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DEPARTMENT OF EDUCATION

PUBLIC INTEREST DISCLOSURE 'WHISTLEBLOWING'

POLICY AND PROCEDURES V3

Revised June 2009

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The Public Interest Disclosure (NI) Order 1998 came into operation in Northern Ireland on the 31st October 1999. The order offers a framework of protection against victimisation or dismissal for workers who blow the whistle on criminal behaviour or wrongdoing as defined in the legislation.

The purpose of this policy is to ensure that any employee or Board Member can confidentially raise concerns, which relate to possible illegal or improper behaviour within the Department of Education without putting their positions at risk. All employees and Board Members should be aware of this policy.

1. INTRODUCTION

- 1.1 The Department of Education is committed to the highest possible standards of openness, probity and accountability in the delivery of its services. Whilst the Department has put in place a wide range of rules, regulations, procedures and codes of practice to deliver its commitments, malpractice, abuse and/or wrongdoing may unfortunately still occur.
- 1.2 The Department is not prepared to tolerate any such malpractice, abuse or wrongdoing and it expects employees and others that the Department deals with, who have concerns about what is happening at work to come forward and voice those concerns.
- 1.3 This policy has been introduced by the Department to enable individuals to raise concerns about such malpractice, abuse or wrongdoing at an early stage and in the right way, without fear of victimisation, subsequent discrimination or disadvantage. The policy is intended to encourage and enable individuals to raise concerns within the Department of Education, or externally rather than to overlook a problem.

2. SCOPE

- 2.1 This policy applies to Department of Education (DE) employees, trainees, agency staff, independent consultants, volunteers, contractors, suppliers, DE Board Members and members of the public.
- 2.2 It is worth remembering that Trade Unions, professional organisations or regulatory bodies can play a valuable role in assisting individuals to raise concerns under this policy.

3. WHAT IS MALPRACTICE, ABUSE OR WRONGDOING?

3.1 Malpractice, abuse and wrongdoing 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 or 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 unauthorized 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.

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

3.3 The procedures set out in this policy are in addition to the Departmental Grievance Procedures and the Departmental Anti-Fraud Policy and Fraud Response Plan.

3.4 This policy is primarily for concerns where the interests of others or of the Department of Education itself are at risk. Thus if an individual feels aggrieved about their personal position then they should use the Department's existing Grievance Procedure.

4. PROTECTION

4.1 Individuals who raise a genuine concern under this policy will not be at risk of losing their job/position or suffer any form of retribution as a result, except where the individual has been complicit in the commission of the offence (either by direct action or the failure to act when they became aware of the offence). So long as they have not been complicit, individuals will be protected even if the matter is found to be mistaken, provided they:

- Are acting in good faith;
 - Believe on reasonable grounds that the information is accurate;
 - Have not made the allegation principally for the purpose of obtaining payment for personal gain; and
 - Have taken reasonable steps to raise the subject matter of the disclosure internally, by drawing it to the attention of the appropriate individual.
- 4.2 Whilst the Department encourages the submission of all genuine disclosures it will nevertheless view very seriously any false and malicious allegations that are made under this policy. The Department will regard such allegations by any employee or Board Member of the Department as a serious offence, potentially misconduct which could result in disciplinary action.
- 4.3 The Department, in accordance with the NICS Policy on Equal Opportunities, will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect individuals who raise a concern in good faith.
- 4.4 The Department will treat all disclosures made through the Whistleblowing policy in a confidential and sensitive manner. The identity of the individual making an 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 equivalent regulatory body. If this occurs the Department will discuss with the individual how to proceed.
- 4.5 Any individual who believes they are being penalised for raising a concern, should refer to the Departmental Grievance Procedures and/or report their concerns to the Departmental Staff Welfare Officer who will take the matter further.

5. ANONYMOUS ALLEGATIONS

- 5.1 This policy encourages an individual to put their name to the allegation whenever possible as without this it is difficult to investigate a matter and to corroborate facts. It is then possible to clarify any ambiguous information or to ask for additional information to support the allegation. Moreover the Department will be less able to protect the individual's position or to give feedback on the outcomes of any action taken. Concerns expressed anonymously are therefore much less powerful but will be considered by the Department. In considering anonymous allegations the Department will take into account factors such as:
- The seriousness of the issues raised;
 - The credibility of the concern; and

- The likelihood of confirming the allegation from attributable sources.

6. PROCEDURE

6.1 How to Raise a Concern – Internally

- 6.1.1 Any concerns that an individual may have can be raised orally or in writing with their Line Manager (see section 6.1.4). Those who wish to make a written statement should set out the background and history of the concern (giving relevant dates) and the reasons why they are particularly concerned about the situation. The earlier a concern is expressed the easier it will be to take action. **If in Doubt – Raise it.**
- 6.1.2 The Department will not expect an individual to prove that their 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.
- 6.1.3 It is perfectly acceptable for an individual to discuss concerns with a colleague as they may find it more comforting to raise the matter if there are two (or more) individuals present who have had the same experience or concerns.
- 6.1.4 Any concerns about malpractice, abuse or wrongdoing should be raised firstly with Line Managers. If an individual feels unable to raise the matter with their Line Manager then the Head of Branch/ Division is the next point of contact.

If the above channels have been followed/ considered and:

- an individual still has 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 feel that the matter is so serious that they cannot discuss it with their Line Manager, or Head of Branch/ Division; or
- they consider that it is not appropriate (e.g. the individual is a contractor, supplier or member of the public),

they should contact Internal Audit (Michelle.Anderson@deni.gov.uk) on extension 59669.

6.2 How the Department of Education will Handle the Matter

- 6.2.1 The person receiving an individual's concern shall review the issue, determining the factual information and its implications in consultation with appropriate Departmental employees (normally the Head of

Corporate Services and Head of Internal Audit) and decide the course of action to be taken, if any. This may involve an internal enquiry or a more formal investigation. The Department will provide information to the individual who lodged the concern, on who is handling the matter, how they can contact him/her and whether further assistance may be needed. If an individual requests, the Department will provide a written summary of the concern and information regarding how it is proposing to address the concern.

- 6.2.2 It may be necessary to arrange a meeting with the individual and if they wish they can be accompanied by a Trade Union representative or a work colleague.
- 6.2.3 Where it is considered appropriate, the matters raised may be referred to external agencies to investigate, e.g. the Police, NIAO or through some other form of independent inquiry. The Head of Corporate Services/ Head of Internal Audit or another appropriately appointed employee of the Department will provide the individual with details if this is going to happen.
- 6.2.4 Where a notification is sent directly to Internal Audit, the Head of Internal Audit will review the contents and assess whether a fraud investigation is warranted. Where it is determined that a fraud investigation should be undertaken, Internal Audit will establish the appropriate investigation actions to be taken. Internal Audit will liaise directly with the correspondent in such cases and where contact details have been provided.
- 6.2.5 Where a fraud investigation is not warranted, Internal Audit will forward the correspondence to the appropriate Head of Branch for action. Internal Audit will outline clearly the reasons for forwarding the correspondence to the branch. The Head of Branch will treat the correspondence with due regard to the contents of this Policy with particular consideration for the need to maintain confidentiality and engagement with the correspondent where possible. Internal Audit will notify the correspondent that the correspondence has been forwarded and provide the name and contact of the responsible manager.
- 6.2.6 Within 10 working days of a concern being raised, the person handling the matter will write to the individual who lodged the concern: -
 - Acknowledging that the concern has been received;
 - Indicating how the Department proposes to deal with the matter;
 - Giving an estimate of how long it will take to provide a final response;
 - Informing as to whether any initial enquiries are being made;
 - Supplying information on staff support mechanisms with regard to realistic advice on what the Whistleblowing process entails; and

- Informing whether further investigations will take place, and if not, why not.
- 6.2.7 Whilst the purpose of this policy is to enable the Department to investigate concerns of malpractice, abuse or wrongdoing and take appropriate steps to deal with it the Department will also aim to provide individuals who raise a concern with as much feedback as possible. Note: that the Department may not be able to inform of the precise action to be taken where this would infringe a duty of confidence owed by the Department to someone else.
- 6.2.8 The Department will take steps to minimise any difficulties that individuals may experience as a result of raising the concern. Thus, if an individual who raises a concern is required to give evidence in criminal or disciplinary proceedings the Department will arrange for them to receive advice about the procedure.

6.3 How to Raise a Concern - Externally

- 6.3.1 This policy is intended to provide an appropriate avenue within the Department to raise concerns. Whilst the Department hopes this policy provides reassurance that these matters can be raised internally, it is also possible to raise a matter externally rather than not at all. As with internal notifications, external concerns will be considered provided that an individual is acting in good faith and they have an appropriate level of evidence to back up their concerns. The level of evidence required will be determined by the nature of the concern raised and will be judged by the Department on an individual basis.
- 6.3.2 The Department also encourages contact from sources external to the Department who have concerns about the Department's use of public funding. The homepage of the Departmental website provides a link to information regarding Whistleblowing together with the appropriate avenue of contact for reporting any concerns.
- 6.3.3 All such notifications will again be considered at the discretion of the Department. As for internal notifications the Department in exercising this discretion will consider, among others, the following factors:
- The seriousness of the issues raised;
 - The credibility of the concern; and
 - The likelihood of confirming the allegation from attributable sources.
- 6.3.4 The Department will deal with the notifications in the same manner as per paragraph 6.2.4 which details how internal notifications will be handled.

6.3.5 External notifications should be made in the first instance to:

Department of Education

Head of Internal Audit
Rathgael House
Balloo Road
Bangor
BT19 7PR

Tel: +44 (028) 9127 9669

Email: michelle.anderson@deni.gov.uk

6.3.6 Alternatively, notifications may be made directly to:

Northern Ireland Audit Office

The Comptroller and Auditor General
106 University Street
Belfast
BT7 1EU

Tel: +44 (028) 9025 1100

whistleblowing@niauditoffice.gov.uk

6.3.3 Note: These telephone numbers are general contact numbers. It will be necessary to explain the nature of the concern and ask to be put through to the appropriate Department and/or person.

6.4 *Records*

6.4.1 Records of concerns raised, including the outcome shall be maintained for a minimum of five years, by the Head of Corporate Services and/ or Head of Internal Audit. All such records shall be maintained in a confidential and secure environment.

6.5 *Awareness Training*

6.5.1 The Department will regularly communicate to all existing employees and Board Members regarding the avenues open to them under this policy and new staff will be made aware of this policy through induction training.

6.6 *Review of this Policy*

6.6.1 This policy will be reviewed at minimum intervals of three years by the Department. The responsible officer for the maintenance and operation of the policy is the Head of Internal Audit.

7. INDEPENDENT ADVICE

- 7.1 If an individual is unsure whether to use this procedure or requires independent advice at any stage they may contact, if applicable: -

Public Concern at Work
Suite 306
16 Baldwin's Gardens
London
EC1N 7RJ

Tel: 020 7404 6609
Website: www.pcaw.co.uk
E-mail: whistle@pcaw.co.uk

- 7.2 PCAW lawyers can provide free confidential advice at any stage about how to raise a concern about serious malpractice at work.

Date of issue of policy: April 2007

Date of 1st review: November 2008

Date of 2nd review: June 2009

Date of next review: June 2012