

WHISTLEBLOWING POLICY AND PROCEDURE

Version 2
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| Lead Officer (Policy) | John McMillan |
| Lead Officer (Monitoring) | Mike Howard |
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Contents

| | Heading | Page |
|----|---|-------------|
| 1 | Introduction | 3 |
| 2 | Scope | 4 |
| 3 | Principles | 4 |
| 4 | Purpose of the Policy | 4 |
| 5 | Intended Outcomes | 4 |
| 6 | Why blow the whistle? | 5 |
| 7 | The difference between a whistleblower and a complainant | 5 |
| 8 | What types of concerns are covered | 5 |
| 9 | Procedure for raising internal concerns | 6 |
| 10 | Safeguards | 7 |
| 11 | Confidentiality | 7 |
| 12 | Untrue Allegations | 8 |
| 13 | How the Council will respond | 8 |
| 14 | Monitoring and review | 8 |
| 15 | How the matter can be taken further | 9 |
| | Appendix 1 | |
| | Range of outcomes that could be applied in responding to a whistleblowing concern | 11 |
| | Good practice tips on dealing with a whistleblowing concern | 12 |

1. Introduction

- 1.1 The Council is committed to the highest possible standards of openness, honesty and accountability. In line with this commitment, we expect employees and other workers with serious concerns about any aspect of the Council's work to come forward and voice those concerns.
- 1.2 A Whistleblower is generally a term used for a person who works in or for an organisation and raises an honest and reasonable concern about a possible fraud, crime, danger or other serious risk that could threaten colleagues, service users, customers, members of the public or the success and reputation of the organisation. The Council wants individuals to feel that it is safe and acceptable to raise concerns so that they can be investigated and action taken as soon as possible. It is recognised that some cases will have to be investigated on a confidential basis and arrangements are in place to allow for this to happen.
- 1.3 UK law protects employees from dismissal, harassment or victimisation if such treatment occurs as a result of having made a whistleblowing disclosure considered to be **in the public interest**. In addition to the employer's liability, the individual who subjects the employee to such treatment may also be held personally liable.
- 1.4 This policy does not replace our existing Grievance policy which should be used if an employee has a personal grievance or is unhappy with the way they are being treated. The Whistleblowing arrangements are not intended to provide a further opportunity to pursue a grievance or complaint once relevant employment procedures have been exhausted.
- 1.5 Neither does this policy replace the Council's Complaints Procedure which is for public use. In addition, the Council's Financial Regulations require that the Head of Finance and Commercial, as Section 151 Officer, shall be notified of any financial or accounting irregularities or suspected irregularities. This policy does not supersede this requirement; it does in fact provide the opportunity to raise concerns directly in confidence, if required, with the Head of Finance and Commercial in their capacity as the Section 151 Officer.
- 1.6 The Council welcomes all genuine concerns and will treat issues raised seriously - this policy explains how to raise a concern, the types of activity that should be reported, the protection the Council can provide, confidentiality, the response and how an individual can take matters further, if necessary.
- 1.7 This policy does not form part of the employee's contract of employment and may be amended at any time.

2. Scope

2.1 This policy applies to all employees (including casual workers), contractors, consultants, authorised volunteers and agency staff working for the Council.

3. Principles

- This policy provides a framework to enable employees of the Council to make known, personally, any genuine concerns about both the services the Council provides directly or those that are commissioned from another provider, that are felt to be in the public interest, to an appropriate manager and to seek independent advice.
- Employees will be fully supported to voice their concerns, with requests for confidentiality and anonymity being respected.

4. Purpose of the Policy is to:

- Ensure a clear understanding of what constitutes a relevant concern
- Encourage concerns to be raised at an early stage and in the right way
- Put in place sufficient support and explanation in order to minimise difficulties an individual may experience as a result of raising a concern, e.g. assistance if the individual is requested to give evidence in criminal or disciplinary proceedings, dealing with unwanted pressure.

5. Intended Outcomes

- All employees will understand and have confidence in the process of raising a concern, if the need arises.
- All employees will have a clear understanding of their roles and responsibilities with regard to raising a concern.
- Managers will have a clear understanding of their roles and responsibilities when dealing with an employee's concern.
- All employees will have a clear understanding that if they raise a concern, in the reasonable belief that it is in the public interest, they will be protected under this policy and that the Council has a zero tolerance to individual employees being harassed or victimised if they raise a concern.
- All employees will have a clear understanding that the Council takes seriously any concerns that are malicious, vexatious or knowingly untrue and the Council will take the appropriate disciplinary action against that individual employee.
- All employees need to understand that the Whistleblowing Policy is not intended to replace or circumvent existing procedures.

- All employees will be provided with and have a clear understanding of the routes available to them for raising a concern both internally and externally.

6. Why blow the whistle?

6.1 Whistle blowers should be welcomed as an important source of information that may highlight serious risks, potential fraud or corruption, potential environmental problems, cover-ups, care of vulnerable people. Council employees are the eyes and ears of the Council and their value and importance cannot be overstated.

7. The difference between a Whistleblower and a Complainant

7.1 The best way to determine if an employee is a whistleblower or a complainant is to consider the nature of the concern and as a general rule, the following should be considered:

- Does the matter refer to a concern you have for others, e.g. the Council, other staff, clients, wider public – if so, it's a whistleblowing concern, however;
- Does the matter refer a concern you have for yourself e.g. a personal grievance, about terms of employment, pay, unfair treatment – then it's a grievance.

8. What should be reported

8.1 Employees are encouraged to use the whistleblowing arrangement for issues such as:-

- a criminal offence has been committed, is being committed or is likely to be committed, e.g. fraud, corruption or financial irregularity
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject (e.g. failure to safeguard personal and/or sensitive information),
- a miscarriage of justice has occurred, is occurring or is likely to occur,
- the health or safety of any individual has been, is being or is likely to be endangered,
- the environment has been, is being or is likely to be damaged, or
- 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.

NB: this is not an exhaustive list.

9 Procedure for raising a concern internally

- 9.1 If employees wish to raise a concern(s), such as those set out in paragraph 8.1, they should normally contact their line manager. Similarly other workers should raise a concern in the first instance with their contact within the Council i.e, usually the person to whom they directly report. This person will, insofar as is possible, treat the matter in confidence. It is likely that an investigation will be necessary and the employee who has made the disclosure may be required to attend an investigatory hearing and/or a disciplinary hearing as a witness.
- 9.2 In some cases the nature, seriousness and sensitivity of the issues, for instance if the employee believes that a manager is involved, means the employee should approach a more senior level of manager within their service or one of the following **designated officers**:- the Corporate Director, the Head of HR, Head of Democratic, Legal and Policy, District Solicitor/Monitoring Officer or Head of Finance and Commercial. Alternatively, an employee may also contact Internal Audit by e-mail [Internal Audit@wycombe.gov.uk](mailto:InternalAudit@wycombe.gov.uk) or [Whistleblowing @wycombe.gov.uk](mailto:Whistleblowing@wycombe.gov.uk)
- 9.3 In the event of the concern being of an extreme and potentially serious nature the matter may be raised directly with the Chief Executive.
- 9.4 In considering whether a concern should be raised, consider the issue and standards against which the practice could be judged. For example:
- Is it legal
 - Does it contravene professional codes of conduct
 - Is it against Government or Council guidelines
 - Is it about one individual's behaviour or general working practices
 - Did you or others witness an incident or practice

Once it has been decided that a concern should be raised:-

- 9.5 These may be raised verbally or in writing. If an employee wishes to make a written report, they should give the background, provide names and dates and reasons why you are particularly concerned about the situation. The earlier concerns are expressed, the easier it is to take action.
- 9.6 It is not for the employee to prove that the breach or failure that they are alleging has occurred or is likely to occur; a reasonable suspicion will suffice i.e. where the employee reasonably believes that the information disclosed is substantially true.
- 9.7 An employee may ask for a confidential meeting with the person to whom he/she is making the complaint. In these circumstances the employee may bring a colleague or trade union representative with them for support. Notes of the meeting may be taken.

Appendix 1 provides an explanation as regards the range of outcomes that could be applied in responding to a whistleblowing concern. The appendix also contains some useful good practice tips when managing a whistleblowing concern.

10 Safeguards

10.1 **Harassment or Victimisation:** The Council will not tolerate harassment or victimisation and will take action to protect employees who make a protected disclosure from being harassed by a co-worker.

11 Confidentiality

11.1 Employees are encouraged to put their name to any allegations. Anonymous complaints are much more difficult to investigate, but they will be considered at the discretion of the Council. In exercising the discretion the following factors will be taken into account:

- Seriousness of the issues
- Credibility of the concern
- Likelihood of confirming the allegation from an attributable source
- Provision of any supporting information that can be used to substantiate the concern.

11.2 The Council will do its best to protect the individual's identity when they do not want their name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by the individual raising the concern may be required as part of the evidence.

12 Untrue Allegations

12.1 Employees should be aware that this policy will apply where they reasonably believe that the facts disclosed and any allegation(s) contained within tend to show one of the relevant failures. If the employee makes malicious or vexatious allegations or if the disclosure is made for personal gain then this may result in disciplinary action being taken against the employee; in the case of agency workers or volunteers, working arrangements/ agreements may be terminated.

13 How the Council will respond

13.1 The Head of HR, ICT & Shared Support Services will, as soon as possible, and normally within 10 working days of a concern being raised, write to the individual raising the concern, acknowledging the concern and indicating as far as possible how

it will be dealt with. The individual will be kept informed of progress and will receive a final response subject to any legal constraints.

13.2 If the complaint has been raised with a manager or a designated officer, he/she will notify the Head of HR, ICT and Shared Support Services, that the Council has received a whistleblowing concern e.g. date of concern service area, brief explanation as to the basis of the concern and, as appropriate, who has been assigned as the investigating officer. The purpose of an investigation is to establish a fair and balanced view of the facts in a timely manner. The amount of investigation required will depend on the nature of the concerns and will vary from case to case. An Investigating Officer will be appointed, the choice of which is at the discretion of the Council, to carry out the investigation, and may include an independent Head of Service, HR, Internal Audit or a referral to the Police (subject to the agreement of the District Solicitor and the Chief Executive).

13.3 Actions taken will depend on the nature of the concerns and may include:

- Resolved by agreed action without the need for investigation
- Internal investigation
- Allegations of unlawfulness or maladministration will be referred to the Monitoring Officer
- Referral to the Police
- Referral to the External Auditor

13.4 The Council will take reasonable steps to minimise any difficulties to employees or others raising concerns. 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.

14. Monitoring and Review

14.1 The Line Manager or Investigating officer (dependent on “Level” of response) will provide an update to the Head of HR, ICT and Shared Support Services as regards the outcome e.g. was the concern valid or invalid, resolution/management action, whether the employee was satisfied with the outcome or not and the date the concern was closed .

14.2 The Head of HR, ICT and Shared Support Services will on an annual basis provide the Business Assurance Manager with an annual return that sets out the number, nature, outcome of any concerns raised, length of time taken to resolve the concern, and this will be provided by the Business Assurance Manager to the Council’s Audit Committee which has responsibilities for overseeing the effectiveness of the Council’s Governance arrangements.

15 How the matter can be taken further?

15.1 This policy is intended to provide individuals with an avenue to raise concerns within the Council. The Council hopes that those using this process will be satisfied with the way their concerns are treated and any investigation that may be carried out.

15.2 However, if they are not satisfied and feel it is right to take the matter outside the Council the following are possible contact points:

- The External Auditor
- Relevant professional bodies or regulatory organisations
- Chair or any member of Audit Committee
- The Police
- A Solicitor
- Public Concern for Work (a not for profit organisation)
- Local Government Ombudsman

15.3 The Government has also produced a list of relevant **prescribed persons** an individual can contact if they felt their employer would cover up their concerns, or would treat them unfairly or had not resolved the issue they had previously raised. Some examples include:-

The Health and Safety Executive about health or safety at work or the health and safety of the public.

Health and Safety Executive

Rose Court

2 Southwark Bridge

London

SE1 9HS

Online form: www.hse.gov.uk/contact/workplace-complaint.htm

Tel: 0300 0031647

www.hse.gov.uk

The Comptroller and Auditor General about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.

The Comptroller and Auditor General

National Audit Office

157-197 Buckingham Palace Road

London SW1W 9SP

Tel: 020 7798 7999

www.nao.org.uk/contact-us

More information on Whistleblowing can be found on the GOV.UK website www.gov.uk/whistleblowing.

For independent advice an employee can contact the Public Concern at Work:

Public Concern at Work
3rd Floor, Bank Chambers
6-10 Borough High Street
London SE1 9QQ
Tel 020 7404 6609 (helpline)
www.pcaw.org.uk

- 15.4 If an employee takes the matter outside the Council the employee will need to ensure that they can clearly demonstrate that they have adhered to the guidance within the policy and the legislation, and do not disclose confidential information in contravention of this policy.

NB:- For disclosures to be protected in law for the purposes of whistleblowing claims, the whistleblower must have a reasonable belief that the disclosure is in the public interest (s.17 Enterprise and Regulatory Reform Act 2013).

Appendix 1

The table provides an indication as to the “LEVELS” of response when dealing with a whistleblowing concern.

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|  <p>Level 1</p> | <p>Line Manager - by explaining the context of the issue to the officer may be sufficient to alleviate the concern.</p> |
|  <p>Level 2</p> | <p>Line Manager requests changes to internal control processes e.g. changes to working procedures, additional supervisory checks, reporting process to and these are explained to the officer in order to alleviate their concern.</p> |
|  <p>Level 3</p> | <p>A review by Internal Audit as part of a planned programme of work may be sufficient to address the issue.</p> |
|  <p>Level 4</p> | <p>Involvement of External Audit in addressing the concern. By providing a level of independent assurance or recommending changes to the internal control environment.</p> |
|  <p>Level 5</p> | <p>Clear need for an investigation by independent party. This can be internally resourced through combination of Internal Audit and Corporate Investigations or given the significant nature of the concern the matter will be referred to the Police.</p> |

Good practice tips

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| ❖ | All concerns raised must be treated seriously. |
| ❖ | Be discrete about meeting with the employee |
| ❖ | Record as much detail as possible about the conversation e.g. incident date(s), who was present, what was said and done, what evidence does the employee have (take a copy, all parties sign and date and return original(s). |
| ❖ | Explain the process to the employee in order they know what to expect, timescales, defined level of response, feedback. |
| ❖ | Assure the employee that their confidentiality will be protected as far as possible. |
| ❖ | Make no promises as regards an outcome and manage the officer's expectations. |
| ❖ | Confirm with the employee that the Council will not tolerate harassment of any sort of an officer who has raised a genuine whistleblowing concern and further inform the officer if they experience any forms of harassment or are threatened then this should be reported immediately to the Head of HR, ICT and Shared Support Serve. |
| ❖ | Refer the employee to available sources of support including PAM Employee Assistance Programme, Unison, Public Concern at Work |
| ❖ | Provide a report to the Head of HR, ICT and Shared Support Services outlining the outcome that has been reached, including a summary of the initial whistleblowing concern. |
| ❖ | Ensure that paper files are properly classified as confidential and that electronic files are password protected. |
| ❖ | Ensure that only the minimum number of officers have access to case files t(need to know basis) |
| ❖ | Confidentiality should be assured if requested, however the Manager should clarify the potential risks in that: colleagues may try and guess the employee's identity if they become aware that a concern has been raised. Additionally, if an investigation progresses, there may be a legal requirement to disclose the employee's identity e.g. under court disclosure rules. |
| ❖ | Any investigations will be undertaken against a clear set of terms of reference, setting out the scope of the review, including a detailed investigations plan |