

NORTHERN IRELAND CIVIL SERVICE

RAISING A CONCERN

A POLICY FRAMEWORK

Version	Date	Context	Owner	Date of next scheduled review
1.0	25 January 2023	Publication	David Hughes	January 2024

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A POLICY FRAMEWORK

1. The Northern Ireland Civil Service (NICS) is committed to the highest possible standards in the delivery of its functions and services. When concerns arise, it is important that the Service responds appropriately, correcting failures and learning lessons.
2. Raising a concern, often referred to as “whistleblowing”, refers to someone notifying a Department or agency about 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 NICS staff (civil servants and others) who want to raise concerns.
4. Each department will have its own 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 NICS encourages 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 are ‘concerns’?

7. Raising a concern is drawing attention to suspected risk, danger, malpractice, wrongdoing or illegality in or by an organisation staffed by NI civil servants. This might include issues such as:

- a. health and safety risks, either to the public or other employees;
 - b. any unlawful act (e.g., theft);
 - c. the unauthorised use of public funds (e.g., expenditure for improper purpose);
 - d. maladministration (e.g., not adhering to procedures, negligence);
 - e. failing to safeguard personal and/or sensitive information (data protection);
 - f. damage to the environment (e.g., pollution);
 - g. fraud and corruption (e.g., to give or receive any gift/reward as a bribe);
 - h. the abuse of children and /or vulnerable adults (physical or psychological);
 - i. 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.

What is not a 'concern' under this policy?

11. 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.
12. 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.

13. 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

14. The NICS does 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 NICS. 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.
15. 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).
16. 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. Detailed investigations may, however, be more difficult, or even impossible if the person who originally raised the concern cannot be contacted for further information, and this must be made clear to those raising concerns. There is also a chance the documents or information provided might, unknown to the Department, reveal the identity of the person raising a concern, making it more difficult to protect their anonymity.
17. 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

18. *Protect*, a charitable organisation, provides free, impartial and confidential advice. Those thinking of raising a concern ought to be directed to their website at [Protect - Speak up stop harm \(protect-advice.org.uk\)](http://protect-advice.org.uk)

How members of the public can raise a concern

19. The NICS wants it to be easy for members of the public to raise a concern.

20. Members of the public must be able to raise a concern orally or in writing:

- a. through the NIDirect website;
- b. through the website of each Department;
- c. directly with the Designated Officer who deals with external concerns in the relevant department.

21. 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.

22. 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

23. 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 NICS (namely any members of staff, contractors, trainees, agency workers, volunteers and independent consultants working for or providing advice to the NICS¹) enjoy some protection under the Employment Rights (NI) Order 1996 (as inserted by the Public Interest Disclosure (NI) Order 1998 and amended by the Employment Act (Northern Ireland) 2016).

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

24. A civil servant or other member of staff (including agency workers) should raise their concerns first with their line manager or another manager that 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.
25. 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.
26. 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.
27. It should be possible for someone to escalate a concern, if they have reason to believe that the original risk, danger, malpractice, wrongdoing or illegality remains unchanged. In which case, they should contact the Permanent Secretary.
28. If their concern relates to a senior colleague at Deputy Secretary or Permanent Secretary level, they should refer to the Top Management Complaints Procedure.
29. 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 whistleblowers

30. 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.
31. 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.
32. 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.
33. If a NICS 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.
34. If a member of staff expresses concerns that they are being victimised by other members of staff as a result of the issues that they have raised, the Department must take this seriously and ensure that appropriate action is taken.

Raising a concern externally

35. 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.
36. 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 [Prescribed Persons \(Amendment\) Order NI 2014](#).

37. *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?

38. 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.

39. 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.

40. If the concern 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 the appropriate team.

41. 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 dealt with straightaway by line management;
- c. a review by internal audit as part of planned audit work might be sufficient to address the issue;
- d. there may be a role for external audit in addressing the concerns raised and either providing assurance or recommending changes to working practices;
- e. there may be a need for a formal investigation.

42. A concern may include an allegation against an individual, or an allegation against an individual may come to light in any investigation. Such an allegation may 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.
43. Should it be determined that a concern is to be investigated, overall responsibility for ensuring that a concern is reviewed / investigated will be allocated to a Nominated Review Officer; the person who originally raised the concern will be told who that is. The Nominated Review Officer may contact that person 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.
44. At the conclusion of any review / investigation, 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.

Designated Officers

45. Designated Officers will seek to ensure a consistent approach to the handling of concerns across the department. They will maintain 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. They will monitor concerns, analysing patterns and trends, and report to their Departmental Board or Audit and Risk Assurance Committee on the number and types of concerns being raised.
46. 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.

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

47. If someone raises a concern about an ALB with the department, the department will decide if it is appropriate for this to be dealt with by the ALB or whether it should be dealt with by the department. If 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.
48. There will be circumstances where a member of staff of an Arm's-Length Body (ALB) can make a protected disclosure to a Minister (either directly or through departmental officials); or to the Department as a 'prescribed person' in respect of specific issues. A concern raised in the way will be handled by the department and not referred on to the ALB.
49. ALBs are required to comply with the Public Interest Disclosure legislation and have corresponding procedures in place. All concerns raised should be dealt with promptly and appropriately, whether they are raised directly with a department or with an ALB.

Speak-Up Champions

50. The Designated Officer in each Department will also be a 'speak-up champion'. As well as managing the processes for dealing with concerns, as set out above, 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 whole NICS to respond effectively to concerns and to learn from instances when things go wrong.

Conclusion

51. 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 NICS is committed to ensuring that all cases are handled fairly, properly and consistently.