

## NORTHERN IRELAND POLICING BOARD (NIPB)

### WHISTLEBLOWING POLICY

#### Background

Since its launch under the chairmanship of the late Lord Nolan, the Committee on Standards in Public Life (Committee) has continued to highlight the role whistleblowing plays: -

**“... both as an instrument of good governance and a manifestation of a more open culture”.**

Its approach and recommendations have been adopted by the Combined Code and regulatory bodies as relevant to organisations in all sectors. Emphasising the important role whistleblowing can play in deterring and detecting malpractice and in building public trust, the Committee has explained: -

**“The essence of a whistleblowing system is that staff should be able to by-pass the direct management line, because that may well be the area about which their concerns arise, and that they should be able to go outside the organisation if they feel the overall management is engaged in an improper course.”**

In making this work, the Committee has said that **“leadership, in this area more than in any other, is paramount”** and that the promotion of the whistleblowing arrangements is critically important. The Committee has long distinguished a ‘real’ internal whistleblower from an anonymous leaker to the press and has recently stressed that the Public Interest Disclosure Act should be seen as a ‘backstop’ for when things go wrong and not as a substitute for an open culture. The Committee’s early recommendations were accepted in the 1997 White Paper on The Governance of Public Bodies.

Drawing in part on the practical experience of ‘Public Concern at Work,’ the Committee has recommended that a whistleblowing policy should make the following points clear: -

- ✓ The organisation takes malpractice seriously, giving examples of the type of concerns to be raised, so distinguishing a whistleblowing concern from a grievance.
- ✓ Staff have the option to raise concerns outside of line management.
- ✓ Staff are enabled to access confidential advice from an independent body.
- ✓ The organisation will, when requested, respect the confidentiality of a member of staff raising a concern.

- ✓ When and how concerns may properly be raised outside the organisation (e.g. with a regulator).
- ✓ It is a disciplinary matter both to victimise a bona fide whistleblower and for someone to maliciously make a false allegation.

However good the written policy is, how it works in practice is critical. As the Commerce & Industry Group state: -

**“How an organisation responds to a whistleblowing situation is the litmus test of its corporate governance arrangements which proves whether they are genuine or just lip service”.**

In its most recent report the Committee on Standards in Public Life “emphatically endorsed” additional elements of good practice drawn from ‘Public Concern at Work’s’ evidence that organisations should: -

- ✓ ensure that staff are aware of and trust the whistleblowing avenues;
- ✓ make provision for realistic advice about what the whistleblowing process means for openness, confidentiality and anonymity;
- ✓ continually review how the procedures work in practice; and
- ✓ regularly communicate to staff about the avenues open to them.

In its 2005 White Paper on Standards in Public Life, the Government responded that: -

**“... it agrees on the importance of ensuring that staff are aware of and trust the whistleblowing process, and on the need for the boards of public bodies to demonstrate leadership on this issue. It also agrees on the need for regular communication to staff about the avenues open to them to raise issues of concern.”**

## **Introduction**

An employee may have / have had concerns about what is happening at work. Usually these concerns can be easily resolved through discussion with management. However, when they are about unlawful conduct, fraud, dangers to the public or the environment, or other malpractice, it can be difficult how to raise these concerns, with who, and what to do.

The aim of this policy is to provide staff with guidance on reporting such matters at work and to provide staff with reassurance that they can feel confident in exposing wrongdoing without any risk to themselves.

This policy takes account of the requirements of the Public Interest Disclosure (NI) Order 1998, which enables employees to complain to an employment tribunal if they are dismissed or suffer any other kind of detriment as a result of “blowing the whistle”. More detailed information concerning this Order, including which types of disclosure and in what circumstances, can qualify for protection is available Appendix One.

## **Raising a Concern**

If you have a concern about an issue, please tell management straight away rather than wait for proof. For some instances of possible malpractice, you may find it helpful to refer to other NIPB policies which are in place. For example, if your concern is about possible fraud, you should read the NIPB Fraud Policy (TRIM 87773) and Fraud Response Plan (87774), which explains what fraud is, it set out your responsibilities regarding both the prevention of fraud and the procedures to be followed where a fraud is detected or suspected.

## **Who should I tell?**

There are a number of avenues available for raising concerns, depending on the nature of the concern and the circumstances surrounding it.

1. Your line management will often be the initial contact point, unless there is good reason not to involve them – i.e. the issue concerns them.
2. Alternatively, you can raise the matter, as appropriate, with one of the following members of staff within NIPB:
  - Head of Branch;
  - A Director;
  - Deputy Chief Executive Officer; or the
  - Chief Executive Officer.

If you believe that you are being required to act in a way which conflicts with the core values and standards set out in respect of public service or you have become aware of the actions of others,

which you believe conflict with these values and standards, you should raise the matter with a member of the NIPB's Senior Management Team, (SMT).

3. If the above approach has been followed and you still have concerns, or you feel that the issue is so serious that you cannot discuss it with any of the above, you can raise the matter directly with the NIPB Head of Internal Audit, Mr M. Pitt, PricewaterhouseCoopers LLP or NIPB's Chairperson, Vice Chairperson or designated Board Member Ms Joan O'Hagan.

If in doubt, raise it!

### **Assurance**

NIPB will not tolerate harassment or victimisation of anyone who raises a genuine concern under this policy. Provided you are acting in good faith, it does not matter if it later transpires that you were mistaken; you will not be subject to disciplinary action as a result.

This assurance does not extend to someone who maliciously raises a matter they know to be untrue. Disciplinary action may be taken against staff who deliberately make false allegations.

### **Confidentiality**

NIPB recognises that you may want to raise a concern in confidence under this policy. If you ask NIPB to protect your identity by keeping your confidence, NIPB will not disclose it without your consent. However, in some circumstances, this may make it more difficult to fully investigate the matter. If the situation arises where NIPB are not able to resolve the concern without revealing your identity, NIPB will discuss with you how to proceed.

### **Anonymity**

Please remember if you do not tell NIPB who you are, it will be more difficult for NIPB to look into the matter or to protect your position or to give you feedback. Accordingly, while NIPB may consider anonymous reports, this policy is not designed to deal with concerns raised anonymously.

### **Addressing the Concern**

NIPB will look into your concern, initially to assess what action should be taken. You may be asked how you think the matter might best be resolved.

If you request, NIPB will write to you summarising your concern and setting out how NIPB propose to address it. NIPB will tell you who is dealing with the matter, how you can contact him/her, and whether your further assistance may be needed / required.

It may be decided that a formal investigation is necessary; in most cases this will be the responsibility of an appointed Director not connected with the issue.

NIPB will provide you with feedback on your concern, and if requested, NIPB will confirm its response to you in writing. However, NIPB may not be able to tell you the precise action it takes, where this would infringe a duty of confidence owed by NIPB to someone else.

### **External Disclosures**

While it is hoped we have given you the reassurance to raise a concern internally, we recognise that there may be circumstances where you can properly report a concern to an outside body. Examples of such an outside body or regulator would be the Northern Ireland Audit Office (NIAO) or the Health and Safety Executive of Northern Ireland.

Public Concern at Work, (see contact details below), (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.

### **If you are Dissatisfied**

If you are unhappy with NIPB's response or with the outcome of the investigation, under the Civil Service Code you may report the matter to the Civil Service Commissioners. While we cannot guarantee NIPB will respond to all matters in the way that you might wish, NIPB we will try to handle the matter fairly and properly.

### **Independent Advice**

If after reading this policy, you are unsure whether to use this guidance or you want advice at any stage, you may contact your trade union representative. A qualifying disclosure will be protected if you make it to your trade union representative, but only if any formal action you subsequently take under the Public Interest Disclosure (NI) Order 1998 is in line with the procedure outlined above.

Alternatively, you may obtain legal advice, independently, through Public Concern at Work. This is an independent charity and is a leading authority on public interest whistleblowing. They can be contacted on 020 7404 6609 and their web address is **[www.pcaw.demon.co.uk](http://www.pcaw.demon.co.uk)**.

A qualifying disclosure is protected if you make it in the course of obtaining legal advice. When preparing to seek legal advice you should be careful only to give details of the information you propose to disclose to your legal adviser. Otherwise there may be a risk that you will make a disclosure that will not be protected by the Public Interest Disclosure (NI) Order 1998. Do not

make a disclosure over a helpline; seek a one to one appointment with a legal adviser.

## **Appendix One**

### **Public Interest Disclosure (NI) Order 1998**

#### **What type of disclosure will qualify for protection?**

A disclosure will qualify for protection ("a qualifying disclosure") if, you reasonably believe, it tends to show one or more of the following has occurred, is occurring, or is likely to occur: -

- a criminal offence (e.g.: theft and fraud)
- a failure to comply with a legal obligation
- a miscarriage of justice
- endangering of an individual's health and safety
- damage to the environment
- deliberate concealment of information tending to show any of the above

#### **When are disclosures protected?**

A qualifying disclosure will be protected under the Act when it is made in good faith: -

- to your employer
- to a body or person other than your employer, (provided that you reasonably believe that the relevant failure relates solely or mainly to the conduct of that body or person, or relates to a matter over which the body or person has legal responsibility).
- to a legal adviser in the course of obtaining legal advice
- to a Minister of the Crown
- to a prescribed body or person, (a prescribed person/s is/are responsible for investigating allegations that fall under their jurisdiction, and for protecting the whistleblower and their interests while conducting an investigation), provided that you reasonably believe that the relevant failing falls within matters prescribed to that body or person, and that the information is substantially true. For a list of prescribed persons, please refer to the Schedule to Statutory Rule 1999 No 401 (Northern Ireland).

## **Circumstances in which disclosures are not protected**

The legislation does not introduce a general protection for whistleblowers in all circumstances. Individuals who make disclosures will not be protected by the Act if they commit an offence by making the disclosure, e.g. a breach of the Official secrets Act.