



# Whistleblowing Policy



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# WHISTLEBLOWING POLICY

## 1. Introduction

Whistleblowing is a procedure whereby employees can confidentially disclose their concerns about apparent wrong doings such as fraud, malpractice, breach of any health and safety law, or any other illegal act, either on the part of management or by fellow employees. Employees are often the first to realise that there may be something seriously wrong within the Authority. However, they may not express their concerns because they feel that making a formal complaint would be disloyal to their colleagues, their managers or to the Authority. They may also fear victimisation. So it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Authority has adopted a zero tolerance approach to fraud, corruption, and bribery, and is committed to the highest possible standards of openness, honesty and accountability. In line with that commitment, **the Authority encourages employees, Councillors, and others with serious concerns about any aspect of the Authority's work to come forward and voice those concerns.** We appreciate that employees may not know the "whole picture" and that sometimes they may make a referral in good faith that, on investigation, turns out not to be an issue.

We will support employees who raise concerns in good faith and under the Public Interest Disclosure Act (1998) (PIDA), a worker has the right not to suffer detriment or be unfairly dismissed as a result of speaking out about crime, fraud, miscarriages of justice or other malpractices. The Enterprise and Regulatory Reform Act 2013 (ERRA) provided additional protection for whistle blowers. **This Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns *within* the Authority without fear of reprisal.**

Where employees have concrete evidence that a fraud is taking/has taken place, they must report the incident, otherwise they could be considered complicit.

**All matters relating to fraud and corruption, while encompassed by the Whistleblowing Policy, are separately covered by the Anti Fraud, Corruption and Bribery Strategy. If fraud and corruption are suspected, the Anti Fraud, Corruption and Bribery Strategy MUST be followed. Therefore, any complaints of fraud and/or corruption that are reported through this Whistleblowing Policy will be investigated in accordance with the Authority's Anti Fraud, Corruption and Bribery Policy.**

## 2. Aims and Scope of the Policy

This policy aims to:

- Encourage the whistleblower to feel confident in raising serious concerns
- Provide avenues for the whistleblower to raise those concerns and receive feedback on any action taken
- Ensure the whistleblower receives a response to their concerns and are aware of how to take the matter further if they are dissatisfied with the response
- Reassure the whistleblower that they will be protected from possible reprisals or victimisation for whistleblowing in good faith
- Provide anonymity for the whistleblower

### **3. Eligibility**

This policy applies to all Council workers, including elected and co-opted Members, employees, staff of Council contractors, suppliers of goods and services and agency staff.

### **4. Qualifying Disclosure**

In order for a matter to receive consideration the whistleblower must:

- Make the disclosure in good faith
- Reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- Not make the disclosure for personal gain
- Believe the relevant concern is serious enough to warrant investigation.

### **5. How to Identify Relevant Matters of Concern**

There are other procedures in place for employees and Members to lodge concerns including:

- Grievance Procedure – matters relating to their own employment in the case of a Council employee
- Dignity at Work Policy and Procedures – reporting behaviour that constitutes bullying or harassment
- Complaints Procedure – standards of Service/Actions by staff from the public
- Members' Code of Conduct – matters relating to improper conduct by Members
- Code of Conduct and The Deal - set out expected standards of conduct for employee's
- Corporate Anti Fraud, Corruption and Bribery Strategy – suggested or potential irregularity in the exercise of the Authority's functions, including financial malpractice.

This Whistleblowing Policy is intended to be an umbrella policy to ensure serious concerns that may potentially fall outside the scope of other policies are covered.

These may include

- Unlawful or improper conduct
- Financial malpractice
- Dangers to the public, colleagues, or the environment
- Breaches of confidentiality and/or security
- The provision or non-provision of care or services to a patient, or client group
- A colleague's professional conduct and/or performance
- Something that is against the Authority's Constitution, Procedure Rules and policies
- Any concerns regarding the safeguarding of children or vulnerable adults
- Other unethical conduct

Examples of where the policy may be used include:

- An employee becomes aware that the Authority's Policies and Procedures or other Regulations governing the work of the Authority have been ignored.
- An employee becomes aware of another employee submitting false travel or time sheets
- Employee becomes aware that an officer is contravening legislation on Health and Safety Issues

## 6. How to Raise Concerns

Where the whistleblower has concerns about malpractice and it is not appropriate to raise them through other procedures, such as grievance procedures, the whistleblower should raise them with an appropriate person.

Who the whistleblower raises concerns with will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if the whistleblower believes that a manager is involved, the whistleblower should approach the Senior Solicitor, the Statutory Finance Officer, Internal Audit or the Human Resources Manager. The Whistleblower could also choose to raise their concerns with their Union Representative, an Elected Member, or the Council's External Auditor.

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

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

The earlier the whistleblower expresses their concern the easier it is to take action. The whistleblower is not expected to prove beyond doubt the truth of an allegation but will need to demonstrate to the person contacted that there are reasonable grounds for the concern.

The whistleblower may obtain advice and guidance on how to pursue matters of concern from the Human Resources Manager, the Senior Solicitor, the Statutory Finance Officer, Internal Audit, or their Trade Union Representative. They may wish to discuss their concern with a colleague or may find it easier to raise an issue if there is more than one person who has had a similar experience or concern.

The whistleblower may invite a trade union representative, a professional association representative or a friend or colleague to attend any meetings or interviews in connection with the concerns raised.

**Any complaints of fraud or corruption that are reported through this Whistleblowing Policy will be referred to the Council's Anti Fraud, Corruption and Bribery Strategy.**

## 7. How the Council will respond

### Initial Review

The officer receiving the complaint will quickly assess whether it is:

- A matter for Human Resources or Internal Audit to investigate and if so pass the details to HR or Internal Audit as soon as possible and within 5 days ; or
- A matter that does not fall within the Anti Fraud, Corruption and Bribery Strategy but does need to be conducted by a relevant /senior officer, and if so to pass the details to an Investigating Officer as soon as possible and within 5 days; or
- It is a matter that is within their remit to deal with.
- In exceptional circumstances the complaint may require notification to the Police for investigation.

The complaint will then be reviewed to establish whether an investigation is appropriate and if so what form it should take, having regard to the overriding principle of the public interest. Where the allegation relates to a Manager or above then this will be conducted by an Investigating Officer selected from those listed below. This review will be commenced within 10 working days of the concern being raised, and the whistleblower will be notified in writing, to their home address or delivered by hand, within 10 calendar days of the outcome of this initial review.

Investigating officers may be the Senior Solicitor, the Statutory Finance Officer, Internal Audit, the Human Resources Manager or other nominated Senior Officer.

The Investigating Officer will contact the whistleblower by an agreed method (which may be their home address) to:

- Acknowledge that the concern has been received
- Indicate how they intend to deal with the matter raised
- Estimate how long it will be before there is a final response
- Provide information on support mechanisms

### Further Investigations

Where further investigations are required these must be completed within six weeks, but extensions will be granted when necessary. The aim of these timescales is to ensure that all cases of whistleblowing are dealt with as soon as possible.

If it is necessary to arrange a meeting with the whistle blower, this may be arranged off site. The whistleblower may be accompanied by a union or professional association representative or a friend.

The investigating officer will:

- Fully investigate the complaint with the assistance of other individuals/bodies when appropriate.
- If action is considered appropriate, present a report concerning the complaint and the validity of the complaint. The report will be made to the relevant Senior Manager for consideration of what action needs to be taken e.g. invoking the disciplinary or other procedures. Care is to be taken to ensure that the officer is appropriate in terms of service and seniority, but with regard to the requirements of which senior officers need to sit on disciplinary and grievance hearings.
- Where appropriate inform staff against whom a complaint is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied or represented.

If the whistleblower is not satisfied that the Investigating Officer is properly dealing with the concern, they should discuss this with the Solicitor or the Head of Paid Service.

The Authority will take steps to minimise any difficulties that the whistleblower may experience as a result of raising a concern. For example if they are required to give evidence in criminal or disciplinary proceedings the Authority will arrange for them to receive advice about the procedure.

The Authority accepts that the whistleblower needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform them of the progress and outcomes of any investigation.

## **8. The Responsible Officer**

The Head of Paid Service has overall responsibility for the maintenance and operation of this policy and will report as necessary to the Council.

The Senior Solicitor maintains a record of concerns raised and the outcomes (but in a form that does not endanger confidentiality). Internal Audit and the Human Resources Manager may also retain a copy.

## **9. How the Matter can be taken Further**

This policy is intended to provide a whistleblower with an avenue within the Authority to raise concerns. The Authority aims to ensure that the whistleblower will be satisfied with any action taken. If not, and the person wishes to take the matter outside the Authority, the following are possible contact points who can receive whistleblowing reports:

- the Council's external auditor, Grant Thornton
- the Police

Alternatively if you need advice about what to do you could approach the following organisations for confidential advice:

- your trade union representative
- the local Citizens Advice Bureau
- Public Concern at Work (a whistleblowing charity who operate a confidential advice line)

If the whistleblower does take the matter outside the Authority they should ensure they do not disclose confidential information. It is suggested they should check with the Senior Solicitor if they have concerns about confidentiality, or the protection available under the Public Interest Disclosure Act.

In addition to the above Members are now able to disclose information in accordance with their Code of Conduct.

## **10. Protecting Whistleblowers' Confidentiality**

The Authority will seek to protect a person's identity when they raise a concern and do not want their name to be disclosed. Employees will be protected from distress, including giving evidence in front of the person against whom the allegations are being made, wherever possible. However, during the investigation, the source of the information may be revealed and you may be required to provide a statement or come forward as a formal witness.

When an individual makes a disclosure, the organisation will process any personal data collected in accordance with its data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

## **11. Untrue Allegations**

If a whistleblower raises a concern in good faith, but it is not confirmed by the investigations, no action will be taken against them. If, however, an unfounded allegation is made maliciously or for personal gain, disciplinary action will be taken against the person. In an extreme case malicious or speculative allegations could give rise to legal action on the part of the person/s complained about.

## **12. Anonymous Allegations**

Whistleblowers are encouraged to put their name to any allegations made. However, it is understood that some people may wish to remain anonymous. Concerns expressed in this way are much less powerful, but will be considered, at the discretion of the Authority.

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

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from other sources

## **13. Victimisation**

The Authority will not tolerate bullying, harassment or victimisation and will take action to protect whistleblowers when they raise a concern in good faith.

If a whistleblower receives reprisals from those responsible for the malpractice or any other member of staff, the Authority will take the matter very seriously and where appropriate take disciplinary action.

## **14. Review of Policy**

As part of the Council's governance arrangements the Audit & Governance Committee periodically review and approve the arrangements by which staff of the Council may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The Audit & Governance Committee are responsible for ensuring that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.

## **15. Communication**

This policy is available on both the Staff Intranet and the Public Website. To ensure the policy is easy to understand it is supported by an easy to use 'Whistleblowing – Employee Guide' and a 'Whistleblowing – Manager's Guide'. Whistleblowing is also a topic presented at staff induction sessions and copies of the 'Whistleblowing – Employee Guide' are handed out at Staff Induction sessions.

The staff newsletter includes regular reminders of the purpose and availability of the Whistleblowing Policy.