

Whistleblowing Policy

1 Introduction

- 1.1 NILGOSC is committed to the highest possible standards of transparency, probity and accountability in the conduct of its business. Whilst a wide range of policies, procedures and codes of practice have been put in place to ensure NILGOSC business is conducted in line with these standards, malpractice, unlawful conduct and/or wrongdoing may unfortunately still occur.
- 1.2 NILGOSC will not tolerate any such malpractice, unlawful conduct or wrongdoing and the purpose of this policy is to enable concerns about such incidents to be raised confidentially at an early stage and in the right way, without fear of victimisation or, in the case of staff and Committee Members, without putting their jobs or positions at risk or disadvantage.
- 1.3 Whistleblowing refers to making a disclosure in the public interest and it means that an individual can report concerns relating to malpractice, unlawful conduct, wrongdoing or actions otherwise contrary to the public interest which have come to their attention. When such a concern does come to light it is often difficult to know what to do. Staff may be concerned about raising such a concern and may feel they are being disloyal to a colleague, manager or to NILGOSC.
- 1.4 The Public Interest Disclosure (NI) Order 1998 came into operation on 31 October 1999 and is designed to encourage 'workers'¹, including agency staff and individuals who are contracted to carry out services personally, to disclose information ('blow the whistle') on criminal behaviour or wrongdoing, as defined in the legislation. This Order protects a 'whistleblower' who makes responsible disclosures from dismissal, victimisation or any other unfavourable treatment connected with raising a concern. The Order only protects 'workers' who follow the procedures laid down in legislation (i.e. by following this policy) and who make a disclosure in the public interest and in line with the conditions set out in section 2 below.
- 1.5 This policy sets out the appropriate procedures to be followed for raising concerns and is intended to encourage and enable anyone with a concern to raise it confidentially within the organisation, or externally, rather than to overlook a problem. Procedures have been developed in line with Northern Ireland Audit Office guidance including "Whistleblowing in the Public Sector – November 2014" and the 2016 HM Treasury "Audit Risk and Assurance Committee Handbook". By having a clear procedure in place it is hoped that whistleblowers will feel assured that it is safe and acceptable to speak up.

¹Article 3 (3) of the Employment Rights (NI) Order 1996, defines a "worker" as an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a) a contract of employment, or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual

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2 Scope

- 2.1 This policy applies to all NILGOSC staff, including temporary and agency staff, Committee Members and external parties including suppliers, contractors and members of the public.
- 2.2 The policy should be followed if an individual reasonably believes that malpractice, unlawful conduct or wrongdoing has either occurred, is in the process of occurring or is likely to occur.
- 2.3 The Public Interest Disclosure (NI) Order 1998 ("the Order") provides protection to any 'worker' who makes a disclosure in the public interest to an appropriate person which, in the reasonable belief of the individual, tends to show one or more of the following:
- A criminal act (e.g. theft) or a breach of civil law (e.g. slander or libel)
 - A breach of any legal obligation
 - A miscarriage of justice
 - Health and safety risks, including risks to the public as well as other employees (e.g. faulty electrical equipment)
 - Damage to the environment
 - Deliberate covering up of information tending to show any of the above
- 2.4 The above list sets out 'qualifying disclosures' under the Order. Concerns that may arise in the workplace in relation to these areas include:
- Conduct which is a criminal offence
 - Maladministration (e.g. unjustified delay, incompetence, negligent advice)
 - Failure to safeguard personal and/or sensitive information and/or the subsequent misuse of such information
 - Abuse of vulnerable adults (e.g. through physical, sexual, psychological or financial abuse, exploitation or neglect)
 - The unauthorised use of public funds
 - Fraud and corruption
 - Breach of the Staff or Committee Member Code of Conduct
 - Abuse of power
 - Other unethical conduct
- This is not an exhaustive list but is intended to illustrate the sort of issues that may be raised under this policy.
- 2.5 The Order does not extend protection to external parties or members of the public who raise concerns. However, any relevant concerns raised that are determined to be within the scope of this policy, will be investigated in line with the policy, and the principles of the guidance contained within will be applied.
- 2.6 The procedures set out in this policy are in addition to the NILGOSC Anti-Fraud Policy, Anti-Bribery Policy and the Fraud and Corruption Response Plan. If a concern relates to an incidence of suspected or actual fraud or bribery, the procedures set out in the Fraud and Corruption Response Plan should be followed in relation to internal notification and reporting of such instances.

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2.7 This policy is primarily for concerns where the interests of others or of NILGOSC itself are at risk and should not be used to pursue a personal complaint or grievance. If an individual has a concern or complaint about their personal position or circumstances at work, this should be raised through the Grievance Procedure.

3 Protection for Staff

3.1 NILGOSC's staff² are protected by the Order if they genuinely believe that misconduct or malpractice was or is being committed and they are not making the disclosure for personal gain or with malicious intent. Staff raising a genuine concern under this policy, will not be at risk of losing their job/position or suffering any detriment as a result and will be protected even if the matter is found to be mistaken provided they:

- Believe on reasonable grounds that the information is accurate
- Have not made the allegation principally for the purpose of obtaining payment or personal gain
- Have taken reasonable steps to raise the matter internally by drawing it to the attention of the appropriate individual (in line with this policy)

3.2 NILGOSC is committed to making whistleblowing work in the public interest and encourages the submission of all genuine concerns. However, if an allegation is made under this policy for personal gain or with malicious intent and the allegation has no foundation, NILGOSC will regard such allegations as a serious disciplinary offence and will take appropriate action, which may include dismissal.

3.3 NILGOSC will not tolerate the harassment, victimisation or any other unfavourable treatment of anyone who raises a genuine concern and would hope that staff feel assured they can openly raise any concern. Victimisation of a whistleblower will be treated as a serious disciplinary offence. This will be monitored and any evidence or complaints of victimisation will be investigated, and appropriate action taken, which may include dismissal.

3.4 If a member of staff destroys or conceals evidence of poor or unacceptable practice or misconduct this will be treated as a serious disciplinary offence and appropriate action will be taken, which may include dismissal.

3.5 In order to avail of the protection offered by the Order the disclosure must meet the conditions set out at section 2 above and it must be notified either internally, in line with the steps set out at section 6, or externally to the bodies specified at section 8 of this policy. A wider disclosure to anyone else will only be protected in certain circumstances and prior to making any such disclosure it is strongly recommended that you seek advice (see section 9 for details of independent sources of advice).

3.6 If it becomes clear that the whistleblower has committed an illegal act in the course of making the disclosure (e.g. if disclosure was prohibited under the Data Protection Act 1998) then they may not be protected and disciplinary action may be taken.

3.7 If a whistleblower believes they are being penalised for raising a concern, they should refer to the NILGOSC Grievance Procedure.

² Any reference to staff will include agency staff and individuals who are contracted to carry out services personally, in line with the legal definition of 'workers'.

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4 Confidentiality and Anonymous Allegations

- 4.1 NILGOSC will treat all disclosures made through this policy in a confidential and sensitive manner. The identity of the individual making the 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 other regulatory body. If this occurs, NILGOSC will discuss with the individual how to proceed.
- 4.2 NILGOSC encourages whistleblowers to put their name to an allegation wherever 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. If an allegation is made anonymously, NILGOSC will be less able to give feedback on the outcomes of any action taken.
- 4.3 NILGOSC will still investigate anonymous reports and in doing so will take into account factors, such as:
- The seriousness of the issues raised
 - The credibility of the concern
 - The likelihood of confirming the allegation from attributable sources

5 Raising a Concern Internally

- 5.1 Prior to raising a concern, whistleblowers should remember that they do not need to have firm evidence of malpractice however, they will be asked to explain, as fully as possible, the information or circumstances that have given rise to their concern.
- 5.2 Disclosures can be made verbally or in the form of a written report of the known facts. In both cases, concerns raised should be factual to the best of the person's knowledge and should cover the following:
- What has occurred or is thought to have occurred
 - The background and history of the concern, providing relevant dates;
 - Name of person(s) suspected of involvement (if known);
 - Reason why they are concerned about the situation;
 - How they can be contacted, e.g. when (after working hours?), where (at home?);
 - Has the matter been raised with anyone else; and
 - Any other information which may be relevant including possible evidence which should be secured e.g. documents, records.

The proforma attached at Appendix 1 may be used for making a disclosure.

6 Whistleblowing Procedure for Staff

- 6.1 The following steps should be followed in most cases when a member of staff wishes to raise a concern under this policy. However, in exceptional circumstances, all staff have the option to report a matter directly to the

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Chairperson if that is considered most appropriate due to the nature of the circumstances involved.

Step 1

- 6.2 A member of staff wishing to raise a concern under this policy should do so, in the first instance, with their supervisor or line manager. If staff feel unable to raise the matter with their supervisor or line manager they should proceed to Step 2.

Step 2

- 6.3 If staff are unable to raise their concerns under Step 1, they should bring the matter to the attention of a member of the Senior Management Team:
- Head of Governance & Support Services
 - Investment Services Manager
 - Finance Manager
 - Pensions Manager
 - Services Manager

Step 3

- 6.4 If the above channels have been followed/considered and the individual believes there is an on-going risk or it is felt that the issue is so serious they cannot follow the above channels, then the matter should be raised directly with the Secretary or the Deputy Secretary.

Step 4

- 6.5 In instances where a member of staff wishes to raise a concern under this policy in relation to the Secretary or Deputy Secretary then the matter can be raised directly with the Chairperson of the Management Committee.

7 Whistleblowing Procedure for Committee Members

- 7.1 The Order provides protection to 'workers' making a disclosure under the Order. As Committee Members are not 'workers' in terms of the definition set out in the legislation, concerns in relation to any of the issues set out at 2.3 and 2.4 above, should be raised through the Department for Communities.
- 7.2 Committee Members are publicly appointed by the Minister for Communities. Although communications between the Committee and the Minister will normally go through the Chairperson, all Committee Members have the right of access to the Minister on any matter they consider raises important issues relating to their duties as a Committee Member.
- 7.3 A Committee Member wishing to raise a concern under this policy should do so, in the first instance, with the Chairperson of the Management Committee.
- 7.4 If still dissatisfied or in instances where the Member wishes to raise a concern under this policy in relation to the Chairperson, then the matter should be raised directly with the Head of Corporate Investigations at the Department for Communities (see section 9.5) and through them to the Permanent Secretary and Minister, if necessary.

8 Whistleblowing Procedure for External Parties or Members of the Public

- 8.1 This section applies to external parties including contractors, suppliers and members of the public who wish to raise concerns under the whistleblowing policy.
- 8.2 It is recommended that contractors or suppliers initially raise concerns within their own internal chain of command and manager responsible for the contract (if applicable). If this is deemed inappropriate or the whistleblower does not feel comfortable to do so, then concerns can be reported directly to NILGOSC by the individual.
- 8.3 External parties or members of the public may report concerns to one of the contacts within NILGOSC set out below preferably by email;
- David Murphy, Secretary; david.murphy@nilgosc.org.uk
 - Nicola Todd, Deputy Secretary; nicola.todd@nilgosc.org.uk
 - Ciara Keenan, Head of Governance & Support Services; ciara.keenan@nilgosc.org.uk
 - Janice Houston, Finance Manager; janice.houston@nilgosc.org.uk

The above contacts can also be notified by telephone on 0845 308 7345 or in writing to;

NILGOSC,
Templeton House,
411 Holywood Road,
Belfast,
BT4 2LP

- 8.4 Concerns may also be reported anonymously or externally (see sections 4 and 9). NILGOSC will handle all concerns raised in line with the policy.
- 8.5 For guidance on what information should be provided when raising a concern, please refer to section 5.2.

9 Raising a Concern Externally

- 9.1 While NILGOSC hopes that whistleblowers feel reassured they can raise a concern internally, it is recognised that there may be circumstances where an individual may need to report a concern to an outside body (e.g. where there is a genuine belief that evidence would be destroyed or the whistleblower would be penalised).
- 9.2 It is preferable that a whistleblower raises a concern with the appropriate external body than not at all. Public Concern at Work will be able to advise on such options and the circumstances in which you may be able to contact an outside body (please refer to 10.1).
- 9.3 The Pensions Regulator (TPR) is the UK regulator of work based pensions. Concerns about pension schemes including breaches of the law can be raised through the TPR via the contact details below.
- 9.4 External notifications should be made in the first instance to:

The Local Government Auditor
Northern Ireland Audit Office
106 University Street
Belfast
BT7 1EU

Tel: +44 (028) 9025 1000 or +44 (028) 9025 1062 (and ask to speak to the Local Government Auditor)
E-mail: whistleblowing@niauditoffice.gov.uk

9.5 Alternatively, notifications may be made directly to:

The Information Team
The Pensions Regulator
Napier House
Trafalgar Place
Brighton
BN1 4DW

Tel: 0345 600 7060
Email: wb@tpr.gov.uk
(Templates and guidance are available at
<http://www.thepensionsregulator.gov.uk/individuals/report-concerns-workplace-pension-whistleblowing-complaints.aspx>)

Department for Communities (“the Department”)

Head of Corporate Investigations:
Jacqueline McLaughlin
Department for Communities
Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast
BT2 7EG
Tel: +44 (028) 9081 9257
Email: Jacqueline.mclaughlin@communities-ni.gov.uk

Copying to:
Head of Governance:
Andrea Orr
Tel: +44 (028) 9082 3198
Email: andrea.orr@communities-ni.gov.uk

9.6 Disclosures from staff to the above external bodies are protected by the Order³ in the same way as internal disclosures. Note that the conditions set out in section 2 equally apply to both internal and external disclosures and must be met; otherwise the disclosure will not be protected.

³ Refers also to the Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2014.

10 Independent Advice

- 10.1 Whistleblowers who are unsure about raising a concern may wish to contact Public Concern at Work (PCaW). They provide free, confidential advice at any stage about how to raise a concern about malpractice or wrongdoing witnessed at work. PCaW can be contacted at:

Telephone 020 7404 6609 | email: whistle@pcaw.org.uk | web: www.pcaw.org.uk

- 10.2 Staff may prefer to raise their concerns initially with their Trade Union (TU) representative for advice and/or representation. Staff may be supported at any stage by the TU representative or by a work colleague. Alternatively, staff may wish to take legal advice from an independent legal adviser; however they may not be represented by a legal adviser during the process.

11 How NILGOSC will Handle the Concern Raised

- 11.1 Once a concern is raised, the Department should be notified promptly (refer to section 12). Where confirmation is received from the Department that NILGOSC will carry out the investigation, an initial assessment will be undertaken in order to ascertain what action should be taken. Action may take the form of immediate steps to prevent the loss of funds, an informal review, an internal inquiry, a more formal investigation or an immediate dismissal of the concern.
- 11.2 Should a formal investigation be necessary an Investigating Officer will be nominated. The Investigating Officer will be required to declare any conflicts of interest between themselves and the issue being investigated to ensure the Officer's objectivity will not be compromised during the investigation.
- 11.3 In order to effectively investigate, a documented plan will be drawn up including the establishment of a suitable terms of reference, and proposed timescales for investigation and timely feedback to the whistleblower. NILGOSC will aim to make timescales as timely as possible however the whistleblower will be notified in writing in the event of any significant delays.
- 11.4 The Investigating Officer will determine what evidence needs to be gathered and consider who should be interviewed or informed about the disclosure, such as internal/external audit. The whistleblower may be asked to think about how they feel the matter might best be resolved and will also be asked to declare any personal interest in the matter at the outset.
- 11.5 As part of the assessment/investigation, the Investigating Officer should ensure there is appropriate contact with the whistleblower throughout the investigation. This should be agreed with the Department, taking account of the views of the whistleblower. The whistleblower may be interviewed and asked to provide a written witness statement to set out the nature and details of the qualifying disclosure and the basis for it. They may also be asked to attend a meeting at which the disclosure can be discussed. All reasonable steps should be taken to attend this meeting and the individual will have the right to be accompanied by a colleague or a Trade Union Representative, if applicable.

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- 11.6 If requested, a written summary of the concern raised and the proposal on how it will be handled may be provided to the individual who has raised the concern. However, it may not be possible to detail the precise action proposed as this may infringe a duty of confidence. When the investigation has been completed, the whistleblower will be informed, in writing, of the outcome and NILGOSC's decision as soon as possible.
- 11.7 Employees will be notified of any changes to NILGOSC's policies or procedures as a result of whistleblowing investigations, ensuring anonymity and confidentiality is maintained.

12 Reporting

- 12.1 The Governance Manager or another Senior Manager, as appropriate, should be notified promptly of all concerns raised under the Whistleblowing Policy. All whistleblowing concerns will then be reported to the Department's Head of Governance (see section 9.5) so that agreement can be reached on the conduct of investigations. Where it is agreed that NILGOSC will undertake the investigation, the appropriate protocols and timescales for reporting to the Department on the investigation, along with how contact with the whistleblower will be maintained, will be agreed between the Department and NILGOSC.
- 12.2 Any whistleblowing concerns that relate to senior management or Committee members will be investigated by the Department. In the event of this occurring, both Departmental contacts at section 9.5 should be notified (copying the Head of Governance).
- 12.3 All whistleblowing concerns including the progress of any investigations will be reported to the Audit & Risk Assurance Committee and Management Committee, as part of the quarterly Fraud & Whistleblowing report.

13 Records

- 13.1 Records of concerns raised, including all investigative work carried out and the outcome, will be maintained securely by NILGOSC in line with the requirements of NILGOSC's Retention and Disposal Schedule.

14 Awareness Training

- 14.1 NILGOSC will regularly communicate to all existing members of staff, Committee Members and external parties the avenues open to them under this policy. New staff and Committee Members will be made aware of this policy through induction training. External parties and members of the public will be made aware of this policy through contract agreements, NILGOSC communications and/or publication on NILGOSC's website.
- 14.2 The policy will also be published on the NILGOSC Intranet and website.

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15 Review

15.1 This policy will be reviewed at minimum intervals of three years, or more often as required. The Governance Manager is responsible for the maintenance and review of this policy.

Published: December 2009

Reviewed: April 2013

Reviewed: April 2014

Approved: June 2017

Next review due: June 2020

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Details of concern continued ...

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I wish an investigation to commence regarding the above:

Signed:

Print Name:

Date: