

Raising Concerns Policy

Date of last approval	April 2023
Date of next review	Annually - June 2024
Related Legislation/Applicable Section of Legislation	Public Interest Disclosure (NI) Order 1998 Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2014
Related Policies, Procedures, Guidelines, Standards, Frameworks	Fraud Policy Fraud Response Plan Employee Code of Conduct
Replaces	
Policy Lead (Name/Position/Contact details)	Laureen Donnan Director of Corporate Services
Sponsor Directorate	Corporate Services
Version	4.0

Revision record

Date	Version	Revision Description
Mar 2015	1.0	Whistleblowing Policy created
Nov 2017	2.0	Policy review - minor amendments
Dec 2020	3.0	Policy Review - Policy name change and amendments
April 2023	4.0	Policy Review - Officer/ Role name changes Change to contact when reporting concern about Chief Executive Typographical errors Change to insert clearer roles and the investigation process

1. Scope of Raising Concerns Policy

- 1.1 This policy applies to all Mid and East Antrim Borough Council employees (permanent, temporary and voluntary) and offers guidance on how members of the public can raise concerns to Council.

In relation to the terminology used ‘whistleblowing’, ‘raising a concern’ or ‘speaking up’ generally relate to the same thing. In line with NI Audit Office guidance, this policy refers to raising concerns.

1.2 Note for Elected Members

If an Elected Member has concerns regarding malpractice, he/she is advised to refer to the Northern Ireland Local Government Code of Conduct for Councillors, or seek the advice of the Chief Executive. The Northern Ireland Local Government Commissioner for Standards investigates written complaints relating to Councillors and the Northern Ireland Local Government Code of Conduct for Councillors.

2. Introduction

- 2.1 This Policy was established to enable all staff to communicate concern/disclosure to the appropriate level when there is a reasonable belief that there is malpractice.

Examples of concern could include:

- Misappropriation of funds;
- Abuse of position;
- Offering to make a bribe or to request or accept a bribe;
- Failure to comply with Health and Safety legislation;
- Misuse of Council property;
- Criminal activity; or
- Serious contravention of the Council’s Codes of Conduct/ practice and regulations relating to a Council employee.

- 2.2 Due care and attention has been paid to the Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2014 when documenting this policy.

- 2.3 A copy of the Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2014 is held by each Director and is also available to all staff.

- 2.4 Alternatively, this document can be accessed on the Council’s Intranet.

- 2.5 The disclosure arrangements are particularly important because experience has shown that often other members of staff are aware of

wrongdoing long before it is identified by management or audit, but have personal concerns about drawing attention to such matters.

2.6 It is, of course, a legitimate concern of employees and ratepayers that Council funding is used only for proper purposes, and further that high standards are set generally with regards to legal compliance.

2.7 Council have appointed a Raising Concerns Champion, the Director of Corporate Services, who is a source of advice and support for staff, as well as a key resource for connecting the organisation to service users and the wider public.

3. Aims of the Raising Concerns Policy

- To encourage employees to feel confident in raising serious concerns and to question and act upon their concerns;
- To provide ways for employees to raise those concerns and get feedback on action taken as a result;
- To ensure that employees get a response to their concerns and to ensure that they are fully aware of how to pursue them if they are not satisfied with any actions; and
- To reassure employees that if they raise any concerns in good faith and reasonably believe them to be true, where possible, they will be protected from possible reprisals or victimisation.

3.1 This policy is not intended to be used where other more appropriate procedures are available, for example, in the case of grievances or allegations of bullying and harassment, or complaints. See Appendix 1 for guidance on issues that may be raised and the relevant policies that apply. The nature of the issue being raised will determine whether it is a concern, a grievance or a complaint, and therefore the appropriate policy under which it should be addressed.

3.2 It is expected that employees will use the Raising Concerns Policy rather than airing their issues outside of the Council.

3.3 The Public Interest Disclosure (Northern Ireland) Order 1998 has rules for making a protected disclosure:

- You must disclose the information in good faith;
- You must believe it is to be substantially true;
- You must not act maliciously or make false allegations; and
- You must not seek any personal gain.

4. Links to the Corporate Plan

4.1 The Policy links to the core values as outlined in Council's Corporate Plan 2023 - 2027.

Respect

Establishing a culture of openness, trust and value.

Integrity

To support the spirit which enables honesty, accountability and trust throughout.

5. Responsibility

- 5.1 All employees, including permanent, temporary and volunteers, have a right to report improper actions and omissions. Employees who act in good faith and in compliance with the law are protected, where possible, from interference or retaliation for reporting improper actions and co-operating with subsequent investigations or proceedings.
- 5.2 Failure of an employee to comply with the requirements of this policy may be considered a disciplinary matter and may be dealt with under Council's Disciplinary Procedures.
- 5.3 In some specific circumstances you may be breaking the law if you **DO NOT** raise your concerns with management.
- 5.4 You can raise concerns about any issue relating to suspected malpractice, risk, abuse or wrongdoing that is in the public interest.

6. Methods of Raising Concerns

- 6.1 Various channels exist through which formal expressions of concern can normally be raised.
- 6.2 You do not need firm evidence before raising a concern, only a reasonable suspicion that something may be wrong.
- 6.3 If you have concerns regarding another member of your team then you are required to report this to your line manager either verbally or in writing, who in turn is required to report this to their appropriate Head of Service or Director.
- 6.4 If you have concerns regarding your Head of Service or a member of the Senior Management Team then you are required to report this to the Designated Lead Officer, the Director of Corporate Services.
- 6.5 If you have concerns regarding the Designated Lead Officer and/or the Chief Executive then you are required to contact the Chairman of the Audit Committee. Contacts are discussed in Section 16 of this policy.

7. Process for Raising Concerns

- 7.1 The person to whom an allegation has been made should record its receipt and what subsequent action was taken. The Designated Lead Officer may establish a raising concerns panel with the necessary officers to support

and consider the allegation/s and next steps depending upon the specific facts.

In the event an allegation relates to the Chief Executive and/or other members of the Senior Management Team and the allegation/s are put to the Chair of the Audit Committee, the Chair may establish a raising concerns panel with the necessary officers such as the Staff Commission and other external organisations, legal advisors, Human Resources consultants as required.

- 7.2 Any allegation made under this procedure will normally be the subject of a preliminary investigation, either by the Designated Lead Officer, or by a person(s) appointed by him/ her. It may be appropriate for a raising concerns panel of officers to consider the allegations and carry out a fact finding exercise. The purpose of the initial fact-finding exercise is to determine the factors that gave rise to suspicion and to clarify whether a genuine mistake has been made or if it is likely that a fraud has been attempted or occurred. In the event a subsequent investigation is required this will be carried out by an appropriately trained officer (Designated Person). The Designated Person may be an employee of sufficient seniority or an external person.
- 7.3 Where following a preliminary investigation is carried out and no further investigation is required the raising concerns panel may conclude the allegation is effectively dismissed at the outset. The person making the allegation shall be informed, within 10 working days, and given the opportunity to respond, the raising concerns panel may consider any further evidence provided and may consider if further action is required or conclude the matter.

Following a preliminary investigation, the raising concerns panel may decide an investigation is required, they will ensure the following principles are adhered to:-

1. employing investigators with the necessary skills;
2. ensuring no conflict of interest between the investigator and the issue being investigated;
3. having clear terms of reference;
4. setting a clear scope for the investigation and drawing up a detailed investigation plan;
5. clarifying what evidence needs to be gathered and how it will be gathered (document search, interviews etc.);
6. deciding how best to engage with the person raising concerns and manage their expectations; and
7. ensuring that all investigative work is clearly documented.

- 7.4 The Designated Person will have powers to:-

- Recommend that no further steps (whether by the authority or any committee, sub-committee or officer of theirs) should be taken;

- To recommend, in relation to an employee, that suspension may be appropriate depending on the seriousness of the allegations and the investigation being carried out and to recommend officers consider disciplinary action or further disciplinary action in accordance with the Disciplinary Policy;
- To inspect any relevant documents in the possession, or under the control, of the authority, and any other documents which they deem to be relevant;
- To require any employee of the authority to answer questions concerning the allegation/s;
- State his/her opinion as to whether (and if so the extent to which) the evidence he/she has obtained supports any allegations;
- Recommend the disciplinary action (if any is appropriate) or range of actions which appear to him/her to be appropriate for the authority to take against the relevant person/s.
- The Designated Person shall at the same time send a copy of his report to the Designated Lead Officer and the relevant Raising Concerns Panel.

7.5 The person or persons against whom a disclosure has been submitted will be informed about the situation and if appropriate, will be given an opportunity to respond at the relevant stage.

7.6 If, on the other hand, the Designated Person determines that proceedings be terminated, on the grounds that the issue is not appropriate for this procedure, or that there is not sufficient evidence to establish case, then the individual who has submitted the disclosure will be informed of this in writing within 10 working days.

7.7 The outcome of the investigation should be considered at a level of seniority appropriate to the gravity of the issues raised, along with a programme of proposed action where relevant. Learning from the investigation should be shared across the organisation and beyond, where appropriate.

8. Must I raise a concern openly?

8.1 You can raise a concern in one of three ways:

8.1.1 openly - you have no concerns about revealing your identity;

8.1.2 confidentiality - you provide your personal details to your point of contact but do not wish them to be shared widely beyond that;

8.1.3 anonymously - you do not reveal your identity when raising your concern.

8.2 Any person making an allegation of malpractice shall receive a guarantee that the allegation will be regarded as a confidential to the recipient until a formal investigation is launched.

- 8.2 Thereafter the identity of the person making the allegation may be kept confidential, if requested, unless this is incompatible with a fair investigation, or if there is an over-riding reason for disclosure. Prior consent will be sought from the person raising the concern in advance of any action that could identify them.
- 8.3 Provided the allegation has been made lawfully, without malice and in the public interest, the employment position of the person, will not be disadvantaged for reason of making the allegation and he/she will be protected against victimisation.
- 8.4 Members of staff/ volunteers may be also be afforded legal protection under the terms of the Public Interest Disclosure (NI) Order 1998.
- 8.5 For a disclosure to be protected under the Public Interest Disclosure (NI) Order 1998 an employee must follow the procedures laid down in the legislation, make the disclosure in good faith and to an appropriate authority. For example, disclosures can be made to the contacts that are defined within Council's Raising Concerns Policy, such as the Audit Committee, Northern Ireland Audit Office, Police Service of Northern Ireland, Health and Safety Executive for Northern Ireland, etc. Disclosures made to the media may not fall under the protection of Public Interest Disclosure Act.
- 8.6 In order to protect all individuals, where possible, (including those accused of malpractice) brief initial enquiries will be made to clarify the details of the matters, and a decision taken on whether an investigation is appropriate and, if so, what form it should take.
- 8.7 If the disclosure reveals an activity, which may have criminal implications or connotations, then it is unlikely that confidentiality could be preserved in a complete investigation. In such circumstances, this may result in the Council relinquishing its claim to confidentiality.

9.0 Safeguards

- 9.1 The Council will seek to preserve or defend any member of staff who submits a disclosure under this policy from disciplinary action, provided any such disclosure is made in good faith and in the reasonable belief that there is malpractice, even if after investigation it becomes apparent that the disclosure is without foundation.

10. Retrospective Protection

- 10.1 It is recognised that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. If you make an allegation in good faith you should have nothing to fear as you will be doing your duty to your employer, your colleagues and those to whom you provide a serviced.

- 10.2 Public Interest Disclosure (NI) Order 1998 allows an employee to take their employer to an employment tribunal if they suffer detriment in any way as a result of raising a concern.
- 10.2 **Harassment or victimisation** of individuals, who have raised concerns, including informal pressures, **will not be tolerated** by Council and will be treated as a serious disciplinary offence which will be dealt with under the disciplinary procedure.
- 10.3 Any investigation into allegations of malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already be in progress. Neither does it mean that any disciplinary or redundancy procedures, to which an individual is already subjected, will be halted as a result of raising concerns.

11. Allegations

- 11.1 This policy advises you to put your allegations in writing and put your name to it. Concerns expressed anonymously are much less persuasive. If you do not reveal your identity, it will be difficult to protect your position or give you feedback. However, each and every situation will be assessed on its respective merits.

12. Unfounded Allegations

- 12.1 If an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against you. If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be considered against you. This action will be appropriate to the circumstances surrounding the disclosure and each case will be treated on merit.

13. Confidentiality

- 13.1 All disclosures will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated however that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.
- 13.2 All employees should also be aware that any criminal prosecutions or civil actions arising from the disclosure will, in all probability, result in a loss of anonymity for the person making the disclosure.

14. Anonymous Complaints

- 14.1 Council encourages individuals to put their name to any disclosures they make.

- 14.2 There is an expectation that any written disclosures made by individuals be authorised with a bona fide signature. However, any concerns which may be submitted anonymously will be considered at the discretion of the organisation.
- 14.3 Anonymous complaints may be investigated or acted upon, but regard shall be taken to the seriousness of the issues raised, the credibility of the complaint, the prospects of being able to investigate the matter and fairness to any individual mentioned in the complaint.

15. Raising a Concern as a Member of the Public

- 15.1 Any member of the public can raise a concern with Council. Appendix 1 shows the nature of the issue raised will determine the policy under which Council should consider the matter.
- 15.2 Council's Raising Concerns Champion is the point of contact for members of the public wishing to raise a concern in the public interest. The Raising Concerns Champion email address Raising.concerns@midandeantrim.gov.uk. In the event you have concerns relating to the Raising Concerns Champion, Designated Lead Officer and/or the Chief Executive or other member of the Senior Management Team alternative contacts are set out in section 16.

16. Alternative Internal and External Contacts

There may be occasions when it is more appropriate for the member of staff to raise the concern with someone outside the Council.

As part of governance arrangements there are internal and external auditors who can be contacted as follows:

Internal Contacts

Key Contact	Name	Tel Number
Mid and East Antrim Borough Council Chief Executive	Chief Executive	0300 1245000
Mid and East Antrim Borough Council Chair of Audit Committee	Contact details can be obtained by contacting Member Services on 0300 1245000	

External Contacts

Key Contact	Role	Tel Number
Internal Audit	Internal Audit Partner	Details can be available from the Council website
External Audit - NI Audit Office, Local Government Auditor	Local Government Auditor	028 9025 1000

The Office of Northern Ireland Public Services Ombudsman	Northern Ireland Ombudsman	028 9023 3821
Police Service of Northern Ireland		101

17. Timescales

- 17.1 Due to the varied nature of these investigations, which may involve internal or external investigators and/or the Police, it is not possible to lay down precise timescales. The staff member investigating the alleged issue of malpractice should ensure that investigations are undertaken as quickly as possible without affecting the quality and depth of the investigations. The investigator may be someone from a different part of the organisation who is independent of the issue being investigated. However, there may be circumstances where external independence would be desirable.
- 17.2 The member of staff investigating the alleged issue should, as soon as possible, send a written acknowledgment of the concern to the complainant and advise them of the outcome in writing, whenever appropriate. If the outcome of the investigation is prolonged, the member of staff investigating should keep the complainant informed in writing as to the progress of the investigation and as to when it is likely to be concluded, whenever appropriate.

All responses to the complainant should be in writing.

18. Monitoring and Review

- 18.1 The policy will be reviewed by the Council every year. Interim reviews may also be prompted by feedback, challenge or change in legislation. Any need for change will be reported to the relevant Committee and Council for approval.

Appendix 1

Figure 1 summarises an example of the types of issues that may be raised and the relevant policies that apply:

