

How to raise a Concern (for CPANI staff and members of the public)

January 2023

Contents

[1. Introduction 1](#_Toc125965667)

[2. Types of Concern Covered 2](#_Toc125965668)

[3. Raising a Concern: Members of Staff 5](#_Toc125965669)

[4. Raising a Concern: External (Members of the Public) 8](#_Toc125965670)

[5. Handling a Concern 9](#_Toc125965671)

[6. External disclosures 11](#_Toc125965672)

[Annex 1 Raising a concern 12](#_Toc125965673)

# Introduction

* 1. Raising concerns should be part of the normal routine business of any well-run organisation. It is something that should not be viewed with fear and negativity but as a normal, positive part of everyday business. Staff are often best placed to identify deficiencies and problems before any damage is done, so the importance of your role as the ‘eyes and ears’ of the organisation cannot be overstated.
	2. It is important to note from the outset that The Commissioner for Public Appointments for Northern Ireland (CPANI) is not permitted to investigate concerns for which it has no policy remit, decision making powers or legal responsibility. For example, a concern relating to the care provided in a hospital setting should, in general, be made to the Department of Health or the relevant Health Trust. Similarly concerns around road infrastructure should be made to the Department for Infrastructure. The concern will instead be passed to the relevant Department or the appropriate regulator for investigation.
	3. Raising a concern in the public interest is the action of telling someone in authority, either internally and/or externally (e.g. regulators or media), about wrongdoing, risk or malpractice. Staff may feel content to mention a concern to their line manager but they fear ‘whistleblowing’, seeing it as something more formal and serious, with potential repercussions. This stems from the fact that there can be confusion around the terms ‘raising a concern’ and ‘whistleblowing’.
	4. Some wrongly believe that they are separate steps involving an ‘escalation’, i.e. someone ‘raises a concern’ then, if they feel they have not been heard, they ‘blow the whistle’ within their organisation or to an outside body. This is a misunderstanding. Whistleblowing and raising a concern are the same thing. Some concerns, by their nature and scale, will require a more formal process of review and investigation than others, others may be considered more minor concerns, however no issue or concern is too small to raise. The fundamental purpose in every case is the same – to bring into the open an issue of concern so that it can be properly addressed. Remember it is the issue being raised which is the key thing, not the person raising it.
	5. CPANI is committed to the highest possible standards of openness and accountability in the delivery of its services. The purpose of this guidance is:
* To reassure staff that they can raise genuine concerns about potential wrongdoing in confidence, through a clear internal reporting process, without putting their position at risk; and
* To provide arrangements through which anyone who is not a member of staff (for example members of the public and other external stakeholders) can raise concerns about the proper conduct of public business by CPANI.
	1. The sections overleaf explain the types of concerns covered by the CPANI Raising Concerns Policy, how CPANI staff members and members of the public can raise a concern and how these concerns will be managed.

# Types of Concern Covered

* 1. All of us at one time or another may have concerns about what is happening at work. A simple way to establish whether your concern falls under the raising concerns policy is to consider the nature of the concern.
	2. The nature of the issue being raised will determine whether it is a public interest disclosure (whistleblowing), a grievance or a complaint and therefore the appropriate policy under which it should be addressed. If the concern refers to ‘others’ e.g. CPANI, other staff, clients, the wider public, then it is a public interest/whistleblowing concern. If the concern relates to you as an individual ‘self’ e.g. a personal grievance about terms of employment, pay or unfair treatment – this is not a public interest/whistleblowing concern. Grievances are concerns, problems or complaints raised by a staff member with management. Anybody may at some time have problems with their working conditions or relationships with colleagues that they may wish to raise. When a worker raises a grievance, they are saying that they personally have been treated poorly. Such issues should be handled in line with the NICS Grievance Policy. Consequently, personal grievances or dissatisfaction in respect of employment issues are not covered by public interest/whistleblowing arrangements, unless an employee’s particular case is in the public interest.
	3. Generally, an individual raising a public interest concern has no self interest in the issue being raised, however each concern should be considered on a case by case basis to determine whether it fits within the ‘public interest disclosure’ classification.
	4. Similarly, concerns raised in the public interest do not cover complaints about CPANI’s performance or standards of service, for which separate procedures exist. These are set out in the CPANI Complaints Procedure located at [CPANI webpage on making a complaint](http://www.publicappointmentsni.org/making-complaint).
	5. There can be instances however where a person raises an issue which has elements both of a wider concern affecting others and of personal interest. The challenge is therefore to disentangle the issues and deal with each in accordance with the relevant policy.
	6. A full list of the types of concern covered by the public interest/whistleblowing arrangements is detailed in the [Public Interest Disclosure (NI) Order 1998](http://www.legislation.gov.uk/nisi/1998/1763/contents).
	7. Types of public interest concern could include, but are not restricted to the following.
* A criminal offence/unlawful act.
* The endangering of an individual’s health and safety.
* Failing to safeguard personal and/or sensitive information.
* Poor value for money.
* corruption (including bribery).
* Maladminstration (e.g. not adhering to procedures).
* The unauthorised use of public funds.
	1. Actual examples of the types of concerns previously raised by in the public interest, include:
* A finance Manager raising concerns about another manager's fraudulent use of an employer's credit card.
* A teacher raising concerns about poor value for money and poor service in relation to his school’s new IT system.
* An employee raising concerns about abuse of position and misuse of public funds by a director in a local authority.
* An employee in a local authority leisure centre raising concerns about a colleague’s abuse of overtime arrangements.
	1. It will always be assumed that concerns have been raised in good faith unless there is evidence to the contrary. Since 1 October 2017 in Northern Ireland, the pre-existing good faith test has been replaced with a public interest test. So if a staff member raises a concern in the public interest, regardless of their motivation, they will have the protection of the legislation should it be required. The law which offers a retrospective remedy to workers raising a concern, should they suffer as a result of doing so, has recognised that acting good faith is not a pre-requisite for raising a concern. The issue of good faith will only be taken into account by a tribunal when considering the level of remedy awarded.
	2. If it becomes apparent that an accusation was deliberately false, or vexatious, and not due to a misunderstanding or genuine mistake, it will be treated as a serious matter which may result in disciplinary action.
	3. When you raise a concern, you may not always get the outcome that you want or expect. However, you should always expect to be taken seriously and have confidence that the matter will be handled fairly and properly, in accordance with documented procedures.

# Raising a Concern: Members of Staff

* 1. The Public Interest Disclosure (NI) Order 1998 provides protection for employees who raise concerns.
	2. If you are a member of CPANI staff and you have a concern, you should refer to the NICS Public Interest Disclosure (Whistleblowing) Policy.
	3. This is included in the NICS HR Handbook at Section 6.01 (Standards of Conduct) of Chapter 6 (Employee Relations). Sub-section 4 of Section 6.01 sets out the provision of the Public Interest Disclosure (NI) Order 1998. It provides guidance on making public interest disclosures and outlines the protection available to staff who do so.
	4. The NICS Policy explains that staff should usually raise concerns by talking to their line manager or someone else within the line management chain.
	5. You can raise a concern:
		+ openly – you have no concerns about revealing your identity; or
		+ confidentially – you provide your personal details to your point of contact but do not wish them to be shared widely beyond that; or
		+ anonymously – you do not reveal your identity when raising your concern.
	6. Openness makes it easier for CPANI to investigate and obtain more information. It can also encourage others to come forward, as they will know that a concern has been raised.
	7. If you want to raise the matter in confidence, you should say so at the outset so that appropriate arrangements can be made. However, you should be aware that it may not always be possible to maintain confidentiality if this impedes the investigation. In such circumstances, it is vital that you are consulted and, if possible, your informed consent obtained.
	8. Whilst CPANI willingly accepts anonymous concerns and commits to giving them due consideration, there are disadvantages to raising concerns anonymously which may impede their investigation, most notably the inability to be contacted to provide further information.
	9. In raising a concern you should be aware of the following.
* You are not required to have formal evidence before raising a concern, only a reasonable suspicion of wrongdoing.
* You are a witness to a potential wrongdoing and are merely relaying that information to your employer.
* It is the responsibility of your employer to use the information you provide to investigate the issue raised.
	1. If for any reason, raising a concern with your line manager or someone else within the line management chain would be difficult you can raise the matter with The Executive Office Designated Officer for raising concerns, Ronan Murtagh.

Ronan Murtagh

TEO Director of Finance

Room E5.18

Castle Buildings, Stormont Estate BT4 3SL

ext. 22314 or 028 9052 2314

Email: ronan.murtagh@executiveoffice-ni.gov.uk

* 1. The NICSHR Employee Relations Director will also fulfil the role of the NICS nominated officer for raising concerns should you for any reason not wish to report your concerns via existing procedures. Their contact details are listed below:

Michael Cooke

NICSHR Employee Relations Director

Level 7 Goodwood House

44-58 May Street

Belfast BT1 4NN

Tel: ext 72711 or 028 9047 5711

Email: michaelcooke2HR@finance-ni.gov.uk

* 1. TEO also has a dedicated confidential email inbox for those individuals who wish to raise a concern. The inbox is managed confidentially by the Department’s Counter Fraud, Raising Concerns and Complaints Branch (CFRCC) and the address is: Raisingconcerns@executiveoffice-ni.gov.uk.
	2. Annex 1 to this guidance includes a template that should be used to raise a concern.
	3. If you are unsure whether or how to raise a concern or you want confidential advice at any stage, you may contact the independent whistleblowing charity [Protect](https://protect-advice.org.uk/) (previously called Public Concern at Work - PCaW) on 020 3117 2520 or by email to whistle@protect-advice.org.uk. Protect staff 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.protect-advice.org.uk. Alternatively, you could contact the appropriate regulator such as the Northern Ireland Audit Office or the Health and Safety Executive of Northern Ireland.

# Raising a Concern: External (Members of the Public)

* 1. As a member of the public, you have no employment relationship with the public body about which you are raising a concern and so will not have, and will not need, the legal protection provided to CPANI staff. While the Public Interest Disclosure (NI) Order 1998 only applies to workers (as defined in the Order) CPANI will endeavour, as far as possible, to apply the same principles in respect of concerns raised by non-staff members.
	2. Concerns raised by the general public can play a vital role in identifying wrongdoing, risk or malpractice within the NI public sector. This was highlighted in the recent inquiry into Renewable Heat Incentive (RHI) scheme.
	3. Members of the public should note that CPANI is unable to investigate concerns for which it has no policy remit, decision making powers or legal responsibility. CPANI does not have an oversight or ‘escalation’ role in dealing with concerns that relate to other public bodies. For example, concerns relating to health should be raised with the Department of Health or road issues should be raised with the Department for Infrastructure etc.
	4. Concerns raised will be treated in the strictest confidence. Where concerns lead to criminal proceedings, you may also be required to give evidence in a court of law. If you are not a member of CPANI staff (for example you are a member of the general public or an external stakeholder) you can raise your concern orally or in writing to.

Commissioner for Public Appointments for Northern Ireland

Stormont Castle

Stormont Estate

Belfast

BT4 3XX

Tel: 028 9052 4820

E-mail: pat.neeson@publicappointmentsni.org

# Handling a Concern

* 1. Be assured that all concerns raised will be taken seriously and investigated appropriately. Information and documentation relating to your concern will be restricted in order to protect the identity of all those involved, including those against whom the concerns are made.
	2. If your concern has not been submitted anonymously, CPANI will:
* Formally acknowledge receipt of your concern.
* Formally notify you of who will be investigating your concern.
* Offer you the opportunity of a meeting to fully discuss the issue.
* Respect your confidentiality where this has been requested. Confidentiality should not be breached unless required by law.
* Take steps to ensure that you have appropriate support and advice.
* Agree a timetable for feedback. If this cannot be adhered to, CPANI will let you know.
* Provide you with as much feedback as it properly can.
* Take appropriate and timely action against anyone who victimises you.
	1. If you choose to raise your concern anonymously, 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. Disadvantages of raising a concern anonymously include the following.
* Detailed investigations may be more difficult, or even impossible, to progress if you choose to remain anonymous and cannot be contacted for further information.
* The information and documentation you provide may not easily be understood and may need clarification or further explanation.
* There is a chance that the documents you provide might reveal your identity.
* It may not be possible to remain anonymous throughout an in-depth investigation.
* It may be difficult to demonstrate to a tribunal any detriment you have suffered as a result of raising a concern.
	1. If you decide to reveal your identity to CPANI during the process, your confidentiality will be protected, as far as possible. However, it may not always be possible to maintain confidentiality if this impedes the investigation. In such circumstances, we will consult with you in order to seek your informed consent to progress the case.
	2. If your confidentiality is not protected, and you suffer detriment as a result, you may be able to seek recourse through an Employment Tribunal. Workers have a retrospective remedy in employment law, in that they can take a case against their employer at an employment tribunal if they are victimised or suffer detriment as a result of raising a concern. This legal remedy is not available to a member of the public raising a concern, as there is no employment relationship with the public sector.
	3. 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.”
	4. If your concern is about possible fraud, CPANI will deal with it by following our Fraud Policy and Fraud Response Plan.
	5. If your concern falls more properly within the Staff Grievance Policy (or other HR Policy) or the Complaints Procedure, we will tell you.

# External disclosures

* 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 (NIAO) or the Health and Safety Executive of Northern Ireland (HSENI) - than not at all. Protect (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.
	2. An information leaflet for the public has been published by the NIAO providing further information on external disclosure which is available from the [NIAO website](https://www.niauditoffice.gov.uk/files/niauditoffice/media-files/Raising%20Concerns%20-%20Public%20Information%20Leaflet_0.pdf).

# Annex 1 Raising a concern

To be completed by staff or the general public when raising a concern.

Title:

Name:

Address:

Telephone number:

E-mail address:

Signature:

Please outline full details of the alleged concern that you wish to raise with CPANI:

Date:

The completed form should be returned to:

For CPANI staff

* Your line manager (or their immediate line manager)
* Or the TEO Designated Officer (Ronan Murtagh), Room E5.18, Castle Buildings, Stormont Estate, Belfast, BT4 3SL. E-mail ronan.murtagh@executiveoffice-ni.gov.uk
* Or alternatively by email to - Raisingconcerns@executiveoffice-ni.gov.uk
* Or Protect (the independent charity) on 020 3117 2520 or by e-mail to whistle@protect-advice.org.uk

For Members of the Public or external stakeholders:

Commissioner for Public Appointments

Stormont Castle

Belfast

BT4 3XX

Tel: 028 905 24820

Email: pat.neeson@publicappointmentsni.org