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Lord Morrow MLA
Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont

AQW 51491 11-16

Lord Morrow MLA has asked:

To ask the Minister of the Environment, (i) to provide or place in the Assembly Library a copy of his Department's Whistleblower Policy; and (ii) to detail whether it covers all staff within agencies and arm's-length bodies under his departmental remit.

ANSWER

A copy of Department of Environment's WhistleBlowing Policy and Procedures (revised November 2015) will be placed in the Assembly Library. The policy covers staff in the Department and agencies. The Department's arms length bodies, the Local Government Staff Commission (LGSC) and NI Local Government Officers Superannuation Committee (NILGOSC) have their own whistleblowing policies for staff.

Mark Durkan

Signed:

Mark H Durkan MLA

13/01/16

Date:



Department of the
Environment

www.doeni.gov.uk

DEPARTMENT OF ENVIRONMENT

**‘WHISTLEBLOWING’ (Public Interest
Disclosure (Northern Ireland) Order 1998)**

POLICY & PROCEDURES

**For staff
&
the general public**

Revised December 2015

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Got a qualifying disclosure to report?

Are You?

A member of staff

Step One

You should raise your concerns with your line manager or their line manager in the first instance.

Step Two

If you feel unable to raise your concerns with either of those above you should raise your concerns with your Head of Branch.

Step Three

If you have raised or you feel you cannot raise your concerns with one of the above, you should contact

- John Napier, Acting Director of HR & Organisational Change
- Linda Barlow or Beverly Beggs, HR Business Partners
- Anthony Carleton, Director of Finance
- Peter McGinn/Gary Curran, Acting Head of Internal Audit

Step Four

If the above channels have been followed and you still have ongoing concerns or if you feel you cannot discuss your concerns with any of the above you should contact:

- Leo O'Reilly, DOE Permanent Secretary

Alternatively

Alternatively, you can raise your concerns with the Civil Service Commissioner or the Comptroller & Auditor General directly.

A member of the General Public

Step One

If you wish to raise a complaint about how the Department has handled enquires, correspondence or an application, you should raise any concerns in the first instance through the business areas Customer Complaint Procedure

Step Two

If the above channels have been considered or followed and you still have concerns you should contact one of the following

- John Napier, Acting Director of HR & Organisational Change
- Linda Barlow or Beverly Beggs, DOE HR Business Partners
- Anthony Carleton Director of Finance
- Tracey Woods Head of Internal Audit

Step Three

If these channels have been followed and there is ongoing concerns or you feel that you cannot discuss with any of the above you should raise your concerns directly with

- Leo O'Reilly, DOE Permanent Secretary

Alternatively

Alternatively, you can ask your local Assembly Member to raise the issue on your behalf or you may contact the Assembly Ombudsman for Northern Ireland or the Comptroller & Auditor General directly.

For contact details see pages 11-13

1. INTRODUCTION

- 1.1 The Department is committed to the highest possible standards of openness, probity and accountability in the delivery of its services. Whilst the Department has put in place a wide range of rules, regulations, procedures and codes of practice to deliver its commitments, malpractice, abuse and/or wrongdoing may unfortunately still occur.
- 1.2 The Department is committed to tackling the issue and will not tolerate any such malpractice, abuse or wrongdoing. This policy 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, which qualifies for the protection prescribed by the Public Interest Disclosure (NI) Order 1998 to disclose this information. .
- 1.3 This revised policy has been introduced by the Department to encourage and enable individual members of staff and also the general public to raise concerns 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 and will be given appropriate support and advice. The Department would encourage staff and the general public to raise concerns rather than to overlook a problem. Reporting a matter promptly can reduce the potential for financial loss, avoid reputational damage, stop an abuse of position and support better public services.

What is whistleblowing?

- 1.4 Whistleblowing is a term used to describe the disclosure of information by a worker, which qualifies for the "protection" prescribed by the Public Interest Disclosure (Northern Ireland) Order 1998. One of the aims of the legislation is "to encourage responsible whistleblowers" who can inform the Department about health and safety risks, potential environmental problems, fraud, corruption, deficiencies in the care of resources, cover-ups and many other problems. The legislation is intended to protect disclosures of information which are made by workers in good faith. It does not protect expressions of opinion which may be unfounded or unsupported by any actual evidence. Whistleblowing is therefore a valuable activity which can positively influence all of our lives.

PUBLIC INTEREST DISCLOSURE (NI) ORDER 1998

<http://www.legislation.gov.uk/nisi/1998/1763>

<http://www.delni.gov.uk/public-interest-disclosure-guidance-2014.pdf>

- 1.5 This Order provides protection to any member of staff who makes a disclosure of information, which, in the reasonable belief of the individual making the disclosure, tends to show one or more of the following:
- that a criminal offence has been committed, is being committed or is likely to be committed;
 - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
 - that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - that the health & safety of any individual has been, is being or is likely to be endangered;
 - that the environment has been, is being or is likely to be damaged; or
 - that the information tending to show any matter falling within any one of the preceding sub-paragraphs has been, is being or is likely to be deliberately concealed.
- 1.6 The Department takes very seriously any breach in the above standards or of the NCIS Code of Ethics and will instigate disciplinary action against any individual or individuals found to be in breach of the standards. It is the duty of all staff to ensure that standards are maintained and to report suspicions of fraud, corruption or failure of propriety.
- 1.7 The Public Interest Disclosure (NI) Order 1998, does not extend or provide protection to 'external' whistleblowers, a whistleblower as defined in the Order is someone inside the organisation.
- 1.8 When staff 'blow the whistle' they are raising a concern about danger, wrongdoing or illegality that affects others (e.g. taxpayers, customers, members of the public, or their employer). The whistleblower is not expected to prove the malpractice, by reporting a qualified disclosure, the Department or the wider NICS can take the necessary steps to investigate and address it.
- 1.9 This is very different from an internal or external complaint. When someone complains, they are saying that they have personally been poorly treated. This poor treatment could involve a breach of their individual employment rights or bullying or poor service and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and, for this reason, is expected to be able to prove their case.

- 1.10 The Department has complaints procedures for the public and grievance procedures for staff which are more appropriate for making routine complaints.

2 SCOPE

2.1 This policy applies to the Department's employees, trainees, agency staff, independent consultants, volunteers, contractors, suppliers, Board Members and members of the public who wish to make a disclosure relating to the activities of the Department.

2.2 It is worth remembering that Trade Unions, professional organisations or regulatory bodies can play a valuable role in assisting individuals to raise concerns under this policy.

3 WHAT IS A QUALIFYING DISCLOSURE?

3.1 Concerns that may be raised within this policy may arise from malpractice, abuse and wrongdoing can include a whole variety of issues some of which are listed below:

- any unlawful act, whether criminal (e.g., theft) or a breach of the civil law (e.g. slander or libel);
- misadministration (e.g. unjustified delay, incompetence, negligent advice);
- failure to safeguard personal and/or sensitive information and/or the subsequent misuse of such information;
- health and safety risks, including risks to the public as well as other employees (e.g. faulty electrical equipment);
- abuse of children and vulnerable adults (e.g. through physical , sexual, psychological or financial abuse, exploitation or neglect);
- damage to the environment (e.g. pollution)
- the unauthorised use of public funds (e.g. expenditure for improper purpose);
- fraud and corruption (e.g. to solicit or receive any gift/reward as a bribe);
- breach of the Member or Employee Code of Conduct;
- abuse of power (e.g. bullying/harassment);
- other unethical conduct; and
- deliberate concealment of information tending to show any of the above.

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

3.3 The procedures set out in this policy are in addition to the NICS Grievance Procedures in the Handbook and the Departmental Anti-Fraud Policy and Fraud Response Plan:

http://doe.intranet.nigov.net/index/corporate_guidance/finance/corporate_governance/fraud.htm

If an individual member of staff has concern about a possible fraud, they may wish to refer to these documents which can be found on the Central Finance Branch Section of the Department's Intranet site.

- 3.4 This policy is primarily for concerns where the interests of others or of the Department itself are at risk. Thus if an individual member of staff feels aggrieved about their personal position then they should use the existing NICS Grievance Procedure.

4 PROTECTION AND HELP FOR STAFF

4.1 The Department's staff are protected by the Public Interest Disclosure (NI) Order 1998, if they genuinely believe that misconduct or malpractice was or is being committed and they do not have any malicious intent or personal gain for the disclosure of information. Therefore, where an individual officer, in good faith, discloses information outlining what they believe to be facts about misconduct or malpractice, as opposed to merely expressing an opinion and that information is not supported by a subsequent investigation, no action will be taken against that individual. 4.2 As the Department is committed to making whistleblowing work in the public interest, individual staff who raise a genuine concern under this policy will not be at risk of losing their job/position or suffer any form of retribution as a result, except where the individual has been complicit in the commission of the offence (either by direct action or the failure to act when they become aware of the offence). So long as they have not been complicit, individuals will be protected even if the matter is found to be mistaken, provided they:

- are acting in good faith;
- believe on reasonable grounds that the information is accurate;
- have not made the allegation principally for the purpose of obtaining payment for personal gain; and
- have taken reasonable steps to raise the subject matter of the disclosure internally, by drawing it to the attention of the appropriate individual.

4.3 Whilst the Department encourages the submission of all genuine disclosures it will nevertheless view very seriously any false and malicious allegations made under this policy. If an allegation is made purely for malicious intent or personal gain and the allegation has no foundation, the Department will regard such allegations as a serious disciplinary offence.

4.4 The Department, in accordance with the NICS policy on Equal Opportunities, will not tolerate the harassment or victimisation (including informal pressures) of anyone who raises a genuine concern and will take appropriate action to protect individuals who raise a concern in good faith. The Department's Director of HR has been given overall responsibility for ensuring the proper treatment of whistleblowers and for giving them appropriate support and advice. The Director of HR will also make a bi-annual report to the Permanent Secretary, Departmental Board and the Minister on lessons learned, improvements and wider issues arising from complaints. With these assurances, we hope staff will feel confident to raise any relevant concerns.

4.5 The Department will treat all disclosures made through its whistleblowing policy in a confidential and sensitive manner. The

identity of the individual making an allegation will be kept confidential as far as is reasonably possible and will only be disclosed with the whistleblower's consent or on direction of a Court or equivalent regulatory body. If this occurs the Department will discuss with the individual how to proceed.

- 4.6 Any staff who believe they are being penalised for raising a concern, should refer to the NICS Grievance Procedure and also consult the Director of HR who is there to provide appropriate support and advice.

5 ANONYMOUS ALLEGATIONS

- 5.1 This policy encourages individual staff and the general public to put their name to the allegation whenever possible as without this it can be difficult to fully investigate a matter and to corroborate facts. It makes it possible to clarify any ambiguous information or to ask for additional information to support the allegation. Moreover, the Department will be less able to protect the individual's position or to give feedback on the outcomes of any action taken.

- 5.2 Concerns expressed anonymously are therefore much less powerful but will still be investigated and considered by the Department. In considering anonymous allegations the Department will take into account factors such as the:

- seriousness of the issues raised;
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

6 PROCEDURE

Whistleblowing by staff

Step One

- 6.1 Any concerns that staff may have, can in the first instance, be raised orally or in writing with their Line Manager or their Line Manager's immediate manager. If staff feel unable to raise the matter with either of them then the Head of Branch/Division is the next point of contact. Those who wish to make a written statement should set out the background and history of the concern (giving relevant dates) and the reasons why they are particularly concerned about the situation. The earlier a concern is expressed the easier it will be to take action.
- 6.2 Individual staff do not need to have firm evidence of malpractice before raising a concern and the Department will not expect staff to prove that their concern is true, but it will be necessary to demonstrate to the person contacted that there are reasonable grounds for the issue to be raised. Consequently, the Department will ask staff to explain as fully as possible the information or circumstances that gave rise to their concerns.
- 6.3 It is perfectly acceptable for individual staff to discuss concerns with a colleague as they may find it more comfortable to raise the matter if there are two (or more) individuals present who have had the same experience or concerns.

Step Two

- 6.4 If the above channels have been followed/ considered and:
- individual staff still have concerns; or
 - reasonably believe that they will be victimised if they raise the matter internally; or
 - believe that disclosure will result in the destruction of evidence; or
 - they feel that the matter is so serious that they cannot discuss it with their Line Manager, their Line Manager's immediate Manager or Head of Branch/Division; or
 - they consider that it is not appropriate;

they should contact one of the following:

- John Napier, Acting Director of HR & Organisational Change
Telephone: (028) 9054 1133
E-mail: john.napier@doeni.gov.uk

Department of Environment 'Whistleblowing Policy and Procedure'

- Linda Barlow (028) 9054 1015 or Beverly Beggs (02890 540003), HR Business Partners
Telephone:
E-mail: linda.barlow@doeni.gov.uk or beverly.beggs@doeni.gov.uk
- Anthony Carleton, Director of Finance
Telephone: (028) 9054 0708
E-mail: anthony.carleton@doeni.gov.uk
- Tracey Woods, Head of Internal Audit
Telephone: (028) 9054 7881/9054 7889
E-mail: tracey.woods@drdni.gov.uk

6.5 If staff want to raise the matter in confidence, they should say so at the outset so that appropriate arrangements can be made.

Step Three

6.6 If these channels have been followed and there is an ongoing risk, or staff feel the matter is so serious that they cannot discuss it with any of the above, they should raise their concerns directly with:

- Leo O'Reilly, DOE Permanent Secretary
E-mail: leo.oreilly@doeni.gov.uk

Civil Service Commissioners

6.7 If staff believe they 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 they have become aware of the actions of others which they believe conflict with the Code, they should raise the matter with one of the nominated officers listed above.

<http://www.dfpni.gov.uk/nics-code-of-ethics.pdf>

6.8 Alternatively, if an officer's concern is about a breach of the Civil Service Code of Ethics they may wish to raise their concerns directly with the Civil Service Commissioners for Northern Ireland (paragraph 12 of the Northern Ireland Civil Service Code of Ethics). (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 approach without this having occurred. Commissioners will examine each case on its own merits).

Serious allegations / concerns from the general public

It is important to distinguish between 'complaints' about service standards, procedures etc and the most serious allegations or concerns about possible impropriety or wrongdoing (whistleblowing).

The Department already has a number of established complaints procedures and these are dealt with at **Step 1** below.

If you have followed these complaint procedures or considered them but decided your very serious allegations or concerns about possible impropriety or wrongdoing cannot be dealt with through these normal channels, then you should initially follow **Step 2** below.

- 6.9 It is important to note that the Public Interest Disclosure (NI) Order 1998, referred to at paragraph 1.5 above only affords protection to internal staff who raise concerns of wrongdoing known as 'whistleblowing'.
- 6.10 However, any serious allegations or concerns raised externally by the public will be treated, where possible, in the same manner as 'whistleblowing' allegations made by staff and with the strictest confidence. However, if your allegations lead to criminal proceedings there may be the expectation for you, as a complainant, to give evidence in a court of law.
- 6.11 The Department takes all allegations of fraud and corruption very seriously and will ensure that any reports of such activity are fully investigated and appropriate action taken. If you have any such concerns it is important that you act quickly to report these, providing as much information or evidence to support your allegations.

Step One

- 6.12 If you are a member of the public and you wish to raise a complaint about how the Department has handled enquiries, correspondence or an application you may have submitted, you should in the first instance raise your concerns through the business areas Customer Complaint Procedure. These can be found at:
- Planning: <http://www.planningni.gov.uk/complaints-procedure.pdf>
 - DVA: http://www.dvlni.gov.uk/complaints_procedure.html
 - NIEA <http://www.doeni.gov.uk/niea/complaints-procedure.pdf>

For the remainder of the Department you should raise your complaint directly with:

John Napier: Acting Director of HR & Organisational Change

Telephone: (028) 9054 1133
E-mail: john.napier@doeni.gov.uk

- 6.13 If you have submitted a planning application and are dissatisfied with the decision, there is a separate, independent appeals procedure for appealing decisions to the Planning appeals Commission:

[Planning Appeals Commission http://www.pacni.gov.uk](http://www.pacni.gov.uk)

- 6.14 Whilst this whistleblowing policy is primarily concerned about internal arrangements, the Department has a duty of care to ensure that any complaint/concern raised by the public about alleged impropriety or concerns about the use of taxpayer's money is investigated and brought to the attention of an appropriate senior officer.

Step Two

- 6.15 If the above channels have been followed / considered and you:

- still have serious concerns;
- believe that disclosure will result in the destruction of evidence;
- feel that the matter is so serious that you cannot discuss it with the business area involved; or
- consider that it is not appropriate;

you should contact one of the following:

- John Napier, Acting Director of HR & Organisational Change
Telephone: (028) 9054 1133
E-mail: john.napier@doeni.gov.uk
- Linda Barlow (028) 90 541015 or Beverly Beggs (028) 90 540003), HR Business Partners
Telephone:
E-mail: linda.barlow@doeni.gov.uk or
beverly.beggs@doeni.gov.uk
- Anthony Carleton, Director of Finance
Telephone: (028) 9054 0708
E-mail: anthony.carleton@doeni.gov.uk
- Tracey Woods, Head of Internal Audit
Telephone: (028) 9054 7881/9054 7889
E-mail: tracey.woods@drdni.gov.uk

- 6.16 If you want to raise the matter in confidence, you should say so at the outset so that appropriate arrangements can be made.

Step Three

- 6.17 If these channels have been considered / followed and you still 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 should raise their concerns directly with:

- Leo O'Reilly, DOE Permanent Secretary
E-mail: leo.oreilly@doeni.gov.uk

or you can ask your local Assembly Member to raise the issue on your behalf or to sponsor your complaint / concerns to the Assembly Ombudsman for Northern Ireland. The Ombudsman can investigate complaints against government departments and their agencies. The service is free and totally independent. The Ombudsman will normally expect you to have used the organisations complaint procedure before he will accept a complaint.

The Ombudsman may be contacted at:

Assembly Ombudsman for Northern Ireland
Progressive House
33 Wellington Place
Belfast
BT1 6HN

Telephone: 02890 233821
Text phone: 028 90897789
Email: ombudsman@ni-ombudsman.org.uk

Or via Post to:

The Ombudsman
Freepost BEL 1478
Belfast
BT1 6BR.

7.0 How the Department will handle your complaint

- 7.1 Once you have raised a concern, the Department will investigate the matter to assess initially what action should be taken. This may involve immediate steps to prevent the loss of public funds, an informal review, an internal inquiry or a more formal investigation. Where it is determined 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 advise the officer, who is dealing with the matter, how you can be contacted.

7.2 Within 10 working days of a concern being raised, the investigation officer handling the matter will write to you:

- acknowledging that the concern has been raised;
- indicating how the Department proposes to deal with the matter;
- advising you who is dealing with the matter;
- how to contact him/her;
- whether your further assistance may be needed
- giving an estimate of how long it will take to provide a final response;
- informing you if any initial enquiries are being made;
- informing you whether further investigations will take place, and if not, why not.

7.3 However, we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.

7.4 When you raise a concern, you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, you are asked to advise the Department at the outset.

8.0 RAISING A CONCERN DIRECTLY WITH AN INDEPENDENT OUTSIDE BODY

This section relates to whistleblowing by staff but also serious complaints raised by the general public.

Staff

8.1 This policy provides an appropriate avenue within the Department for staff to raise their serious concerns however, the Department recognises that there may be circumstances where staff can properly report a concern to an outside body. In fact, the Department would rather staff raise a serious matter with the appropriate regulator – such as the Northern Ireland Audit Office or the Health and Safety Executive of Northern Ireland - than not at all.

8.2 Preferably, external notifications should be made in the first instance directly to:

The Comptroller & Auditor General
Northern Ireland Audit Office
106 University Street
Belfast
BT7 1EU

Tel: +44 (028) 9025 1023

E-mail: whistleblowing@niauditoffice.gov.uk

Note: This telephone numbers is a general contact number. It will be necessary to explain the nature of the concern and ask to be put through to the appropriate section and/or person. You may also find the attached link helpful:

http://www.niauditoffice.gov.uk/a-to-z.htm/whistleblowing_disclsoures

- 8.3 Public Concern at Work (an independent authority on public interest whistleblowing established as a charity in 1993) or your Trade Union will be able to advise staff on such an option and on the circumstances in which they may be able to contact an outside body without any possible repercussions. See paragraph 14.0 below.
- 8.4 The Department will deal with the notifications in the same manner as described in paragraph 6.1 above which details how internal notifications will be handled.

General Public

- 8.5 External concerns raised by the general public will be considered and investigated provided you are acting in good faith and you have an appropriate level of evidence to back up your concerns. The level of evidence required will be determined by the nature of the concern raised and will be judged on an individual basis.
- 8.6 Again, if you are considering raising your concerns externally it is preferable, that these should be made in the first instance directly to:

The Comptroller & Auditor General
Northern Ireland Audit Office
106 University Street
Belfast
BT7 1EU

Tel: +44 (028) 9025 1023

E-mail: whistleblowing@niauditoffice.gov.uk

Note: This telephone numbers is a general contact number. It will be necessary to explain the nature of the concern and ask to be put through to the appropriate section and/or person. You may also find the attached link helpful:

http://www.niauditoffice.gov.uk/a-to-z.htm/whistleblowing_disclsoures

8.7 All such notifications to external bodies will be considered at the discretion of the Department. The Department in exercising its discretion will consider, among other things, the following factors:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

8.8 The Department will deal with the notifications in the same manner as described in paragraph 7.1- 7.4 above which details how complaints from the general public will be handled.

9.0 RECORDS

9.1 Records of serious concerns raised both by staff and the general public, including the outcome, will be maintained by the Department for a minimum of five years. All such records will be maintained in a confidential and secure environment.

10 AWARENESS TRAINING

10.1 The Department will regularly communicate to all existing members of staff and Board Members the avenues open to them under this policy and new staff will be made aware of this policy through induction training. The policy will also be published prominently on the Department's intranet site and also its internet site, so that the general public may have access to it.

11. REVIEW OF THIS POLICY

11.1 This policy will be reviewed by the Department at minimum intervals of 3 years. The responsible officer for the maintenance and operation of the policy is Director of HR & Organisational Change Division.

12 INDEPENDENT ADVICE FOR STAFF

12.1 If staff are unsure whether to use this procedure or require independent advice at any stage they can contact:

Public Concern at Work
Suite 306
16 Baldwin's Gardens
London
EC1N 7RJ

Tel: 020 7404 6609

Department of Environment 'Whistleblowing Policy and Procedure'

Website: www.pcaw.co.uk
E-mail: whistle@pcaw.co.uk

Labour Relations Agency (LRA) Head Office
2-16 Gordon Street
Belfast
BT1 2LG

Tel: 02890 321442
Website: www.lra.org.uk

- 12.2 PCaW lawyers can provide free confidential advice at any stage about how to raise a concern about serious malpractice at work.