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Title:	Whistleblowing Policy (<i>Policy and Procedure for Staff and Self Employed Contractors who wish to raise a concern</i>)		
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To be completed by the Communication & HR Officer

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Executive Summary: MAXIMUM 2 PAGES

Please ensure you take the time to familiarise yourself with the <POLICY NAME> which is available under the Policies (<SECTION OF POLICIES>) section of the Intranet.

Executive Summary

The DHSSPS under circular HSS (F) 07/2009 required all HSC bodies to “ensure they have ‘Whistleblowing’ procedures in place and make Accounting Officers aware of a template which has been drawn up for use in developing organisational specific arrangements”. The most recent circular HSC (F) 32-2015 copies the DFP Circular DAO (DFP) 2/15 and directs organisations to review their procedures in line with the UK Audit Authorities Publication “Whistleblowing in the Public Sector: A Good Practice Guide for Workers and Employers” and also refers to recent points raised by the NI Assembly and PAC hearings which the Department of Finance and Personnel (DFP) wish organisations to take account of when dealing with Whistleblowing concerns.

NIGALA reviewed its Whistleblowing in light of this Guidance and circular and a number of minor provisions were highlighted in the Policy for Audit Committee Members review at meetings in October 2015 and February 2016. . Members raised the following matters;

a) Clarification with the DHSSPS on the following:-

What is a Senior Member as outlined in the Circular with respect to NIGALA

What does retain ownership mean in terms of governance and accountability

b) NIGALA to draft an interim interpretation on the above matters

Progress

The DHSSPS provided the following clarification

- A Senior Manager is regarded as the Chief Executive and any member of the Senior Management Team.
- In terms of the DHSSPS retaining ownership this will mean the Agency agreeing a communication plan with the DHSSPS as part of the management of the Whistleblowing matter.

POLICY / PROCEDURE

NORTHERN IRELAND GUARDIAN AD LITEM AGENCY

Whistleblowing Policy

(Policy and Procedure for Staff and Self Employed Contractors who wish to raise a concern)

1. Introduction

- 1.1 All of us at one time or another may have concerns about what is happening at work. However, when it is about unlawful conduct, a possible fraud or a danger to the public or the environment, or other serious malpractice, it can be difficult to know what to do. You may be worried about raising such a concern and may think it best to keep it to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Northern Ireland Guardian ad Litem Agency (NIGALA). You may decide to say something, but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.2 The purpose of these arrangements is to reassure you that it is safe and acceptable to speak up. They also enable you to raise your concern about such malpractice at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern. If something is troubling you of which you think we should know about or look into, please let us know. If, however, you wish to make a complaint about your employment or how you have been treated, please use the NIGALA Grievance Procedure.
- 1.3 NIGALA has as part of its core values a commitment to openness in its activities and decision-making processes. The Agency encourages employees and self

employed contractors to raise issues of concern with their Line Manager/Case Co-Ordinator or through the Chief Executive directly.

- 1.4 The Public Interest Disclosure Order (NI) 1998 (Amended 2004) provides protection to staff/self employed contractors who believe it is necessary to raise issues of public interest either internally or externally (See Appendix I). We have implemented these 'Whistleblowing' arrangements for you to raise any concern where the interests of others or the organisation itself are at risk. If your concern is about possible fraud, you may also wish to refer to our Fraud Policy Statement and Fraud Response Plan which can be found on the Staff Website.

2. Purpose of this Policy

- 1.1 The purpose of this Policy is to advise you of the procedures for raising concerns in the workplace, particularly where those concerns relate to unlawful conduct, financial malpractice or dangers to the public or the environment, or other serious malpractice.

3. Who does the Policy apply to?

- 3.1 The Policy applies to all employees, (including those designated as casual hours, temporary, agency, authorised volunteers or work experience), and those self employed contractors working for NIGALA. The Policy also covers Board Members.

4. The Aims of the Policy

- 4.1 To encourage you to feel confident in raising concerns and to question and act upon concerns about practice.
- 4.2 To provide avenues for you to raise concerns in confidence and receive feedback on any action taken.

- 4.3 To ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- 4.4 To reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure which is in the public interest.

5. What types of Concern are Covered?

- 5.1 Conduct which is an offence or a breach of law.
 - 5.2 Failure to comply with a legal obligation.
 - 5.3 Disclosures related to miscarriages of justice.
 - 5.4 Health and safety risks, including risks to the public as well as other employees.
 - 5.5 Damage to the environment.
 - 5.6 The unauthorised use of public funds.
 - 5.7 Possible fraud and corruption.
 - 5.8 Sexual, physical or other abuse of clients.
 - 5.9 Other unethical conduct.
 - 5.10 Actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong.
- NB. Other procedures are available to employees e.g. the Grievance Procedure which relates to complaints about your own employment. This policy also does not replace other complaints procedures which are for public use.

Our Assurances to you

6. Your safety

- 6.1. We are committed to making 'Whistleblowing' work. If you raise a genuine concern under these arrangements, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting in good faith, it does not matter if you are mistaken. Of course, this assurance does not extend to someone who maliciously raises a matter they know to be untrue.

7. Confidentiality

- 7.1 We will not tolerate the harassment or victimisation of anyone who raises a genuine concern and with these assurances; we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset.
- 7.2 If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

8. Anonymity

- 8.1 Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter, to protect your position, or to give you feedback. Accordingly, while we will consider anonymous reports, these arrangements are not well suited to deal with concerns raised anonymously.

If you are unsure about raising a concern you can get independent advice from Public Concern as Work (see contact details under Independent Advice).

9. How to raise a concern internally

- 9.1 Please remember that you do not need to have firm evidence of malpractice before raising a concern. However we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

10. Step One

- 10.1 If you have a concern about malpractice, we hope you will feel able to raise it first with your line manager or with another member of the NIGALA Senior Management Team. This can be done orally or in writing.

11. Step Two

- 11.1 If, for whatever reason, you feel that raising it with your line manager or another member of the Senior Management Team is not appropriate or it has not worked, please raise the matter with the Chief Executive.
- 11.2 If your concern is in relation to the Chief Executive or Board members the matter should be raised with the Board Chair. Where the Chair is not available this should be raised with the Deputy Chair. If the matter is in relation to the Board Chair this should be raised with the DHSSPS as outlined in option 4 below.

12. Step Three

- 12.1 If the matter is not in relation to the Chief Executive or Board members and the above channels have been followed, however there are grounds for believing the disclosure has been insufficiently addressed and the matter is so serious that it cannot be discussed with any of the above, please raise the matter with:

The NIGALA Board Chair or the NIGALA Audit Committee Chair can be contacted through the Board/ Audit Committee Secretary as detailed below

Mr Bernard Mitchell

Mr David Watters

Board Chairman

Audit Committee Chair

028 9031 6562

028 9031 6562

13. Step Four

- 13.1 If all previous channels have been followed and there are grounds for believing the disclosure has been insufficiently addressed the matter may be raised with the Director of the Child Policy Unit, DHSSPS.

Ms Eilís McDaniel

Director of Family and Children's Policy Directorate

Department of Health, Social Services and Public Safety

Castle Buildings

Stormont

Belfast

BT4 3SQ

028 9052 0243

eilis.mcdaniel@dhsspsni.gov.uk

14. How will the matter be handled?

- 14.1 At the outset it is important to clarify if the member of staff raising the concern wishes to have their identity protected. Once you have told us of your concern, we will look into it to assess initially what action should be taken. This may involve an informal review, an internal inquiry or a more formal investigation.

Where it is decided that a formal investigation is necessary the overall responsibility for the investigation will lie with a nominated "Investigation Officer." In any event, we will tell you who is dealing with the matter, how you can contact him or her, and whether your further assistance may be needed. If you request, we will write to you summarising your concern and setting out how we propose to handle it.

- 14.2 When you raise the concern you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, we do ask that you tell us at the outset. If your concern falls more properly within other policies such as Fraud, Grievance or Harassment, we will tell you.
- 14.3 We will give you as much feedback as we properly can, and if requested, we will confirm it in writing. 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.
- 14.4 In the event that a whistleblowing matter is received about a Senior Member or Board member the DHSSPS will retain ownership of the investigation and the Agency will agree a communication plan with the DHSSPS as part of the management of the Whistleblowing matter.

15. Independent Advice

- 15.1 If you are unsure whether or how to raise a concern or you want confidential advice at any stage, you may contact your union. You may also contact the independent charity Public Concern at Work on 020 7404 6609 or by email at helpline@pcaw.co.uk. Their lawyers can talk you through your options and help you raise a concern about malpractice at work. For more information, you can visit their website at www.pcaw.co.uk.
- 15.2 An individual may also wish to discuss or seek advice from other independent sources. If so the following can be contacted:-

- Professional body such as NISCC.
- Department of Health and Social Services and Public Safety,
- Commissioner for Complaints,
- Police (PSNI),
- Organisations like the Equality Commission
- Comptroller and Auditor General at Belfast **028 90251100**, or e-mail whistleblowing@niauditoffice.gov.uk.
- Ombudsman
- Trade union

16. External Contacts

16.1 While we hope we have given you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body. In fact, we would rather you raise a 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. Public Concern at Work (or your union) will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely

16.2 A list of external contact details is given on the following page.

17. Conclusion

17.1 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using these 'Whistleblowing' arrangements you will help us to achieve this.

17.2 Please note, this document has been developed to meet best practice and comply with the Public Interest Disclosure (NI) Order 1998 (PIDO) which provides employment protection for 'Whistleblowing'.

Name/Address	Telephone	Email/Website
Health Service Counter Fraud Hotline	080 0096 3396	Website: www.reporthealthfraud.hscni.net
Public Concern at Work	020 7404 6609	Website: www.pcaw.org.uk
Commissioner for Complaints The Ombudsman Freepost RTKS-BAJU-ALEZ Belfast BT1 6BR OR Progressive House 33 Wellington Place Belfast BT1 6HN	080 0343 424 028 9023 3821 Textphone: 028 9089 7789	Website: www.ni-ombudsman.org.uk Email: ombudsman@ni-ombudsman.org.uk
Equality Commission Equality House 7-9 Shaftesbury Square Belfast BT2 7DP	028 9050 0600 Textphone: 028 9050 0589	Website: www.equalityni.org Email: information@equalityni.org
The Comptroller and Auditor General Northern Ireland Audit Office 106 University Street Belfast BT7 1EU	028 9025 1062 028 9025 1093	Website: www.niauditoffice.gov.uk Email: whistleblowing@niauditoffice.gov.uk
The British Association of Social Workers Northern Ireland Douglas House	028 9064 8873	Website: www.basw.co.uk/northern-ireland/

397 Ormeau Road Belfast BT7 3GP		Email: aras@basw.co.uk
NISCC 7th Floor Millennium House 19-25 Great Victoria Street Belfast BT2 7AQ	028 9536 2940	Website: www.niscc.info Email: conduct@niscc.hscni.net

The Public Interest

A definition of the Public Interest is difficult to obtain but the legislation sets out a number of examples of disclosure which qualify for protection

A qualifying disclosure is one that the worker has a reasonable belief that one of the following has been, is being or is likely to occur;

- A criminal offence
- Failure to comply with any legal obligation to which the individual is subject
- Miscarriage of justice
- The endangerment of the health, safety and welfare of any individual
- Damage to the environment
- Concealment of information relating to any of the above

The legislation does not provide protection to anyone who raises issues, which they know to be untrue or which are raised in a vexatious or mischievous way.

What Protection does the Order give?

A qualifying disclosure, as per section 3, will be protected under the Order if it is made in good faith to NIGALA, to a Legal Advisor, to a Government Minister or to a person or body prescribed in Statutory Rule 1999 No.401.

The employee must make the disclosure in good faith and reasonably believe that the information and the allegation in it are substantially true.

NB: Please refer to Appendix 1 for full details of Protection under the Order.

Protection for Qualifying Disclosures

1.1 A qualifying disclosure will be protected under the Order if it is made:

- In good faith to NIGALA (either directly or through internal procedures authorised by the NIGALA or to another person whom the discloser reasonably believes is solely or mainly responsible for the failure in question).
- To a legal adviser in the course of obtaining legal advice.
- In good faith to a Government Minister by an employee in a Government appointed organisation such as a Non-Departmental Public Body; or
- To a person or body prescribed in Statutory Rule 1999 No. 401 (“a prescribed person”), for example, the Health and Safety Executive for Northern Ireland, the Comptroller and Auditor General for Northern Ireland.

1.2 In the last case the employee must make the disclosure in good faith, reasonably believe that the information and the allegation in it are substantially true, and reasonably believe that the matter falls within the description of matters for which the person has been prescribed.

1.3 Qualifying disclosures will also be protected if they are made other than in the previous paragraph, provided that the person makes the disclosure in good faith, reasonably believes that the information and the allegation contained in it are substantially true, and does not act for personal gain. One or more of the following conditions must apply:

- The discloser reasonably believed that they would be victimised if they had made the disclosure to the employer or a prescribed person;
- There was no prescribed person and the discloser reasonably believed that disclosure to the employer would result in the destruction or concealment of evidence; or
- The discloser had already disclosed substantially the same information to the employer or a prescribed person.

1.4 It must also be reasonable for the discloser to make the disclosure. In deciding the reasonableness of the disclosure, an industrial tribunal will consider the circumstances. This will include:

- The identity of the person to whom the disclosure was made;
- The seriousness of the concern;
- Whether the failure is continuing or likely to recur;
- Whether the disclosure breached the duty of confidentiality which the employer owed to a third party;
- What action has been taken or might reasonably be expected to have been taken if the disclosure was previously made to the employer or a prescribed person; and
- Whether the discloser complied with any approved internal procedures if the disclosure was already made to the employer.

1.5 A disclosure made about an “**exceptionally serious**” failure, other than described above, will be protected if the discloser makes the disclosure in good faith, reasonably believes that the information disclosed and any allegations contained in it are substantially true and does not act for personal gain, provided that it is reasonable for that person to make the disclosure, having regard, in particular, to the identity of the person to whom the disclosure is made. It will be for the Industrial Tribunal to consider and decide whether any particular failure is “exceptionally serious”. This will be a question of fact, not of an individual’s personal belief.