

NORTHERN IRELAND DEPARTMENTS'

RAISING A CONCERN

POLICY FRAMEWORK

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1. The Northern Ireland Departments are committed to the highest possible standards in the delivery of their functions and services. When concerns arise, it is important that the Departments respond appropriately, correcting failures and learning lessons.
2. Raising a concern, often referred to as “whistleblowing”, refers to someone notifying a Department or agency about something going wrong: error, risk, danger, malpractice, wrongdoing or illegality.
3. The purpose of this Policy Framework is to explain at the highest level how Departments will handle any concerns raised with them, and to encourage and provide reassurance to members of the public and staff (civil servants and others) who want to raise concerns.
4. Each department will have its own raising a concern policy and operational arrangements. These will be consistent with the approach set out in this framework but will be tailored to reflect the circumstances of each department.
5. The NI Departments encourage people to raise concerns because that way we can, if necessary, put things right; the person raising a concern has performed an act of public service.
6. This Policy Framework sets out what we mean by ‘concerns’, and how different kinds of concerns will be dealt with.

What is ‘raising a concern’?

7. Raising a concern under this policy framework is drawing attention to something going wrong in or by a NI Department or one of its ALBs. This might include issues such as:

- a. errors in the implementation or operation of policies and processes;
 - b. health and safety risks, either to the public or other employees;
 - c. any unlawful act (e.g., theft);
 - d. the unauthorised use of public funds (e.g., expenditure for improper purpose);
 - e. maladministration (e.g., not adhering to procedures, negligence);
 - f. failing to safeguard personal and/or sensitive information (data protection);
 - g. damage to the environment (e.g., pollution);
 - h. fraud and corruption (e.g., to give or receive any gift/reward as a bribe);
 - i. the abuse of children and/or vulnerable adults (physical or psychological);
 - j. any deliberate concealment of information tending to show any of the above.
8. This is not an exhaustive list but is intended to illustrate the sort of issues that may be raised and dealt with under respective departmental policies.
9. Many, if not most, of these could potentially constitute a breach of the *Civil Service Code of Ethics* by an individual civil servant, and this policy framework ought to be read alongside that [Code](#) and the [NICS Handbook Standards of Conduct policy](#). If a civil servant believes that he or she is being required to breach the Code of Ethics, this should also be raised as a concern.
10. If a concern is about possible fraud, reference should be made as soon as possible to the relevant department's Fraud Policy and Fraud Response Plan.
11. There are protections for workers who raise a concern of a kind that would be counted as a 'protected disclosure'. The legal definition of a protected disclosure is:-

“disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—

- a. that a criminal offence has been committed, is being committed or is likely to be committed,
- b. that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- c. that a miscarriage of justice has occurred, is occurring or is likely to occur,
- d. that the health or safety of any individual has been, is being or is likely to be endangered,
- e. that the environment has been, is being or is likely to be damaged, or
- f. that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.”

What is not a ‘concern’ under this policy?

12. Not all **criticism** of the work of government will be treated as a concern, and Departments will need to determine whether an issue raised with them should be addressed as such.
13. Separate arrangements exist to deal with **complaints** about a department’s performance or standards of service. These are set out in each department’s Complaints Procedure. As a general rule, a person making a complaint will be referring to their own case and/or will have some personal interest in the issue, whereas a person raising a concern does so in the public interest.
14. A concern is also distinct from a **grievance**, which is when an employee raises issues about an employment-related matter. If a civil servant wishes to raise an issue about their employment or how they have been treated, they should use the [NICS Grievance Procedure or NICS Dignity at Work Policy](#).

Confidentiality and Anonymity

15. The NI Departments do not condone the harassment or victimisation of anyone who raises a genuine concern and will not tolerate such behaviour towards anyone who does so within the NI Departments. Workers who raise a concern about their employer are protected by law. With these assurances, it is hoped that individuals will raise their concerns openly.
16. If someone wishes to raise concerns confidentially, either from the outset or at any stage during the process, Departments will do all they can to ensure that is possible. There may be circumstances where an individual's identity cannot be kept confidential (for instance, if a Department is required to disclose it by law, to the police for example, or if the nature of the concern makes it apparent who has raised it). If such a situation arises where confidentiality may not be maintained, then the Department will discuss this with the person.
17. Individuals can choose to raise their concern anonymously, without giving anyone their name. Concerns raised anonymously will be considered in the same way as any other concern. Anyone considering raising concerns anonymously needs to be mindful that, if they cannot be contacted for further information or clarification, investigation of their concerns may be difficult or even impossible. There is also a chance the documents or information provided might, unknown to the Department, reveal the identity of the person raising a concern.
18. Access to information and documentation relating to the concern will be restricted in order to protect the identity of all those involved, including those against whom allegations are made. All personal information must be handled in line with the UK-GDPR requirements.

Independent advice

19. *Protect*, a charitable organisation, provides free, impartial and confidential advice. Any person thinking of raising a concern can contact [Protect - Speak up stop harm \(protect-advice.org.uk\)](https://protect-advice.org.uk)

How members of the public can raise a concern

20. The NI Departments want it to be easy for members of the public to raise a concern.
21. Members of the public must be able to raise a concern orally or in writing:
- a. through the website of each Department;
 - b. directly with the Designated Officer who deals with external concerns in the relevant department.
22. Arrangements will be made to enable concerns to be raised through the NIDirect website.
23. Departments must also be ready to recognise when a concern has been raised by a member of the public through any other channel. This may be in writing or orally, and may come through any official, the Minister, or through an information line or general contact address.
24. Arrangements must be made to ensure that the handling of any personal data in connection to the raising of a concern is compliant with UK-GDPR.

How members of staff can raise a concern

25. Different arrangements must be made for the handling of concerns raised internally and for those raised externally, although the same high-level principles must apply. This is because ‘workers’ within the NI Departments (namely any members of staff, contractors, trainees, agency workers, volunteers and independent consultants working for or providing advice to the NI Departments¹) enjoy some protection under the [Employment Rights \(NI\) Order 1996](#) assuming the statutory test is met (as inserted by the Public Interest Disclosure (NI) Order 1998 and amended by the Employment Act (Northern Ireland) 2016).
26. A civil servant or other member of staff (including agency workers) should raise their concerns first with their line manager or another manager that

¹ Where this Policy Framework refers to NICS staff it encompasses the Order’s wider definition of workers.

they feel comfortable talking to. Contractors, volunteers or independent consultants should raise concerns with their key departmental contact. This may be done verbally or in writing.

27. If they feel unable to raise the matter with their manager or departmental contact, for whatever reason, they should raise the matter with the Designated Officer for their department who deals with internal concerns. Designated Officers will be given special responsibility and training in dealing with concerns raised under this policy.
28. If they feel that the matter is so serious that they cannot discuss it with any of those listed above, or if it concerns the Designated Officer, they should contact the Permanent Secretary.
29. It should be possible for someone to escalate a concern, if they have reason to believe that the original error, risk, danger, malpractice, wrongdoing or illegality remains unchanged. In which case, they should contact the Permanent Secretary.
30. In the exceptional circumstances where the individual feels they are unable to raise a concern with the Designated Officer or the Permanent Secretary due to concerns about senior officials' involvement, then they can raise their concern directly with the Group Head of NICS Internal Audit Services. The Group Head if required will seek advice from colleagues in NICS HR, People & OD, and/or the Departmental Solicitor's Office in agreeing the way forward for these cases.
31. The Civil Service Commissioners can consider concerns about breaches of the Code of Ethics by civil servants whenever they are raised by civil servants. There may be circumstances where the Civil Service Commissioners will accept a concern raised directly with them, but it is the Commissioners' preference that issues under the Code of Ethics are raised in the first instance internally within the relevant department. Commissioners will examine each case on its merits.

Protections for workers raising a concern

32. The law protects workers who raise concerns about their own organisation. A disclosure of information about a concern may be protected if it meets certain criteria. Not all concerns will be 'protected disclosures' under this legislation, but Departments must be alert to the possibility.
33. The Department for the Economy has produced a short guide to the provisions of the [Public Interest Disclosure \(NI\) Order 1998](#), which applies to the NICS as it does to other employers.
34. Civil servants should refer to the [NICS Staff Handbook Chapter 6.01 Standards of Conduct](#) which sets out in more detail the HR policy in relation to disclosures under the public interest disclosure legislation.
35. If a NI Department member of staff raises a genuine concern under these arrangements, they will not be at risk of losing their job or suffering any form of detriment by the NICS as a result of doing so. They are not required to have firm evidence before raising a concern and it does not matter if they are mistaken. However, should they raise a matter that they know to be untrue with malicious intent, then this will be regarded as a serious matter, potentially misconduct, which could result in disciplinary action.
36. If a member of staff expresses concerns that they are being victimised by other members of staff as a result of the concerns that they have raised, the Department must take this seriously and ensure that appropriate action is taken.

Raising a concern externally

37. If a member of staff feels unable to raise a concern internally or has done so but feels that the matter has not been adequately addressed, they have the option of approaching an external organisation.
38. There are a number of 'prescribed persons', bodies to whom staff may report a serious concern on relevant matters with protection afforded by public interest disclosure legislation. The list can be accessed at the [Public](#)

Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2022.

39. Protect (the charitable organisation) will also be able to advise members of staff on making external disclosures and on the circumstances in which they may be able to contact an outside body.

How will concerns be handled?

40. All concerns raised will be taken seriously when they are received and must be dealt with appropriately. The same principles apply to both concerns raised by members of the public and those raised by civil servants and other workers.
41. Concerns will be handled primarily with a view to putting right anything that has gone wrong.
42. Once the individual has reported their concern, it will be passed to the departmental Designated Officer, who will be a senior manager within the Department.
43. If, at the outset, the concern clearly falls more properly within the Complaints Procedure; the NICS Grievance Policy, NICS Dignity at Work Policy, or other NICS HR Policy; or is considered to be normal departmental business / correspondence, the Designated Officer will advise the individual who raised the concern of this, and the issue will be passed to the appropriate business area to be handled in the usual way.
44. It may not always be clear that the concern falls within one of these other procedures; the Designated Officer will assess the concern to determine what action is appropriate, for example:
- a. explaining the context of the issue may be enough to alleviate the concerns of the person raising them;
 - b. minor concerns might be passed on immediately to be dealt with by line management;

- c. the facts of the case may need to be established through a more detailed consideration of the issues being raised;
- d. there may be a need for a formal investigation;
- e. a review by internal audit as part of planned audit work might be sufficient to address the issue;
- f. there may be a role for external audit in addressing the concerns raised and either providing assurance or recommending changes to working practices.

45. Unless the case is immediately clear (such as instances at (a) and (b) above), the Department (the Designated Officer, a member of the responsible team, or the Nominated Review Officer, depending on circumstances²) shall, where possible, offer the person raising the concern a meeting to discuss their concern and provide any evidence they may have. This will ensure that the concerns are fully and accurately recorded prior to any detailed consideration or investigation and that they will further discuss with/interview the individual during the investigation to establish or clarify facts.

46. A concern may include an allegation against an individual, or an allegation against an individual may come to light. An allegation against a member of staff may in due course need to be treated as a disciplinary matter, so the handling of any concerns will take into account the possibility that the allegations could lead to disciplinary action against an individual.

47. Should the Designated Officer's initial assessment conclude that the issue ought to be given more detailed consideration, it will be allocated to a Nominated Review Officer within the Department. This may be within the responsible business area or another business area, or it may be the Designated Officer or a member of the responsible team; the person who originally raised the concern will be told who that is. The purpose of this detailed consideration is to establish the facts with more certainty. The

² Roles and responsibilities are set out below, paragraph 53 onwards.

Nominated Review Officer will offer to meet the person raising the concern to discuss the concern, obtain further information if required and agree feedback arrangements insofar as that is possible. However, given the wide range of issues which can be raised under this policy it is not possible to specify here who will review / investigate the concern.

48. There may be instances where the Designated Officer believes that it is appropriate for the detailed consideration to be conducted by a senior official in another department, in order to manage a real or potential conflict of interests. In such a case, the Designated Officer should seek the advice of their Data Protection Officer in respect of the sharing of personal data with an external Nominated Review Officer.
49. Where the consideration of the issue by the Nominated Review Officer concludes that there is a question of individual conduct to be addressed, that Officer should engage NICS HR Employee Relations.
50. The Nominated Review Officer will report back to the Designated Officer who will make the final determination on the concern raised. This may include reaching a conclusion on whether something had actually gone wrong and how the department should respond to the concern.
51. If the consideration of the concern also engages a question in respect of the actions of any individuals (whether at the conclusion of the consideration or earlier), the Designated Officer shall refer the case to the appropriate official or team.
52. At the conclusion of any detailed consideration, if the concern was not raised anonymously, the person may be given feedback as appropriate (in writing if requested). However, there will be a limit to what feedback can be provided, especially in light of the duty of confidence owed to others and UK-GDPR requirements.
53. The Designated Officer should be alive to the possibility that a case may require formal investigation by trained investigators, and this option ought to be pursued at the earliest appropriate point in order to ensure that the

investigation is handled in line with best practice and meets evidential standards.

Roles and Responsibilities

54. Designated Officers will:

- a. seek to ensure a consistent approach to the handling of concerns across the department;
- b. assess concerns to determine and direct the appropriate action;
- c. be responsible for determining the Department's conclusion in respect of any concern raised, on the advice of a Nominated Review Officer, an investigator, the responsible team or any other partner, as they determine;
- d. be responsible for directing any matter that engages the conduct of an individual to the appropriate official or team.
- e. be responsible for the resourcing, briefing and training of the team handling concerns;
- f. secure the maintenance of the department's central database of concerns, including a record of how they are handled, whether the concern was upheld, and what the outcome was;
- g. monitor concerns, analysing patterns and trends, and report to their Departmental Board and/or Audit and Risk Assurance Committee on the number and types of concerns being raised;
- h. advise their Departmental Board or Audit and Risk Assurance Committee on how improvements made as a result of concerns raised might be publicised.

55. The Designated Officers will meet on a regular basis. The Designated Officers' Forum will review the functioning of this Policy Framework to identify common themes in the concerns being raised, coordinate training,

learn lessons and address common challenges. The Designated Officers' Forum will provide a service-wide report, collated from departmental data, to the NICS Board. The Board will seek assurance about the functioning of the Policy Framework and will consider themes, trends and common issues arising.

56. Each Department will have a responsible team (one or more officials) who will:

- a. receive concerns (both through business areas and through any central channel);
- b. advise the Designated Officer as to how best to handle the issue being raised;
- c. administer the agreed handling decisions;
- d. advise any Nominated Review Officer about their role and the requirements upon them;
- e. maintain records in respect of issues raised as concerns;
- f. compile reports and respond to questions about numbers and types of concerns.

57. Where appropriate, the Designated Officer will pass the concern to a Nominated Review Officer, who will:

- a. establish, as far as possible, the facts in a case;
- b. liaise with the person raising the concern;
- c. liaise as required with DSO, NICS HR and/or Internal Audit where a case engages matters of conduct, criminality, fraud, or other significant complexity;
- d. update the Designated Officer and their team with proportionate frequency;

e. report their conclusions to the Designated Officer.

58. The departmental Accounting Officer will

- a. ensure that there are effective arrangements
 - i. to receive notice of concerns raised by staff and members of the public;
 - ii. to handle concerns received;
 - iii. to correct things that have gone wrong as identified through concerns raised;
 - iv. to assess the effectiveness of governance and accountability controls in light of the evidence of concerns raised.

59. The Departmental Audit and Risk Committee will:

- a. seek assurance as to the effectiveness of the arrangements for handling concerns;
- b. be informed on a regular basis about the profile of concerns being raised (number, type, time taken to close cases, *etc.*, as appropriate) and
- c. assess the significance of any features and trends (as appropriate);
- d. advise the Accounting Officer as to the level of assurance to be taken from the arrangements.

60. The Departmental Board may also receive a regular report on concerns raised.

61. All staff will:

- a. be mindful of the value of following up any concerns that reach them, by whatever route, in order to correct something going wrong;
- b. pass any issues that reach them that may be treated as concerns to the responsible team as soon as possible;

- c. engage with the responsible team and/or the Designated Officer to inform their consideration of how to treat a case.

Concerns Received Regarding a Department's Arm's-Length Body (ALB)

62. In general, concerns about an ALB ought to be dealt with by the ALB; ALBs are required to comply with the Public Interest Disclosure legislation and have corresponding procedures in place. If someone raises a concern about an ALB with the department, the Designated Officer, together with the business area responsible for the sponsorship of the ALB, will decide if it is appropriate for this to be dealt with by the department. Where the concern is referred to the ALB, the person who raised the concern will be notified of this and given the contact details for the individual who is responsible for dealing with the concern in line with that organisation's procedures.
63. A qualifying disclosure made by a worker employed in a government-appointed organisation, such as an ALB, will be a protected disclosure if it is made to a government Minister (either directly or *via* departmental officials). That is to say, the protections afforded by the public interest disclosure legislation can apply to concerns raised by ALB staff to the sponsoring department. A concern raised in this way may be handled by the department or referred to the ALB; where it is referred to the ALB, the Department may seek assurances about the ALB's own handling of the case, in line with their Partnership Agreement.
64. One of the circumstances in which a disclosure made in this way (*i.e.* to a Minister) will be a protected disclosure is if the person making the disclosure reasonably believes that they would be subject to detriment if they were to make the disclosure to their employer or to a prescribed person, this must be borne in mind when the Department decides whether to refer the concern to the ALB.
65. DAERA, DfC, DfE and DfI are, additionally, organisations that a worker in certain specified sectors may approach outside their workplace to report suspected wrongdoing in respect of their own employing body. These

departments are listed as 'prescribed persons' in the Schedule to the [Public Interest Disclosure \(Prescribed Persons\) \(Amendment\) Order 2022](#) in respect of specified functions (not all the functions of the department). The Departments on the list will have been designated as prescribed persons because they have an authoritative or oversight relationship with the sector, often as a regulatory body.

66. Disclosures to Departments which are 'prescribed persons' should be dealt with on a case-by-case basis and to a defined set of policies and procedures, ensuring a consistent approach.

67. In so far as their statutory functions permit, prescribed persons can look into a disclosure and recommend how an employer could rectify the problems they find, either in relation to the employer's policies and procedures for handling concerns or in relation to the issues which form the substance of the concern(s). Depending on their statutory powers some prescribed persons may be able to take enforcement action should they find evidence of wrongdoing.

68. A Department may refer a concern to a prescribed person.

Speak-Up Champions

69. Each Department will have a 'speak-up champion'. This may be the Designated Officer and will be at an appropriate level of seniority. They will be responsible for raising general awareness about the value of receiving and responding to concerns. They will encourage a culture of curiosity and challenge within their Department. And they will work together with their colleagues in other departments to support the NI Departments to respond effectively to concerns and to learn from instances when things go wrong.

70. The Speak-Up Champion will lead their Department's consideration of how improvements made as a result of concerns raised can be publicised to ensure staff see the positive value of raising concerns.

Conclusion

71. Departments cannot guarantee that the consideration and investigation of a concern will conclude in the way that the person who originally raised it may wish. Raising a concern is a public service and it is for the Department to determine the appropriate response. However, the NI Departments are committed to ensuring that all cases are handled fairly, properly and consistently.