



Livestock & Meat Commission

Public Interest Disclosure (NI) Order 1998 “Whistleblowing” Policy

1 Introduction

Whistleblowing involves a member of staff raising certain types of wrongdoing or suspected wrongdoing. This is officially known as “making a disclosure in the public interest”. The disclosure must be in the public interest i.e. it must affect others such as the general public. LMC encourages staff to raise issues of concern internally to provide an opportunity to have such matters investigated and addressed as appropriate. Reasonable belief that wrongdoing has taken place is sufficient justification for raising a concern.

The Public Interest Disclosure (NI) Order 1998 came into operation in Northern Ireland on the 31st October 1999. The order offers a framework of protection against victimisation or dismissal for workers who “blow the whistle” on criminal behaviour or wrongdoing as defined in the legislation.

1.1 Aim

The aim of this policy is to enable whistle blowers to raise concerns about any malpractice, abuse or wrongdoing at an early stage and in the right way, without fear of victimisation, subsequent discrimination or disadvantage. The policy is intended to encourage and enable whistleblowers to raise concerns within LMC, or raise it externally were appropriate.

It's in the public interest that the law protects whistleblowers so that they can speak out if they find malpractice in an organisation.

As a whistleblower you're protected from victimisation if you're:

- a worker
- revealing information of the right type by making what is known as a 'qualifying disclosure'
- revealing it to the right person and in the right way making it a 'protected disclosure'

1.2 Scope

This policy applies to employees, trainees, agency staff, independent consultants, volunteers, contractors, suppliers, Board Members and members of the public.

2 Policy

This policy promotes responsible whistle blowing about issues where the interests of others, including the public, or if the organisation itself is at risk.

2.1.1 Qualifying disclosures

To be protected, you need to make a qualifying disclosure.

You need to reasonably believe that the disclosure is being made in the public interest and that malpractice in the workplace is happening, has happened or will happen.

Disclosures which can be characterised as being of a personal rather than public interest will not be protected.

The types of malpractice the law covers are:

- A criminal offence;
- A failure to comply with any legal obligations;
- A miscarriage of justice;
- Financial impropriety;
- A danger to the health and safety of any individual;
- Risk of or actual damage to the environment; or
- Deliberate covering up of information tending to show any of the matters listed above.

It's important to remember, however, that you may not be protected if you break another law in blowing the whistle. For example, if you've signed the Official Secrets Act as part of your employment contract.

2.1.2 Making a qualifying disclosure to the employer or via internal procedures

For your disclosure to be protected by law, you must make it to the right person and in the right way.

If you make a qualifying disclosure to your employer, or through procedures which your employer has authorised, the law protects you.

You can also complain to the person who is responsible for the area that is of concern to you. For example, you might raise concerns about health and safety with your health and safety representative.

2.1.3 Making a qualifying disclosure to a prescribed person

Workers who are concerned about wrongdoing or failures can make disclosures to a person or body which has been prescribed by the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1998 for the purpose of receiving disclosures about the matters concerned. If a worker makes a qualifying disclosure to such persons or bodies, it will be a protected disclosure provided the worker:

- reasonably believes that the information, and any allegation it contains, is substantially true; and
- reasonably believes the disclosure is being made to the right 'prescribed person' (e.g. breaches of health and safety regulations can be brought to the attention of the Health and Safety Executive for Northern Ireland).

In certain circumstances you can also make disclosures to others. These include disclosures:

- to your legal adviser
- to a government minister
- to others such as a professional standards body etc.

However, there are different sets of rules as to when each of these disclosures will be protected. For example, the rules covering disclosures 'in other cases' are extremely strict, among other things, you must not be acting for personal gain.

If you're unsure, you should always get advice before you go ahead and make a disclosure.

Anything you say to a legal adviser to get advice is automatically protected.

The Order provides protection to any whistle blower who makes a disclosure of information, which, in the reasonable belief of the whistle blower making the disclosure tends to show one or more of the items listed above.

The whistle blower is protected by law if that whistle blower genuinely believes that misconduct or malpractice was or is being committed and that they do not have any malicious intent or personal gain for the disclosure.

LMC will not tolerate the harassment or victimisation of anyone who raises a genuine concern and will deal with any such occurrences under the Disciplinary Procedure.

It should be noted that if an allegation is made purely for malicious intent or personal gain and the allegation has no foundation, then this will be regarded as misconduct and the person making the allegation will be subject to disciplinary action.

Personal grievances or dissatisfaction in respect of employment issues are not considered to be whistleblowing, unless a member of staff's particular case is in the public interest.

If a whistle blower requests protection of their identity, LMC will not disclose it without their consent. However, if it proves impossible to resolve the matter without revealing the whistle blower's identity, LMC will discuss with them how to proceed.

Reports submitted anonymously will be considered but it will be much more difficult for the investigating officer to investigate and may not be able to progress any further. Whistle blowers are therefore encouraged to put their name to reports.

2.1.4 Making a qualifying disclosure about an exceptionally serious failure

If a worker believes the disclosure is about an exceptionally serious failure in a workplace, the worker does not need to go through the normal channels and can publicly blow the

whistle straight away. The conditions given for blowing the whistle to others will not apply, if the worker:

- reasonably believes that the information disclosed, and any allegation contained in it, is substantially true;
- does not act for personal gain; and
- acts reasonably, taking into account the circumstances

Also, it must be reasonable for the worker to make the disclosure in view of all the circumstances, having regard in particular to the identity of the person to whom the disclosure is made. It is not enough for something to be an exceptionally serious failure in the worker's opinion alone (e.g. if the worker doesn't agree with a working practice). It must be a matter of fact that something is a genuinely serious failure. An example could be an exceptionally serious health and safety risk that is putting workers' lives at risk.

3 Procedure

This procedure should only be used by anyone who wishes to report or raise concerns about wrongdoing of the nature listed above. It is not designed to replace the Grievance Procedure, which continues to be the appropriate way to raise personal issues relating to a worker's specific job or employment.

Any concerns that a whistle blower may have must always be raised internally unless there are compelling reasons not to do so.

3.1 How to raise a concern internally

Any concerns that a whistle blower may have can be raised orally or in writing with their Line Manager. If it is not appropriate – for any reason – to report to the Line Manager, the whistle blower may speak directly to a member of the Senior Management Team.

LMC will not expect the whistle blower to prove their concern is true, but it will be necessary to demonstrate to the person contacted that there are reasonable grounds for the issue to be raised.

LMC will promptly investigate and will take whatever action it considers appropriate. The whistle blower may be called upon during the investigation to assist the investigating officer. The investigating officer will endeavour to keep the whistle blower updated as long as doing so does not infringe on someone else's confidentiality.

If the above channels have been followed and:

- a whistle blower still has concerns,
- or reasonably believe that they will be victimised if they raise the matter internally,
- or believe that disclosure will result in destruction of evidence,
- or they feel that the matter is so serious they cannot discuss it with their Line Manager or a member of the Senior Management Team,

then they should contact:

Chairman of LMC Board

Gerard McGivern

Email: Gerard.mcgivern@bopenworld.com

Mobile: 07740074790

If it is inappropriate to contact the Chairman of the Board, the whistle blower is entitled to contact LMC's sponsoring Department, the Department of Agriculture, Environment and Rural Affairs (DAERA). Within DAERA, the concern should be raised with:

Sharon McFlynn
Director, Corporate Services
Department of Agriculture, Environment and Rural Affairs
Ballykelly House
111 Ballykelly Road
Limavady BT49 9HP
Tel: (028) 8675 7699; email: sharon.mcflynn@daera-ni.gov.uk

However, should the whistle blower wish to raise a concern externally they should contact one of the organisations listed in Section 3.2.

3.2 How to raise a concern externally

There may be occasions when it is more appropriate to raise the concern with someone outside the organisation, or its sponsoring Department, including the police.

Thus, any whistle blower can raise concerns externally and in confidence with any of the bodies set out below, or with the Police Service of Northern Ireland:

Northern Ireland Audit Office:

The Comptroller and Auditor General
Northern Ireland Audit Office
106 University Street
Belfast
BT7 1EU
Tel: 02890 251 000 or 02890 251 062
Website: <https://www.niauditoffice.gov.uk/>
Email: info@niauditoffice.gov.uk

Protect (previously Public Concern at Work)

Protect
The Green House
244-254 Cambridge Heath Road
London E2 9DA
Tel: 020 3117 2520
Website: <https://protect-advice.org.uk/>
By e-mail: info@protect-advice.org.uk

3.3 Reporting Concerns: Members of the Public

All genuine allegations or concerns reported by members of the public will, as far as possible, be handled in the same way as whistleblowing allegations made by staff and will be treated in the strictest confidence. However, if any action leads to criminal proceedings, there may be the expectation for the member of the public concerned, as a complainant, to give evidence in a court of law.

As with concerns raised internally, LMC would encourage members of the public to put their names to any allegation. This enables LMC to investigate the matter fully, to seek clarification, to ask for additional details and to give you a response to your concerns.

Procedures for making complaints relating to LMC's functions or service standards can be accessed via our website.

If the complaints procedure has been followed and:

- a whistle blower still has concerns
- or believe that disclosure will result in destruction of evidence

then they should contact:

Chairman of LMC Board

Gerard McGivern

Email: Gerard.mcgivern@btopenworld.com

Mobile: 07740074790

If it is inappropriate to contact the Chairman of the Board, the whistle blower is entitled to contact LMC's sponsoring Department, the Department of Agriculture, Environment and Rural Affairs (DAERA). Within DAERA, the concern should be raised with:

Sharon McFlynn

Director, Corporate Services

Department of Agriculture, Environment and Rural Affairs

Ballykelly House

111 Ballykelly Road

Limavady BT49 9HP

Tel: (028) 8675 7699; email: sharon.mcflynn@daera-ni.gov.uk

Alternatively, it may be appropriate to raise the concern externally, please see section 3.2 above on how to raise such a concern.

3.4 Communicating with you

We will tell you who is dealing with the matter, how you can contact them, and whether your further assistance may be needed. We will give you as much feedback as we properly can, and, if requested, we will confirm it in writing. However, we may not be able to tell you precise action we take where this would infringe a duty of confidence owed by us to someone else.

3.5 If you consider you have been treated unfairly after raising a concern

If you want to make a claim with the Industrial or Fair Employment Tribunal, you must first tell the Labour Relations Agency (LRA) and discuss the option of early conciliation. You can't go to tribunal without at least considering this option.

If you're an employee covered by the whistleblowing protections and you're sacked for complaining about malpractice at work, you can make a claim for unfair dismissal. You don't need to have the normal one year's service to do this.

If you're not an employee, but are covered by the whistleblowing protections and have a contract that's terminated for whistleblowing; you can take your case to an Industrial Tribunal and claim that you have suffered 'detrimental treatment'.

If you're covered by the whistleblowing protections and you've been victimised (for example, demoted, been denied training opportunities or promotion) for whistleblowing you can take your case to an Industrial Tribunal, claiming that you have suffered 'detrimental treatment'.

If you're subjected to a detriment by a co-worker in the course of that co-worker's employment with your employer, on the ground that you made a protected disclosure, you may be able to take a case to an Industrial Tribunal against both your employer and the co-worker.

3.6 Advice and information

The Labour Relations Agency (LRA) operates a helpline which deals with queries about employment matters, including the rights and obligations arising out of employment law. The service is available to any individual or organisation free of charge.

The LRA may be contacted at the following addresses:

HEAD OFFICE

2-16 Gordon Street

Belfast

BT1 2LG

Telephone: 028 9032 1442

Website: www.lra.org.uk

Email: info@lra.org.uk

REGIONAL OFFICE

1-3 Guildhall Street

Londonderry

BT48 6BB

Telephone: 028 7126 9639