their contacts details with the ONR.</p> <p>They accept anonymous reports, but, in most cases, it is not possible to progress them without contacting the individual, as they are unlikely to have enough information to fully understand the facts or take action.</p>	Section 8
Feedback?	The ONR say that they will provide whistleblowers with a key point of contact and will regularly inform them of the progress of the case and let them know the final outcome of the report at the end of its enquiries. However, the ONR may not always be able to provide details of the action taken.	Section 9
Contact details	<p>Email: Contact@ONR.gov.uk</p> <p>Webform: Make a protected disclosure to ONR - Office for Nuclear Regulation - News</p> <p>Address: Office for Nuclear Regulation, Building 4 Redgrave Court, Merton Road, Bootle, L20 7HS</p> <p>Website: www.onr.org.uk/complaints-concerns-whistleblowing.htm</p>	Section 10
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Health and safety		
Regulator	Food Standards Agency (FSA) and National Food Crime Unit (NFCU) (England, Wales and Northern Ireland)	Section 1
Prescribed Person Remit	The FSA have oversight of matters which may present a risk to the health of any member of the public, in connection with the production, supply or consumption of food, or otherwise concern the protection of consumer interests in relation to food in England, Wales, or Northern Ireland. This could include, farm waste being illegally disposed of, waste being diverted into rivers, or animal by-products not being disposed of properly.	Section 2
Confidentiality	The FSA say that they will keep whistleblowers' details confidential and will not expose these to any third-party. The FSA accept anonymous reports. If the NFCU are involved, they have a dedicated unit, comprising of trained staff who assess the risk to a whistleblower. They work with whistleblowers to try and ensure that, if they take action regarding whistleblowers' concerns, they maintain their anonymity.	Section 3 Section 4
Feedback?	The FSA say that whether feedback is given is assessed on a case-by-case basis, due to the volume of calls received. If there is a special requirement for feedback, it will be given.	Section 5
Contact details	Telephone: 0330 332 7149 Email: foodcrime@food.gov.uk Webform: Report a food crime Food Standards Agency NFCU Direct Line: 0207 276 8787 Address: Food Standards Agency, Floors 6 and 7, Clive House, 70 Petty France, London, SW1H 9EX Website: www.food.gov.uk / Report a food crime Food Standards Agency	Section 6 Section 7
Regulator	Food Standards Scotland (FSS) (Scotland)	
Prescribed Person Remit	FSS have oversight of matters which affect the health and safety of consumers and the authenticity of food production in Scotland.	Section 8
Confidentiality	FSS say they will take steps to protect confidentiality. FSS accept anonymous reports and will investigate them so far as is possible.	Section 9
Feedback?	FSS say that they may arrange a meeting to determine how the concern should be taken forward. FSS aim to update a whistleblower on progress within 28 days.	
Contact details	Telephone: 01224 285100 Address: Food Standards Scotland, 4th Floor, Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL Website: www.foodstandards.gov.scot Whistleblowers can report any suspicions or knowledge of food crime to the free and confidential Scottish Food Crime Hotline, in partnership with Crimestoppers at 0800 028 7926 or online or in confidence contact the Scottish Food Crime and Incidents Unit directly via email at foodcrime@fss.scot .	Section 10 Appendix

Health and safety

Regulator	Your local authority (England, Wales, and Scotland)	Section 1
Prescribed Person Remit	Local Authorities in England, Wales and Scotland cover the following matters in their capacity as Prescribed Persons: <ul style="list-style-type: none"> – compliance with the requirements of food safety legislation; – matters that may affect the health or safety of any individual at work; – matters that may affect the health and safety of any member of the public arising out of or in connection with the activities of persons at work. 	Section 2
Confidentiality	Each Local Authority will have a different approach to confidential and anonymous reporting.	Section 3
Feedback?	Each Local Authority will have a different approach to providing feedback. If you would like to receive feedback regarding your disclosure, you should request this at the outset.	Section 4
Contact details	Find the contact details for your local authority: Find your local council - GOV.UK (www.gov.uk)	Section 5

Transport

Regulator	Civil Aviation Authority (CAA) (England, Wales, Scotland and Northern Ireland)	Section 6
Prescribed Person Remit	The CAA have oversight of compliance with the requirements of civil aviation legislation, including noise levels, ground handling and improper aviation operations.	Section 7
Confidentiality	The CAA say that they will respect the confidentiality of a whistleblower, unless agreed otherwise with them. The CAA may not investigate anonymous reports.	Section 8
Feedback?	The CAA will provide feedback regarding whether an investigation is ongoing or concluded but, in most cases, will not provide specific information about an investigation.	Section 9
Contact details	Email: whistleblowing@caa.co.uk Online: Whistleblowing report form Telephone: 0330 138 2847 Address: Civil Aviation Authority, Aviation House Gatwick Airport South, West Sussex, RH6 0YR Website: website	Section 10

Transport		
Regulator	Office for Rail and Road (ORR) (England, Wales, and Scotland)	Section 1
Prescribed Person Remit	The ORR has oversight of the provision and supply of railway services and any other activities in relation to ORR functions. These functions include regulating the rail industry's health and safety performance.	Section 2
Confidentiality	The ORR say that they will always protect the identity of a whistleblower as far as is possible. The ORR accept anonymous reports but are not open to hypothetical calls.	Section 3
Feedback?	The ORR aim to provide feedback to whistleblowers regarding the outcome of their concerns to the extent that confidentiality permits. There is no general timeframe for feedback, as this will be dependent on the type of concern raised.	Section 4
Contact details	Telephone: 020 7282 2093 Address: Office of Rail and Road, 25 Cabot Square, Canary Wharf, London, E14 4QZ Email: board.secretariat@orr.gov.uk Website: www.orr.gov.uk / Whistleblowing Office of Rail and Road (orr.gov.uk)	Section 5
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Below is a table of some of the regulators who have oversight of environmental or climate matters but are not Prescribed Persons (accurate as of August 2023). Please check online for the most up-to-date information. More useful environmental contacts can be found here: [Useful contacts for common environmental issues and concerns | Office for Environmental Protection \(theoep.org.uk\)](#)

Regulator	Summary of Key Areas	Website / contact details
Animal and Plant Health Agency	For exotic diseases, pests and animals, and specifically endangered wildlife.	Contact APHA - GOV.UK (www.gov.uk)
Centre for Environment, Fisheries & Aquaculture Science (CEFAS)	For animal health, fisheries, as well as environmental planning and protection.	Contact - Cefas (Centre for Environment, Fisheries and Aquaculture Science)
Forestry Commission (FC)	For protecting and promoting the sustainable management of woodlands.	Forestry Commission - GOV.UK (www.gov.uk)
Department for Environment, Food and Rural Affairs (DEFRA)	For safeguarding the environment, food, and farming industries.	Contact Defra - GOV.UK (www.gov.uk)
Historic England (HE)	For historic environments and their heritage assets – on land and underwater.	Contact Historic England Historic England
Joint Nature Conservation Committee (JNCC)	For UK-wide and international conservation concerns.	Contact points and enquiries JNCC - Adviser to Government on Nature Conservation
Marine Management Organisation (MMO)	For licensing and regulating marine activities in the seas around England and Wales.	Marine Management Organisation - GOV.UK (www.gov.uk)
National Highways	For England's motorways and major A roads.	National Highways Report a problem
National Parks England	For England's ten National Parks.	Contact NPE: National Parks England
Natural England	For work affecting protected species and sites, as well as countryside access issues.	Natural England - GOV.UK (www.gov.uk)
Planning Inspectorate	For national and local infrastructure planning applications and other specialist casework.	Planning Inspectorate - GOV.UK (www.gov.uk)
Local authorities	Local Authorities fulfil several environmental roles, including regulating emissions to air, water and land from smaller industrial plants, as well as the collection and disposal of municipal waste.	Find the contact details for your local authority: Find your local council - GOV.UK (www.gov.uk)

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1. <https://www.ohchr.org/en/press-releases/2022/10/climate-change-greatest-threat-world-has-ever-faced-un-expert-warns>, <https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health>
2. <https://www.ipcc.ch/report/sixth-assessment-report-cycle/>
3. <https://www.ipcc.ch/report/sixth-assessment-report-cycle>, <https://unfccc.int/process-and-meetings/the-paris-agreement>, https://unfccc.int/files/meetings/paris_nov_2015/application/pdf/paris_agreement_english_.pdf?gclid=Cj0KCQjwnrmlBhDhARIsADJ5b_I1pOYccyBDBPpQNV_5XheVGblQSOpf1K7jTKf54vVBkyNXjZo-RwaAqEQEALw_wcB
4. A/HRC/53/25: Sustainable development and freedom of expression: why voice matters – Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. <https://www.ohchr.org/en/documents/thematic-reports/ahrc5325-sustainable-development-and-freedom-expression-why-voice>.
5. <https://whistleblower.org/meltdown-three-mile-island>, <https://www.ft.com/content/c1fd5ed0-e3f1-4c54-91f7-f0ad5a10af9a>, https://vimeo.com/752458353/8cea6aafc2?embedded=true&source=video_title&owner=58671446
6. <https://www.ons.gov.uk/peoplepopulationandcommunity/welbeing/articles/worriesaboutclimatechangegreatbritain/septembertooctober2022#worries-about-climate-change>
7. <https://commonslibrary.parliament.uk/the-rise-of-climate-change-activism/>
8. Statistics from Protect’s Advice Line.
9. Environment Act 2021 (legislation.gov.uk), <https://www.theoep.org.uk/node/17>.
10. <https://www.environmentalstandards.scot/about-us/>
11. <https://greendaims.campaign.gov.uk/>, <https://www.fca.org.uk/firms/climate-change-sustainable-finance/reporting-requirements>
12. <https://www.sepa.org.uk/media/594488/whistle-blowing-report-2021-22.pdf>
13. <https://www.gov.uk/government/publications/whistleblowing-annual-reports/whistleblowing-about-environmental-malpractice-annual-report-1-april-2021-to-31-march-2022>, <https://cdn.cyfoethnaturiol.cymru/media/695434/2021-22-annual-report.pdf>
14. In the period 2021-2022, DAERA reported that they received a total of 32 whistleblowing / Raising concern notifications but this figure includes internal disclosures from DAERA’S own staff, as well as external disclosures from workers in other organisations. DAERA confirmed that none of these disclosures related to environmental concerns. [DAERA Resource Accounts 2021-22 (daera-ni.gov.uk)].
15. Protect asked this question to all regulators listed in Annex 1– Prescribed regulators table. Not all regulators responded to our request.
16. This figure is from YouGov Plc. Total sample size was 2088 adults. Fieldwork was undertaken between 1st - 2nd August 2023. The survey was carried out online. The figures have been weighted and are representative of all UK adults (aged 18+). 36% of all workers (net) said that whistleblowers who speak out on environmental issues at work are protected under UK law.
17. **Negative treatment: victimisation from managers, bullying from co-workers, suspension, dismissal, and resignation.** Sample size of 79 running from Jan 2012-December 2022 (all callers who had raised an environmental concern when they first contacted Protect).
18. **Negative treatment: victimisation from managers, bullying from co-workers, suspension, dismissal, and resignation.** Sample size of 13,319 running from January 2012-December 2022 (all callers who had raised a concern of any type when they first contacted Protect).
19. This figure is from YouGov Plc. Total sample size was 2088 adults. Fieldwork was undertaken between 1st - 2nd August 2023. The survey was carried out online. The figures have been weighted and are representative of all UK adults (aged 18+).
- 33% of all workers (net) who said that they had raised a concern about environment issues or damage at work in the past two years, reported that their concern was ignored.
20. <https://protect-advice.org.uk/interim-relief>
21. <https://www.legislation.gov.uk/ukpga/1996/18/contents>
22. https://assets.publishing.service.gov.uk/media/5e15c3e3ed915d3b12934fb6/Miss_R_Phillips_v_BCA_Logistics_Limited_-_1600973.2018_-_Judgment.pdf
23. <https://www.gov.uk/employment-tribunal-decisions/mr-m-wakefield-v-a-domast-manufacturing-ltd-1801196-slash-2020>
24. <https://www.theguardian.com/environment/2016/dec/02/the-40m-magic-pipe-princess-cruises-given-record-fine-for-dumping-oil-at-sea>
25. <https://constantinecannon.com/practice/whistleblower/whistleblower-types/environmental/act-prevent-pollution-ships/>
26. <https://www.epa.gov/gmi/importance-methane#:~:text=Methane%20is%20the%20second%20most%20of%20percent%20of%20global%20emissions>
27. <http://edition.cnn.com/2010/POLITICS/06/08/govt.whistleblower.on.bp/index.html>, <https://whistleblower.org/gulfruth/>
28. <https://committees.parliament.uk/publications/8460/documents/88412/default/>
29. <https://www.gov.uk/government/publications/farming-rules-for-water-in-england>, <https://www.gov.uk/government/publications/applying-the-farming-rules-for-water/applying-the-farming-rules-for-water#:~:text=The%20farming%20rules%20for%20water%20were%20introduced%20to%20reduce%20and%20manage%20of%20soil%20and%20lives%20stock>
30. <https://www.theguardian.com/environment/2022/apr/21/breaches-of-english-farm-pollution-laws-rise-as-rules-remain-largely-unenforced>, <https://www.theguardian.com/environment/2023/apr/21/farmer-jailed-for-damaging-river-lugg-herefordshire>
31. <https://www.gov.uk/government/publications/environment-agency-enforcement-and-sanctions-policy/environment-agency-enforcement-and-sanctions-policy#public-interest>
32. <https://www.gov.uk/government/publications/offence-response-options-environment-agency>
33. <https://www.gov.uk/government/publications/environment-agency-enforcement-and-sanctions-policy>
34. This case study is based on episode 3 ‘A one man mission’ of Buried, a BBC podcast. <https://www.bbc.co.uk/programmes/m001hfcw>
35. <https://www.gov.uk/guidance/environmental-impact-assessment>
36. <https://greendaims.campaign.gov.uk/>
37. <https://www.gov.uk/cma-cases/asos-boohoo-and-asda-greenwashing-investigation>
38. Sections 172 and 174 Companies Act 2006
39. <https://www.legislation.gov.uk/ukpga/2006/46/section/174>
40. <https://www.clientearth.org/latest/latest-updates/news/were-taking-legal-action-against-shell-s-board-for-mismanaging-climate-risk/>
41. <https://unfccc.int/process-and-meetings/the-paris-agreement>
42. <https://www.gov.uk/employment-tribunal-decisions/mr-a-j-cambridge-v-mott-macdonald-ltd-1400498-slash-2021>
43. <https://protect-advice.org.uk/what-is-whistleblowing/#:~:text=What%20is%20the%20difference%20between%20whistleblowing%20and%20a%20grievance%3F>
44. https://news.un.org/en/story/2021/03/1088712?_ga=2.1650609.1403080343.1693232618-2040543822.1689787059
45. <https://www.bailii.org/ew/cases/EWCA/Civ/2017/979.html>
46. https://assets.publishing.service.gov.uk/media/63da44d8e90e0773d8af2cba/Mr_M_Carr_v_Bloomberg_LP_.pdf

47. <https://protect-advice.org.uk/breach-of-personal-data-whistleblowing/>, <https://protect-advice.org.uk/misuse-private-information-whistleblowing/>, <https://protect-advice.org.uk/breach-of-confidence/>
48. <https://www.washingtonpost.com/technology/2021/10/26/frances-haugen-facebook-whistleblower-documents/>
49. <https://protect-advice.org.uk/raising-a-concern/>
50. <https://protect-advice.org.uk/internal-disclosures/>
51. <https://protect-advice.org.uk/raising-a-concern/>
52. However, it should be noted that trade unions are not prescribed persons, this means that if you disclose your whistleblowing concerns to your union and your employer becomes aware of it and treats you negatively, legal protection under whistleblowing law may be more difficult to access. Your employer may argue that you have made a wider disclosure, which requires you to satisfy tougher legal tests than when you make a disclosure to your employer (see diagram 1 in section 7.1).
53. <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies>, <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/Public-Interest-Disclosure-PID-guidance.pdf>
54. <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies>, <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/Public-Interest-Disclosure-PID-guidance.pdf>
55. <https://www.parliament.uk/get-involved/contact-an-mp-or-lord/contact-your-mp/>
56. <https://www.parliament.scot/msps/about-msps/what-issues-an-mp-can-help-you-with>
57. <https://www.wsj.com/articles/fired-executive-says-deutsche-banks-dws-overstated-sustainable-investing-efforts-11627810380>
58. <https://www.thebureauinvestigates.com/stories/2022-10-31/mines-pipelines-and-oil-rigs-what-hsbc-sustainable-finance-really-pays-for> and <https://www.thebureauinvestigates.com/stories/2023-01-11/hsbcs-loan-to-a-german-dirty-coal-giant>
59. <https://www.thebureauinvestigates.com/stories/2017-09-19/blowing-the-whistle-on-the-meat-industry>
60. <https://www.theguardian.com/world/2013/mar/03/katharine-gun-iraq-war-whistleblower>, <https://www.theguardian.com/technology/2021/oct/24/frances-haugen-i-never-wanted-to-be-a-whistleblower-but-lives-were-in-danger>, <https://www.forbes.com/sites/bobecclles/2023/01/17/a-whistleblowers-tale-as-told-by-desiree-fixler/?sh=787ea1fd64d1>
61. <https://protect-advice.org.uk/defamation-whistleblowing/>
62. <https://protect-advice.org.uk/breach-of-confidence/>
63. <https://www.endsreport.com/sevem>
64. The effective date of dismissal is the date on which an employee's notice period expires or, if dismissed without notice, the date on which termination takes effect.
65. <https://www.legislation.gov.uk/ukpga/1996/18/contents>
66. <https://protect-advice.org.uk/who-is-protected-by-pida/>
67. <https://protect-advice.org.uk/ive-been-victimised-for-raising-concerns/>
68. <https://protect-advice.org.uk/ive-been-dismissed-or-forced-out-for-raising-concerns/>
69. The effective date of dismissal is the date on which an employee's notice period expires or, if dismissed without notice, the date on which termination takes effect.
70. <https://protect-advice.org.uk/interim-relief/>
71. <https://protect-advice.org.uk/remedies-in-whistleblowing-cases/>
72. https://www.bailii.org/uk/cases/UKCAT/2009/0219_09_0311.html
73. *Mr J Casamitjana Costa v The League Against Cruel Sports: 3331129/2018*, <https://www.gov.uk/employment-tribunal-decisions/mr-j-casamitjana-costa-v-the-league-against-cruel-sports-3331129-2018>, <https://www.bbc.com/news/uk-england-london-51709141>
74. <https://www.gov.uk/employment-tribunal-decisions/mr-j-casamitjana-costa-v-the-league-against-cruel-sports-3331129-2018>
75. As set out in *Grainger plc and others v Nicholson [2010] IRLR 4*. [https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKCAT/2009/0219_09_0311.html&query=\(Grainger\)+AND+\(plc\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKCAT/2009/0219_09_0311.html&query=(Grainger)+AND+(plc))
76. <https://www.bailii.org/ew/cases/EWHC/QB/2020/901.html>
77. <https://www.leighday.co.uk/news/cases-and-testimonials/cases/ernst-young/>
78. <https://ecology.iww.org/PDF/misc/shell-strike.pdf>
79. <https://redgreenlabour.org/2019/06/12/open-letter-to-unions-ukscn-stands-in-solidarity/>
80. <https://www.unison.org.uk/get-help/knowledge/disputes-grievances/industrial-action/>
81. <https://www.legislation.gov.uk/ukpga/1992/52/contents>
82. <https://www.ier.org.uk/resources/trade-union-act-2016-what-says-what-it-means/>
83. <https://chancerylaneproject.org/climate-clauses/net-zero-within-company-whistleblowing-policies/>
84. Statistics from Protect's Advice Line. Negative treatment: victimisation from managers, bullying from co-workers, suspension, dismissal, and resignation. Sample size of 1060 running from January 2022-December 2022
85. <https://protect-advice.org.uk/the-inside-story-ep-1/>, <https://www.youtube.com/watch?v=JGBNFukUM2w>
86. <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies>, <https://www.legislation.gov.uk/nisr/2022/72/made>.

Section 1

Section 2

Section 3

Section 4

Section 5

Section 6

Section 7

Section 8

Section 9

Section 10

Appendix



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