

# **Confidential Reporting Policy And Procedure ("whistleblowing" policy)**

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## Document Control

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## Introduction

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

This Policy is clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting Policy and Procedure ("whistleblowing" policy) is intended to encourage and enable employees (including trainees and agency staff) to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.

These procedures are in addition to the Council's complaints procedures. In respect of fraud, bribery or corruption, employees should also refer to the Council's Anti-Fraud, Bribery and Corruption Policy and its associated Response Plan.

This Policy has been discussed with the relevant trade union and has its support.

## Aims and Scope of this Policy

This Policy is designed for workers. Workers include:

- employees;
- agency workers;
- people that are training with an employer but not employed
- independent contractors

This Policy aims to:

- Encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for employees to raise those concerns and receive feedback on any action taken;
- Ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied with the response;
- Reassure employees that they will be protected from possible reprisals or victimisation.

The Confidential Reporting Policy and Procedure is intended to cover major concerns that fall outside the scope of other procedures. These include:

- Conduct which is illegal;
- Miscarriages of justice;
- Health and safety risks, including risks to the public as well as other employees
- Damage to the environment;
- The unauthorised use of public funds;
- Possible fraud, bribery or corruption; and
- Sexual or physical abuse of people using Council services, or other unethical conduct.

Any serious concern that an employee has about any aspect of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can and should be

reported under the Confidential Reporting Policy and Procedure.

This concern may be about something that:

- Makes the employee feel uncomfortable in terms of known standards, their experience or the standards they believe the Council subscribes to;
- Is against the Council's Constitution, Procedure Rules, policies, or the law;
- Falls below established standards of practice; or
- Amounts to improper conduct.

## **Safeguards**

The Public Interest Disclosure Act 1998 became law in July, 1999. This Act, introduced the protection of whistleblowers and removes the limits of financial liability to which an organisation is exposed should a whistleblower receive unfair treatment. This Policy sets out the Council's response to the requirements of the Act.

Under the Enterprise and Regulatory Reform Act 2013, any disclosure made using the "whistleblowing" policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest. It must also show one or more of the following:

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

## **Harassment or Victimisation**

The Council is committed to good practice and high standards and wants to be supportive of employees.

The Council recognises that the decision to report a concern can be a difficult one to make. If what the employee is saying is true, or they honestly believe it to be true, they should have nothing to fear because they will be doing their duty to the organisation and their colleagues and service users.

The Council will not tolerate the bullying or harassment of anyone raising a genuine concern. Any employee who causes detriment, bullying or harassment to someone who makes a disclosure under this Policy will be subject to disciplinary proceedings.

Any investigation into allegations of potential malpractice by others will not influence or be influenced by any disciplinary or redundancy procedures that already affect the employee who raised the concerns.

It must also be noted that Public Interest Disclosure Act continues to protect a whistleblower after they have left the organisation where they made a protected disclosure. This is to prevent an employer giving an untrue or even defamatory reference; for example one that labels the whistleblower as an agitator or troublemaker.

## **Confidentiality**

All concerns will be treated in confidence wherever possible and every effort will be made not to reveal the employee's identity, however confidentiality cannot be guaranteed as courts, tribunals

and other bodies can order the Council to disclose documents and other information provided to it. At the appropriate time, however, the employee may need to come forward as a witness.

If confidentiality is not fairly maintained, and the employee suffers detriment as a result, they may be able to seek recourse through the Council's grievance procedure.

### **Anonymous Allegations**

This Policy encourages employees to put their name to any allegation whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

In exercising this discretion the factors to be taken into account would include:

- The seriousness of the issues raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

**Employees should be aware that the Council may not be able to offer the safeguards against bullying and harassment if the concern is raised anonymously. It may also be difficult to demonstrate to a tribunal that any detriment suffered is as a result of raising a concern.**

### **Untrue Allegations**

If an employee makes an allegation maliciously or for personal gain, disciplinary action may be taken against them.

## **How To Raise A Concern**

As a first step, employees should normally raise concerns with their immediate manager. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if an employee believes that a service manager is involved, they should approach one of the Managers. If they believe senior management is involved, they should approach the Monitoring Officer (the Deputy Chief Executive) or, if not considered appropriate, the Chief Executive, the Chief Financial Officer, the Governance & HR Manager or the Internal Audit Manager.

Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format:

- The background and history of the concern (giving relevant dates and places);
- The reason why the employee is particularly concerned about the situation.

The earlier an employee expresses the concern, the easier it is to take action.

Although the employee raising a concern is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

Advice and guidance on how matters of concern may be pursued can be obtained from:

- Chief Executive
- Monitoring Officer
- Community Manager
- Business Manager
- Resources Manager
- Chief Financial Officer
- Governance & HR Manager

- Internal Audit Manager

An employee may wish to consider discussing their concern with a colleague first and may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns. However, this should not be an excuse for spreading gossip or allegations which are without foundation. Alternatively they can approach a member of the HR team with their concerns.

Employees may invite their trade union representative or a work colleague to be present during any meetings or interviews in connection with the concerns they have raised.

An employee who wishes to raise a concern anonymously can do so by contacting Expolink on the Freephone number 0800 731 6202. The Council has an arrangement with Expolink, an external organisation, for the receipt of allegations or complaints from employees. Information on the arrangement is available to every employee.

Employees shall not publically disclose a concern which is the subject of this Policy. This is to ensure fairness and to protect the reputation of the Council against unfounded claims. However, this does not prevent an employee raising concerns under other arrangements (see How the Matter Can Be Taken Further) for 'whistle blowing' if they believe this Policy is not being applied correctly and as a result a risk that malpractice will not be uncovered or put right.

## How The Council Will Respond

The Council will respond to any concerns raised. It is important to remember that testing out and challenging concerns is not the same as rejecting them. **All concerns will be reported to the Monitoring Officer.**

Where appropriate, the matters raised may:

- Be investigated by management or internal audit;
- May lead to implementing the disciplinary process;
- Be referred to the Police;
- Be referred to the external auditor;
- Form the subject of an independent (external) inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation.

Within 5 working days normally of a concern being raised by an employee, the person with whom the issue has been raised will write to the employee to:

- Acknowledge that the concern has been received and will be reported to the Monitoring Officer;
- Supply information on employee support mechanisms.

Depending on the complexity and accessibility of material and sources, the Monitoring Officer will write to the employee normally within 5-10 working days of suspicions being reported, to:

- Indicate how it is proposed to deal with the matter;
- Give an estimate of how long it will take to provide a final response;
- Advise whether any initial enquiries have been made; and
- Advise whether further investigations will take place and if not, why not.

The amount of contact between the Officers considering the issues and the employee reporting the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from the person reporting the concern.

Where any meeting is arranged, this may be off-site where appropriate. The employee may be accompanied by a union representative or a colleague.

The Council will take steps to minimise any difficulties which an employee may experience as a result of raising a concern. For instance, if an employee is required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure.

The Council accepts that the employee needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints (in particular, duties of confidentiality, data protection and natural justice), the employee will receive information about the outcomes of any investigation.

### **The Responsible Officer**

The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy. That Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger the employee's confidentiality) and will report as necessary to the Council.

### **How The Matter Can Be Taken Further**

This Policy is intended to provide employees with an avenue to raise concerns within the Council. The Council hopes employees will be satisfied with any action taken. If employees are not satisfied and if they feel it is right to take the matter outside the Council, these are possible contact points:

- Relevant professional bodies or regulatory organisations such as the Health and Safety Executive. A list of prescribed persons and organisations can be found at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>
- The Police
- Advice can also be obtained by contacting Public Concern at Work (PCAW), an independent whistleblowing charity, on 020 7404 6609 or emailing [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)
- Citizens Advice Bureau

If employees do take the matter outside the Council, they should ensure that they do not disclose confidential information, except where required by law i.e. for the administration of justice or exercising/defending legal rights.