

EXTERNAL RAISING CONCERNS

**A Guide to raising concerns about
companies in the electricity, gas and water
industries**

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Introduction and policy context

The Utility Regulator is the economic regulator of the electricity, gas and water and sewerage industries in Northern Ireland. We are a non-ministerial government department set up to protect consumers by ensuring that the utility industries in Northern Ireland are regulated and developed within the strategic policy parameters set out by Ministers and in accordance with the relevant legislation. At the heart of our duties and functions is the protection of the interests of water, sewerage, gas and electricity consumers in Northern Ireland.

There may be instances where you feel that you can't raise a matter of concern or reported wrongdoing through internal procedures, or you are unhappy with the way your concern or reported wrongdoing was handled. As a result, you may decide that there is a need to raise the issue with us as a public interest disclosure. We take all such contacts very seriously and aim to deal with them promptly and discreetly. We recognise that raising such concerns is not easy for you. Please refer to section 6 of this guide if you need to make a disclosure.

This Guide describes how we aim to deal with those disclosures. You should not read this as an authoritative summary of the law in this area but a practical guide for what to do if you feel it necessary to blow the whistle in respect of a company in the electricity, gas or water and sewerage industries.

1. Policy Scope

What is raising a concern

- 1.1 Formerly known as whistleblowing, raising a concern is when you raise concerns about wrongdoing, risk or malpractice. Raising a concern can inform those who need to know about health and safety risks, potential environmental problems, fraud, corruption, cover-ups and many other problems. Workers are often best placed to identify deficiencies and problems and are sometimes the only way that such information comes to light. If the concern is raised early enough, it can help to avoid serious damage being done so the importance of the role of workers as the “eyes and ears” of organisations cannot be overstated.
- 1.2 We expect openness, accountability and honesty throughout the utility industries. As a worker in the utility industries you may identify a need to raise issues of concern. In general, you should be able to make disclosures about wrongdoing to your employer so that problems can be identified and resolved quickly within organisations.
- 1.3 You can raise a concern openly, confidentially or anonymously with your employer. If you raise a concern openly, your employer should ensure that you do not suffer any detriment or harassment as a result. It is not a requirement of legislation to provide confidentiality – in fact it encourages workers to raise their concerns openly - but a good Raising Concerns policy will provide a confidential port of call and employers should respect any promise of confidentiality made.
- 1.4 Your employer should have internal procedures for handling disclosures including processes for maintaining your confidentiality to the maximum extent possible, for consulting with you and, where possible, gaining your consent prior to any action that could identify you and strategies for supporting you and ensuring you suffer no detriment or harassment when confidentiality is not possible or cannot be maintained. These internal procedures should be normally be used in the first instance or adapted for the purpose of facilitating disclosures. We would expect these processes to be fully exhausted before recourse to this policy though in some cases it may still be appropriate for you to raise a concern using the procedures outlined in this Guide, eg if your company doesn't have a Raising Concerns or Whistleblowing policy. Your employer should name the Utility Regulator in its internal Raising concerns policy and refer to this Guide as the body to which disclosures under the Public Interest Disclosure (NI) Order 1998 (PIDO) are made.

What is the difference between making a complaint, raising a grievance and raising a concern?

- 1.5 When you raise a concern, you are doing so about a suspected wrongdoing that affects others, usually customers, members of the public, or your employer. You might not be directly or personally affected by the suspected wrongdoing nor have a personal interest in the outcome of any investigation into your concern, although you might.
- 1.6 When you complain, normally you are saying that you have personally been poorly treated or otherwise suffered harm as a consequence of another person's alleged wrongdoing. In the energy and water sectors this might include incorrect billing or poor service. Details on how to complain about your utility company can be found on our website Complaints Handling Procedure | Utility Regulator
- 1.7 A grievance is when you, as an employee, have a dispute about your own employment position. If you are an employee we recommend that you refer to your internal workplace policies.

What disclosures can we deal with?

- 1.8 The PIDO prescribes the Utility Regulator as the person to whom disclosures in respect of the following should be made:
 - a) The regulation, transmission, distribution and supply of electricity, and activities ancillary to these matters;
 - b) The regulation of the conveyance, storage and supply of gas through pipes, and activities ancillary to these matters; and
 - c) The regulation of the abstraction, treatment, distribution and supply of drinking water to the public and activities ancillary to these matters
 - d) The regulation of the collection, treatment and disposal of wastewater and sewage sludge and activities ancillary to these matter

Examples of disclosures

- 1.9 Some of the areas where you may have concerns which could be reported to us policy include:

- a) Breach of the conditions of a company's licence;
- b) Criminal offences;
- c) Failure to comply with a legal obligation or statutory duty;
- d) Anti-competitive practices; or.
- e) Improper conduct or unethical behaviour.

How will we handle disclosures we can't deal with?

- 1.10 It may be that we do not have direct powers to deal with your disclosure and that it should more properly be dealt with by another body. Each matter raised with us will, before any investigation begins, be reviewed by us to establish who is properly empowered to deal with it.
- 1.11 Where a matter properly falls within the powers of another body, we will provide you with contact details to allow you to take the matter up with them directly.
- 1.12 We will treat any disclosures received sensitively and, as far as we are able, confidentially. You should be aware that we may not be able to take action against a company in all instances.

2. Procedure for raising a concern

How to contact us

2.1 If you feel that you need to make a disclosure under the terms set out in this Guide then please contact Sarah Teer, our Head of Private Office in the first instance.

- Head of Private Office:
- Sarah Teer - Telephone: 028 9041 6850 email: sarah.teer@uregni.gov.uk

2.2 In the very exceptional circumstance where you feel it would not be appropriate to contact Sarah Teer, you may contact either of our Executive Directors.

- Executive Director (Consumer and Business Protection and Markets Kevin Shiels - Telephone: 028 9031 6637 email: kevin.shiels@uregni.gov.uk
- Executive Director (Price Controls, Networks and Energy Futures) Peter Russell - Telephone: 028 9052 5266 email: peter.russell@uregni.gov.uk

2.3 Our postal address is

- Utility Regulator Millennium House 16-22 Great Victoria Street Belfast BT2 7BN
- Email: info@uregni.gov.uk
- Telephone switchboard: 028 9031 1575

Confidentiality and anonymous concerns

2.4 Individuals should feel able to voice concerns openly under this policy. This makes it easier to investigate the matter and provide feedback.

2.5 Any disclosures made under this procedure will be treated in a sensitive manner. Details of individuals will only be shared with those who need to know, in order to investigate and progress the matter.

2.6 If an individual wants to raise a concern confidentially on the basis that their name is not revealed without their consent, this will be respected

this as far as possible. However, a situation may arise where the investigation itself may reveal the source of the information and in some cases it may not be possible to resolve the concern without revealing an individual's identity. In these circumstances, this will be discussed with the individual before proceeding. The same considerations of confidentiality are afforded to anyone at the centre of the concern, as far as possible.

- 2.7 If a concern is raised anonymously, it may limit the extent to which the matter can be investigated and may therefore put others at risk. Raising a concern openly makes it easier to investigate fully and provide feedback on the outcome and any remedial action taken. If an individual is concerned about remaining anonymous, speaking to a Nominated Officer may help alleviate any concerns. Raising a concern anonymously is preferred to silence, but it is much better to raise a concern openly.
- 2.8 If a concern is raised anonymously steps will be taken to establish the seriousness of the matter and the likelihood of being able to investigate further. In some circumstances, the likely source of the information may become apparent during the course of the investigation. Individuals are therefore encouraged, where possible, to put their name to concerns raised. In this way, they can be supported during the process and ensure they do not suffer any unfair or negative treatment as a result.
- 2.9 If concerns are raised anonymously it can also be more difficult to qualify for protection under PIDO. This is because there would be no documentary evidence linking the individual to the disclosure, for an employment tribunal to consider.

What information do you need to provide

- 2.10 When raising a concern you should try to provide as much information as possible, including:
 - a) The background and reason behind the concern
 - b) Whether the concern has already been raised with anyone else and the response
 - c) Any relevant dates
 - d) Names of any relevant person(s) if known

- e) Any other information which may be relevant including any possible evidence which should be secured
- 2.11 If an individual has, or could be perceived to have, any personal interest in the outcome, it is important that they declare this at the outset.
- 2.12 The information provided should demonstrate that there are reasonable grounds for the concern to be acted upon. It is important that matters are not investigated by individuals themselves. Remember, proof is not needed, just a reasonable, honest belief that wrongdoing, has or is likely to occur.

What protection do I have if I come forward?

- 2.13 The Public Interest Disclosure (NI) Order 1998 (PIDO) protects you if you raise concerns about certain types of wrongdoing. It mainly takes the form of amendments to the Employment Rights (Northern Ireland) Order 1996 and makes provision about the kinds of disclosures which may be protected; the circumstances in which such disclosures are protected and the persons who may be protected.
- 2.14 The provisions introduced by the PIDO protect most workers from being subjected to a detriment by their employer. If you are protected by the provisions, you may make a claim for unfair dismissal if you are dismissed for making a protected disclosure. If you are a contract worker but not an employee, you may not claim unfair dismissal. However, if the employer has terminated your contract because they made a protected disclosure, you may instead make a complaint that you have been subjected to a detriment.
- 2.15 Many workers are understandably concerned about the consequences of speaking out about their employer. The PIDO was created specifically to protect workers who report concerns which qualify for protection under it. There is further information available on the PIDO and the protection it offers on the Department for Economy's website at: www.economy-ni.gov.uk/publications/public-interest-disclosure-guidance
- 2.16 Certain kinds of disclosures qualify for protection ("qualifying disclosures"). Qualifying disclosures are disclosures of information which you reasonably believe tend to show one or more matters, including those listed below, is happening now, took place in the past, or is likely to happen in the future:
 - a) a criminal offence;

- b) a breach of a legal obligation;
- c) a miscarriage of justice;
- d) a danger to the health or safety of any individual;
- e) damage to the environment; or
- f) deliberate covering up of information tending to show any of the above matters.

2.17 You do not need to be certain that malpractice is occurring or have to provide evidence or proof of wrongdoing. It is best to raise the concern as early as possible, even if it is only a suspicion, to allow the matter to be looked into promptly. PIDO protection applies if, at the time you raised your concern, you had an honest belief that malpractice had occurred, is occurring or is likely to occur in the future. That belief does not have to turn out to be correct.

Can I get legal advice

2.18 We can't provide legal advice or intervene in matters of employment relations and have no powers to determine whether or not PIDO protection applies. However, we can direct you to those who will be able to offer you independent, confidential advice. In those circumstances, you may want to contact:

- a) Protect (formerly "Public Concern at Work) which is an independent charity and leading authority on public interest whistleblowing. They can be contacted on 020 3117 2520 or by email: <https://protect-advice.org.uk/contact-protect-advice-line/>
- b) a trade union representative; or
- c) a solicitor

3. How will we handle your concern

What we do with the information

- 3.1 We will acknowledge the contact we receive from you within 2 working days.
- 3.2 We recognise that, due to the differing circumstances of each case, it may not be possible or appropriate to follow the same procedure in every instance. If, during any stage of the process described below, it becomes clear that we are not the appropriate body to address the disclosure, we will halt the process and put you in touch with the body which will be able to help you.
- 3.3 In respect of matters that properly fall to us, we would expect the investigation to follow the steps set out below:
- 3.4 The relevant Executive Director will undertake an initial review of the disclosure and assign it to experienced staff who can investigate it further. We will try to do this within 5 working days.
- 3.5 If necessary, the staff member investigating your concern will make contact with you (usually by email) to arrange a suitable time to speak with you to get further details of the concern. We usually conduct interviews over the phone if they're needed, but we may have a face to face interview if we need more detail. Face to face interviews are usually attended by at least two members of Utility Regulator staff. We don't visit whistleblowers at home.
- 3.6 We will assess the information provided to decide whether further investigation is warranted at this stage.
- 3.7 We will also consider if there are other agencies or bodies which may have a legitimate interest in the information. If other agencies or bodies appear to us to be more appropriate we will either:
 - a) encourage you to contact the agency/agencies themselves directly; or
 - b) consider passing on the information to the agency or body itself.
- 3.8 The investigating team will try, where possible, to obtain your consent before any information is passed on, although such decisions remain at our sole discretion.
- 3.9 When sufficient information has been gathered, we will reach a conclusion on the validity of the allegations made, and decide what, if any,

action to take. If no further action is to be taken, you will be informed where possible.

- 3.10 We appreciate that you will be anxious to know what has happened, and we will endeavour to keep you informed, in general terms, of any progress. However, we will not disclose confidential information without lawful authority and legal restrictions may prevent us giving detailed feedback in many cases.
- 3.11 Due to the varied nature of potential allegations under this Guide it is not possible to lay down precise timescales for investigations. However, the senior officer leading your investigation will ensure that the investigators complete any inquiries that need to be undertaken as quickly as possible and a timetable, where possible, will be agreed with you.

What if I have further questions?

- 3.12 We review our approach regularly to ensure that it meets the needs of both workers raising concerns with us and the Utility Regulator. If you have any questions about anything we have said in our Guide, please contact either of the Executive Directors named above.

Reporting and monitoring?

- 3.13 Concerns raised under this policy are formally reported to the Audit and Risk Committee (ARC), ensuring appropriate oversight and governance. Regular updates are provided to ARC on the nature, handling, and outcomes of concerns, supporting transparency and continuous improvement.