

## WHISTLEBLOWING POLICY

### 1 Introduction

- 1.1 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.
- 1.2 The Council is committed to the highest possible standards of openness, propriety and integrity. In line with this commitment, staff / workers (including Volunteers, Agency staff and Contractors working for the Council) and Suppliers with serious concerns about **unlawful conduct, financial malpractice or dangers to employees, the public or the environment** are encouraged to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This Policy makes it clear that individuals can do so without fear of reprisal, victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or “blowing the whistle” outside.
- 1.3 The policy also applies to organisations working in partnership with the Council.
- 1.4 This policy has been prepared in response to the Public Interest Disclosure Act 1998 (PIDA). This Act sets out a framework for raising genuine concerns about malpractice and guarantees full protection to workers who raise such issues responsibly.
- 1.5 The Council recognises that employees may wish to seek advice and be represented by their trade union representative when raising a concern under the policy, and acknowledges and endorses the role trade union representatives play in this respect. Trade union representatives acting in accordance with this policy will not suffer detriment in their employment with the Council.

### 2 Aims and Scope of this Policy

- 2.1 This policy aims to:
  - provide avenues for staff to raise serious concerns and report unsuitable and inappropriate behaviour (Safeguarding Children Policy);
  - provide avenues for staff to question and act upon concerns;
  - provide avenues for staff to receive feedback on any action taken;
  - allow staff to take the matter further if they are dissatisfied with the Council’s response, and
  - reassure staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.
- 2.2 There are existing procedures in place to enable staff to lodge a grievance relating to their employment.

- 2.3 Under the Act, disclosures made can only be determined as qualifying disclosures if they concern one or more of the six specified matters.
- 2.4 Any disclosure that does not concern these matters falls outside the scope of the Act and the employee is not afforded the protection, which PIDA provides. A qualifying disclosure must concern:
- a criminal offence that has been, is being, or is likely to be committed;
  - a person that has failed, or is failing or is likely to fail to comply with a legal obligation to which he is subject;
  - a miscarriage that has occurred, is occurring or is likely to occur;
  - the health or safety of any individual that has been, is being or is likely to be endangered;
  - the environment that has been, is being, or is likely to be endangered; or
  - information concerning any of the above matters that has been, is being or is likely to be deliberately concealed.
- 2.5 Also to be a qualified disclosure, other conditions must also be fulfilled:
- the person making the disclosure must be a “worker” (see 1.2);
  - the disclosure must be made lawfully and without breaching legal professional privilege;
  - it must be made in good faith (i.e. there is a belief that the information disclosed is true);
  - the person making the disclosure must not act maliciously or make false allegations;
  - the person making the disclosure must not seek any personal gain for it (where a disclosure has been made to a third party).
- 2.6 This policy is aimed to complement and does not replace the Council’s complaints procedure.

### **3 Safeguards**

#### **Harassment or Victimisation**

- 3.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when a concern is raised in good faith.
- 3.2 Individuals making a disclosure will be informed of the officer investigating their concerns. The appointed investigating officer will regularly liaise with the individual concerned to ensure they are safeguarded from any reprisals.
- 3.3 This does not mean that if staff who whistle-blow are already the subject of disciplinary or other employment related procedures, that those procedures will be halted.

#### **Confidentiality**

- 3.4 Whilst the Council gives an assurance that it will not tolerate the harassment or victimisation of anyone raising a genuine concern, it recognises that nonetheless an individual may want to raise a concern in confidence under this policy. The Council will do its best to protect the identity of staff who whistle-blow and who do not want their name to

be disclosed. However, in some circumstances the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

- 3.5 Equally, when making an allegation, staff should consider confidentiality and the rights of the person against whom the allegation is being made until it is proven.

### **Anonymous Allegations**

- 3.6 This policy encourages staff to put their name to any allegation they may make. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Audit Partnerships Manager.

- 3.7 In exercising the 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.

### **Untrue Allegations**

- 3.8 No action will be taken against staff who make allegations in good faith but which are not confirmed by the investigation. Disciplinary action however may be taken in cases where malicious or vexatious allegations are raised.

## **4 How to raise a concern**

- 4.1 As a first step, you should normally raise concerns with your immediate manager or their supervisor. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, the Assistant Chief Executive, the Audit Partnership Manager or the Human Resources and Workforce Development Manager.

- 4.2 Concerns are better raised in writing giving the background, history and reason for the concern together with names, dates, places and as much information as possible. If staff do not feel able to put their concern in writing they can telephone or meet the officer they intend reporting to.

- 4.3 Staff are encouraged to express their concern at the earliest opportunity so that timely action can be taken. A Whistleblowing Hotline is also available which is managed in a secure and confidential environment. The **Whistleblowing Hotline number is 01394 444222**. A voicemail message greets all disclosures and you are requested to leave a message and contact details.

- 4.4 Although staff are not expected to prove the truth of an allegation, they should be able to demonstrate to the person contacted that there are reasonable grounds for the concern.

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

<b>OFFICER</b>	<b>TELEPHONE NUMBER</b>
Chief Executive	01502 523200 / 01394 444348
Assistant Chief Executive	01502 523606

Director of Resources	01502 523330
Strategic Director	01502 522323 / 01394 444323
Audit Partnerships Manager	01502 523285 / 01394 444254

4.6 If deemed appropriate staff may invite their trade union or professional association to raise a matter on their behalf.

4.7 If staff would prefer to speak with someone outside of the Council, advice and guidance can be obtained from:

- **The External Auditor (Audit Commission)**                      **0845 0522 646**
- **Public Concern at Work**    **0207 404 6609**
- **UNISON Direct**    **0845 355 0845**
- **The Police**    **01986 835300**

## **5 How the Council will respond**

5.1 The person with whom the concern has been raised (line manager, Chief Executive or Audit Partnerships Manager) will appoint an impartial person to investigate the concern and advise the informant who this is. Confidentiality will be maintained in accordance with sections 3.4 and 3.5.

5.2 In order to protect individuals and the Council, 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, harassment or discrimination issues) will normally be referred for consideration under those procedures.

5.3 Following initial investigations the Council will respond to the concern as appropriate. The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally by Internal Audit;
- be referred to the police;
- be referred to the external auditor (Audit Commission); or
- form the subject of an independent inquiry.

5.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

5.5 All concerns received will be acknowledged in writing or email, where appropriate, within ten working days. Wherever possible the acknowledgement will:

- indicate how the Council proposes 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;
- advise whether further investigations will take place, and if not, why not; and
- indicate how the Council will proceed where the informant has chosen to remain anonymous.

- 5.6 The amount of contact between the officers considering the issues and the staff member raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. The contact will be in a way which does not arouse suspicion in the workplace. If necessary further information will be sought.
- 5.7 When any meeting is arranged staff have the right, if they so wish, to be accompanied by a trade union or professional association representative or a workplace colleague who is not involved in the area of work to which the concern relates.
- 5.8 The Council will take steps to minimise any difficulties which staff may experience as a result of raising a concern. For instance, if staff are required to give evidence in criminal or disciplinary proceedings, advice about the procedure will be given.
- 5.9 The outcome of the investigation will be detailed in a written report by the investigating officer. The report will outline the findings of the investigations and reasons for the judgement made. This report will be presented to the Chief Executive to decide what final action to take. In the event of management being involved in the malpractice, the report will be presented to the Audit Partnerships Manager.
- 5.10 The Council recognises that staff need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, staff making a complaint will receive information about the outcome of any investigation.
- 5.11 If appropriate, a copy of the outcome will be passed to Internal Audit to enable a review of internal procedures.
- 5.12 If the informant is not satisfied that the concern has been properly dealt with by the investigating officer, they have the right to raise it in confidence with the Chief Executive, or one of the designated persons stated in Section 4.5 above.

## **6 How the matter can be taken further**

- 6.1 This policy is intended to provide staff with an avenue to raise concerns within the Council. The Council hopes that staff will be satisfied with any action taken as a result of raising a concern. If they are not, and if they feel it is right to take the matter outside the Council, the possible contact points are detailed in 4.7 above.
- 6.2 If the informant does take the matter outside the Council, they should be careful not to disclose confidential information, and ensure that they comply with the requirements of the Public Interest Disclosure Act 1998 so that they do not lose the protection of the Act against dismissal or other detriment.
- 6.3 Further information and advice can be obtained from:  
<http://www.pcaaw.co.uk/> or  
<http://www.dti.gov.uk/er/individual/pidguide-pl502.htm> .

## **7 The Responsible Officer**

- 7.1 The Audit Partnerships Manager has overall responsibility for the administration of this Policy and this will include a regular review. The officer will maintain a record of concerns raised and the outcomes, but in a form which does not endanger confidentiality, and will report as necessary to the Council.