

# Making whistleblowing work



London October 2009

# Public Concern at Work

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PCaW is an independent charity, founded in 1993. We provide:

**free confidential advice** to people concerned about wrongdoing in the workplace who are unsure whether or how to **raise their concern**,

train organisations on **accountability**, whistleblowing and risk management,

campaign on **public policy**, and

promote **public interest whistleblowing** laws.

# Whistleblowing

**The whistle was blown, but Enron never heard it**

**EC clears whistleblower who exposed Brussels fraud**

**Canoe death firm 'had been warned over safety'**

**Maxwell may have transferred £400 million without authority**

**Fraud office inquiry into pension fund**

**Ferry firm admits doors were open**

**Why I had to blow the whistle on heart unit**

Daily Mail Reporter  
A HOSPITAL heart unit died put lives

**...the tragedy of Zeebrugge**

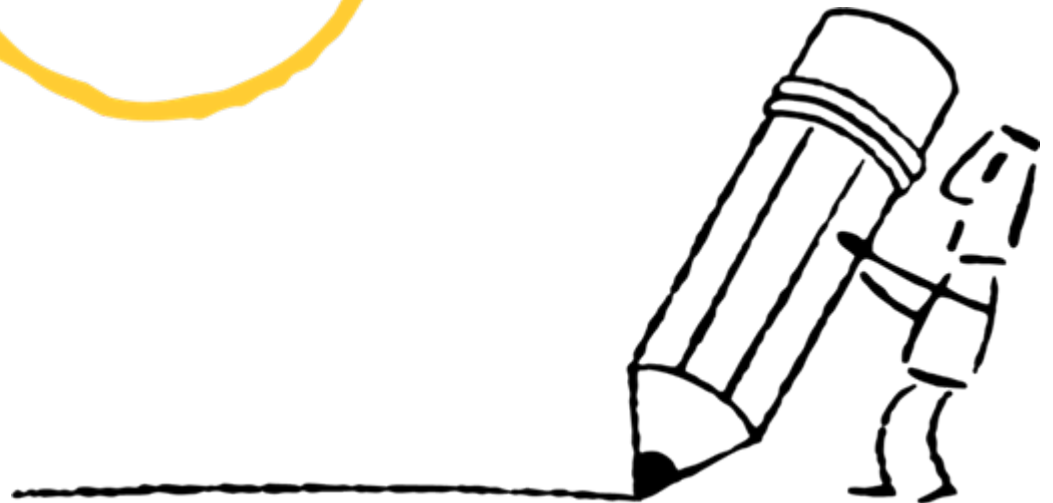


Is it a **dilemma** **Whistleblowing**  
**for your staff?**

# The dilemma

Keep quiet?

Go Outside?



# Public Interest Disclosure Act



# Public Interest **Disclosure Act**

Promotes and protects **open** whistleblowing

Tiered disclosure regime, which emphasises **internal whistleblowing**, regulatory oversight and recognises **wider accountability**

Signals a **change in the culture**

International **benchmark**

**The scope of**

**PIDA**



# The scope of **PIDA**

Applies to almost **every worker**

Wide definition of **wrongdoing**

Application **overseas**

Burden of **proof** reversal

Full **compensation**

Impacts on **gagging clauses** and secrecy offences

# The stepped disclosure regime

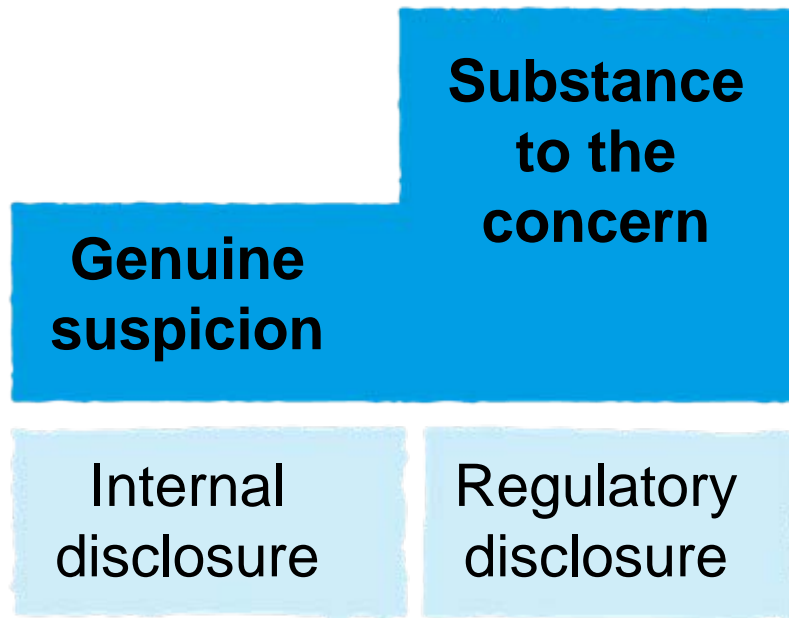


# The tiered disclosure regime

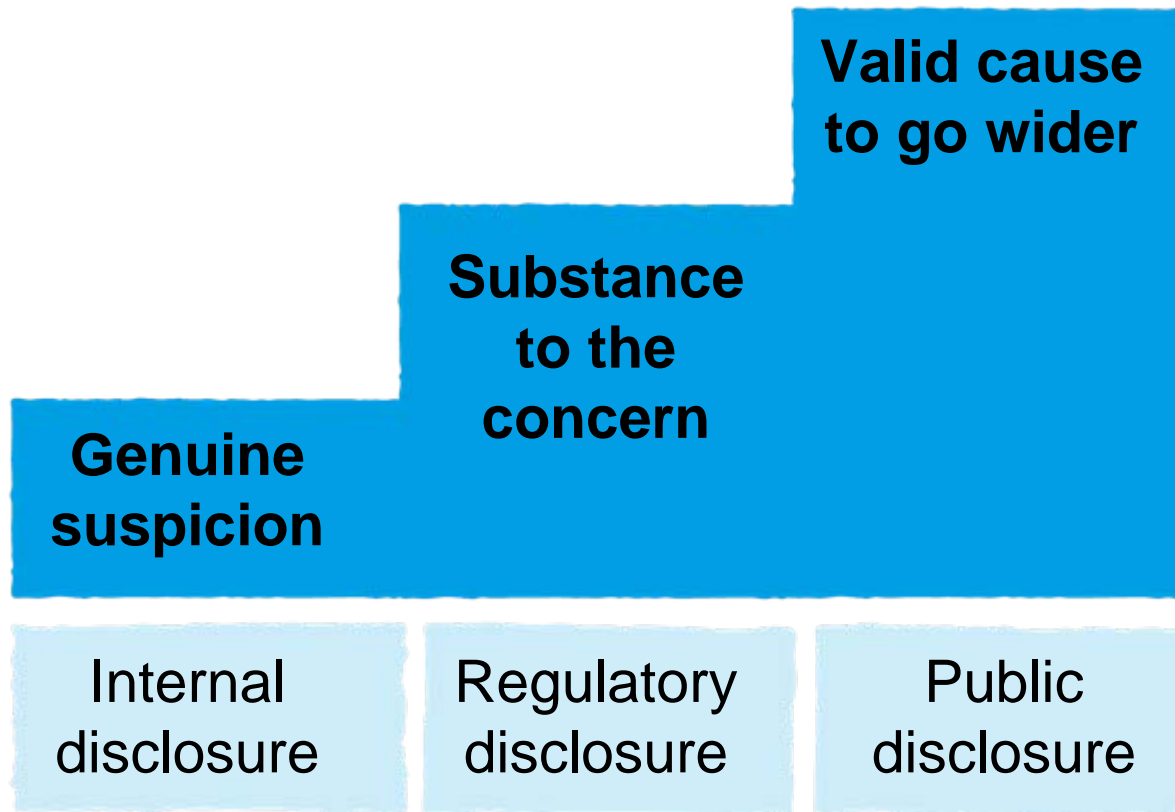
**Genuine  
suspicion**

Internal  
disclosure

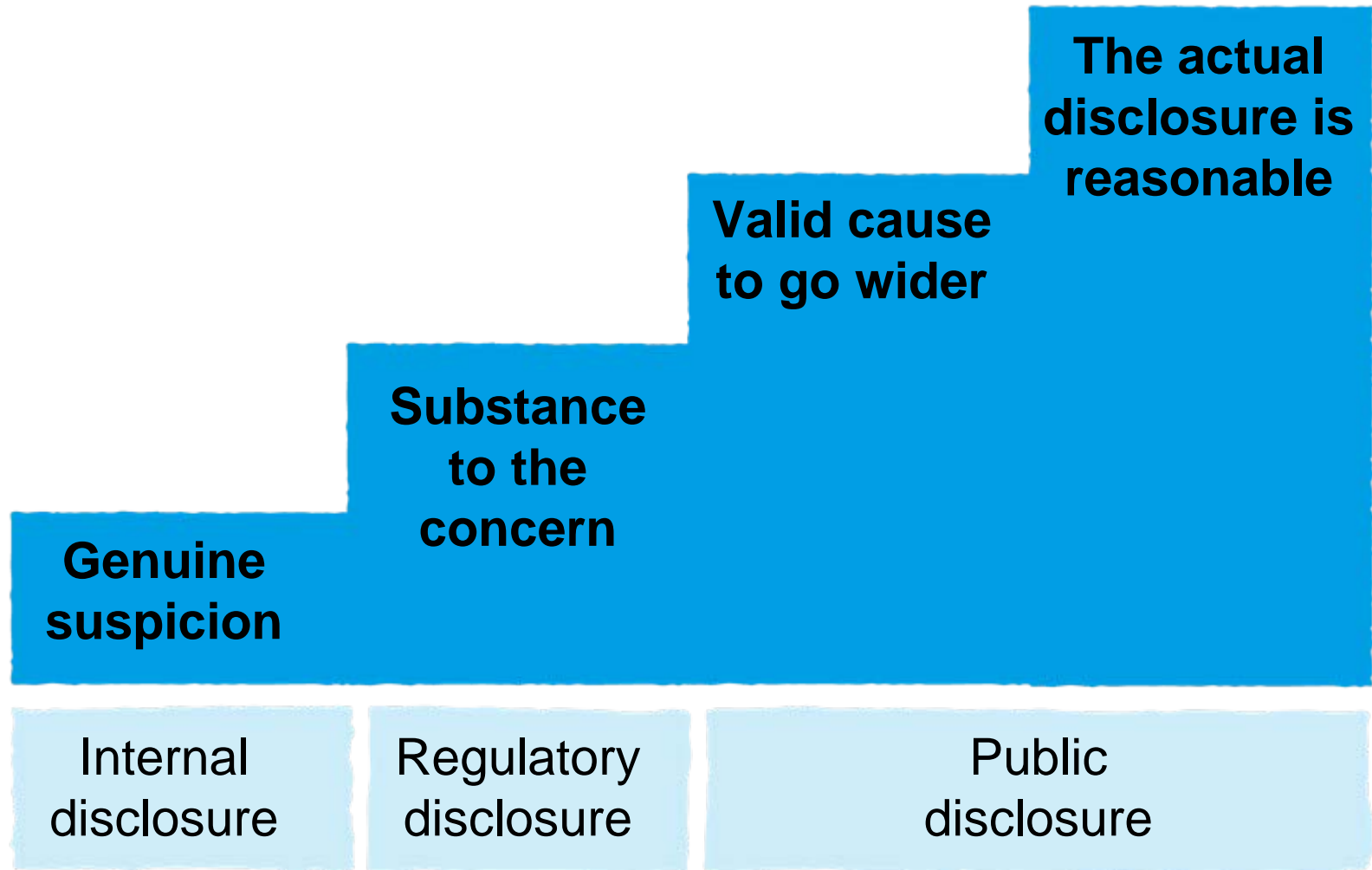
# The tiered disclosure regime



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# The tiered disclosure regime



Lord Nolan's praise for 'so skillfully achieving the essential but delicate balance between the public interest and the interest of the employees'.

# whistleblowing

some key issues



# Good governance

Good whistleblowing arrangements provide staff with a clear message that there is a safe alternative to silence. They:

**Deter** wrongdoing

**Detect** wrongdoing early

Make **management** work

Demonstrate an **accountable** organisation

# Key elements of **good whistleblowing arrangements**

A **lead** from the top

**Safety valve** communication channel outside the line

Default is open reporting but respect **confidentiality**

Provide **internal** and **external** options

Avoid defensive **legalistic** terms

Distinguish whistleblowing from **grievances** and **bullying**

Access to **independent advice**

**Promote** policy effectively

# Grievances and Concerns

## Grievances

risk is to self

need to prove case

rigid process

legal determination

private redress

## Concerns

risk is to others

tip off or witness

pragmatic approach

accountability

public interest

# **Whistleblowing arrangements**

**Practice and audit**



# Key issues

## Internal audit and review:

Concerns - **volume**

Concerns – **substance**

**Adverse** incidents?

Assessing **trust** and **confidence**

Other information?

# Key issues

Audit Commission whistleblowing performance audits:

**Minimal** – Policy has been communicated to staff and parties contracting with the body

**Good** – Policy is publicised within the body and demonstrates the body's commitment to providing support to whistleblowers

**Excellent** – Track record of effective action in response to whistleblowing disclosures. Periodic reviews of the effectiveness of the arrangements and also effective arrangements for receiving and acting upon information from members of the public

# BSI code of practice **checklist**

Policy conforms to good practice

Buy-in (those in charge)

The right start (practical implementation)

Communication & confidence (staff)

Briefing / Training (designated officers & managers)

Logging concerns (formal)

Reviewing the arrangements

# Remember

whistleblowing demonstrates

**who** is accountable  
for **what** to **whom**