



# **“WHISTLE-BLOWING”**

## **A REPORTING POLICY AND PROCEDURE**

**PERSONNEL AND TRAINING SERVICES  
FINANCIAL SERVICES**  
Amended February 2008

## Aim of the Policy

1. The Council is committed to high standards of conduct and to compliance with legal obligations and good practice. It wants malpractice to be pointed out and dealt with and expects its employees, and others who help to deliver its services, to help with that.
2. This policy encourages employees to raise genuine, serious concerns as “whistleblowers” to the Council or ‘regulators’ (the Local Government Ombudsman, Audit Commission, Standards Board for England, or Police), and provides a procedure for doing so. The Council will take any action necessary in proportion to the nature of the complaint. The Policy explains how those who make public interest disclosures reasonably and in good faith will be protected from detriment such as victimisation or discipline.
3. The policy has the support of the relevant trade unions.

## Who is Protected by the Policy?

4. You are protected if you work for the Council as:

- An employee
- An agency employee
- A trainee
- A worker who provides services on behalf of the Council

The policy does **NOT** apply to raising grievances about an employee's personal situation and thus, does not replace existing procedures for personal differences or conflicts. If you have concerns in this area you should consult the Council's Grievance Policy or your immediate manager, or Personnel & Training Services who can advise you about the Grievance and other more appropriate procedures. You cannot raise the same issue under both the Whistleblowing Policy and another procedure. .

## What Kind of Disclosures are Covered?

5. The Public Interest Disclosure Act 1998 specifies ‘Qualifying Disclosures’ as follows:

- **a criminal offence;**
- **a breach of a legal obligation;**
- **a miscarriage of justice;**
- **a danger to the health and safety of any individual;**
- **damage to the environment; or**
- **deliberate covering up of information tending to show any of the above five matters.**

## What is Expected of the Whistleblower?

6. If you make a disclosure to someone within the Council, you are expected to:

- Make the disclosure in good faith; and
- Have a reasonable grounds for suspicion about the malpractice; and
- Not make the disclosure for personal gain

7. This Policy also covers disclosures outside of the Council/regulators where one or more of the following conditions apply:

- You reasonably believe you would suffer detriment if you made the disclosure to the Council or to a ‘regulator’; or
- None of the regulators covers the matter and you reasonably believe the evidence is likely to be concealed or destroyed; or

- You have already made the disclosure to the Council or to a regulator

8. Failure to comply with the expectations of paragraph 6 & 7, including, making a frivolous or malicious disclosures may result in disciplinary action being taken.

### **How is the Whistleblower Protected?**

9. If you act in good faith and comply with the expectations of paragraph 6 & 7, you will be protected from any detriment as a result of making a disclosure. In particular, you will be protected from harassment or victimisation. This may include agreement to alternative working arrangements during any consequential investigation into the allegations.

10. Should it not be possible to resolve a concern without revealing your identity, we will discuss with you what steps we will take to protect you from unfair treatment or detriment. However, if you want your identity to remain confidential we will where appropriate, respect your decision and not reveal your identity without your consent unless this is unavoidable/deemed necessary. It should be recognised that if there are reasonable grounds for believing the allegations to be true the public interest will rarely be served by taking no action.

11. Anonymous disclosures will be considered to the extent that it is reasonable and practicable to do so. It is often difficult to attach equal weight to anonymous allegations due to the investigator's difficulty in confirming or following up evidence. If you are unsure whether an incident should be reported under this policy you may wish to discuss the matter initially with your trade union representative, manager, Personnel, Internal Audit, or one of the Statutory Officers.

### **Procedure for Dealing with a Disclosure**

12. Disclosures will be dealt with under the following stages. Not all disclosures will follow the full sequence of Stages, subject to the particular circumstances of each case. The action taken by the Council will be reasonable and proportionate, depending on the nature of the concern.

#### **Stage 1 – Informal Resolution**

13. If an individual is aware or concerned about misconduct taking place inside the organisation that he or she thinks may damage or undermine the interests of the wider public they are advised in the first instance to share the details with their line manager to see if it can be resolved without a formal procedure. This may be done orally or in writing.

When making a disclosure, give as much information as possible about:

- The nature of the problem
- The background (with dates if possible)
- Who is involved
- The reasons you are concerned

The line Manager should decide on the basis of the information so provided, how the matter can be resolved. This may include informal resolution or formal consideration. The outcome will be explained to the whistleblower.

14. If the individual is unable to raise the matter with his or her line manager they are advised to speak to the Service Manager or Personnel & Training Services who should consider whether the matter can be resolved informally as set out above or referred for formal consideration as detailed below.

## **Stage 2 – Formal Disclosure**

15. If the individual feels unable to discuss their concerns with any of the above, or does not accept that the response at the informal stage is sufficient, or it is believed that senior management is involved in the matter of concern, a formal disclosure may be made to one of the Statutory Officers (– Monitoring Officer - Head of Legal & Democratic Services, Head of Financial Services or the Chief Executive).

16. At this stage, the person making the disclosure (the 'Whistleblower'), will be asked whether he or she wishes their identity to be disclosed and will be reassured with regard to protection from possible reprisals or victimisation.

17. He or she may also be asked to consider making a written or verbal statement. In the latter case, a brief summary of the interview will be made which will be agreed by both parties.

18. Details of the disclosure will be considered by the Statutory Officer or his representative, including any recommendations for further action.

## **Stage 3 – Initial Response to a Formal Disclosure**

19. The Statutory Officer or representative who has received the disclosure will take any necessary urgent action and then decide how to respond to the disclosure, having regard to all the circumstances, including the evidence available. Preliminary inquiries may be made to help decide how best to respond in the public interest. Depending on the nature of the issue raised, the response, in the judgement of the SO, may be one or more of the following:

- A management investigation
- A disciplinary investigation in accordance with Council Policies
- A referral for consideration under another Council procedure
- Referral to the Police
- Referral to the District Auditor
- An independent investigation
- Amend procedures
- Take no action due to lack of sufficient evidence or ;
- non-relevance/ significance to this Policy

20. The Whistleblower will be notified of the intended response to the disclosure and the reasons for it.

## **Stage 4 – Management Investigation**

21. Where the decision has been made to carry out a Management Investigation, a senior manager or other person will be appointed as an investigating officer. He or she will agree terms of reference with the Statutory Officer or representative and identify a date by when the investigation will be completed.

22. The investigation will be carried out under the strictest confidentiality. The investigation is essentially a 'fact finding' exercise, to establish what further action may be necessary and make recommendations accordingly.

23. The Investigating Officer will have regard to the human rights of any individuals affected by the investigation. The investigation may serve as the information gathering part of the Council's disciplinary procedure. In such cases this will be made clear to any people who may be subject to such investigation and the usual right to be represented will be made clear.

24. Normal support arrangements e.g. Counselling/Chaplaincy will be available as required, to the whistleblower, accused and any others affected.

### **Stage 5 – Responding to Management Investigation**

25. The Statutory Officer or representative will decide whether any further action is necessary as a result of the investigation report and recommendations. If the result of the investigation is that there is a case to be answered by any individual, the recognised procedure will be followed.

26. The amount of contact between the officers considering the issues and the employee/councillor raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.

27. Where there is no case to answer, but the Whistleblower held a genuine concern and acted in accordance with paragraphs 6 & 7 of this policy, the Council will ensure that they suffer no reprisals or victimisation, as far as is reasonably practicable. Considerations will include the Council's duty to provide a healthy and safe working environment for all.

28. Where it is established that false allegations have been made and the Whistleblower has not acted in accordance with paragraphs 6 & 7 of this policy, disciplinary actions may be taken against the Whistleblower.

### **Stage 6 – Confirmation of the Outcome**

29. So far as legally possible and subject to rights of confidentiality, the Whistleblower will be informed of the outcome of the investigation and how the matter has been resolved. If he or she is dissatisfied with this response the Whistleblower may take the matter further with the prescribed persons or organisations where justified under this procedure.

### **Responsibility for Implementing this Policy**

30. The responsibility for ensuring that the Council adheres to this Policy rests with all line managers.

### **How the Policy will be Monitored**

31. The Council has a responsibility for registering the nature of all concerns raised and to record the outcome. The Council's Internal Audit Section and Personnel and Training Services will jointly produce an annual report to Service Provision Scrutiny and Audit Committee, which identifies any patterns of concern and assesses the effectiveness of the Policy.

### **Review**

32. This procedure will be kept under review and any amendments will be subject to consultation with staff representatives.