

## **CONFIDENTIAL REPORTING CODE (WHISTLE BLOWING PROCEDURE)**

### **1. Introduction**

This procedure identifies the kind of complaints covered by the Whistle Blowing Procedure and states that complaints should be raised with the Monitoring Officer or the line manager. It also states that managers and those raising complaints can go to the Monitoring Officer, the Chief Finance Officer or the Director Human Resources and Transformation for advice. The procedure also aims to reassure those raising a complaint that they will not suffer detriment.

### **2. Preamble**

- 2.1 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. This code encourages employees to raise such concerns using the internal mechanisms set out below.
- 2.2 The Council is committed to the highest possible standards of openness, probity and accountability. We expect employees, and others that we deal with, who have serious concerns about any aspects of the Council's work to come forward and voice those concerns.
- 2.3 This Procedure makes it clear that employees can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. The Council is committed to support employees who make a disclosure. The Whistle Blowing Procedure is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.
- 2.4 The Procedure applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers etc. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
- 2.5 This procedure should be used to raise serious concerns within the Council, which are in the public interest where an individual genuinely feels there is evidence of malpractice, impropriety or wrongdoing within the Council or by others acting on behalf of the Council. This procedure is not intended to replace existing complaint procedures or normal work communication channels for routine issues that may arise from day to day business. Other complaints procedures should be considered before making a whistle blowing complaint. The Whistle Blowing policy is not an appeal mechanism for other procedures.
- 2.6 This Procedure has been discussed with the relevant trade unions but does not form a collective agreement and does not form part of employees' contracts of employment.

### 3. Aims and scope of this procedure

#### 3.1 The Whistle Blowing Procedure aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
- Provide avenues for you to raise those concerns and receive feedback on any action taken
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- Provide protection from possible reprisals or victimisation where the person making the disclosure believes that the information available tends to show malpractice and the disclosure is made to the appropriate person or body.

#### 3.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment or raise other concerns. The Whistle Blowing Procedure is intended to cover major concerns that fall outside the scope of other procedures or where a procedure exists but you believe management may be involved or are not taking an issue raised seriously. Issues that could be covered by the Whistle Blowing Procedure include:

- Conduct which is an offence or a breach of law (Criminal offences and failures to comply with legal obligations)
- Disclosures related to 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 and corruption
- Sexual or physical abuse of clients
- Other unethical conduct
- Institutional racism, or;
- Action to conceal any of the above.

#### 3.3 Thus, any serious concerns that you have 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 be reported under the Whistle Blowing Procedure. This may be about something that:

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the Council's Standing Orders and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct.

#### 3.4 **Where other procedures exist they should be considered before making a whistle blowing complaint. For example:**

- **Complaints about your employment - these should be dealt with through our Grievance Procedure.**
- **Concerns about the sexual or physical abuse of clients – such concerns should be referred via the Safeguarding Adults Procedure through Adult Services for concerns about adults or through the Child Protection Procedure through Childrens Services for concerns about children.**
- **Customer complaints about our services - these are dealt with through our Corporate Complaints Procedure.**
- **Allegations against councillors - you can pass these directly to our Monitoring Officer who will refer them on.**

#### **4. Safeguards and support**

- 4.1 The Council is committed to the highest standards of openness, probity and accountability. The Council aims to promote a culture in which employees feel they can raise genuine concerns without fear of subsequent victimisation, discrimination or disadvantage.**
- 4.2 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect and support you.
- 4.3 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.
- 4.4 Subject to any legal constraints the person to whom you made the complaint or their nominated representative will keep you informed of progress in relation to your complaint, the investigation etc.**

#### **5. Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. However, you should appreciate that the investigation process may reveal the source of information and a statement by you may be required as part of the evidence. At the appropriate time, you may need to come forward as a witness.

#### **6. Anonymous allegations**

- 6.1** This procedure encourages you to put your name to your allegation whenever possible. We very much hope that the assurances we give in this policy will encourage you to disclose your identity to those who need to know it.
- 6.2** Concerns expressed anonymously are less powerful and much more difficult to investigate but will be considered at the discretion of the Monitoring Officer in consultation with the Chair of the Standards Committee.
- 6.3 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 attributable sources;
- The level of detail given to allow the complaint to be investigated.

## 7. Untrue allegations

If you make an allegation, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

## 8. How to raise a concern

- 8.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved or the issue is sufficiently serious, you should approach the Council's Monitoring Officer (currently the Director of Legal Services). Line Managers receiving complaints must inform the Monitoring Officer so that the complaint can be recorded.
- 8.2 If you wish to raise a concern relating to something in the Monitoring Officer's area of work then this should be addressed to the Chief Finance Officer (Corporate Director, Resources).
- 8.3 Managers receiving complaints can seek advice from the Monitoring Officer *or* the Chief Finance Officer (currently the Corporate Director, Resources) *or* the Director of HR and T if they are unsure how to progress or respond to the complaint.
- 8.4 Concerns may be raised verbally but are best raised in writing. When making a written disclosure the following format is suggested:
- The background and history of the concern (giving relevant dates, names, places etc);
  - The reason why you are particularly concerned about the situation.
  - The fact that you are raising this concern as a Whistle blowing complaint.
- 8.5 The earlier you express the concern and the higher the level of detail the easier it is to take action.
- 8.6 **When raising a concern you will not be expected to provide proof beyond reasonable doubt of an allegation, but you will need to be able to demonstrate that there are reasonable grounds for the concerns raised. Where possible notes should be kept of what you have seen, heard or felt. Notes should be dated and copies of all relevant information kept.**
- 8.7 You may wish to obtain advice/guidance on how to pursue matters of concern. Advice can be obtained from the Monitoring Officer *or* the Chief Finance Officer *or* the Corporate Director of Human Resources and Transformation.

- 8.8** You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns but do be mindful of confidentiality issues.
- 8.9** You may invite your trade union, professional/association representative or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised.
- 8.10** You need to be aware that your colleagues are bound by the same obligations as you relating to confidential information. If you share confidential information with union reps, professional associations or others with a view to using this procedure you will need to be careful that the confidential information is not used inappropriately. The Public Interest Disclosure Act gives protection only where certain information is disclosed in the course of obtaining legal advice. Therefore when seeking such advice, you should ensure that confidential information is not passed on to third parties. Check with the Monitoring Officer or the Chief Finance Officer or the Director of HR and T about this issue.

## **9. How the Council will respond**

- 9.1** Within ten working days of a concern being raised, the person receiving the complaint (i.e. your line manager or the Monitoring Officer or their designated representative) will write to you:
- Acknowledging that the concern has been received
  - Indicating how we propose to deal with the matter
  - Giving an estimate of how long it will take to provide a final response
  - Telling you whether any initial enquiries have been made
  - Supplying you with information on colleague support mechanisms, and
  - Telling you whether further investigations will take place and if not, why not.
- 9.2** Where appropriate, the matters raised may:
- Be investigated by management, an appropriately trained investigator, internal audit, or through another appropriate procedure
  - Be referred to the police
  - Be referred to the external auditor
  - Form the subject of an independent inquiry.
- 9.3** 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 but will balance this with its duty of care to its employees. Concerns or allegations that fall within the scope of other specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 9.4** 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.

- 9.5** The amount of contact between the officers considering the issues and you 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 you and throughout any investigation will try to keep you informed of what is happening, subject to any legal constraints.
- 9.6** Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a work colleague.
- 9.7** The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 9.8** The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints your line manager or the Monitoring Officer or their designated representative will inform you of the outcome of any investigation at the end of the case.

## **10. The Responsible Officer**

The Monitoring Officer has overall responsibility for the maintenance and operation of this procedure. The Monitoring Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report on an annual basis to the Standards Committee of the Council.

## **11. How the matter can be taken further**

- 11.1** If you are unsure about whether or not to follow the Council's Whistle Blowing Policy, or you want further independent advice, you may contact Public Concern at Work. This is a charity, completely independent of the Council, which specialises in providing free and confidential legal advice on how to raise a concern about serious malpractice at work. Public Concern at Work will also help to advise you on whether a circumstance can be properly reported to an additional outside body such as the Police.

Public Concern at Work can be contacted as follows - Telephone: 020 7404 6609; Fax: 020 7404 6576; Email: [whistle@pcaw.demon.co.uk](mailto:whistle@pcaw.demon.co.uk); Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)

- 11.2** In certain circumstances the Public Interest Disclosure Act 1998 provides protection to employees who make disclosures outside the organisation. We hope you will be satisfied with any action we take. If you are not and want to take the matter outside the Council you could contact:
- The Audit Commission ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk); Tel 020 7228 1212; Fax 020 7976 6187)
  - Relevant professional bodies or regulatory organisations;

- 11.3 In addition, an employee may consider a disclosure to other external bodies but only if certain strict conditions are met.
- 11.4 Under the 1998 Act, staff making “protected disclosures” are protected from detrimental action, unfair dismissal and redundancy, and can complain to an employment tribunal.
- 11.5 The Procedure additionally covers any conduct not included above which is of an unethical nature. In these circumstances the Council undertakes to provide the same protection as set out in paragraph 4 above. However, you would not necessarily be protected by PIDA and you may want to take separate advice on that, for example by contacting Public Concern at Work.
- 11.6 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the Monitoring Officer or the Chief Finance Officer or the Corporate Director of HR and T about this issue.