

WHISTLEBLOWING POLICY (Version 1)
DATE OF ISSUE: 30 January 2007



TO ALL STAFF IN EONI

GUIDANCE ON PUBLIC INTEREST DISCLOSURE (“WHISTLEBLOWING”)

1. This notice reminds you about the existence of the Civil Service Code and the guidance outlining the protections from dismissal and other sanctions available to staff who report wrongdoing (that they believe in good faith to be true) – often referred to as “Whistle-blowing
2. The Public Interest Disclosure Act 1998 and the Public Interest Disclosure (NI) Order 1998 came into operation on 2 July 1999 and 31 October 1999 respectively. They enable workers who report wrongdoing to complain to an Employment/Industrial Tribunal if they are dismissed or suffer any other form of detriment for doing so.
3. Although only employees can complain of unfair dismissal, other workers who are not employees can complain that they had been subjected to a detriment – for example if their contracts are terminated because they had made a protected disclosure. The legislation covers workers in the public sector (with some exceptions, e.g. those who work in the security services) as well as the private sector.
4. Insofar as members of the Electoral Office for Northern Ireland [EONI] are concerned, this legislation needs to be considered in conjunction with EONI Code of Conduct (Annex A) and Grievance Procedure (Annex B).
5. In line with its Equal Opportunities Policy, EONI will ensure that each employee has equal opportunity in terms of access to the Public Interest Disclosure Policy. To ensure staff with disabilities are given the same equality of opportunity as non-disabled staff, relevant materials will be available in a range of alternative accessible format and reasonable adjustments or assistance will be made, where required.

When are disclosures protected?

6. The legislation does not introduce a general protection for whistleblowers in all circumstances. A disclosure will qualify for protection if, in the reasonable belief of the individual making it, it tends to show that one or more of the following has occurred, is occurring or is likely to occur:
- a. a criminal offence;
 - b. a failure to comply with a legal obligation;
 - c. a miscarriage of justice;
 - d. the endangering of an individual's health and safety;
 - e. damage to the environment; or
 - f. deliberate concealment of information tending to show any of the above.

What Protection does the Act/Order Give?

7. A qualifying disclosure will be protected under the Act/Order if it is made:
- a. in good faith to the individual's employer (either directly or through internal procedures authorised by the employer), or to another person whom the individual reasonably believes is solely or mainly responsible for the failure in question;
 - b. to a legal adviser in the course of obtaining legal advice;
 - c. in good faith to a Government Minister by an individual employed in a Government-appointed organisation such as a non-departmental public body; or
 - d. to a person or body prescribed in Statutory Rule 1999 No. 401 ("a prescribed person"), e.g. the Health and Safety Executive for Northern Ireland. In this instance, the individual must make the disclosure:-
 - in good faith,
 - in the reasonable belief that the information and any allegation in it are substantially true and,
 - in the reasonable belief that the matter falls within the description of matters for which the person has been prescribed.
8. Qualifying disclosures (other than those described in Para 5 above) will also be protected provided that the worker makes the disclosure in good faith, reasonably believes that the

information and any allegation contained in it are substantially true, and does not act for personal gain. One or more of the following conditions must also apply:

- a. the individual reasonably believed that (s)he would be victimised if (s)he had made the disclosure to the employer or to a prescribed person;
- b. there was no prescribed person and the individual reasonably believed that disclosure to the employer would result in the destruction or concealment of evidence; or
- c. the individual had already disclosed substantially the same information to the employer or a prescribed person.

9. It must also be reasonable for the individual to make the disclosure. In deciding the reasonableness of the disclosure, an employment/industrial tribunal will consider all the circumstances including:-

- the identity of the person to whom the disclosure was made,
- the seriousness of the concern,
- whether the failure is continuing or likely to occur,
- whether the disclosure breached a duty of confidentiality which the employer owed to a third party,
- what action has been taken or might reasonably be expected to have been taken if the disclosure was previously made to the employer or a prescribed person and,
- whether the worker complied with any approved internal procedures if the disclosure was previously made to the employer.

10. A disclosure made about an “exceptionally serious” failure (other than described in paragraph 5) will be protected if the individual makes the disclosure in good faith, reasonably believes that the information disclosed and any allegation contained in it are substantially true and does not act for personal gain - provided that it is reasonable for the worker to make the disclosure, having regard, in particular, to the identity of the person to whom the disclosure is made. It will be for the industrial tribunals to consider and decide whether any particular failure is “exceptionally serious”: this will be a question of fact, not an individual’s personal belief.

What should I do if I become aware of wrongdoing?

11. Where you believe that you are being required to act in a way which:-
- is illegal, improper or unethical;
 - is in breach of constitutional convention or a professional code;
 - may involve possible maladministration, or
 - is otherwise inconsistent with EONI Code of Conduct

you can report the matter to your line manager under EONI Grievance Procedure (attached as Annex B) **or** to one of the Independent Advisors (see below). You will not be penalised in any way for raising genuine concerns in accordance with departmental or agency procedures, or in accordance with the procedures for reporting concerns under EONI Grievance Procedure.

Independent Advisors

12. Any member of staff who has a complaint covered by EONI Code of Conduct but who does not want to approach their line manager, may make the complaint to the Independent Advisor in the knowledge that the issue will be protected under the Public Interest Disclosure (NI) Order 1998 and the Public Disclosure Act 1998.
13. EONI has two Independent Advisors who are available to deal with such complaints from all members of staff. They are:

Mr Brian Coulter, Prisoner Ombudsman's Office, 22nd Floor, Windsor House, 9-15 Bedford Street, Belfast BT2 7EU

Telephone number: 028 90 443992

brian.coulter@nio.x.gov.uk

Ms Maura Campbell, Assistant Director Personnel, Personnel Services Division, Hillview Buildings, Stormont Estate, Belfast BT4 3SG

Telephone number: 028 90 528500

maura.campbell@nio.x.gsi.gov.uk

Will I be protected if I blow the whistle before going through the internal procedures?

14. Only you can make this judgement, and in doing so you will need to consider the preceding paragraphs carefully. It is preferable - and this is at the heart of the Public Interest Disclosure legislation - to raise the matter internally if appropriate and practical. It is after all in the interests of all EONI staff that issues and concerns are aired in this way. If you are in any doubt, you should speak to a senior manager, or the Head of Operations, Personnel Services.

General

15. If you require any further information about the contents or application of this notice, please contact the Chief Electoral Officer.

Signed: Douglas Bain CBE TD Advocate
Chief Electoral Officer for NI

Signed: Paddy Mackel
on behalf of NIPSA

Dated: 6 February 2007

Dated: 1 February 2007

ELECTORAL OFFICE FOR NORTHERN IRELAND

CODE OF CONDUCT

GENERAL

The public is entitled to expect of staff, as employees of the Chief Electoral Officer, high standards of conduct. Public confidence in your integrity would be shaken were the least suspicion, however ill founded, to arise that you could in any way be influenced by improper motives.

An officer must not cause offence to any person whilst on duty and must at all times adopt a proper disposition as befits an employee of the CEO. It is essential that the reputation of the CEO's office for political impartiality should be maintained. Staffs are not permitted to be members of any political party or group and must not become involved in any political activity. (The exercise of the franchise is, of course, excluded of any such constraint.) The display within the office of flags, emblems, posters and materials of a political or sectarian nature is absolutely forbidden in all circumstances. Discussions on politics, religion and similar sensitive areas should be avoided within the office.

When dealing with candidates or other political agents or representatives, care must be taken to ensure that equable treatment is given to all as otherwise the perceived impartiality of the officer, or indeed the office, may be brought into question.

An officer must give his/her whole time during office hours, to the official duties assigned to him/her.

OUTSIDE ACTIVITIES

An officer must not at any time engage in any activity which would in any way conflict with the interest of his/her work or be inconsistent with his/her position as an employee of the CEO. All canvassing for political parties, organisations or groups are strictly prohibited.

No member of the Chief Electoral Officer's staff may undertake any remunerative private work of the following description:

- A. Work which would occupy his/her time or attention or render him/her unavailable for duty during normal official hours, or when the officer may be required to work additional hours to carry out the functions and duties of the office as, for example, at the time of elections.
- B. Work identified in any way with the activities of a political party, group or organisation;
- C. Work of an educational, literary or scientific nature involving the use of information acquired by him/her official capacity or from official sources, except what has previously been published, unless he/she has received the authority and permission of the Chief Electoral Officer to undertake such work;
- D. Work of a nature conflicting with the officer's duties to the office.

CONTRACTS, PURCHASE AND SALES

An officer with a financial or other interest in a commercial enterprise is prohibited from dealing in any official capacity with a contract or purchase from, or sale to that enterprise. If an officer should ever be called upon to deal with any case in which a private interest exists, the facts should be explained to a line manager and a request made for someone else to handle it. No purchase may be made by the office from, and no sale made to, an officer except with the prior approval of the CEO.

OTHER POSSIBLE CONFLICTS OF INTEREST

Conflicts of interest may arise not only from financial interests but, more broadly, from official dealings with, or decisions in respect of, individuals who share an officer's private interests (for example freemasonry, membership of societies, clubs and other organisations, and family). Where a conflict of interest arises the officer must declare his/her interest to CEO so that CEO can determine how best to proceed.

OUTSIDE INFLUENCE

An officer may not approach a Member of Parliament or, or indeed, any member of the public in an attempt to gain personal advantage from himself/herself or another staff member in relation to

his/her official duties. A member of staff should not attempt to bring political or outside influence to support his/her own personal claims as an employee.

CONFIDENTIAL INFORMATION

It is an offence under the Official Secrets Act (1911-1989), for any reason to disclose, otherwise than to an authorised person, or in the course of his/her duty any matter or information which he/she obtains or to which he/she has access owing to his/her official position. This covers disclosure in any form whether verbally or in writing, or by publication in the press or book form, and applies to all persons employed in the service of the CEO, not only during employment but also after the employment has ceased. There are also statutory constraints that apply under the Data Protection Act. A separate circular covers those.

PRIVATE TRADING

Private trading on official premises, whether by employees of the CEO or representatives of outside firms, is not allowed.

GIFTS AND BRIBES

An officer should not do anything, which might give the impression to his/her colleagues, members of the public, or people with whom he/she deals in an official capacity that he/she has been or might be influenced by a gift etc. He/she must not, therefore, accept any gift, reward or benefit from any person with whom, or organisation with which, he/she has come into contact by reason of official duties.

PRIVATE FINANCIAL AFFAIRS

Staffs are expected to conduct their private financial affairs in a judicious manner. If an officer gets into serious financial difficulties the CEO must be informed at once. Serious financial embarrassment is regarded as likely to impair the efficiency of an officer and render the officer less valuable to the CEO than would otherwise be the case. CEO will not look kindly on an officer who is in serious financial difficulty as a result of imprudence or any other fault of the individual. No punishment, however, will be imposed if the officer has not acted discredibly.

An officer who is in serious financial difficulties may not in any circumstances be employed on duties, which include handling public money.

BETTING AND GAMBLING

Betting and gambling (including sweepstakes and raffles) during official hours or on or about official premises are prohibited.

LOSS OF PUBLIC MONEY

An officer through whose negligence loss of public money has been caused may be required to make good the loss either in whole or in part.

ARREST

An officer must report to CEO if he/she is arrested and refused bail or if he/she is convicted by a court of any criminal offence (except a traffic offence with a non-official vehicle for which the penalty has not included imprisonment or disqualification from driving).

SUSPENSION FROM DUTY

An officer may at any time be suspended from duty pending enquires into any charge of serious misconduct or the outcome of legal proceedings against the individual if the CEO thinks such a course desirable. During suspension, pay may be withheld if the CEO so decides; at the end of the period of suspension, whether it ends in dismissal or in return to duty, the CEO may rule that all or part of any pay which has been withheld is to be forfeited.

To avoid hardship in cases where suspension without pay occurs any such case will be reviewed at an early date and, in any event, not later than one month from the start of the suspension. The officer concerned will be given the opportunity to make representations for some interim payment of salary.

FAIR EMPLOYMENT (NI) ACT 1976 AND 1987

The Fair Employment Acts make it unlawful (with certain very limited exceptions) for an employer to discriminate on grounds of religious belief or political opinion when recruiting staff,

or in the treatment of existing staff. All staff are expected to bear this in mind in their relations with colleagues and their dealings with the public.

SEX DISCRIMINATION (NI) ORDER 1976

The Sex Discrimination (NI) Order 1976 makes sex discrimination and discrimination on grounds of marriage unlawful in employment, training and related matters and staff are reminded that consideration of sex or marital status must be ignored in considering promotion, training etc.

Members of staff who require information on their rights under either Fair Employment Act or Sex Discrimination Order should consult the CEO.

EONI GRIEVANCE PROCEDURE

Grievance

If a staff member has a grievance relating to his/her employment, he/she may seek redress orally or in writing in the following manner:

- In the first instance the staff member should refer the grievance to his/her Line Manager and the matter will be discussed informally with him/her.
- If the grievance is not thereby resolved or if the staff member considers that he or she has not been fairly treated, the staff member may apply to the Human Resources Officer.
- If the grievance is still not resolved or if the staff member still considers that he/she has not been fairly treated, the staff member may appeal to the Chief Electoral officer.

At any stage of the grievance procedure, the staff member may be accompanied by a colleague of his or her choice.