



HANDLING COMPLAINTS

Including Anonymous and
Pseudonymous Complaints
And related issues

What is a complaint?

A complaint is a piece of statement or information containing details about offences alleged to have been committed under the PC Act, 1988,* or malpractice/misconducts under Conduct Rules governing specified categories of public Servants.

- The Prevention of Corruption Act came into force on the 9th day of September, 1988.

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Amendment to PCA 1988

- Due to PCA's limited success, there was a need to introduce changes that could help make it more effective. **The Prevention of Corruption (Amendment) Act, 2018 (Amendment Act) came into force on 26 July 2018**, and seeks to bring the Indian anti-corruption legal framework in conformity with current international practices laid down by the United Nations Convention Against Corruption (UNCAC).

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Amendment to PCA 1988

- Amended section 8 — Offence relating to bribing of a public servant : Any person who gives or promises to give an undue advantage to another person or persons, with the intention of:(i) inducing a public servant to perform improperly a public duty or(ii) rewarding the public servant for the improper performance of public duty shall be punishable with imprisonment for a term which may extend to seven years or with a fine or both. Provided that the provisions of this section shall not apply where a person is compelled to give such undue advantage. Provided further that the person so compelled shall report the matter to the law enforcement authority or investigating agency within a period of seven days from the date of giving such an undue advantage.

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Amendment to PCA 1988

Provided also that when the offence under this section has been committed by a commercial organisation, such commercial organisation shall be punishable with a fine.

- Amended sections 9 and 10

Offence relating to bribing a public servant by a commercial organisation:

Person in charge of commercial organisation to be guilty of offence

SOURCE OF COMPLAINTS

- (a) Complaints received from employees of the organisation or from the public;
- (b) Departmental inspection reports and stock verification surveys;
- (c) Scrutiny of annual property statements;
- (d) Scrutiny of transactions reported under the Conduct Rules;

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SOURCE OF COMPLAINTS

- (e) Reports of irregularities in accounts detected in the routine audit of accounts; e.g. tampering with records, over-payments, misappropriation of money or materials, etc.;
- (f) Audit reports on Government accounts and on the accounts of public undertakings and other corporate bodies, etc.;
- (g) Reports of Parliamentary Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings;

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SOURCE OF COMPLAINTS

- (h) Proceedings of the Houses of Parliament;
- (i) Complaints and allegations appearing in the press, etc.;
- (j) Source information, if received verbally from an identifiable source, to be reduced in writing; and
- (k) Intelligence gathered by agencies like CBI, ACB, Lokayuktas, etc.

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SOURCE OF COMPLAINTS

In addition, the Chief Vigilance Officer concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation, for collecting information about any malpractice and misconduct among the employees.

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SOURCE OF COMPLAINTS

Information about corruption and malpractices on the part of Public Servants may also be received from their subordinates or other Public Servants. While normally a Public Servant is required to address communications through the proper official channel, there is no objection to entertaining direct complaints or communications giving information about corruption or other kinds of malpractices.

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SOURCE OF COMPLAINTS

While genuine complainants should be afforded protection against harassment or victimisation, serious notice should be taken if a complaint is, after verification, found to be false and malicious. There should be no hesitation in taking severe Departmental action or launching criminal prosecution against such complainants.

ACTION ON AUDIT REPORTS INCLUDING CAG PARAS, NEWS ITEMS, etc.

The audit report of the C&AG many a time reveals not only administrative and financial irregularities but also actual cases of misconduct and corruption. The C&AG reports are generally well documented and would be useful in bringing the corrupt public servants to book.

Complaint Handling

Every complaint, irrespective of its source, would be entered in the complaints register chronologically as it is received or taken notice of. Entries of only those complaints in which there is an allegation of corruption or improper motive; or if the alleged facts prima facie indicate an element or potentiality of vigilance angle should be made in the register. Complaints, which relate to purely administrative matters or technical lapses, such as late attendance, disobedience, insubordination, negligence, lack of supervision or operational or technical irregularities, etc. should not be entered in the register and should be dealt with separately under “non-vigilance complaints.

Complaint Handling

- It is checked, if the complainant has provided his/ her name and address.
- In case, the complainant has not provided his name or any address/ any contact details (phone no/ email ID, etc.), the complaint is treated as ANONYMOUS and filed and no further action is taken.

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Complaint Handling

Where the complainant has provided his contact details viz. address, email ID, phone, the veracity of the complaint is confirmed by issuing a letter to the complainant at the address given by him/her. The complainant is simultaneously requested to furnish his/her ID Proof and any more supporting documents/information, if he/ she so desires.

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Complaint Handling

- As provided by CVC, in case of no reply, another attempt is made to contact the complainant.
- In case, subsequent to the above action the complainant or the complaint remains unverified, the complaint is categorized as PSEUDONYMOUS and the same is filed and no further action is taken.

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Complaint Handling

Once the complaint/ complainant is successfully verified, the complaint is taken up for investigation either by Vigilance Wing personnel or by tasking a suitable officer/ office to conduct an inquiry/ investigation and send a report to Vigilance Wing.

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Complaint Handling

Based on the investigation/ inquiry report, a view is taken on whether the allegations in the complaint are substantiated and whether further disciplinary action is to be initiated. In case the allegations in the complaint are not substantiated, the complaint is closed.

Do we need to take all
complaints



NO

**We need to take complaints having
VIGILANCE ANGLE**

VIGILANCE ANGLE

- (a) Demanding and / or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (b) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or is likely to have official dealings or his subordinates have official dealings or where he can exert influence.

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VIGILANCE ANGLE

- (c) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.
- (d) Possession of assets disproportionate to his known sources of income.
- (e) Cases of misappropriation, forgery or cheating or other similar criminal offences.

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VIGILANCE ANGLE

There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt.

Gross or wilful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible public interest is evident; failure to keep the controlling authority / superiors informed of required transactions and issues in time; cause of undue loss or a concomitant gain to an individual or a set of individuals / a party or parties. Any undue/ unjustified delay in disposal of case.



Why Vigilance Activity

The purpose of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation.

How to decide the Vigilance Angle?



- Whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial / operational interests of the organisation is one possible criterion for determining the bona fides of the case. A positive response to this question may indicate the existence of bona-fides. A negative reply, on the other hand, might indicate their absence.

Pseudonymous Complaints

- A complaint that does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant as having been made is a pseudonymous complaint. No action is to be taken in the case of complaints which are treated as Pseudonymous irrespective of the nature of allegations, and such complaints should be filed.

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Pseudonymous Complaints

Pseudonymous complaints will be referred to the complainant for confirmation / genuineness verification and if no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days of sending the reminder, if still no response is received, the said complaint may be filed as pseudonymous.

CVC's Circular No. 07/11/2014 dated 25.11.2014, DoPT OM No. 104/76/2011-AVD.I dated 18.10.2013 and Circular No.03/03/16 dated 07.03.2016.

Anonymous Complaint

Any complaint that does not bear the name and address of the complainant is an anonymous complaint. No action is to be taken on anonymous complaints irrespective of the nature of allegations, and such complaints should be filed. Such complaints shall not be treated as registered complaints.

Action on Anonymous/ Pseudonymous Complaints

No action should be taken on anonymous / pseudonymous complaints in line with Commission's present *Circular No. 07/11/2014 dated 25.11.2014*, However, where the action was initiated on anonymous / pseudonymous complaints prior to the issue of CVC's *Circular No.3(v)/99/2 dated 29.6.1999*, it can be pursued further to its logical end.

Vague Allegations

As per DoPT complaint handling policy issued vide OM No. 104/76/2011- AVD.I dated 18.10.2013, complaints containing *vague allegations* : general/ non-specific nature, and/ or the allegations of non-verifiable nature *could* also be filed without verification of identity of the complainant even if identity of complainant is mentioned in the complaint.

Complaints under PIDPI

- *Public Interest Disclosure & Protection of Informer's Resolution – 2004 (PIDPIR).*
- *For the complainants who desire to protect their identity. The PIDPI Resolution was passed on 21.4.2004 on the directions of the Hon'ble Supreme Court (while hearing a WP in r/o murder of Sh Satyendra Dubey), for creating a machinery for acting on complaints from whistleblowers, pending enactment of suitable legislation for whistleblowers.*
- *Relevant instructions on this have been issued vide DoPT OM No. 104/76/2011-AVD.I dated 18.10.2013.*

HANDLING OF COMPLAINTS RECEIVED UNDER PIDPI RESOLUTION

- In respect of those complaints which are considered fit for processing under PIDPI Resolution, a letter is sent to the complainant to obtain (a) confirmation as to whether he / she has made the complaint or not and (b) a certificate that that he / she has not made similar / identical allegation of corruption / misuse of office to any other authorities to qualify as a Whistle Blower complainant.

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HANDLING OF COMPLAINTS RECEIVED UNDER PIDPI RESOLUTION

Prescribed time limit for receiving the confirmation and the certificate from the Complainant is 30 days from the date of receipt of Commission's letter by the complainant. In case of no response, a reminder is issued, giving additional two weeks' time for sending confirmation and the certificate to the Commission. If there is still no response, the complaint is sent to the Branch concerned of the Commission for necessary action under Complaint Handling Policy of the Commission.

PROTECTION TO WHISTLEBLOWERS

- If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency (CVC) seeking redress in the matter, who shall take such action as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.

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PROTECTION TO WHISTLEBLOWERS

Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.

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PROTECTION TO WHISTLEBLOWERS

- In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

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PROTECTION TO WHISTLEBLOWERS

The Commission, after receipt of representation(s) from Whistle Blowers about threat to their life, takes up the matter with the Ministry of Home Affairs, the Nodal Agency, to undertake the responsibility of providing security cover to the genuine Whistle Blowers.

References received from Members of Parliament and Dignitaries

- These are to be dealt as per procedure laid down in Central Secretariat Manual of Office Procedure brought out by the Department of Administrative Reforms and Public Grievances. It has, however, been noticed that a number of complaints are being received using letter heads of Members of Parliament / VIPs and with forged signatures of the Hon'ble MPs / VIPs.

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References received from Members of Parliament and Dignitaries

As a measure of abundant caution and to provide adequate protection to the officers against whom such complaints have been made, confirmation shall be sought from the dignitary regarding the making of the complaint. On receipt of confirmation, the complaint shall be dealt with on priority as per the procedure.

WITHDRAWAL OF COMPLAINTS

- Some complainants, after confirming the complaint made by them, make a request for withdrawing the same or stopping the inquiry / investigation. It is to be noted that once a complainant confirms the complaint and action has been initiated for inquiry/ Investigation, it is not permissible to withdraw / stop such inquiry /investigation even if the complainant withdraws his complaint. The allegations contained in the complaint have to be taken to its logical conclusion irrespective of complainant's request for withdrawal of the complaint.

Thank
You