

DEPARTMENT OF EDUCATION
RAISING CONCERNS AT WORK POLICY
(PUBLIC INTEREST DISCLOSURE /
WHISTLEBLOWING)

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INTRODUCTION

Why Whistleblowing is Important to the Department

1.1 The Department of Education is committed to the highest possible standards of openness and accountability in the delivery of its services. Despite this, concerns about impropriety or malpractice may still arise.

1.2 The Department is committed to tackling the issue and will not tolerate any such malpractice, abuse or wrongdoing. This guidance invites staff, others that the Department deals with and the general public, who may have concerns about what is happening in relation to any activity of the Department, to come forward and voice these concerns.

1.3 The benefits to the Department of encouraging staff and the general public to report concerns include:

- enables the Department to identify wrongdoing as early as possible;
- exposes weak or flawed processes or procedures which make the Department vulnerable to loss, criticism or legal action;
- ensures critical information to get to the right people who can deal with the concerns;
 - avoids financial loss and inefficiency;
 - maintains a positive reputation;
- reduces the risk to the environment or the health & safety of staff or the wider community;
- improves accountability; and
 - deters employees from engaging in improper conduct.

1.4 This policy has been introduced to encourage and enable individuals (including members of staff and members of the public) to raise concerns / make a disclosure about such malpractice, abuse or wrongdoing at an early stage and in the right way. Staff can do so without fear of victimisation, subsequent discrimination or disadvantage. The Department would encourage staff

to raise concerns rather than to overlook a problem. Reporting a matter promptly can reduce the potential for financial loss, avoid reputational damage and stop an abuse of position.

1.5 The purpose of this policy is to:

a) Reassure staff that they can raise genuine allegations or concerns about potential wrongdoing in confidence, through a clear internal reporting process, without putting their position at risk; and

b) Encourage members of the public who may have concerns of this nature to report them to the Department at an early stage.

1.6 The arrangements below indicate how this should be done and explain how such concerns will be investigated.

Members of Staff

1.7 All of us at one time or another may have concerns about what is happening at work. However, when it is about unlawful conduct, a possible fraud or a danger to the public or the environment, or other serious malpractice, it can be difficult to know what to do.

1.8 You may be worried about raising such a concern and may think it best to keep it to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Department. You may have already raised a concern but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

1.9 The Public Interest Disclosure (NI) Order 1998 introduced a framework to provide strong protection from dismissal or other sanction for workers who report wrongdoings that they believe, in good faith, to be true. The Department has implemented these arrangements to reassure you that it is safe and acceptable to speak up if you have concerns that the interests

of others or the Department are at risk. These arrangements will enable you to raise your concern at an early stage and in the right way.

1.10 If your concern is about possible fraud, you may also wish to refer to the Department's Fraud Prevention Policy and Fraud Response Plan which can be found at <http://nics.intranet.nigov.net/education/documents/de-fraud-prevention-policy-and-fraud-response-plan>

1.11 If you wish to make a complaint about your employment, or how you have been treated personally, please use the Northern Ireland Civil Service Grievance Procedure Grievance Policy - print version (PDF 68KB) Dignity at Work Policy - Print Version (PDF 83KB) or the NICS Dignity at Work Policy as appropriate.

Members of the Public

1.12 It should be noted that the protection afforded by the Public Interest Disclosure (NI) Order 1998 only relates to internal staff and does not apply to members of the public. The process in which concerns raised by members of the public will be handled is outlined in section 7 of this document.

1.13 These arrangements do not however cover complaints about the Department's performance or service; there is a separate complaints procedure for this <https://www.education-ni.gov.uk/complaints-procedure-3>.

WHISTLEBLOWING - WHAT CAN BE DISCLOSED

2.1 This guidance relates to disclosures about serious malpractice, abuse, neglect or wrongdoing, notably when the interests of others or the Department are at risk. Concerns of this nature are likely to involve matters such as unlawful conduct, serious safety/security deficiencies, breaches of confidence or danger to the public/environment. These can include:

- Any unlawful act, whether criminal (e.g. theft) or a breach of the civil law (e.g. slander or libel);
- Failure to comply with legal obligation;
- Misadministration (e.g. unjustified delay, incompetence, negligent advice);
- Health & Safety risks, including risks to the public as well as other employees;
- Damage to the environment (e.g. pollution);
- The unauthorised use of public funds (e.g. expenditure for improper purpose);
- Failing to safeguard personal and/or sensitive information (data protection);

- Abuse of power;
- Poor value for money;
- A breach of the Employee Code of Conduct;
- Other unethical conduct;
- Fraud & corruption;
- Abuse of children and vulnerable adults; and
- Deliberate concealment of information tending to show any of the above.

2.2 This is not a comprehensive list but is intended to illustrate the sort of issues that may be raised under this policy

3. REPORTING CONCERNS: STAFF

Your Safety

If you raise a genuine concern under these arrangements, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting in good faith, it does not matter if you are mistaken. However, should you raise a matter that you know to be untrue with malicious intent then the Department will regard this as a serious matter, potentially misconduct, which could result in disciplinary action. If you express concerns that you are being victimised by other members of staff as a result of the issues that you have raised, we will take this issue seriously and ensure that the appropriate grievance, disciplinary or other action is taken.

Confidentiality

3.2 The Department will not tolerate the harassment or victimisation of anyone who raises a genuine concern and hopes that you will raise your concern openly rather than remaining anonymous. The Department will do its utmost to protect your identity where possible, however, you should understand that there may be times when the Department is unable to resolve a concern without revealing your identity. For example, due to the nature of the information you provide others may be able to identify you or where your personal evidence is required. If such a situation arises then the Department will discuss this with you.

Anonymity

3.3 Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter, to protect your position, or to give you a response to your concerns. Whilst anonymous reports will be considered, we can apply these departmental arrangements more fully if we know who you are and can discuss the matter with you.

HOW TO RAISE A CONCERN INTERNALLY

4.1 Please remember that you do not need to have firm evidence of malpractice / wrongdoing before raising a concern. You will not be expected to prove that your concerns are true, rather than wait for proof you should raise the matter as early

as possible. The earlier a concern is expressed the easier it will be to take action.
If in doubt, raise it.

Step One

4.2 Your line manager should be your first port of call when it comes to issues at work. You should initially raise your concerns with them; this can be done orally or in writing. You will need to explain as fully as you can the information or circumstances that gave rise to your concern. If you feel unable to raise it with your line manager you should contact your Head of Team / Directorate. Line managers should handle any concern in line with the established guidance: *Guidance for Line Managers - Raising Concerns at Work Policy (Whistleblowing)* insert web link once published.

Step Two

4.3 If, for whatever reason, you feel that raising your concerns with your line manager or your Head of Branch / Division is not appropriate or it has not worked, please raise the matter with the Head of Internal Audit:

Head of Internal Audit: 028 91279669

The Head of Internal Audit will handle your concerns in line with the procedures in Appendix 1.

Step Three

4.4 If these channels have been followed and you believe there is an ongoing risk, or you feel the matter is so serious that you cannot discuss it with any of the above, you can raise your concern directly with the Permanent Secretary:

Permanent Secretary: 028 91279310

4.5 If you are a civil servant and believe that you are being required to act in a way which conflicts with the core values and standards set out in the *Civil Service Code of Ethics*, or you have become aware of the actions of others which you believe conflict with the Code, you should raise the matter with the Senior Business Partner for DE.

Senior Business Partner for DE: 028 91279460

4.6 Alternatively, and if your concern is about a breach of the *Civil Service Code of Ethics*, you may also raise your concern directly with the Civil Service Commissioners for Northern Ireland:

Office of the Civil Service Commissioners for Northern Ireland Room105
Stormont House Stormont Estate Belfast BT4 3SH Tel: 028 90523599
Email: info@nicsscommissioners.org

While it is the Commissioners' preference that issues under the Code of Ethics are raised, in the first instance, internally within the relevant Department, there may be circumstances when Commissioners would accept an appeal without this having occurred. Commissioners will examine each case on its merits.

5. INDEPENDENT ADVICE

5.1 If you are unsure whether or how to raise a concern or you want confidential advice at any stage, you may contact your Trade Union or Professional Organisation. You may also contact the independent charity Public Concern at Work on 020 7404 6609 or by email at whistle@pcaw.co.uk www.pcaw.co.uk. Their lawyers can talk you through your options and help you raise a concern about malpractice at work. For more information, you can visit their website at www.pcaw.co.uk.

EXTERNAL DISCLOSURES

6.1 These arrangements are intended to give you the reassurance you need to raise your concern internally in the Department. However there may be circumstances when you feel it is right to report a concern to an outside body. In fact, the Department would rather you raise a matter with the appropriate regulator, such as the Northern Ireland Audit Office, than not at all.

6.2 A full list of the prescribed bodies / persons to which staff may report a serious concern, with protection afforded by the Public Interest Disclosure Order, can be found in the Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2012 and accessed via the following link <http://www.legislation.gov.uk/nisr/2012/283/made>.

6.3 Public Concern at Work, your Trade Union or Professional Body will also be able to advise you on making external disclosures and on the circumstances in which you may be able to contact an outside body safely.

Complaints from third parties

6.4 Procedures through which members of the public may report concerns about serious impropriety or wrongdoing within the Department are set out below. Staff are reminded that they have a duty of care to ensure that any such concern which they receive from a member of the public is investigated and to bring it in confidence to the attention of an appropriate senior officer.

7. REPORTING CONCERNS: MEMBERS OF THE PUBLIC

7.1 All genuine allegations or concerns reported by members of the public will as far as possible will be handled in the same way as whistleblowing allegations made by staff and be treated in the strictest confidence.

Anonymity

7.2 As with concerns raised internally, the Department would encourage members of the public to put their names to any allegation. This enables the Department to investigate the matter fully, to seek clarification, to ask for additional details and to give you a response to your concerns.

7.3 Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter, to protect your position, or to give you a response to your concerns. Whilst anonymous reports will be considered, we can apply these Departmental arrangements more fully if we know who you are and can discuss the matter with you.

7.4 The disadvantages of raising a concern anonymously include:

- detailed investigations may be more difficult, or even impossible, to progress if you choose to remain anonymous and cannot be contacted for further information;
- the information and documentation you provide may not be easily understood and may need clarification or further explanation;
- there is a chance that the documents you provide might reveal your identity.

7.5 It may not be possible to remain anonymous throughout an in-depth investigation, however we will consult with you and gain your consent, where possible, prior to taking action that could identify you as the whistleblower.

How to raise a concern

7.3 You may have followed or considered the relevant complaints procedures or your concerns may be of a much more serious nature. You might, for example, feel that:

- a) Given the nature and/or seriousness of the matter (e.g. malpractice, abuse or wrongdoing) the use of the normal complaints process is inappropriate; or
- b) Disclosure through the standards complaints procedure might result in the destruction of evidence.

If you have such a concern, you should contact one of the following Departmental Officials, all of whom are based in the Department's Headquarters, ie Rathgael House, 43 Balloo Road, Bangor BT19 7PR:

- The Head of Internal Audit (Tel: 02891 279669)
- The Director of Finance (Tel: 02891 279319)
 - The Permanent Secretary (Tel 02891 279310)

If you wish to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

8. HOW THE DEPARTMENT WILL HANDLE THE MATTER

8.1 Once you have raised your concern, the Department will look into it to assess initially what action should be taken. This may involve an informal review, an internal inquiry or a more formal investigation. If the concern is considered to be a whistleblowing allegation then arrangements will be made to ensure that an acknowledgement is issued to you. The guiding principles for handling initial enquiries and investigations are:

- the key to a good investigation is planning;
- investigations should be undertaken as quickly as possible and without any undue delay;
- all actions relating to the investigation must be documented;
- the investigation should examine all the allegations;
- the investigation should be of adequate scope and consider all potentially relevant sources of evidence;
- staff carrying out the investigations should be of appropriate seniority, and should have proportionate knowledge and skills; and
- independence and objectivity are of paramount importance.

8.2 Where it is decided that a formal investigation is necessary the overall responsibility for the investigation will lie with a nominated Investigation Officer. In any event, the Department will notify you of who is dealing with the matter, how you can contact them, and whether your further assistance may be needed, such as a meeting to fully discuss the issue. The Department will undertake all investigations in line with its own internal whistleblower Investigation Procedures.

8.3 If you have any personal interest in the matter, you must highlight this at the outset; it may be that your concern falls more properly within the Grievance Procedure.

8.4 The Department will give you as much feedback as possible, and if requested, confirm it in writing. However, it may not be possible to tell you the precise action taken as it could infringe a duty of confidence owed by the Department to someone else.

8.5 During the course of an investigation, the Department may identify system or procedural issues that may have facilitated the suspected wrongdoing. On completion of the investigation the Head of Internal Audit will make the Head of Branch aware of any such issues and the action required in the relevant area.

8.6 If your concern is about a possible fraud, the Department will deal with it by following our anti-fraud policy and fraud response plan.

8.7. A Departmental record of all whistleblowing concerns will be developed and maintained, and details of the concerns, including outcomes of investigations, will be reported to senior management on a regular basis.

8.8 The Departmental Audit Investigation Team conducts whistleblowing investigations for the Department. The Audit Investigation Team has drafted a specific Standard Operating Procedure for conducting whistleblower investigations which documents how investigations are planned, conducted and reported on in line with best practice principles and guidance.

CONCERNS RECEIVED REGARDING ARMS LENGTH BODIES (ALB) LINKED TO THE DEPARTMENT

9.1 All ALBs linked to the Department are required to comply with the Public Interest Disclosure Act and are responsible for ensuring compliance with the legislation. The Department's ALBs have corresponding procedures in place within their respective organisations.

9.2 All whistleblowing disclosures should be properly investigated as quickly as possible and without any undue delay, whether they are raised directly with a Department or with an ALB.

9.3 Where the Department considers it appropriate for concerns to be investigated by the ALB, the Department will establish, with the ALB, appropriate protocols and timescales for providing meaningful responses back to the sponsoring Department about the disclosure raised.

9.4 Responses from an ALB should be reviewed at a senior level within the Department to ensure that the investigation/review has been properly and thoroughly completed and that recommendations arising from it are appropriately actioned.

9.5 Where a disclosure relates to an ALB, agreement should be reached between the Department and ALB's Chief Executive as to how contact with the whistleblower will be maintained throughout the course of the investigation. The views of the whistleblower should be taken into account when agreeing these arrangements.

9.6 Where whistleblowing concerns relate to senior members of ALB staff or Board members, the Department should retain ownership of the investigation. Consideration should be given to the role of the ALB Board (and Audit Committee) in dealing with any such cases.

10. CONCLUSION

10.1 Whilst we cannot guarantee that we will respond to all allegations/concerns in the way that individuals might wish, we will strive to ensure that all cases are handled fairly and properly. By using these whistleblowing arrangements you will help us to achieve this.

This policy will be reviewed and revised as the need arises.

Appendix 1

Head of Internal Audit Actions

1. Where a disclosure is made directly to the Head of Internal Audit (HIA) they will review the contents of the allegation and assess whether it is fraud related.

2. Where it is determined that a fraud investigation should be undertaken, the HIA will be responsible for ensuring that the appropriate actions are taken in line with the DE Fraud Response Plan and arrange for a Fraud Investigation Team to be established. The HIA will liaise directly with the correspondent (where details have been provided) to advise of the course of action.

3. Where it is not fraud related, and relates to an operational issue the HIA will forward the correspondence to the appropriate Head of Branch for action, clearly outlining the reasons for forwarding the correspondence to the branch. The Head of Branch will treat the correspondence with due regard to the contents of the Raising Concerns at Work Policy with particular consideration for the need to maintain confidentiality and engagement with the correspondent where possible.

The HIA will contact the correspondent (where details have been provided) to advise them of the manager who will be dealing with their concerns.
4. Where the concern relates to a governance issue or staff Head of Internal will take forward the investigation and advise accordingly.

- 5. Where the concern relates to an Arms Length Body (ALB) and does not involve a senior official of that body, the Head of Internal Audit will pass the concern to the Chief Executive of the organisation for investigation. The Whistleblower will be contacted to ascertain whether they wish their details to be passed to the ALB or withheld. The Department will be advised of the outcome of the investigation.

- 6. Where the concern relates to ALBs senior officials or significant/complex the Head of Internal Audit may take the lead in the investigations.