

WHISTLE-BLOWING POLICY AND PROCEDURE

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Whistle-Blowing Policy and Procedure

1. Introduction

If you, as a member of NIJAC staff, have concerns about any issue within NIJAC we would encourage you to let us know. All of us at one time or another has had concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice or dangers to the public or the environment, it can be difficult to know what to do.

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or the organisation. 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.

Whistle-blowing involves you, raising certain types of wrongdoing or suspected wrongdoing. This is officially known as "making a disclosure in the public interest". The disclosure must be in the public interest i.e. it must affect others such as the general public.

NIJAC has introduced this policy and procedure to enable you to raise your concerns, about such malpractice, at an early stage and in the correct manner. We would rather that you raised the matter when it is just a concern rather than wait for proof.

2. What is Whistle-blowing?

Whistle-blowing is a term used to describe the disclosure of information by a worker, which qualifies for the "protection" prescribed by the Public Interest Disclosure (Northern Ireland) Order 1998. One of the aims of the legislation is "to encourage responsible whistle blowers" who can inform NIJAC about health and safety risks, potential environmental problems, fraud, corruption,

deficiencies in the care of resources, cover-ups and many other problems. The legislation is intended to protect disclosures of information which are made by workers in good faith.

It does not protect expressions of opinion which may be unfounded or unsupported by any actual evidence.

Whistle blowing is therefore a valuable activity which can positively influence all of our lives.

3. The Public Interest Disclosure (NI) Order 1998

This 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:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject;
- that a miscarriage of justice has occurred, is occurring, or is likely to occur;
- that the health & safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being, or is likely to be damaged; or
- that 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.

The Public Interest Disclosure (NI) Order 1998, which came into force on 31 October 1999 introduced protection against dismissal and other detriments for those workers who disclose information in the public interest in prescribed circumstances to prescribed persons (see [Statutory Rule](#) for details) provided that disclosure is made in good faith. The legislation does not introduce a general right for 'whistleblowers' to receive special protection. A disclosure is

not protected if it constitutes an offence or is made by a person to whom the information was given in the context of obtaining legal advice.

NIJAC takes very seriously any breach in the above standards or of the NCIS Code of Ethics and will instigate disciplinary action against any individual or individuals found to be in breach of the standards. It is the duty of all staff to ensure that standards are maintained and to report suspicions of fraud, corruption or failure of propriety.

The Public Interest Disclosure (NI) Order 1998 does not extend or provide protection to 'external' whistleblowers, a whistleblower as defined in the Order is someone inside the organisation.

NIJAC has [complaints procedures](#) for the public and [grievance procedures](#) for staff which are more appropriate for making routine complaints.

4. What Is A Qualifying Disclosure?

Concerns that may be raised within this policy may arise from malpractice, abuse and wrongdoing and can include a whole variety of issues, some of which are listed below:

- any unlawful act, whether criminal (e.g., theft) or a breach of the civil law (e.g. slander of libel);
- misadministration (e.g. unjustified delay, incompetence, negligent advice);
- failure to safeguard personal and/or sensitive information and/or the subsequent misuse of such information;
- health and safety risks, including risks to the public as well as other employees (e.g. faulty electrical equipment);
- abuse of children and vulnerable adults (e.g. through physical, sexual, psychological or financial abuse, exploitation or neglect);
- damage to the environment (e.g. pollution);
- the unauthorised use of public funds (e.g. expenditure for improper purpose);
- fraud and corruption (e.g. to solicit or receive any gift/reward as a bribe);

- breach of the Member or Employee Code of Conduct;
- abuse of power (e.g. bullying/harassment);
- other unethical conduct; and
- deliberate concealment of information tending to show any of the above.

This is not a comprehensive list but is intended to illustrate the sort of issues that may be raised under this policy.

The procedures set out in this policy are in addition to the NICS Grievance Procedures in the NICS Staff Handbook.

5. Our Assurances to You

Your Safety

NIJAC is committed to this policy. If you raise a genuine concern under this policy whether founded or unfounded, you will not be at risk of losing your job or suffering any form of harassment, victimisation or detriment as a result. Provided you are acting in good faith, it does not matter if you are mistaken. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.

6. Raising Your Concern Anonymously or Confidentially

If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent unless it is required for legal proceedings or disclosure is for (and is necessary for) the exercise of NIJAC's functions where, for example, the information impacts on the selection, appointment or recommendation of applicants to judicial office¹. You can raise your concern anonymously but we may not be able to progress this any further, for example, if you have not provided enough information and we cannot contact you.

As previously stated, we will not tolerate any form of harassment, victimisation nor will you suffer any detriment as a result of raising a genuine concern.

¹ See Section 91 of the Justice (Northern Ireland) Act 2002

However, we recognise that you may nonetheless want to raise a concern in confidence under this policy. If you provide your name but request confidentially we will make every effort to protect your identity. If you want the matter raised in confidence, you should state so at the outset so as appropriate arrangements can be made. There may be times when we are unable to resolve a concern without revealing your identity, for example, where your personal evidence is required. If this situation arises we will discuss with you whether and how we can proceed.

7. Whistle-Blowing Procedure for Staff

Option One

Any concerns you have, can in the first instance, be raised verbally or in writing with your Line Manager or your Line Manager's immediate manager. If you feel unable to raise the matter with either of them then the Chief Executive is the next point of contact. If you cannot raise the concern with the Chief Executive because you believe s/he may be involved you may approach to Chairman of NIJAC.

If you wish to make a written statement you should set out the background and history of the concern (giving relevant dates) and the reasons why you are particularly concerned about the situation. The earlier a concern is expressed the easier it will be to take action.

You do not need to have firm evidence of malpractice before raising a concern and NIJAC will not expect you to prove that your concern is true, but it will be necessary to demonstrate to the person contacted that there are reasonable grounds for the issue to be raised. Consequently, NIJAC will ask staff to explain as fully as possible the information or circumstances that gave rise to their concerns.

It is acceptable for you to discuss concerns with a colleague as they may find it more comfortable to raise the matter if there are two (or more) individuals present who have had the same experience or concerns.

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 internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact him/ 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.

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 the Grievance Procedure we will tell you.

Option Two

If the above channels have been followed/ considered and:

- individual staff still have concerns; or
- reasonably believe that they will be victimised if they raise the matter internally; or
- believe that disclosure will result in the destruction of evidence; or
- they consider that the matter is so serious that they cannot discuss it with their Line Manager, their Line Manager's immediate Manager or the Chief Executive; or
- you consider that it is not appropriate; you should contact the following:

The Grade 3 in The Executive Office:

Mark Browne
The Executive Office
Room E4:10
Stormont Estate

Option Three

If you feel unable to raise the matter through the normal line management chain, for whatever reason, you should raise the matter with the Chairman of the Audit and Risk Management Committee in line with the Fraud Management Policy.

Alternatively: whistleblowing@niauditoffice.gov.uk or telephone: (028) 9025 1062 or (028) 9025 1000 if the concern is in relation to the use of tax payers money.

Please say if you want to raise the matter in confidence so that they can make appropriate arrangements.

If it is necessary to meet with you to clarify information provided the location will be agreed with you and you can be accompanied by someone such as a union official or other person of your choice. The purpose of the meeting is purely to gain sufficient information in order to determine the best course of action.

8. Independent Advice

If you are unsure whether to use this procedure or want independent advice at any stage, you may contact:

- your Staff Confidential Counselling Service, **Carecall**, Freephone 0800 389 5362 for free legal advice; or
- the independent charity **Public Concern at Work** on **0207 404 6609** helpline@pcaw.co.uk . Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

9. External Contacts

While we hope this policy gives you the reassurance you need to raise such matters internally, we recognise that there may be circumstances where you

can properly report matters to outside bodies, such as regulators or the police. The independent charity **Public Concern at Work** detailed above (or, if applicable, your Trade 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.

10. If you are Dissatisfied

If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this policy. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly. By using this policy, you will help us to achieve this.

11. Members of the Public/Applicants for Judicial Office

It is important to note that the Public Interest Disclosure (NI) Order 1998, referred to at paragraph 3 only affords protection to internal staff who raise concerns of wrongdoing known as ‘whistle-blowing’.

However, any serious allegations or concerns raised externally by the public will be treated, where possible, in the same manner as ‘whistle-blowing’ allegations made by staff. However, if your allegations lead to criminal proceedings there may be the expectation for you, to give evidence in a court of law.

NIJAC takes all allegations of fraud and corruption very seriously and will ensure that any reports of such activity are fully investigated and appropriate action taken. If you have any such concerns it is important that you act quickly to report these, providing as much information or evidence as possible.

If you are a member of the public or an applicant for judicial office and you wish to raise a complaint about how NIJAC has handled enquiries, correspondence or an application you may have submitted, you should in the first instance raise your concerns through the appropriate [Complaints Policy](#).

12. Review

This policy will normally be reviewed after three years from date of approval.

Annex 1

