

RAISING CONCERNS POLICY (WHISTLEBLOWING) – NORTHERN

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Introduction

- 1.1** All of us at one time or another may have concerns about what is happening at work. However, when it is about unlawful conduct, a possible fraud or a danger to the public or the environment, or other serious malpractice, it can be difficult to know what to do.
- 1.2** You may be worried about raising such a concern (whistleblowing) and may think it best to keep it to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Department and/or the Ulster-Scots Agency (hereinafter referred to as “The Agency”). You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.3** The Public Interest Disclosure (NI) Order 1998¹ introduced a framework to provide strong protection from dismissal or other sanction for workers who report wrongdoings that they believe, in good faith, to be true and in the public interest. The Agency has implemented these arrangements to:
- 1) reassure you that it is safe and acceptable to speak up and that any information regarding potential wrongdoing is valued;
 - 2) encourage you to raise your concern at an early stage and enable you to do so in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern, if you have a reasonable belief that the concern you are raising is correct and in the public interest. We welcome early notification;
 - 3) emphasise that genuine concerns can and should be raised by anyone, that these procedures are not limited to employees; and
 - 4) emphasise that the Ulster-Scots Agency will not tolerate the harassment or victimisation of anyone who raises a genuine concern.
- 1.4** If something is troubling you that you think we should know about or look into, please let us know. The Agency has a zero-tolerance attitude towards any form of wrongdoing and your concerns will be taken seriously. The Code of Conduct requires that staff carry out their duties with honesty, integrity and according to the law.

The type of concerns to be raised under this policy are those about wrongdoing or malpractice within the Agency or by its clients. These are distinct from concerns or disputes about:

- (i) aspects of your employment, if you are an employee, as these are grievances and the Agency’s **Discipline and Grievance Policy** or the Agency’s **Dignity at Work Policy** should be followed; or
- (ii) how you have been treated, or the service you have received as a customer, as these are complaints and the Agency’s **Customer Complaints Procedure** should be followed.

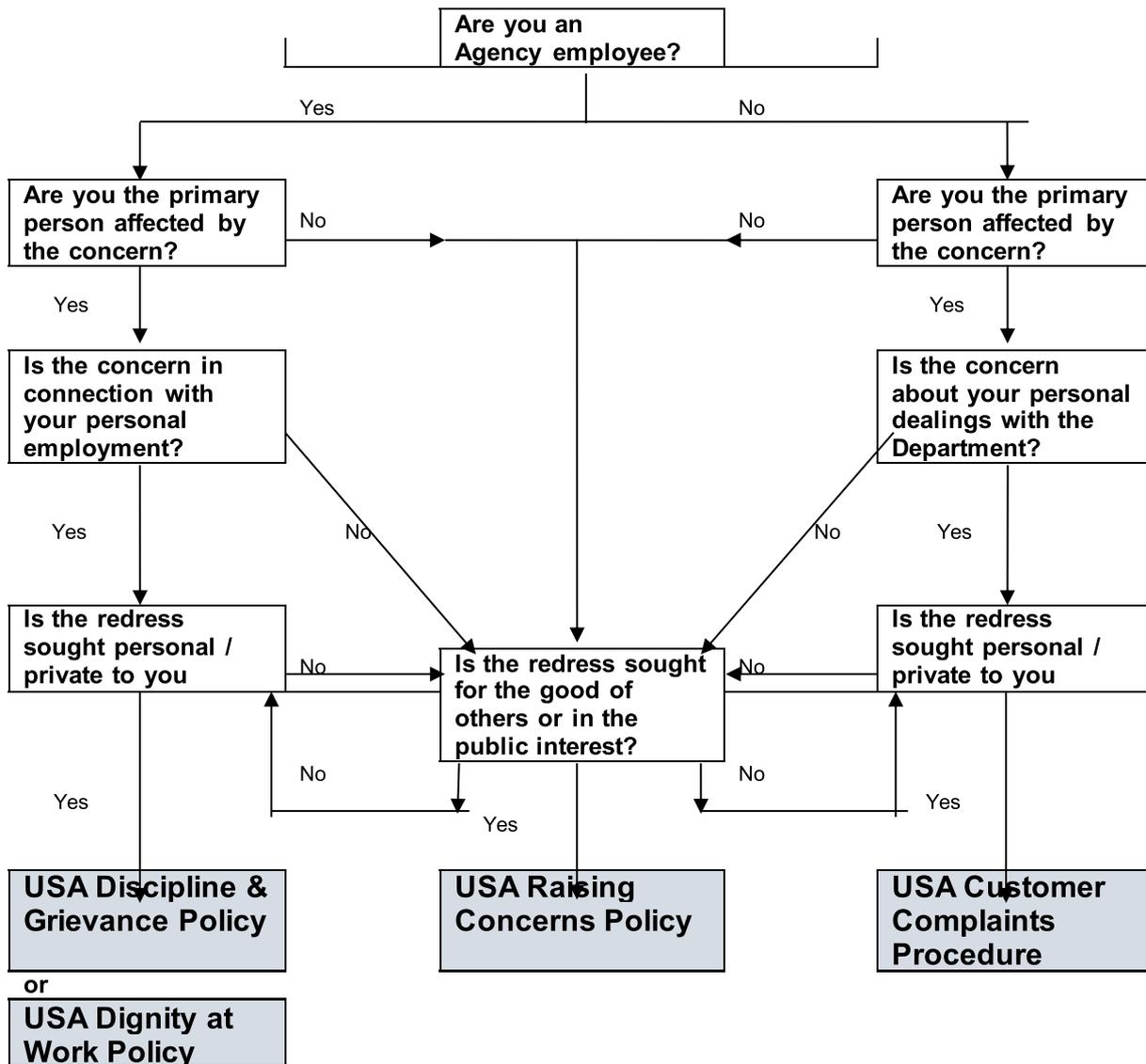
¹ A Guide to the Public Interest Disclosure (NI) Order 1998 (as amended) is available on the Department for the Economy website at <https://www.economy-ni.gov.uk/publications/public-interest-disclosure-guidance>

- 1.5** If your concern is about possible fraud, you may also wish to refer to our * **Fraud Prevention Plan* and Fraud Response Plan** which can be found on Teams. If you believe a crime has been committed, then this should be reported without delay to the PSNI.
- 1.6** More often than not, it is members of staff who first become aware of areas of potential malpractice in an organisation, but this policy also extends to trainees, agency staff, independent consultants, volunteers, contractors, suppliers, Board members and members of the public.
- 1.7** If you are an employee, and you raise a genuine concern, you will be protected from victimisation, or any other form of mistreatment, under the Public Interest Disclosure (NI) Order 1998 (**see more info at Annex A**). Alongside the Employment Rights (Northern Ireland) Order 1996, these Orders establish the legislative framework for Protected Disclosures made by workers. It is important to highlight that this legislation does not extend to individuals who raise concerns who are not employees, but the Agency will endeavour, as far as is possible, to apply the same principles.
- 1.8** Anyone, internal or external to the Agency, who has a concern of this nature, is encouraged to raise it. The Agency welcomes the opportunity to learn and to put things right. The Agency is committed to an ethical culture and behaviours which reflect at all times the Seven Principles of Public Life (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership) which apply to all those employed by or appointed to office in the Public Sector and therefore will not tolerate victimisation or harassment of a staff member due to the fact that they have raised a concern.

2.0 Which policy do I use to raise my concerns?

2.1 Sometimes it is hard to determine whether an issue is:

- a) a concern, which is dealt with under this, the Agency's **Raising Concerns Policy**;
- b) a personal grievance, which is dealt with under the Agency's **Discipline and Grievance Policy** or the Agency's **Dignity at Work Policy**; or
- c) an issue triggered by a customer being dissatisfied with an aspect of a service provided by the Agency e.g., the Agency failing to deliver a service within an agreed timescale or to a suitable standard/quality. This is a complaint which is dealt with under the Agency's **Customer Complaints Procedure**.



3.0 What can be raised under the Raising Concerns Policy?

3.1 The types of concerns we expect to be raised under this policy include, but are not restricted to:

- the abuse of children and/or vulnerable adults;

- the endangering of an individual's health and safety;
- a criminal offence/unlawful act;
- the unauthorised use of public funds;
- a breach of the Employee Code of Conduct;
- maladministration (e.g. not adhering to procedures, negligence);
- failing to safeguard personal and/or sensitive information;
- damage to the environment;
- fraud and corruption (including bribery);
- abuse of power;
- poor value for money;
- other unethical conduct; and
- deliberate concealment of information tending to show any of the above.

3.2 The disclosures which qualify for protection are disclosures of information which the member of staff making the disclosure reasonably believes show that one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

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

4.0 The Agency's Assurances to you

4.1 Management's Responsibility/Commitment: You, as the concerned individual, are only responsible for raising the concern. It is Agency management's responsibility to ensure that any concerns are investigated appropriately and by someone suitably skilled and experienced.

4.2 Your Safety: We are committed to making this policy work. If you are an employee of the Agency, and you raise a genuine concern under these arrangements, you will not be at risk of losing your job or suffering any form of mistreatment as a result. Provided you are acting in good faith it does not matter if you are mistaken.

If you are not an employee, we will do what is in our power to ensure you do not suffer any form of victimisation or harassment for raising concerns.

Of course, this assurance does not extend to someone who maliciously raises a matter they know to be untrue. The Agency 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.

Similarly, we will not tolerate the harassment or victimisation of anyone who raises a genuine concern and will regard any victimisation or mistreatment resulting from raising a concern as a serious offence which could also result in disciplinary action.

4.3 Confidentiality: We recognise that there may be circumstances when you would prefer to speak to someone in confidence. If this is the case, please say so at the outset. If you ask us not to disclose your identity we will not do so, without your consent, unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

4.4 Anonymity: We appreciate that individuals may be more comfortable raising a concern when their identity remains unknown. This is completely acceptable, and anonymity will not determine whether a concern is investigated or not. However, please remember that, if you do not tell us who you are, it may be more difficult for us to look into the matter.

Nonetheless, reporting concerns anonymously is preferred to silence about wrongdoing.

5.0 Process for Raising a Concern in Northern Ireland

As part of the North/South Language Body which operates in two jurisdictions we must take account of the legal requirements of two jurisdictions by following two separate processes. Which process is used will be dependent upon the Jurisdiction you work in and the jurisdiction where the concern is based.

1. The Northern Ireland process should be used if you are working in Northern Ireland and the concern originates in Northern Ireland or the Republic of Ireland.
2. The Agency's Raising a Concern (Whistleblowing) process should be used if you are working in Republic of Ireland and the concern originates in the Republic of Ireland or Northern Ireland.

5.1 How to Raise a Concern Internally

Please remember that you do not need to have firm evidence of malpractice before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.

*****See Annex B Raising a Concern (whistleblowing) Decision Tree*****

5.2 Step One

If you have a concern about malpractice, we hope you will feel able to raise it first with your line manager or with their immediate manager. This can be done orally or in writing.

5.3 Step Two

If, for whatever reason, you feel that raising it with your line manager or their immediate manager is not appropriate or it has not worked, please raise the matter with the **Chief Executive** of the Agency or with one of the following:

Chairperson of the Audit and Risk Committee

Mr. Iain Carlisle: icarlisle@ulsterscotsagency.org.uk

Chairman of the Board

Mr. Keith Gamble: kgamble@ulsterscotsagency.org.uk

Department for Communities

raisingconcerns@communities-ni.gov.uk

(See Annex C GUIDANCE FOR EMPLOYEES WHO RECEIVE CONCERNS ORALLY OR IN WRITING.)

5.4 Step Three

If the options in Step One & Step Two have been followed and you believe there is an ongoing risk, or feel the matter to be so serious that you cannot discuss it with any of the above, you can raise your concern directly with the Department:

DfC Head of Corporate Investigations

Jacqueline McLaughlin

Tel: 028 90819257

Email: Jacqueline.mclaughlin@communities-ni.gov.uk

DfC Head of Governance

Andrea Orr

Tel: 028 90823198

Email: andrea.orr@communities-ni.gov.uk

5.5 Step Four

External Disclosures

While we hope we have given you the reassurance you need to raise your concern internally with the Agency, we recognize that there may be circumstances where you want to report a concern to a Prescribed Person². You can raise a matter with the appropriate Prescribed Person (such as the Northern Ireland Audit Office) through the following channels:

By post:

To make a disclosure to the C&AG, write to:

*The Comptroller and Auditor General
Northern Ireland Audit Office
106 University Street
BELFAST
BT7 1EU*

By email:

whistleblowing@niauditoffice.gov.uk

The role of NI Audit Office as a Prescribed Person is in respect of “The proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally funded public services and health service bodies.”

A Prescribed Person’s decision/ability to take action is dependent on the existing legislative powers available to them and they are unable to become in employment disputes. The Prescribed Person will assess the actions available to them depending on the nature of the concern.

Protect (or your Trade 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 See The Department for Economy “Guide to the Public Interest Disclosure (Northern Ireland) Order 1998” which explains the role of the Prescribed Person and lists in Appendix 1 the prescribed bodies and matters in respect of which they are prescribed, along with contact details.

6.0 How will my concern be handled?

- Be assured that all concerns raised will be taken seriously and will be appropriately investigated.
- Access to concerns, related information and related documentation will be restricted within the Agency to only select staff. This is necessary to protect the identity of all those involved, including those against whom allegations have been made.
- On receiving a concern, it will be logged in an appropriate register, the purpose of which is to ensure all concerns are captured, investigated, progressed and monitored through to conclusion.
- If you have not raised the concern anonymously, you will be contacted and offered the opportunity of a meeting to fully discuss your concerns. If you do have any personal interest in the matter, we do ask that you tell us at the outset.
- If your concern falls more properly within the **Grievance Policy, Dignity at Work Policy or Customer Complaints Procedure**, we will tell you.
- An initial assessment will be done to determine the most appropriate action to be taken.
- All whistleblowing concerns should be properly and promptly investigated whether they are concerns raised directly with a Department or with the Agency.
- The Agency will contact the Department who will consider if it is appropriate for concerns to be investigated by the Agency, the Department will then establish with the Agency appropriate protocols and timescales for providing meaningful responses back to the sponsoring Department about the concerns raised.
- Responses from the Agency should be reviewed at a senior level within the Department to ensure that the investigation/review has been properly and thoroughly completed and that recommendations arising from it are appropriate.
- Sufficiently frequent contact will be maintained with the whistleblower throughout the course of the investigation. Clear timescales will be given to the whistleblower for reporting back on how their concern is being dealt with/progressed. As far as possible the outcome of the investigation, and where appropriate any actions being taken because of it, should be reported back to the individual raising the concern.
- Where concerns relate to the Agency, agreement should be reached between the Department and the Agency as to how contact with the whistleblower will be maintained throughout the course of the investigation. The views of the whistleblower should be considered when agreeing these arrangements.
- Where whistleblowing concerns relate to senior members of ALB staff or Board members, the Department should retain ownership of the investigation. Consideration will need to be given to the role of the Agency Board (and Audit Committee) in dealing with any such cases.
- In all cases employees who raise concerns should be protected and supported and should not suffer any detriment as a result of bringing

- Where it is decided that a formal investigation is necessary, the overall responsibility for the investigation will lie with a nominated investigation officer.
- In any event, if the concern has not been raised anonymously, within **5 working days** of the Agency receiving the concern, we will tell you who is dealing with the matter, how you can contact him or her, and whether your further assistance may be needed. If you request, we will write to you summarising your concern and setting out how we propose to handle it.
- Any information that you give us is greatly appreciated, will be appropriately investigated and all action deemed necessary will be taken. We will give you as much feedback as we properly can, but it is important to note that there are strict legislative controls over the release of information, therefore you may not be advised of the outcome of any investigations and / or subsequent action taken. Please note that you will not be entitled to, or have access to, Agency records or copies of reports in relation to our investigation.

7.0 Conclusion

While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using these **Raising a Concern (whistleblowing)** arrangements you will help us to achieve this. Please note, this document has been developed to meet best practice and comply with the **Public Interest Disclosure (NI) Order 1998 (PIDA)** which provides employment protection for raising concerns (whistleblowing). For more information on the law go to **www.protect-advice.org.uk/** for guidance and/or the Code of Conduct for Staff and Board Members within the Agency's Policy folder.

If you are unsure whether or how to raise a concern or you want confidential advice at any stage, you may contact your Trade Union. You may also contact the independent charity **Protect on 020 3117 2520** or by filling in their online contact form at **www.protect-advice.org.uk/contact-protect-advice-line/**. Their lawyers 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/

For further information visit Protect on their social media channels:

<https://youtube.com/@protect4862?si=BjJ7cS2W7Mo7tbrL>

www.twitter.com/WhistleUK

www.linkedin.com/company/protect-advice/

www.instagram.com/protectwhistleblowingadvice/

Annex A: PUBLIC INTEREST DISCLOSURE ORDER (NI) 1998 (PIDA)

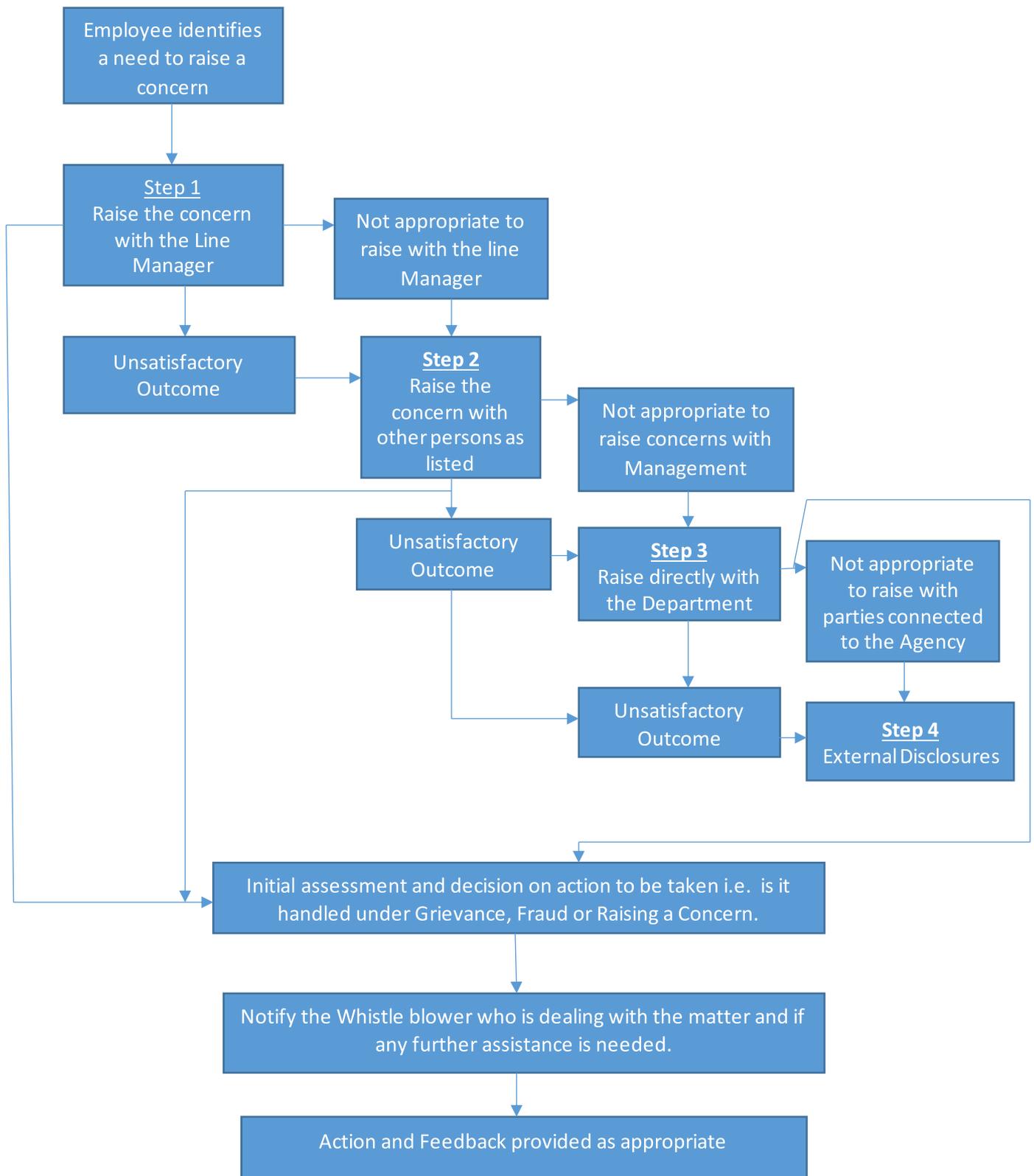
The Public Interest Disclosure Legislation above was introduced to protect workers who wish to report a wrongdoing at work. It enables workers to make a 'protected disclosure'. This means you can take an employer to an employment tribunal if you are discriminated against or victimized in any way as a result of making a disclosure. It is unlawful for employers to subject a worker to detriment on account of the fact that they have made a qualifying disclosure. Detriment includes actions or failure to act – such as failure to promote, unrequested reassignment, ostracism etc.

The greatest level of protection is assured if you first raise your concerns internally in accordance with this Agency policy. This will strengthen your case at tribunal.

However, you have the option to raise your concerns externally (see para 5.4 & 5.5). For the purposes of the Public Interest Disclosure legislation the definition of a worker includes employees, contractors, trainees, agency staff, home workers, police officers and every professional in the NHS. It does not cover the genuinely self-employed (other than in the NHS), volunteers, the intelligence services or the armed forces. In addition, non-executive directors and councillors do not have protection under the legislation.

You will not be protected under PIDA if, by raising a concern or making a disclosure, you commit an offence.

Annex B: RAISING A CONCERN (WHISTLEBLOWING) DECISION TREE:



Annex C: GUIDANCE FOR EMPLOYEES WHO RECEIVE CONCERNS ORALLY OR IN WRITING

1. Purpose

1.1 The purpose of this section is to detail the procedure to be followed by any Agency employee who receives concerns, either orally or in writing.

1.2 It is important that these procedures are followed to ensure that:

- all concerns are referred to the appropriate person in the Agency to be recorded and monitored centrally;
- the most appropriate action is taken, especially in cases that are complex and cover a range of fraud, governance, staffing or service-related issues;
- action is taken as swiftly as possible following the concern being received; and
- access to potentially sensitive information/issues is restricted, as far as possible, to preserve confidentiality and protect both the party raising the concern and any parties named in the concern.

2. Procedure

2.1 Concerns can be in relation to the Agency, one of its clients or a member of staff.

2.2 Although initial contact might be brief, when dealing with a concerned individual you should have a positive and supportive attitude.

2.3 If contact is made over the phone you should:

- record, as fully as possible, what the caller's concern is;
- explain to the caller that their concern will be passed to the Director of Corporate Services or the HR/Office Manager who deal with all concerns;
- ask the caller if they wish to leave contact details and if they consent to be contacted to further discuss their concerns. Record contact details if provided and whether the caller consents to be contacted.
- advise the caller that, if they wish to send concerns in writing, or if they have any additional documentation which they would like to provide, send as much detail as possible and forward to:

Director of Corporate Services

31 Gordon Street

Belfast BT1 2LG

- immediately complete the Record and Referral Form (Annex D) with details of the telephone conversation;

- immediately inform the Director of Corporate Services or the HR/Office Manager of the nature and detail of the concern. Provide the written record of the detail of the call and the Record and Referral Form and advise if the person consented to be contacted or agreed to submit further correspondence.

2.4 If contact is made via email or letter you should:

- immediately on receipt, complete the Record and Referral Form (Annex D) with the date and your name as the officer who received the correspondence;
- immediately forward the email or letter, with the Record and Referral Form, to the Director of Corporate Services or the HR/Office Manager.

All whistleblowing concerns must be brought to the Department's attention so that agreement can be reached on the conduct of investigations.

Appendix D: RECORD AND REFERRAL OF CONCERN(S) RAISED

Please e-mail the completed record to:

(a) The Director of Corporate Services

kstewart@ulsterscotsagency.org.uk

(b) HR/Office Manager

lelliott@ulsterscotsagency.org.uk

1.	Date concern received
2.	Concern received by
3.	Referred to
4.	Date referred
5.	Contact details for disclosure, if known
6.	Was confidentiality requested?
7.	Brief outline of the nature of the disclosure
8.	Details of any documents (electronic or hard copy) received with disclosure
9.	Approach adopted
10.	Assigned to

11.	Outcome
12.	Financial Implications
13.	Date case closed
14.	Additional Notes

Please note that while helpful, it is not essential to use this form to record a concern.

Appendix E: Confidentiality and Lawful Processing of Personal Data

Where your disclosure contains the personal information of your colleagues, clients, or anyone else, then you must **be careful not to commit a breach of those persons' data protection rights**.

Consider the following Do's and Don'ts from Protect:

Dos and Don'ts

- ✓ **Do** only disclose personal data or private information that it is absolutely necessary to disclose.
- ✓ **Do** only disclose personal data or private information to the individual(s) to whom it is necessary to disclose.
- ✓ **Do** take care when disclosing personal or private information, especially if it is sensitive (such as health information or someone's sexual orientation) – always ask yourself whether it is absolutely necessary to disclose the information in question.
- ✓ **Do** check your workplace policies on disclosure of information.
- ✗ **Don't** access or share materials you are not authorised to access without first seeking legal advice or raising your concerns under your employer's whistleblowing policy or to a prescribed person.

A Prescribed Person is someone independent from your employer, but who has a relationship of authority with them (e.g. a regulator). For instance, if your concern relates to data protection / freedom of information then the relevant prescribed person would be the Information Commissioner. A full list of prescribed persons can be found at [here](#). For more information on making a disclosure to a prescribed person see our webpage on [external disclosures](#).
- ✗ **Don't** email confidential information to your personal computer, upload it to a cloud platform, or extract confidential information using USB or other devices.

Data protection law is very complicated. The main piece of data protection legislation is the Data Protection Act 2018 (the “DPA”), which implemented the EU General Data Protection Regulation (“GDPR”) into law. Our Privacy Policy can be found at www.ulsterscotsagency.com/privacy-policy/

Generally speaking, a concern will involve processing of Personal Data of individuals, including the following groups, and must be carried out lawfully and in confidence:

- An individual who has raised concerns
- Those individuals against whom allegations were made
- Witnesses of others mentioned in the concerns
- Those individuals involved in any fact-finding or investigation of concerns.

We will carry out the processing of any personal data in accordance with our Data Protection Policy.

Please note that confidentiality can be limited in the event that the Agency becomes legally obligated, for example by a court, to disclose the identity of, or information provided by, an individual who has raised concerns or where we are required to inform the PSNI or other statutory authorities as set out in the Agency's safeguarding policies.