

Policy on raising concerns about the Commission (formerly known as whistleblowing policy)

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1.Introduction

This *Raising a Concern about the Charity Commission for Northern Ireland Policy* relates to anyone inside or outside the organisation notifying the Charity Commission for Northern Ireland, "the Commission", about danger, wrongdoing or illegality that affects others (eg taxpayers, customers, members of the public, or their employer) involving Commissioners and/or staff.

The Commission has a commitment to the highest standard of openness, probity and accountability and every effort is made to ensure that its affairs are administered in a responsible manner.

The purpose of this policy is:

- to reassure staff (permanent or agency) that they can raise genuine concerns about potential wrongdoing in confidence, through a clear internal reporting process, without putting their position at risk.
- to provide arrangements through which anyone who is not a member of staff can raise concerns about the proper conduct of public business by the Commission.

2.Types of concern covered

This policy relates to concerns about suspected malpractice, risk, abuse or wrongdoing within the Commission. Types of concerns could include, but are not restricted to:

- risk to children and/or vulnerable adults
- unlawful conduct
- abuse of public funds
- potential fraud
- threat to health and safety
- a breach of the employee Code of Conduct.

Personal grievances or dissatisfaction in respect of employment issues are not considered to be concerns covered by this policy, unless a member of staff's particular case is in the public interest.

Issues which affect staff personally, such as a breach of their individual employment rights or bullying, will be dealt with under the appropriate Commission HR Policy eg Dignity at Work or the Grievance Procedure.

Raising a Concern about the Commission is very different from a complaint. When someone complains, they are saying that they have personally been poorly treated, for example, through receiving an unsatisfactory level of service from the Commission, 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.

This policy does not deal with complaints about the Commission's performance or standards of service. The guidance for these are set out in the Commission's Complaints about Service procedure. This will be used in respect of complaints about performance or service standards. This policy also does not deal with complaints involving Commissioners. These, whether from or about Commissioners, are dealt with under section 7 of the Commission's Standing Orders.

3. Raising concerns: members of staff

The approach to raising a concern if you are a member of Commission staff is set out in Appendix 1. If you are a contractor, trainee, agency worker, volunteer or independent consultant working for, or providing advice to, the Commission you are also protected under the Public Interest Disclosure (NI) Order 1998 and you can raise concerns in the same way as Commission staff.

The Public Interest Disclosure (NI) Order 1998 provides protection for workers who raise concerns. The provisions of the Order and the disclosures that qualify for protection and the protection afforded in respect of qualifying disclosures set out in Appendix 2.

If, for any reason, raising a concern with your line manager or someone else within the line management chain would be difficult, you can raise the matter with Kieran Donaghy who is the Charity Commissioner allocated responsibility for championing raising concerns. They can be contacted via the Commission's dedicated mailbox raisingconcernsabouttheCommission@charitycommissionni.org.uk which is managed confidentially.

As the Commission is committed to making it easy to raise a concern which is in the public interest, individual staff who raise a genuine concern under this guidance will not be at risk of losing their job/position or suffer any form of detriment as a result, except where the individual has been complicit in the act giving rise to the concern.

A member of staff who believes that they have suffered a detriment as a result of raising a concern can make an internal complaint in accordance with the Commission Dignity at Work procedure. Alternatively, an external complaint may be made to an Industrial Tribunal.

All information is treated confidentially and held securely in line with the requirements of the Data Protection Act 2018.

More information on the law is available in the Protect (formerly Public Concern at Work) website <https://protect-advice.org.uk/>. Protect is an independent charity that can provide impartial expert advice. They can be contacted by telephone on 020 3117 2520 or by email at whistle@protect-advice.org.uk.

Information is also available from NI Direct <https://www.nidirect.gov.uk/articles/blowing-whistle-workplace-wrongdoing>, the Labour Relations Agency, from a Trade Union or legal advice of own choice at own expense.

4. Raising concerns: non-staff members

Anyone external to the Commission can raise a concern using the dedicated mailbox raisingconcernsabouttheCommission@charitycommissionni.org.uk which is managed confidentially.

While the Public Interest Disclosure (NI) Order 1998 applies to workers (as defined in the Order), the Commission will endeavour, as far as possible, to apply the same principles in respect of concerns raised by non-staff members.

Concerns raised will be treated in the strictest confidence and all information is held securely in line with the requirements of the Data Protection Act 2018.

This policy may not be used to complain about statutory decisions made under the Charities Act (NI) 2008, which may be properly dealt with by the Charity Tribunal or the courts.

Where concerns relate to senior members of Commission staff or Board members they should be addressed to:

DfC Head of Governance

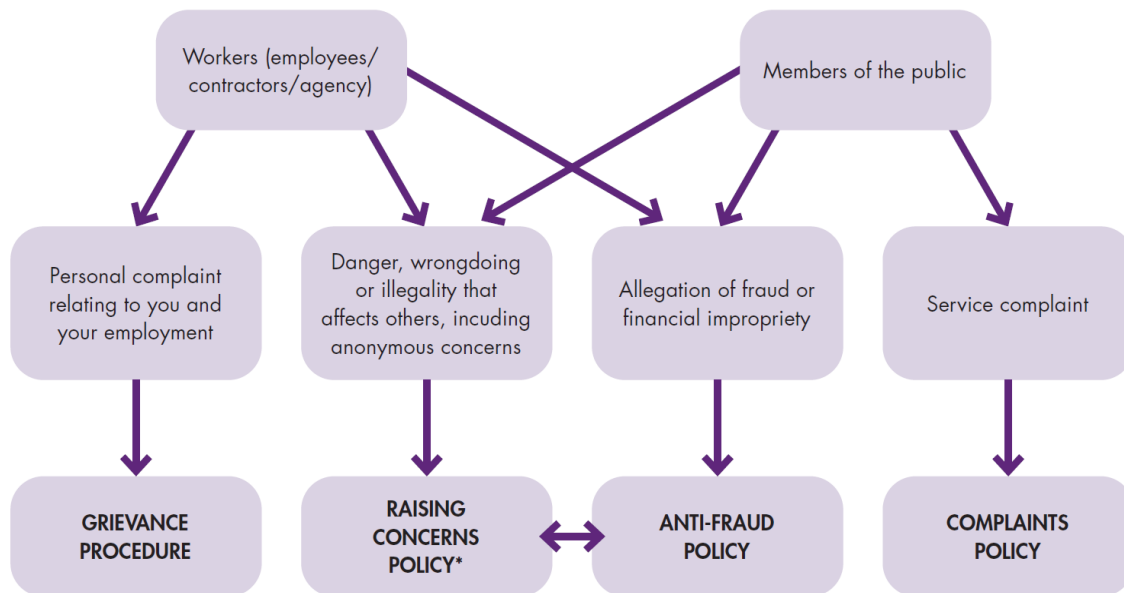
Tel: 028 9082 3198

Email: andrea.orr@communities-ni.gov.uk

5. Handling concerns raised

Once you have told us of your concern, it will be assessed by the recipient in terms of what action needs to be taken based on Diagram 1 below. Full details of the steps that will be undertaken to handle concerns are set out in Appendix 1.

Diagram 1: Assessing concerns about the Commission



The Commission is committed to developing a culture of transparency and encouraging all stakeholders to contribute ideas and views on how it operates as a regulator of the charity sector. It is therefore fundamental that any concerns, which employees or others may have about suspected malpractice within the Commission, are aired. All concerns about the Commission dealt with under this policy will be brought to the sponsor Department's attention so that agreement can be reached on the conduct of investigations. The contact will be DfC's Head of Governance.

If a concern is about possible fraud, the Commission will deal with it by following our Fraud Policy and Fraud Response Plan, available on the Commission's website. If, after initial assessment by the sponsor department (insert contact details), it is deemed that your concern falls more properly within the Commission's staff Grievance Policy (or other HR policy), the Complaints about Service Procedure, or that it would be best investigated by another body, for example the Northern Ireland Audit Office (NIAO), the complainant will be advised directly.

All concerns raised will be taken seriously and investigated appropriately. All enquiries will be undertaken in a proportionate and appropriate manner.

Information and documentation relating to concerns will be restricted in order to protect the identity of all those involved, including those against whom allegations are made.

6. Communication

It is important that the Commission has as much information as possible in order to undertake enquiries. If an individual has raised a concern anonymously, this will prevent the Commission from contacting them with feedback and may restrict the Commission's ability to fully investigate concerns.

If a concern is not raised anonymously, the Commission may contact the complainant a number of times during any investigation.

Receipt of a concern will be acknowledged by a representative of the Commission within five working days of the date on which it is submitted.

The complainant will be provided with a contact point for the investigation if the concern is being dealt with under this policy.

The complainant may be offered the opportunity to meet with a representative of the Commission and advised whether further participation may be needed during any investigation.

If it is necessary to alert other authorities to the case, for example, the NIAO or the Police Service of Northern Ireland, we will let the complainant know.

Where concerns raised lead to criminal proceedings, the complainant may be required to give evidence in a court of law.

Where appropriate, the complainant will be provided with feedback and told when the Commission's enquiries are concluded. We may not be able to tell complainants about precise action we take where this would infringe a duty of confidence owed by us to someone else.

7. Outcome

Insofar as the Commission is able, complainants will be updated on the outcome of the concern raised (whilst maintaining any confidentiality requirements).

8. How to take a concern further

If a member of staff is not satisfied with how a concern has been dealt with, and feels it is right to question the matter further, they may consider

reporting the matter to a prescribed person within the Public Interest Disclosure (NI) Order 1998. This provides legal protection for whistle blowers, where disclosures are made in good faith and, in the case of disclosures to a prescribed person, the employee believes the information and any allegations made are substantially true.

9. Accountability and reporting

All staff will be briefed in relation to whistleblowing law and the Commission's *Raising a Concern about the Commission Policy*.

The Board supports staff and stakeholders raising concerns and wants staff and other stakeholders to feel free to speak up. The Chief Commissioner has nominated a Commissioner with responsibility for the oversight of the Commission's culture of raising concerns.

The Board and sponsor department will be given high level information about all concerns raised through this policy and what we are doing to address any problems. We will include similar high level information in our annual report.

A final written report on each disclosure and any subsequent action taken will be tabled by the Chief Executive or other appointed decision maker to the Board of Commissioners.

A summary of concerns raised under this policy will be reported on an annual basis to the Audit & Risk Assurance Committee.

10. Review of policy

This policy will be subject to biennial review by the A&RA committee and reviewed regularly with staff to ensure it is clear and easy to use. Any occasion when the policy has been used will be reviewed to ensure the policy was effective.

Appendix 1 – Procedures (external and internal)

Procedure for staff to raise a concern about the Commission

Staff should usually raise concerns about the Commission by talking to their line manager or someone else within the line management chain as per options 1 and 2, although other options to raise the matter with a proper person¹ are available as set out in the following.

Option 1 – Line Managers. Any suspicions of wrongdoing, such as the examples in Appendix 2, should be raised verbally or in writing with the employee's Line Manager in the first instance, where appropriate. The employee does not need to provide evidence. The employee should specify from the outset if they wish the matter to be dealt with in confidence so that appropriate arrangements can be made. The Line Manager should raise the concern with their Head of Service, who will notify the Chief Executive.

Option 2 – Senior person. If, for whatever reason, the employee feels that raising it with their Line Manager is not appropriate, it should be reported to the Chief Executive. This should be submitted in writing and may be accompanied by supporting evidence.

Option 3 – Chief Commissioner or any member of the Board - If the concern is in relation to the Chief Executive or senior management team it may be reported to a member of the Board. This should be submitted in writing and may be accompanied by supporting evidence. If your concern is not about a member of SMT but, for any reason, raising a concern with your line manager or someone else within the line management chain would be difficult, you can raise the matter with Kieran Donaghy - the Charity Commissioner allocated responsibility for championing raising concerns via the Commission's dedicated mailbox raisingconcernsabouttheCommission@charitycommissionni.org.uk which is managed confidentially.

Option 4 – DfC Head of Governance - If the concern is in relation to the Chief Executive, senior management team or Board members it may be reported to our sponsor department.

DfC Head of Governance

Tel: 028 9082 3198

Email: andrea.orr@communities-ni.gov.uk

In options 2 – 4 this should be submitted in writing and may be accompanied by supporting evidence.

¹ As per Public Interest Disclosure (Northern Ireland) Order 1998 (Amended Jan 2011)

NB - if a situation arises where it is not possible to resolve the concern without revealing an employee's identity eg court evidence, the best way forward will be discussed. Anonymous whistleblowers will not ordinarily be able to receive feedback and any action taken to look into a disclosure could be limited. Anonymous whistleblowers may seek feedback by using an anonymised email address.

Option 5 – externally. It is intended this policy will give employees the assurance needed to raise concerns internally. The Commission recognises there may be circumstances where employees wish to report matters to outside bodies such as the relevant Minister, NIAO, Office of the Northern Ireland Public Service Ombudsman, or the Police Service for Northern Ireland.

How all concerns will be handled (internal and external concerns)

Assessment & Investigation

Recipients of a concern about the commission from a member of staff or other persons will assess the concern against Diagram 1 on page 8 to assess the appropriate course of action. Although the concern maybe titled or worded concern about the commission steps may be taken under other procedures to deal with it eg Fraud, Grievance, Complaints as appropriate. These other policies can be found in the Commission's HR Handbook and/or Corporate Policies container in HPRM.

Once an internal or external concern about the Commission has been raised with a proper person it will be brought to the attention of the Head of Governance in the Department for Communities (DfC) as per option 4. They will consider whether it is appropriate for the concern to be investigated by the Commission or DfC.

If it is considered appropriate for the Commission to investigate, the concern will be assessed to identify what action needs to be undertaken. This may include an internal enquiry or a formal investigation. DfC will notify the Commission of appropriate protocols and timescales for the investigation and response to the concern raised which the Commission will endeavour to follow. The employee or other person raising the concern will be told who is handling the matter, how they can be contacted, the timescale and if any further assistance may be required. This will be agreed with DfC.

If the issue is to be investigated under another existing procedures eg fraud, service complaint or grievance the employee or other person be informed of this and the relevant process followed.

The Chief Executive or other appointed decision maker who is independent of the issue (appointed by the Chief Executive or Chief Commissioner) will examine the presented information and determine:

- (i) (In the case of an employee) If it is appropriate to deal with the matter under the grievance procedure; and if so,
- (ii) Whether or not there is sufficient evidence to establish a case.

Subsequently, the Chief Executive or other appointed decision maker (as above) will make the decision on the appropriateness of carrying out a formal investigation and the framework to be established. This decision will relate to the magnitude and nature of the issue raised and may lead to:

- An internal investigation or
- A referral to the Police or
- A referral to another external body.

If a formal investigation is not set in motion the person or persons against whom a concern has been submitted will be informed about the situation.

In the event of a formal investigation being set in motion, the Chief Executive or other appointed decision maker (as above) will use the results to ascertain whether or not the issue should be progressed further.

The person or persons against whom a concern has been submitted will be informed about the situation and, if appropriate, will be given an opportunity to respond at the relevant stage.

If, on the other hand, the Chief Executive or other appointed decision maker (as above) determines that proceedings be terminated on the grounds that the issue is not appropriate for this procedure, or that there is not sufficient evidence to establish a case, then the employee who has submitted the concern will be informed of this in writing within ten working days. Reasons pertaining to this will be clearly stated.

Communication

DfC and CCNI will agree how contact will be maintained with the complainant during the course of the investigation, taking into account the views of the complainant.

Where appropriate the Chief Executive or other appointed decision maker will, as soon as practically possible, send a written acknowledgement of the concern to the complainant. Clear timescales will be given to the complainant for reporting back on how their concern is being dealt with and progressed. As far as possible a report back to them in writing will be provided with the outcome of the investigation and on the action that is proposed.

Appendix 2 - What is a protected disclosure?

This policy is intended to conform to the guidance in the Public Interest Disclosure (Northern Ireland) Order 1998 (the 'order') (Amended January 2011). The Order provides protection for an employee, who speaks up and makes a 'qualifying disclosure' (also referred to as whistle blowing) in good faith to their employer or other third party, against dismissal or detriment for making the disclosure of a concern.

The 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:

- a criminal offence has been committed (eg fraud), 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 at risk of being damaged
- 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.

It should be noted that in making a disclosure the employee must:

- make the decision in good faith, which means with honest intent and without malice
- have a reasonable belief that the information, and any allegation it contains is substantially true (the belief need not be correct - it might be discovered subsequently that the employee was in fact wrong - but the employee must show that they held the belief, and that it was a reasonable belief in the circumstances at the time of disclosure); and
- reasonably believe that they are making the disclosure to the correct/appropriate 'specified person' as per the Order.

Qualifying disclosure

Certain kinds of disclosures qualify for protection. Qualifying disclosures are disclosures of information which the worker reasonably believes tend to show that one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence
- a breach of a legal obligation
- a miscarriage of justice
- a danger to the health or safety of any individual
- damage to the environment, or

- deliberate covering up of information tending to show any of the above five matters.

Examples of potential malpractice which could be viewed as grounds for disclosure could include:

- Misappropriation of funds
- Conduct likely to prejudice the standing of the CCNI
- Misuse of Commission property
- Breaches of internal rules and regulations
- Criminal offences or breaches of civil law
- Endangerment of the health and safety of any person
- Environmental damage, or
- The deliberate concealment of any malpractice.

The order does not provide protection to anyone who raises issues which they know are untrue or are raised in a vexatious or malicious way. Any disclosure raised which a staff member knows to be untrue may be dealt with under the Commission's disciplinary procedures.