

Whistleblowing – Manager's Guide

1. What is Whistleblowing?

As a manager, you may need to investigate concerns raised by employees under the Council's Whistleblowing Policy. This document outlines your specific responsibilities as a manager, and provides guidance on what to do if an employee raises a concern or concerns with you.

There are existing procedures in place to enable staff to lodge a grievance relating to their own employment; customers to complain about the service they receive; and regarding concerns whether Councillors have breached the National Code of Conduct. The Whistleblowing Policy should not be used for such concerns, however, advice can be obtained from HR Advisory or Internal Audit if you have any doubts.

The Whistleblowing Policy is intended to cover concerns that fall outside the scope of the above procedures. A concern may be about:

- sexual, physical or emotional abuse of clients or other individuals
- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as employees
- damage to the environment
- unauthorised use of public funds
- action that is contrary to the Council's financial procedures or contract regulations
- possible fraud, corruption or financial irregularity
- action that is against the Council's Standing Orders and policies
- practice that falls below established standards or practice
- other improper or unethical conduct.

2. Responsibilities

You have a general duty to ensure that all of your employees know where they can find the Whistleblowing Policy on LGSS Direct, how these procedures operate, and how they should raise concerns. For new employees, agency workers or contractors this should form part of the induction process.

You should make your employees aware that concerns about money-laundering activities or fraud and corruption should be raised in accordance with the specific guidance provided in the Council's Anti-Money Laundering Policy and Anti-Fraud and Corruption policy (available on LGSS Direct or via CamWeb search).

Finally, you should aim to create a culture in which employees feel comfortable in openly expressing any concerns. Discriminatory behaviour(s) within your team(s) should not be tolerated. Harassment or victimisation of individuals who raise concerns must not be tolerated.

3. Key Principles for Managers

Managers should be aware of the contents of the Council's full Whistleblowing Policy, as well as the key principles set out below, which must be followed at all times throughout the whistleblowing process:

- **Support for Whistleblowers:** You should reassure the employee that you will provide support and protect him/her from any form of reprisal from any source. Remember that cases involving the welfare of children, young people and vulnerable adults can cause considerable distress; the employee may need additional support.
- **Protection from Harassment:** You should protect the whistleblower's identity, as far as possible and ensure that he/she is protected from any harassment, discrimination and/or victimisation as a result of raising a concern. If you need to disclose the employee's name, you should discuss this with him/her and gain consent before such a disclosure is made. If a whistleblower alleges they have been victimised or harassed as a result of raising a concern, you must report this to the Chief Executive or S151 Officer.
- **Separation of Procedures:** You should not stop any other procedures that are in progress in relation to an employee (for instance: disciplinary, grievance, absence, performance or redundancy procedures) because that worker makes a whistleblowing disclosure. All such procedures must be kept completely separate. Your HR Advisor can provide further advice.
- **Malicious/Vexatious Allegations:** Malicious or vexatious allegations should not be tolerated and may be considered a disciplinary offence. You should ensure that the employee is aware of the consequences of making malicious or vexatious allegations. If at any time during your investigation, you have reason to believe that the allegation(s) made may fall into this category, you should speak to your HR Advisor for advice.
- **Anonymous Allegations:** Concerns should not be disregarded simply because they are from an unknown source. If concerns are raised anonymously you will need to consider the seriousness/credibility of the concern(s) raised and whether you are likely to be able to obtain other evidence, from attributable sources, to substantiate the concern(s). Your HR advisor will be able to offer further advice in this area.

4. Stage One: When Employees Raise Concerns

If an employee raises a concern, you should take it seriously and arrange to meet with him/her immediately. The employee may feel uncomfortable or anxious about 'blowing the whistle', so ensure that you listen carefully and respond sensitively. An employee may invite their trade union or professional association representative, or a work colleague, to be present during any meetings or interviews in connection with the concerns they have raised.

You should remind employees that they are bound to safeguard and promote the welfare of children, young people and vulnerable adults. Where the concern is about the welfare of a child or young person, but the employee is reluctant to report it, you should remind him/her that there is a statutory duty under Section 11 of the 2004 Children Act to report such concerns.

When hearing the concern you should assess its credibility/seriousness:

- Is there genuine cause and sufficient grounds for the concern?
- Are there any other factors which could be motivating the employee to raise these issues?

You should ensure that the employee puts his/her concern(s) in writing, and encourage him/her to sign and date any such records/letters/notes, in case this becomes evidence in other proceedings, e.g. an internal disciplinary hearing. The employee should be advised that he/she may be required to provide a written statement and to give evidence in any formal proceedings. The Council will take appropriate steps to minimise any difficulties associated with this and provide advice and support, which where appropriate may include the ability to give evidence via video link etc.

5. Stage Two: Initial Investigation

At this point, a brief initial review/investigation will be carried out to determine whether a full investigation is appropriate and, if so, what form it should take and who should investigate. You must consult with your HR Advisor and Internal Audit (and the employee's line manager, if this is not you and it is appropriate to do so). Depending on the nature of the allegation(s), it may be necessary to refer the matter on to the service or officer(s) best placed to advise on next steps:

- Health and safety issues should be referred to the LGSS Head of Health Safety and Wellbeing.
- Child protection issues should be referred to Local Authority Designated Officer for Child Protection ("LADO") and/or the police. The LADO will advise you on how to gather information and will support you with any further actions that may need to be taken. It is important to contact the LADO for advice in these cases prior to starting any investigation work, since the Police may need to investigate and their work must take precedence over any internal investigations.
- Financial irregularities should be referred to the Internal Audit section. Internal Audit should be contacted prior to further investigation work being carried out, as there may be a need for the work to be conducted in such a way that evidence can be relied on in court and/or the case passed on to the police.
- Human Resources will lead on allegations regarding serious misconduct of employees.
- The Monitoring Officer will lead on allegations regarding misconduct of Councillors; and
- Concerns or allegations which fall within the scope of other specific existing procedures will normally be referred for consideration under those procedures.

The initial review should consider the seriousness and credibility of the allegations and any supporting evidence that has been provided. It may be appropriate at this point to undertake some initial investigative work to corroborate the allegations, in order to reach a decision on whether a full investigation is required, what form it will take, and who will investigate.

Once this decision has been taken, you must complete the Whistleblowing Cases Tracking Form (available on LGSS Direct or via search on CamWeb), detailing the decisions and/or agreed actions and send a copy to the Head of HR Advisory Services, the Chief Internal Auditor and the Monitoring Officer for record keeping/monitoring purposes. The form may be sent electronically or on paper, but should be marked 'confidential'.

6. Stage Three: Response to the Whistleblower

The employee should be made aware what steps you intend to take to address the concern(s) and how and when you will communicate with him/her, during and at the end of the process. As this can be an anxious time for an employee, you should advise him/her of the support mechanisms available, e.g. from trade union representatives and/or the Counselling Scheme.

You should send the employee a written acknowledgement of the concerns raised within **7-10 working days**, as per the commitment within the Council's Whistleblowing Policy. This should include:

- Acknowledging that the concern has been received;
- Telling the person whether any initial enquiries have been made;
- Telling the person whether further investigations will take place and, if not, why not;
- Indicating how the matter is proposed to be dealt with;
- Giving an indication of when a final response or update will be provided;
- Supplying the person with information on staff support mechanisms;
- Detailing who the employee can contact externally, if he/she is not satisfied with the response.

7. Stage Four: Full Investigation

If you are called upon to investigate the concerns, you should investigate thoroughly and quickly, and in accordance with the Whistleblowing Policy. You must aim to be fair and objective at all times during your investigation, keep the details of the investigation confidential wherever possible, and you should also communicate regularly with the employee, so that he/she is aware of what is being done to address the concerns.

In conducting investigations you should ensure that you follow a clear process and document all meetings, findings, decisions and conclusions. You should:

- **Document the Scope:** Firstly, document the planned scope of the investigation and the questions the investigation should seek to answer. Depending on the outcome of the initial investigation, the scope may or may not cover all areas of concern raised, but should be limited specifically to the allegations made.
- **Confirm the Scope:** The documented scope should be confirmed with the whistleblower. It may be appropriate to vary the scope during the course of the investigation, as new evidence comes to light. Any changes in scope should also be documented and confirmed with the whistleblower.
- **Plan the Investigation:** For each element of the investigation scope, plan how you will investigate and what evidence you will seek to obtain. Plan how you will obtain the relevant evidence, and in what order. For instance, it may be appropriate to obtain documentary evidence before interviewing staff. Remember that you should consider out any evidence which undermines the allegations, as well as evidence which may support them. Consider how long the investigation will take, and what policies and procedures or legislation you may need to familiarise yourself with, in order to conduct the review. Remember that you need to conduct a reasonable investigation, considering what is likely to be important and relevant, but do not need to investigate every single possible source of evidence.

- **Gather the Evidence:** Document all meetings and interviews, and retain any other relevant evidence to support your findings. It is important to retain the evidence, in case of any challenge to the investigation's conclusions or findings. This may include witness statements, written documents and physical evidence. If you will need to interview individuals as part of gathering evidence, consider whether it may be helpful to have a note-taker present at the meeting.
- **Review the Findings:** As far as possible, ensure that your investigation addresses all elements and questions within the scope. Where questions have not been answered, document the reasons e.g. inconclusive/no evidence. At this stage, it is likely to be appropriate to discuss your findings with key stakeholders, such as your HR Advisor, and discuss any recommendations you are likely to make in your report.
- **Write the Report:** Your findings and conclusions should be documented in your investigation report, along with any recommended actions you have identified. You should ensure that any information relating to employee performance or attendance is not included in investigation reports, unless it is directly relevant to the concerns raised and investigated. You should ensure that the report is written objectively, and that it does not exclude any important information, as this could expose the investigation to accusations of bias.

8. Stage Five: Investigation Closure

A copy of the final report should be circulated to the Head of HR Advisory Services, the Chief Internal Auditor and the Monitoring Officer.

A summary of the report should also be issued to the whistleblower, unless there is a clear reason why this would not be appropriate. It should be made clear that it is a summary report but it should still cover the scope of the investigation, a summary of the investigative work undertaken, the conclusions of the investigation, and the reasoning behind these. You may wish to consider whether it is appropriate to meet with the whistleblower to discuss the findings of the investigation in person.

You should stress to the employee, his/her responsibility in ensuring that confidential information, in whatever format, is not disclosed to a third party and/or an external organisation.

If your investigation confirms that the allegation(s) is unfounded, you should advise the employee that we will consider the matter closed and that he/she will be expected not to raise the concern again, **unless** new evidence becomes available.

9. Taking the Matter Further

If the whistleblower is not satisfied with the response to their concerns, they may wish to take the matter outside the Council, in which case concerns may be raised as per section 6 of the Council's Whistleblowing Policy.

If the whistleblower has a complaint regarding the conduct of the investigation into their concern, they have the right to request their complaint is reviewed, as per the Council's Whistleblowing Policy. In this case, they should direct their complaint to the Head of HR Advisory or the Chief Internal Auditor. If a formal complaint regarding the conduct of the investigation is raised with you as the investigating manager, you should refer the

whistleblower to the Whistleblowing Policy and recommend that they raise the concern with the Head of HR Advisory or the Chief Internal Auditor.

10. Further information

Employees with questions about this guidance should speak to their Line Manager. Managers who need further information on how to apply this guidance or the Whistleblowing Policy should contact HR Advisory or Internal Audit.