



**Policy on Raising Concerns**

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<b>1.0</b>	<b>John McGinnity</b>	<b>Marie Anderson</b>	<b>July 2017</b>		<b>July 2020</b>
<b>2.0</b>	<b>John McGinnity</b>	<b>Margaret Kelly</b>	<b>Nov 2020</b>	Scheduled review, including; retitling of policy; significant update linking to updated NIAO guidance and other developments; and re-issue from new Ombudsman	<b>Nov 2023</b>

**November 2020**

# POLICY ON RAISING CONCERNS

## 1. Introduction

- 1.1 The previous (Version 1.0) of this policy used the term “Whistleblowing”. In June 2020 the Northern Ireland Audit Office (NIAO) issued significantly revised guidance: “Raising Concerns: A Good Practice Guide for the Northern Ireland Public Sector”, available [here](#) (Ctrl + Click to follow link). It is strongly advised to read this comprehensive NIAO guidance in conjunction with this policy
- 1.2 In the NIAO document it is noted that the term “*Whistleblowing*” does not exist in law and the NIAO has chosen to adopt the preferred term “*Raising Concerns*”. In so doing they emphasise that “***Whistleblowing and raising a concern are the same thing***”. However, in light of this change in terminology, this NIPSO policy is now entitled “Policy on Raising Concerns”.
- 1.3 The aim of this policy is to address the action that needs to be taken if staff have concerns about unlawful conduct, a possible fraud, a danger to the public or the environment, or other serious malpractice at work. For the purposes of this Policy the term malpractice means a wrongdoing with regard to, for example, negligence, misconduct, incompetence, fraud and illegal or unethical practice.
- 1.4 Staff may be worried about raising such a concern and may think it best not to raise the issue. They may feel that raising the matter would be disloyal to colleagues, managers or to the Office and may decide to say nothing. Staff may be unsure if they have spoken to the right person and are not sure what to do next.
- 1.3 The purpose of this policy is to provide a framework where staff feel it is safe and acceptable to speak up. This will enable staff to raise any concern at an early stage and in the correct manner. The operation of this policy has been agreed by the Ombudsman, SMT and the NIPSO Audit and Risk Committee and it applies to all who work for the Office including external contractors and agency staff. A number of the key principles supporting the operation of this policy are set out at **Annex 1**.
- 1.4 The Public Interest Disclosure (Northern Ireland) Order 1998<sup>1</sup> (the Order) provides statutory protection against dismissal or victimisation where a worker raises a genuine concern in good faith. The Order directs employees to raise concerns internally in the first instance but will also protect employees where they make external disclosures in a range of defined circumstances. If an employee chooses to disclose information in a way that is not covered by the Order, they will lose its protection.

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<sup>1</sup> The Public Interest Disclosure (Northern Ireland) Order 1998 (which amended the Employment Rights Order (Northern Ireland) 1996) and the Employment Act (Northern Ireland) 2016, section 7. Further guidance on the application of this legislation is available at: <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/public-interest-disclosure-guidance.pdf>

1.5 To qualify as a concern raised under the Order it must be shown that one or more of the following is likely to occur:

- a crime;
- breach of a legal obligation;
- miscarriage of justice;
- danger to health and safety;
- damage to the environment.

Concerns about an attempt to cover up any of the above can also be raised.

1.6 If staff have a relevant concern, please let your line manager know, setting out which of the above-listed categories you are reporting on. A complaint about your employment or how you have been treated should be made as a grievance (complaint) rather than a under this policy. If your concern is about possible fraud, you should refer to NIPSO's Anti-Fraud Policy and Fraud Response Plan.

## **Distinction between Whistleblowing Concerns and Grievance Complaints**

1.7 A simple way to distinguish between a concern under this policy and a grievance complaint is to consider the nature of the concern:

- Does the concern refer to 'others' e.g. the organisation, other staff, clients or the wider public? If so, it falls under this raising concerns policy.
- Does the concern refer to the individual ('self') e.g. a personal grievance about terms of employment, pay or unfair treatment? If so, it is a grievance complaint.

1.8 Generally, an individual raising a concern has no self interest in the issue being raised. However, this may not always be clear cut. If in doubt, you can seek advice from Protect (formerly Public Concern at Work) on 020 3117 2520. This guidance only applies to whistleblowing concerns.

1.9 Staff are also advised to refer to the guidance referred to a para 1.1 above: "*Raising Concerns: A Good Practice Guide for the Northern Ireland Public Sector*" – in particular page 13 thereof.

1.10 In general, if you have a concern, speak to your line manager first.

## **2. NIPSO's Assurances to you**

### **Your safety**

2.1 The Ombudsman is committed to making this policy on raising concerns effective. If staff raise a genuine concern under this policy, they are not at risk of suffering any form of retribution as a result. Provided they are acting in good faith, it does not matter if the concerns prove to be mistaken. Of course, this assurance does not extend to an individual who

maliciously raises a matter they know to be untrue. The Ombudsman will seek to protect individuals from false, malicious or vexatious allegations. In the event of such allegations being made, they will be dealt with under the Disciplinary Procedure.

## **Confidentiality and Anonymity**

2.2 The Ombudsman will not tolerate harassment or victimisation of anyone who raises a genuine concern. In light of these assurances, it is important that the concern is openly raised. However, it is recognised that there may be circumstances when staff would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. Individuals may wish to seek anonymity. There may be times when a complaint cannot be resolved without revealing the identity of the individual. If anonymity is refused, reasons will be given in writing for this decision.

2.3 The following will be considered when exercising discretion on any request for anonymity:

- the seriousness of the issues raised;
- the credibility of the concern;
- the likelihood of confirming the allegation from attributable sources; and
- the right for a person accused of wrong doing to respond.

## **3. Raising a Concern**

3.1 Although no evidence to support an allegation of malpractice is needed before raising a concern, it is important that the individual explains fully the information and circumstances giving rise to the concern. It is also important to:

- **act promptly** - don't wait for proof;
- **record and identify key details and dates;**
- **report the concern as detailed below** to your line manager (or contract manager);
- **do not investigate the concern yourself**, this is a matter for the Office; and
- **avoid approaching or accusing the relevant person directly.**

### **Step One**

Where there is a concern about malpractice, it is important to raise it first with your line manager or, if they are unavailable, with their immediate line manager or contract manager. This should be done in writing where possible.

### **Step Two**

If, for whatever reason, it is not appropriate to raise it with your line manager the matter should be raised in person or in writing with one of the following:

- **a Director**, or, if inappropriate to raise it at that level, with:
- **the Deputy Ombudsman**, or, if inappropriate to raise it at that level, then with:

- [:the Ombudsman](#)

### **Step Three**

Having followed steps 1 and 2 if you deem it inappropriate to raise the matter at any level within NIPSO, and you still have concerns or you consider that the matter is so serious that you cannot discuss your concerns with anyone within the Office, you should raise the matter directly with the [Chair of the NIPSO Audit and Risk Committee](#) or with our contracted-out [Head of Internal Audit](#) [contact details for either are available on request at any time from the Director of Finance & Corporate Services].

As a further alternative, you may raise your concerns with the Comptroller & Auditor General at:

NIAO, 106 University St, Belfast BT7 1EU

You may also contact NIAO either by email to:

[raisingconcerns@niauditoffice.gov.uk](mailto:raisingconcerns@niauditoffice.gov.uk)

or by telephone to: [\(028\) 9025 1062](tel:02890251062) or [\(028\) 9025 1000](tel:02890251000).

### **Actions in Conflict with NIPSO Code of Conduct**

- 3.2. If you believe that you are being required to act in a way which conflicts with the core values and standards set out in the NIPSO Code of Conduct or you have become aware of actions of others which you believe conflict with this Code or could damage the Office's reputation, you should raise the matter with the [Deputy Ombudsman](#).

### **4. Independent advice**

- 4.1 The independent charity [Protect](#) (formerly Public Concern at Work) can be contacted on 020 3117 2520, or by email at [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk). They provide independent advice and its lawyers can talk through your options and help you raise a concern about malpractice at work.

### **5. External Disclosures**

- 5.1 While this policy aims to provide the reassurance needed to raise concerns internally, the Ombudsman recognises that there may be circumstances where individuals can properly report a concern to an outside body. This may be to the Chair of the ARC, the head of Internal Audit or to the Northern Ireland Audit Office where concerns relate to the proper conduct of public business, value for money, or fraud and corruption. It may also be the Health and Safety Executive for concerns about the health and safety of individuals at work or of members of the public in connection with your work. A full list of those to whom you can make external disclosures and their remit can be found at Appendix One at [this link](#)

### **6. Monitoring and Oversight**

- 6.1 The Ombudsman is responsible for this policy and SMT review it in the event of any wider policy or guidance developments in the field of whistleblowing and in any event at intervals of

no more than three years. The Director of Finance and Corporate Services will monitor the operation of the policy.

## **7. Enquiries about this Policy**

7.1 For questions or comments on this policy, please contact the Director of Finance & Corporate Services.

A handwritten signature in black ink that reads "Margaret Kelly". The signature is written in a cursive style with a horizontal line under the name.

**Margaret Kelly**

**OMBUDSMAN**

**November 2020**

**Raising a concern – key principles:**

- Genuine concerns will not be ignored; all will be evaluated.
- Receipt of a concern will be formally acknowledged
- The individual will be informed who will be investigating his/her concern.
- The individual will be formally notified if his/her concern does not fall under this raising concerns policy and if appropriate will be directed towards an alternative course of action e.g. grievance, complaint, bullying etc
- If the concern is submitted in writing, the individual will be offered the opportunity of a meeting to fully discuss the issue.
- Confidentiality will be respected at all times and disclosure will only be made when required to do so by law.
- The Office will aim to respond to the concern raised within 20 working days. This will be dependent upon the nature, scope and potential complexity if the issue(s) raised. If this timescale is not possible, the individual will be informed.