RBG Kew Whistleblowing – Public Interest Disclosure Policy

March 2024

Version 1.10
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1. **Purpose**

1.1 Royal Botanic Gardens, Kew (RBG Kew) is committed to the highest standards of openness, probity and accountability and will investigate allegations of impropriety or serious misconduct.

1.2 This policy provides guidance on when and how to raise concerns about serious malpractice at RBG Kew and aims to encourage workers to feel confident in raising genuine concerns about serious misconduct. It also highlights that no worker should suffer by reporting reasonably held suspicions in line with this policy.

2. **Scope and Definitions**

2.1 This policy applies to all employees, students, volunteers, trustees and non-executive directors of Royal Botanic Gardens Kew and RBG Kew Enterprises Limited, hereafter referred to jointly as RBG Kew, as well as to third party individuals or organisations providing goods or services to RBG Kew. These groups of individuals are collectively described as ‘workers’ within this policy.

2.2 Whistleblowing is when a worker reports suspected wrongdoing at work referred to as making a disclosure in the public interest. To qualify, disclosures must therefore, in the reasonable belief of the worker, be in the public interest. The public interest test is met where one or more of the following matters is either happening, has taken place, or is likely to happen:

- a criminal offence has been committed, is being committed or is likely to be committed;
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- a miscarriage of justice has occurred, is occurring or is likely to occur;
- the health and safety of any individual has been, is being or is likely to be endangered;
- the environment has been, is being or is likely to be damaged;
- an undermining of ethical values; or
- deliberate attempts to conceal any of the above.

2.3 A whistleblower is a person who raises a genuine concern relating to any of the above (a whistleblowing concern). If you have a whistleblowing concern you should report it under this policy.

2.4 Whistleblowing is different from making a complaint or grievance because the worker does not usually have a personal interest in the outcome of any investigation. If a member of staff raising concerns feels that they have been treated unfairly they have the option of resolving this through the formal **grievance** process.

2.5 Whistleblowers are protected from reprisals or detrimental treatment by the Public Interest Disclosure Act 1998 (the Act). They are not expected to prove the malpractice but are the route by which RBG Kew is made aware of the alleged activity. However, the disclosure does not qualify under the Act if the person making the disclosure commits an offence by making it.
2.6 For example, whistleblowing could include, but is not limited to, a worker making a disclosure in the public interest where they believe or suspect that a breach of RBG Kew’s policies (such as RBG Kew’s Anti-Slavery policy or Contractor’s Code of Practice) has occurred or may occur in the future. This policy also covers concerns regarding RBG Kew’s fundraising practices. RBG Kew is subject to the Code of Fundraising Practice¹ which outlines the standards expected of all charitable fundraising organisations. Concerns about fundraising practices can be escalated to the Fundraising Regulator if internal resolution is not possible.

2.7 The Act also places obligations on all workers not to disclose to any external sources, commercial or confidential information, or RBG Kew’s intellectual property acquired during their employment. All workers, during or after employment or engagement, are required to maintain confidentiality and not disclose to any unauthorised person information relating to RBG Kew’s business, unless expressly authorised to do so by the Director.

3. Principles

3.1 RBG Kew has a zero-tolerance policy to fraud, bribery and corruption and modern slavery, and other forms of malpractice², and seeks to foster an open and transparent organisational culture that enables workers who witness malpractice to feel confident to raise the matter, and to be assured that it will be dealt with in a confidential, professional and effective manner. This policy is intended to ensure that where workers have concerns about serious malpractice they can be properly raised and resolved in the workplace.

3.2 Workers who follow this policy to raise their concerns internally within RBG Kew or, in certain circumstances, to prescribed external individuals or bodies will not suffer detriment because of their disclosure; this includes protection from subsequent unfair dismissal, victimisation or any other discriminatory action.

3.3 It should be noted that disclosures, which in themselves constitute an offence, are not protected and that this policy should not be used for mischief, retribution or personal gain.

3.4 RBG Kew will protect the identity of the whistleblower and will only disclose it where:

- it is necessary to facilitate or further any investigation; or,
- there is a legal duty to do so; or,
- the whistleblower has given their permission.

3.5 Where the identity of the whistleblower is to be disclosed, the whistleblower will be consulted in advance and arrangements discussed to support and protect them. RBG Kew will not tolerate the victimisation of individuals who raise concerns through this policy. Nor will it support the use of this policy to victimise others.

¹ https://www.fundraisingregulator.org.uk/code

² Other forms of malpractice could include actions which put individuals’ health and safety at risk, damage the environment, contravene information security processes or do not follow RBG Kew’s Safeguarding Policy.
4. The Policy

4.1 Any worker who becomes aware of whistleblowing concerns by RBG Kew employees or others associated with RBG Kew is encouraged to report the matter in accordance with this policy. It is important that concerns are reported in line with this policy and not investigated by individuals themselves. This enables proper investigation and avoids ‘tipping off’ potential perpetrators which could result in evidence being concealed.

4.2 No worker should suffer by reporting reasonably held suspicions. Victimising or deterring individuals from reporting concerns is a serious disciplinary matter. Any worker who considers that such victimisation or deterrence has occurred should report this to the Director of Resources or, in their absence, the Director of Human Resources. However, in doing so they should also be aware that abuse of the disclosure process, for example by making malicious allegations, is a disciplinary matter.

4.3 Appendix A sets out the process for reporting and investigating concerns raised.

Reporting concerns

4.4 Concerns or suspicions should be raised internally in the first instance and RBG Kew provides several routes to do this. Workers who become concerned about the legitimacy or public interest aspect of any RBG Kew activity should raise the matter initially with their line manager. As noted in 4.1 above, it is important that concerns or suspicions are not investigated by individuals themselves.

4.5 Where the whistleblower has reason to believe that the concerns they intend to disclose are being condoned or concealed by the line manager(s) to whom they would ordinarily be reported, the matter may be referred directly to:
   - their Executive Director
   - Director of Human Resources
   - Director of Resources or
   - The Director

4.6 Alternatively, RBG Kew provides an independent and confidential route for workers to report their concerns. A Whistleblowing Hotline is available through RBG Kew’s internal auditors, Mazars LLP, and any worker who wishes to use the hotline should contact:

<table>
<thead>
<tr>
<th>Whistleblowing Hotline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graeme Clarke, Mazars LLP, 30 Old Bailey, London, EC4M 7AU</td>
</tr>
<tr>
<td>Email: <a href="mailto:graeme.clarke@mazars.co.uk">graeme.clarke@mazars.co.uk</a></td>
</tr>
<tr>
<td>Telephone: 020 7063 4968 (landline) or 07794 031 307 (mobile).</td>
</tr>
</tbody>
</table>

4.7 Anonymous reports are not encouraged as they can be difficult to investigate but can be made directly to the Whistleblowing Hotline. The seriousness of the issue raised, its
credibility and the likelihood of being able to confirm the whistleblowing concern will be considered when deciding how to respond.

4.8 Individuals, who are not RBG Kew workers but who carry out activity for RBG Kew, such as the delivery or supply of services (for example in relation to modern slavery concerns), should raise their concerns via the Whistleblowing Hotline or Director of Resources.

4.9 It is recognised that there may be circumstances where the matters raised cannot be dealt with internally and where in the reasonable belief of the worker, disclosure is in the public interest. In such circumstances workers may make a qualifying disclosure to any one of the persons or bodies prescribed in the Act; examples of some of these with relevance to RBG Kew are listed at Appendix B.

4.10 Regulatory bodies may undertake their own investigations or require RBG Kew to contribute to the process by conducting investigations in accordance with this policy. In either case, RBG Kew will apply the principles described in this policy and the matter will be recorded in the whistleblowing log.

4.11 To ensure whistleblowers are protected, all whistleblowing matters should be reported internally, and/or with a prescribed regulatory body in the first instance. Please note that workers who make public disclosures will only be protected by whistleblowing laws in limited circumstances, as set out in the Act.

4.12 If a worker is unsure of their rights or obligations and wishes to seek independent advice they can speak to a recognised Trade Union Representative3. Alternatively, Protect (formerly Public Concern at Work) are an independent charity that provides confidential advice, free of charge, to anyone concerned about wrongdoing at work. Their contact details are:

| Address: Protect, The Green House, 244-254 Cambridge Heath Road, London E2 9DA |
| Website: [https://protect-advice.org.uk](https://protect-advice.org.uk) |
| Telephone advice line 020 3117 2520 |

**Investigating concerns**

4.13 Managers receiving reports will take positive action to respond to concerns and to ensure that the identity of the whistleblower is not divulged to anyone outside the reporting or investigation process. Where it is found that claims are frivolous or vexatious and they fall outside the protection of the Act, this may be considered an act of misconduct and subject to disciplinary action.

4.14 Upon receiving a concern, the manager will assess whether it is within scope for investigation under this policy (as opposed to falling under the Grievance policy, for example) and will ensure that the whistleblower is supported to take the most appropriate steps. Advice can be

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3 Recognised Trade Unions at RBG Kew are GMB, PCS and PROSPECT
sought from the Director of Resources or the Director of HR. All concerns agreed to be whistleblowing will then be referred as such to the Director of Resources, and formally recorded and investigated in accordance with this policy. An acknowledgement of receipt of a concern should be provided within 7 days and initial inquiries to determine whether concerns fall under this policy should be completed within 14 days.

4.15 An investigating officer will then be appointed (generally by the Director of Resources) to perform a thorough investigation. The investigating officer should consider the issue to be of high priority, taking appropriate action as soon as possible. If it is apparent to the investigating officer that the concern raised is continuing and that staff or others are at undue risk, steps should be taken to ensure that any immediate risk is reduced whilst the full investigation is undertaken.

4.16 The investigating officer should inform the whistleblower that they have been assigned responsibility for reviewing the concern raised, meet with the whistleblower to discuss the nature of the concerns, and indicate the timeframe expected for conducting the investigation. The full investigation should be conducted within 28 days, unless the information gathering stage is particularly complex. The whistleblower may, if they wish, be accompanied by a trade union representative or work colleague in any meetings with the investigating officer. The investigating officer will make a formal and agreed record of the meeting. Any subsequent investigation will be conducted in accordance with the process set out in Appendix A.

4.17 Some matters may need to be referred to the relevant external body, for example the police.

**Communication and escalation**

4.18 Whistleblowers will receive regular feedback from the investigating officer at key stages of the investigation to provide confidence that positive action has been taken in respect of the concern but may not include specific findings or activities. Whistleblowers should be advised if additional time is required in order to conduct a thorough investigation, beyond the timeframes initially communicated. At the end of the investigation the whistleblower will be informed of the outcome of that investigation, as well as any actions taken to address the concern, if applicable.

4.19 If the whistleblower is not satisfied that appropriate action has been taken or has concerns about the way the investigation has been conducted, they may approach the Director for a secondary review. The whistleblower should then be advised of the outcome of that further referral.

**Reporting and oversight**

4.20 Once investigations and follow up actions have been concluded, a written summary of the matter(s) reported and concluding action will be included in the whistleblowing log. The log will be submitted for consideration by the Audit & Risk Committee on an annual basis so that it may consider any impact on its overall opinion concerning RBG Kew’s system of internal controls and their effectiveness. The Chair of the Audit & Risk Committee should be notified
of whistleblowing reports investigated under this policy as and when they occur and be informed of the outcome of any investigation.

5. Responsibilities

Everyone

All workers have a duty to report suspected wrongdoing or malpractice and follow this policy. It is important that concerns or suspicions are reported in line with this policy and not investigated by individuals themselves.

Line Managers

Line managers must:

- take positive and timely action to respond to concerns and to ensure that the identity of the whistleblower is not divulged to anyone outside the reporting or investigation process
- acknowledge receipt of a whistleblowing concern within 7 days and assess whether the concern or suspicion is within scope for investigation under this policy with 14 days
- refer any cases of whistleblowing to the Director of Resources so that an investigating officer can be appointed
- not investigate concerns or suspicions themselves.

Head of Governance & Director’s Office

The Head of Governance & Director’s Office has responsibility for maintaining and updating the Whistleblowing policy, and will:

- own the RBG Kew Whistleblowing policy and monitor its effectiveness
- liaise with the Chair of the Audit and Risk Committee and the Director on matters of serious concern
- liaise with the Whistleblowing Hotline on matters of process
- maintain a Whistleblowing log, to include a summary of cases and actions proposed and taken, to be reported to the Audit & Risk Committee annually.

Director of Resources

The Director of Resources has overall responsibility for handling and investigating reports and will:

- provide advice to managers on the scope of this policy as required
- appoint investigating officers
- decide on how anonymous reports are taken forward
- decide on the most appropriate course of action in response to concerns and investigations.
**Investigating Officers**

Investigating officers are appointed by the Director of Resources and will:

- interview the whistleblower to determine the facts and indicate the timeframe expected for conducting the investigation
- gather and secure evidence
- interview witnesses
- maintain written records and keep a diary of events
- provide a report to the Director of Resources at the end of the investigation
- maintain contact with the whistleblower and provide them with progress reports
- undertake the investigation within the timeframes set out in this policy.

**Whistleblowing Hotline**

The Whistleblowing Hotline will:

- provide a confidential route for workers and others to report their concerns
- provide independent advice on appropriate responses to whistleblowing allegations
- liaise with the Director of Resources / The Director / Chair / Defra Group Head of Internal Audit Services as appropriate (see Appendix A2) to establish whether the whistleblowing report is within scope for investigation under this policy and how the investigation will be taken forward
- protect the identity of the whistleblower in accordance with this policy.

**Audit & Risk Committee**

The Audit & Risk Committee will:

- review the policies and procedures for whistleblowing every two years unless changes to law or guidance requires earlier review
- review the whistleblowing log annually
- receive and consider reports on serious whistleblowing concerns, including the results of investigations, actions taken and any organisational learning points.

**Chair of the Audit & Risk Committee:**

The Chair of the Audit & Risk Committee will:

- receive notification of whistleblowing reports investigated under this policy as and when they occur and be informed of the outcome of any investigation.
6. **Policy Review and Updating**

This policy will be subject to review every two years by the Audit & Risk Committee, unless changes to law or guidance require earlier review. The policy will be published on Kew.org.

7. **Relevant Legislation, Standards and Guidance**

- The Public Interest Disclosure Act (PIDA) 1998
- Employment Rights Act 1996 (as amended)
- Data Protection Act 2018
- RBG Kew Grievance Policy
- RBG Kew Code of Conduct
- RBG Kew Safeguarding Policy
- RBG Kew Health and Safety Policy
- RBG Kew Anti-Fraud, Bribery and Corruption Policy
- RBG Kew Anti-Slavery Policy

8. **Documentation and Approvals**

Please ensure that you are using the most up to date version of this document which is available on Kewnet.

**Revision history**

<table>
<thead>
<tr>
<th>Date</th>
<th>Summary of Changes</th>
<th>Version</th>
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<tbody>
<tr>
<td>March 2024</td>
<td>Addition of references to the importance of individuals not investigating concerns or suspicions themselves; introduction of a 7 day timescale for acknowledging concerns; updated contact details and links; minor amendments to language.</td>
<td>1.10</td>
</tr>
<tr>
<td>February 2022</td>
<td>Adding that the whistleblower can be accompanied by a trade union representative or colleague in any meetings/interviews; adding outline of process for a secondary review by the Director of RBG Kew in instances when the whistleblower is not satisfied with outcome/investigation; inclusion of a section on relevant legislation; addition of Companies to the list of external agencies to whom a qualifying disclosure can be made.</td>
<td>1.9</td>
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<tr>
<td>October 2020</td>
<td>Whistleblowing Hotline contact details updated. Amendment to ‘Chair’ instead of ‘Chairman’ and addition of ‘or Whistleblowing Hotline if Director of Resources is implicated’ to Appendix A2.</td>
<td>1.8</td>
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<tr>
<td>August 2019</td>
<td>Amended to require review every two years (rather than annually) by Audit and Risk Committee &amp; update to Protect address.</td>
<td>1.7</td>
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<tr>
<td>October 2018</td>
<td>Amended policy to include right to referral to TUS; Food Standards and Trading Standards added to list of prescribed bodies; Head of Secretariat changed to Head of Governance &amp; Director’s Office. Whistleblowing Hotline contact details updated.</td>
<td>1.6</td>
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<tr>
<td>September 2017</td>
<td>Amended policy responsibility to Director of Resources; changes made to reflect revised Fundraising Code and role of Fundraising Regulator</td>
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## RBG Kew Whistleblowing – Public Interest Disclosure Policy

<table>
<thead>
<tr>
<th>Date</th>
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<tr>
<td>August 2016</td>
<td>Updated to reflect read across to RBG Kew’s Anti-Slavery Policy and expand scope</td>
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<td></td>
<td>to third party suppliers of goods and services</td>
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<tr>
<td>September 2015</td>
<td>Amended reporting lines in preparation for annual review of Audit &amp; Risk</td>
<td>1.3</td>
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<td></td>
<td>Committee. Director of Corporate Services responsible for managing specific</td>
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<td>incidents. Head of Secretariat responsible for maintaining policy and reporting</td>
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<td></td>
<td>internally and to Audit &amp; Risk Committee. Added the need to notify Defra HR of</td>
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<td>any whistleblowing cases.</td>
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<tr>
<td>October 2014</td>
<td>Amended to require annual review by Audit &amp; Risk Committee</td>
<td>1.2</td>
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<tr>
<td>February 2014</td>
<td>Policy revised and simplified to give clearer direction on roles, responsibilities</td>
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<td>and protection offered to whistleblowers. Also incorporated changes required by</td>
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<td>Enterprise and Regulatory Reform Act 2013.</td>
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<td>Executive Board</td>
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<td>Executive Board (via correspondence) &amp; Audit &amp; Risk Committee</td>
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<td>October 2014</td>
<td>R Deverell (Director)</td>
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### Distribution

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<tr>
<td>Distributed to KLF and published on Kewnet / Kew.org</td>
<td>March 2024</td>
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Appendix A1 – Process for reporting concerns

Are you making an anonymous report?  
Yes  
No

Are you a Kew ‘Worker’?  
Yes  
No

Who is involved in this malpractice?

Your Line Manager  
• Your Executive Director  
• Director of Human Resources  
• Director of Resources or  
• The Director

Any other worker  
Report to either / or

Director of HR  
Report to either / or

• The Chair  
• A Trustee  
• An independent member  
• The Director  
• A member of the Executive Board

Report to either / or

Whistleblowing Hotline

Graeme Clarke, Mazars LLP, 30 Old Bailey, London, EC4M 7AU  
Email: graeme.clarke@mazars.co.uk  
Telephone: 020 7063 4968 (landline) or 07794 031 307 (mobile).
Appendix A2 – Process for receiving concerns

Whistleblowing Hotline

- Does the report relate to The Chair?
  - Yes: Report to the Defra Group Head of Internal Audit Services
  - No:
    - Does the report relate to:
      - a Trustee;
      - an independent member;
      - a Non-Executive Director; or,
      - The Director?
        - Yes: Report to The Chair
        - No:
          - Does the report relate to a member of the Executive Board other than the Director?
            - Yes: Report to The Director
            - No:
              - Does the report relate to other Kew workers or external suppliers / contractors?
                - Yes: Report to Director of Resources
                - No: Report to Director of Resources or Whistleblowing Hotline if Director of Resources is implicated

RBG Kew Managers

- Maintain confidentiality – Do not discuss with colleagues
- Note key issues and assess if concerns should be dealt with under this policy
- Do not investigate
- Pass details to Director of Resources (unless implicated)
- If Director of Resources implicated pass to Whistleblowing Hotline

Report to Director of Resources or Whistleblowing Hotline if Director of Resources is implicated
Appendix A3 – Process for investigating concerns

The following individuals will be responsible for reacting to concerns raised through this policy:

<table>
<thead>
<tr>
<th>Role</th>
<th>Action</th>
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<tbody>
<tr>
<td>Defra Group Head of Internal Audit Services</td>
<td>Investigate in accordance with Defra internal procedures</td>
</tr>
<tr>
<td>Chair</td>
<td>1. Nominate investigating officer and use investigation process in <a href="#">RBG Kew Anti-Fraud, Bribery and Corruption policy</a>.</td>
</tr>
<tr>
<td>The Director</td>
<td>2. Provide regular feedback to whistleblower on progress and outcome of investigation.</td>
</tr>
<tr>
<td>Director of Resources</td>
<td>3. Protect the identity of the whistleblower and only disclose it where:</td>
</tr>
<tr>
<td></td>
<td>a. it is necessary to facilitate or further any investigation; or,</td>
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<td>b. there is a legal duty to do so; or,</td>
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<tr>
<td></td>
<td>c. the whistleblower has given their permission.</td>
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Appendix B – Examples of external organisations to whom qualifying disclosures may be made

Her Majesty’s Revenues and Customs
Responsible for customs or excise fraud or tax evasion
www.hmrc.gov.uk/reportingfraud/help.htm

Charity Commission for England and Wales
Registers and regulates charities in England and Wales, to ensure that the public can support charities with confidence

Companies House
Incorporates and dissolves limited companies, registers company information and makes it available to the public
https://www.gov.uk/government/organisations/companies-house

Comptroller and Auditor General of the National Audit Office (NAO)
Audits conduct of public business, value for money, fraud and corruption in relation to the provision of centrally funded public services
https://www.nao.org.uk/about-us/contact-us/whistleblowing/

The Director of the Serious Fraud Office
The Serious Fraud Office protects society by investigating and, if appropriate, prosecuting those who commit serious or complex fraud, bribery and corruption
https://www.sfo.gov.uk/contact-us/reporting-serious-fraud-bribery-corruption/

The Environment Agency
Deals with incidents which have an actual or potential effect on the environment or the management or regulation of the environment
www.environment-agency.gov.uk

Food Standards Agency
Deal with matters concerned with the protection of consumers and public health in relation to consumption of food
https://www.food.gov.uk/

Fundraising Regulator
Independent regulator of charitable fundraising, to strengthen the system of charity regulation and restore public trust in fundraising
www.fundraisingregulator.org.uk/make-a-complaint/complain-about-a-fundraising-approach/

Health and Safety Executive
Oversees matters which may affect the health or safety of any individual at work and any member of the public arising out of, or in connection with, the activities of persons at work
www.hse.gov.uk

The Information Commissioner
The UK’s independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals
www.ico.org.uk/

Trading Standards
Provide advice on matters relating to goods and services bought from UK based traders