



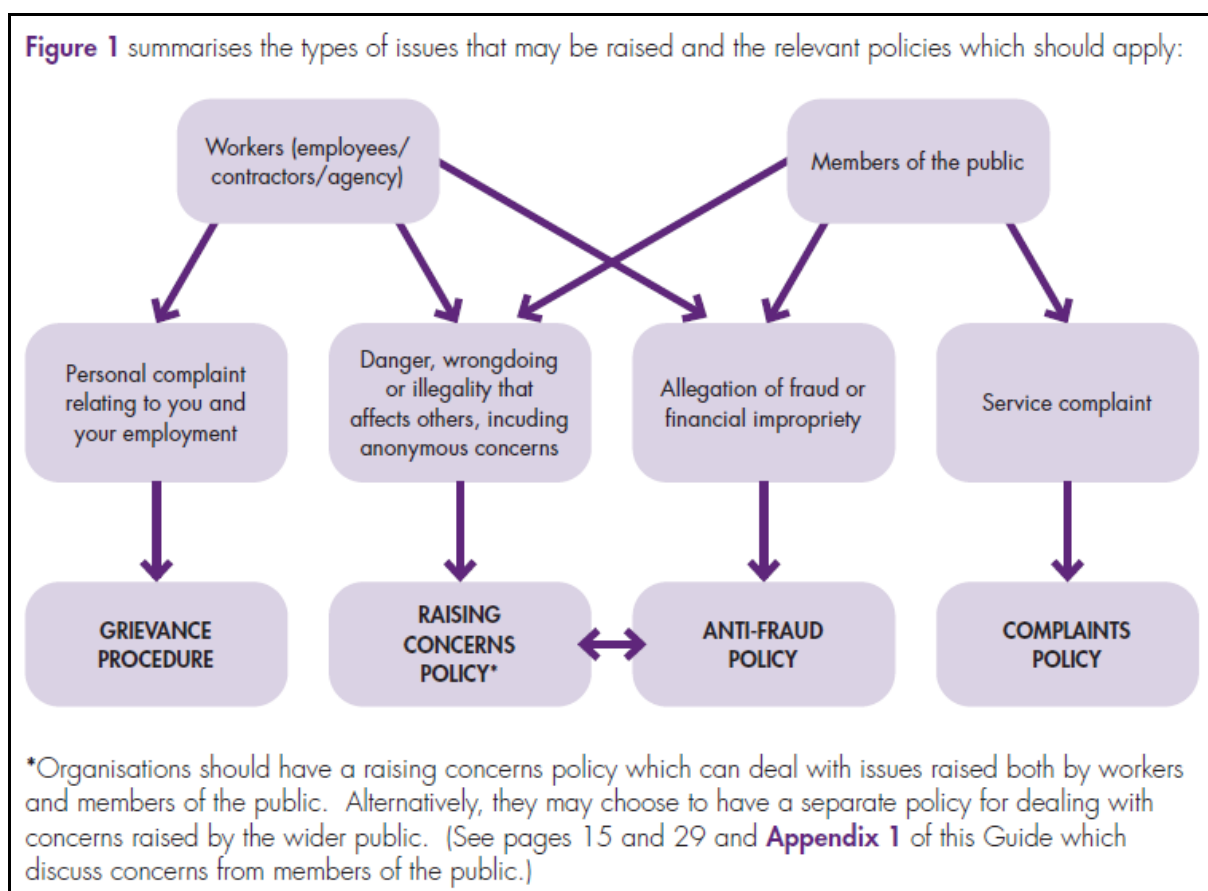
## RAISING CONCERNS POLICY

### Version History (from June 21)

No.	Date	Reason for Changes
1	Upto Jun-21	Version in place as at Jun-21. Changes not previously tracked.
2	Jun-21	To reflect NIAO Raising Concerns good practice guide.
3	Jun-22	Reviewed by ACX
4	Jul 22	Reviewed by ACX
5	Nov 22	Reviewed by ACX
6	Feb 23	Draft policy for staff consultation
7	Mar 23	Final Policy document

## 1 OVERVIEW OF CHANGES

- 1.1 This policy is being updated to reflect the “*Raising Concerns*” good practice guide issued by Northern Ireland Audit Office (NIAO) on 25 June 2020.
- 1.2 Some of the main principles/changes from the NIAO guide includes:
- The term “whistleblower” does not exist in law and has got negative connotations, hence the term “raising concerns” is deemed to be more appropriate.
  - A Raising Concerns Policy should be applicable to both internal staff (both permanent and agency employees) and external members of the public (including contractors).
  - It is essential that relevant concerns raised in an organisation are reported to the CEO or the Chair of the Joint Committee.
  - There needs to be clear advice as to who is determined to be a “prescribed person” for reporting to external bodies.
- 1.3 The NIAO guide provides a good visual summary as to how related policies should fit together within an organisation. The “*Raising Concerns*” policy should refer to fraud / financial impropriety and, as such, is more outward-facing and should be available for use by external organisations, as well as staff.



## **2 INTRODUCTION**

- 2.1** There may be times when staff members and members of the public may have some concerns about what is happening at work. Usually, these concerns are easily resolved. However, if it is considered that these concerns are about unlawful conduct, a breach of legal obligation, financial malpractice, danger to either the public or the environment, or deliberate covering up of information tending to show any of the aforementioned, it may be difficult to know what to do.
- 2.2** The benefits to arc21 of encouraging the raising of concerns includes:
- identifying wrongdoing as early as possible
  - exposing weak or flawed processes and procedures which make arc21 vulnerable to loss, criticism or legal action
  - ensuring critical information gets to the right people who can deal with the concerns
  - avoiding financial loss and inefficiency
  - maintaining a positive corporate reputation
  - reducing risks to the environment or the health and safety of employees or the wide community
  - improving accountability; and
  - deterring workers from engaging in improper conduct.
- 2.3** The Local Government Staff Commission has introduced a code to enable staff to raise concerns in the Code of Conduct for Local Government Employees, about such malpractice at an early stage and in the correct manner.
- 2.4** arc21 Joint Committee has adopted the Local Government Staff Commission policy and guidance. In doing so due regard has been given to the Public Interest Disclosure (NI) Order 1998. This policy is also referenced in the Code of Conduct and Section 4.14 of the Code provides an opportunity for a member of staff who has any concern about improper conduct to raise the matter with the Acting Chief Executive or ultimately the Chair of the Joint Committee.
- 2.5** Any member of staff or the public who feels that they have not had a reasonable response from the organisation can also concerns to Protect (<https://protect-advice.org.uk/>) or to the Northern Ireland Audit Office, 1 Bradford Court, Upper Galwally, Belfast, BT8 6RB, Tel: (028) 9025 1000.

## **3 THE PUBLIC INTEREST DISCLOSURE (NI) ORDER 1998 (AMENDED OCTOBER 2017)**

- 3.1** This Order provides statutory protection to staff who make protected disclosures of information, in the public interest, of wrongdoing within the workplace.
- 3.2** In the event of an alleged wrongdoing taking place, arc21 will do everything possible to maintain confidentiality. The focus will be on the alleged wrongdoing / concern rather than the person making the disclosure. However, there may be circumstances where the information may need to be discussed or disclosed to third parties, including other staff members of arc21, so that the information may be properly investigated or as part of any disciplinary, civil or criminal proceedings.

## **4 PROTECTED DISCLOSURES**

- 4.1** A disclosure will qualify for protection under this policy if, in the reasonable belief of the staff member 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; and
  - f. Deliberate concealment of information tending to show any of the above.

## **5 STAFF PROTECTION**

- 5.1** The Joint Committee and Acting Chief Executive are committed to this policy. If a staff member raises a genuine concern under this policy, they will not be at risk of losing their job or suffering any form of detriment as a result. Provided they are acting in good faith, it does not matter if they are mistaken.
- 5.2** This assurance does not extend to a staff member who maliciously raises a matter or raises a matter they know to be untrue. Where a matter is raised in an inappropriate or malicious manner management will, where necessary, take disciplinary action.
- 5.3** Management will not tolerate the harassment or victimisation of staff raising a genuine concern. If a staff member is found to be harassed or victimised for raising a genuine concern in the correct manner, the disciplinary procedure will be invoked. arc21 will treat all disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

## **6 MANAGEMENT INVOLVEMENT**

- 6.1** Once the staff member has informed management of the concern, it will be assessed in the first instance to determine what initial action is required. This may involve an internal inquiry or a more formal investigation. If the person appointed to undertake the initial assessment has any personal interest in the matter, he/she must bring this to the attention of management without delay.
- 6.2** If the matter raised falls more properly within the Grievance Procedure, management will inform the staff member accordingly, within 5 working days or as soon as practicable thereafter.
- 6.3** While the purpose of this policy is to enable management to investigate possible malpractice and take appropriate steps to deal with it, management may not always be able to tell the staff member the precise action taken, where this would infringe a duty of confidence owed by the Joint Committee to another party.

## **7 RAISING A CONCERN ANONYMOUSLY**

- 7.1** A concern may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern. Therefore, arc21 encourages staff and public to put their names to allegations, with an assurance of confidentiality in order to facilitate appropriate follow-up. This will make it easier for arc21 to assess the disclosure. Anonymous concerns may be considered at the discretion of the organisation. In exercising this discretion, the factors to be taken into account will include:
- The seriousness of the issues raised
  - The credibility of the concern
  - The likelihood of confirming the allegation from attributable sources
- 7.2** arc21 will take all reasonable steps to ensure that confidentiality will be maintained and all information will be held securely in line with the requirements of the General Data Protection Regulations.
- 7.3** arc21 will undertake any investigation on the basis of full confidentiality and not disclose a person's identity – verbally or in writing. Reference will be made to the person's identity in the third person (e.g. as employee A). It should be noted however that while arc21 will take all reasonable steps to maintain confidentiality (meeting off site etc), it may not be possible to prevent other staff from determining who has raised the concern.
- 7.4** In terms of obtaining "*informed consent*", arc21 will seek to ensure that the person involved will be kept informed during the course of any investigation and should any request be received from a third party (e.g. legal, PSNI, NICS, etc), arc21 will seek to get prior approval from the person raising a concern before any confidential information is forwarded / notified to anyone outside the organisation.
- 7.5** arc21 will seek to apply this approach in all circumstances but it should be noted that if a concern has been received anonymously, this can be difficult to investigate and in these circumstances informed consent would not apply.
- 7.6** It should be noted that arc21 will ensure that confidentiality will be maintained while any investigation is underway as well as post any investigation process that has concluded.

## **8 INFORMAL PROCEDURE**

- 8.1** It is possible that some concerns of suspected malpractice could quickly be resolved informally in discussion with the staff member's Line Manager, without invoking this formal policy. The staff member should consider discussing the matter with their Line Manager or a Director as early as practicably possible and seek resolution in this straightforward manner.
- 8.2** Only if a matter has not proved capable of resolution in this way, or is too serious to be handled informally, should the formal procedure described below be used.

## **9 FORMAL PROCEDURE – FOR STAFF**

- 9.1** If a staff member has a genuine concern about malpractice, it should be initially raised in confidence with their Line Manager:

- This must be done in writing.
- This will be forwarded to the Director, to action the investigation.

Details and evidence should, where possible, be provided to support such a concern. If concerns are raised which appear to be vexatious, appropriate HR / legal advice will be sought in order to determine the correct steps to be taken, especially if the allegations raised are linked to other processes which may be underway. Should it be determined that the concerns raised are indeed vexatious, then arc21 may determine that this constitutes misconduct which could warrant initiating the appropriate disciplinary action.

**Or**

- If the staff member feels unable to raise the matter with their Line Manager, for whatever reason, the matter may be raised with their Director or should this involve the Director as their Line Manager, directly with the Acting Chief Executive. If a matter is raised concerning a Director, the Acting Chief Executive may request that another Director undertake the investigation.
- Details and evidence should, where possible, be provided to support such an allegation.

**9.2** While management cannot guarantee that they will respond to all matters in the way that the staff member might wish, they will try to handle all matters fairly and properly.

**9.3** All allegations or concerns will be treated seriously by management who will record all concerns in an investigation register. As part of this process, where appropriate the manager will establish terms of reference for dealing with the concern(s) which will be agreed with the person making the disclosure, where known. The ToR would set out (i) summary of concern(s); (ii) objectives of initial enquiries; (iii) work to be carried out etc. Information obtained during the initial enquiries and / or investigation should be maintained securely and these should be sufficiently detailed to demonstrate that the person's concerns are being taken seriously to address the allegation.

**9.4** Concerns raised should be factual to the best of the person's knowledge and should cover the following:

- What has occurred or has thought to have occurred
- The background and history of the concern, providing relevant dates
- Name of person(s) suspected of involvement (if known)
- Reason why they are concerned about the situation
- How they can be contacted
- Has the matter been raised with anyone else; and
- Any other information which may be relevant including possible evidence which should be secured (e.g. documents, records).

## **10 INTERNAL REPORTING OF CONCERNS**

**10.1** The NIAO Raising Concerns guide emphasises the importance that senior management and the Board are aware of the scale and type of problems that exist in an organisation and as such states that it is *“essential that an analysis of concerns*

*raised in your organisation, and the action taken in response to those concerns, is reported regularly to senior management, the Audit Committee and the Board.”* In terms of arc21, all concerns raised (either internally or externally) will be reported by the Acting Chief Executive to the Chair of the Joint Committee and following discussion and if considered appropriate, to the Joint Committee, so that the Members are fully informed. The reporting of these matters should be fully recorded and minuted appropriately. As part of governance and assurance, all concerns raised will be reported to our SMT to consider and to determine the course of action in terms of undertaking any investigation. In terms of reporting, SMT will have to consider: is it a serious concern that warrants investigation? does the Chair/JC need to be made aware? Any report should broadly outline the concern, the action proposed, the (likely) outcome and any proposed remedy.

- 10.2** If the concern raised is deemed to have any potential for financial fraud, then there is an obligation on arc21 to immediately report this matter directly to the Northern Ireland Audit Office. This may subsequently result in further reporting to the Police Service of Northern Ireland and any other statutory fraud-reporting bodies in place at the time.

## **11 FORMAL PROCEDURE – FOR NON-STAFF**

- 11.1** This section applies to external parties including members of the public, contractors, suppliers and customers who wish to raise concerns internally with arc21 under this policy.
- 11.2** It is recommended that contractors, suppliers or customers initially raise any concerns directly with their point of contact in arc21 responsible for managing the contract. If this is deemed inappropriate, they can direct their concern to the Acting Chief Executive, as per the contact details below.
- 11.3** Members of the public, contractors, suppliers or customers can raise concerns by email, telephone or in writing:
- Email: Mr Tim Walker, Acting Chief Executive (tim.walker@arc21.org.uk)
  - Telephone: 028 9037 3000
  - By post: arc21, Belfast Castle, Antrim Road, Belfast BT15 5GR
- 11.4** For guidance on what information should be provided when raising a concern, please refer to section 9.4.

## **12 HOW TO RAISE A CONCERN EXTERNALLY**

- 12.1** Staff are encouraged to use the internal mechanism outlined to express their concerns. There may, however, be exceptional circumstances where a staff member considers it appropriate to contact an external agency.
- 12.2** If a staff member feels the need to obtain general advice before doing so, they may contact the independent charity, Protect ([www.protect-advice.org.uk](http://www.protect-advice.org.uk)), who provide

free, confidential legal advice on whistleblowing matters. Under the law staff are only permitted to disclose confidential information outside of arc21 to a “*prescribed person*” (ie a suitable regulator or inspector).

- 12.3 Under the law, if you disclose to a “*prescribed person*” you need to show that you reasonably believe that the information falls within the remit of that prescribed person, and that the information is “substantially true”. (Section 43F – Employment Rights Act 1996).
- 12.4 If a staff member has a genuine concern about malpractice it can also be raised externally, in accordance with the Public Interest Disclosure Order, with the Local Government Auditor and the Police Service for Northern Ireland.

### **13 RIGHT TO BE ACCOMPANIED**

- 13.1 At all stages of the Raising Concerns (whistleblowing) policy the staff member may, if he or she desires, be accompanied by a companion of his or her choice in accordance with current statutory rights. The companion may be either a current work colleague, or a trade union representative.