

**DRAFT WHISTLEBLOWING POLICY**

**To:** Audit & Accounts Committee

**Meeting Date:** 24<sup>th</sup> January 2019

**From:** Duncan Wilkinson, Chief Internal Auditor

**Purpose:** Revised versions of the Whistleblowing Policy and the Whistleblowing Manager's Guidance documents were shared with the Committee in November 2018 for their comments, prior to initiating the approval process.

Comments from Committee in November 2018 have been incorporated into these documents, which have now also been approved by SMT. The purpose of this report is therefore to share the final versions of the Whistleblowing Policy and Whistleblowing Manager's Guidance documents with the Committee, for approval.

**Recommendation:** Audit & Accounts Committee is requested to approve the revised policy and guidance.

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## 1. BACKGROUND

- 1.1 At the Audit & Accounts Committee meeting in November 2018, Internal Audit presented revised drafts of the Whistleblowing Policy and the supporting guidance document *Whistleblowing – Manager’s Guidance*.
- 1.2 Members of the Committee provided their comments and input on the draft policy documents, which have now been incorporated into the updated revised guidance. Trade unions were consulted on the draft documents in December 2018 and expressed their support, and the documents have also now been approved by SMT.

## 2. DRAFT REVISED POLICY AND GUIDANCE

- 2.1 The final revised versions of the Whistleblowing Policy and *Whistleblowing - Manager’s Guidance* may be found at Annex i and ii.
- 2.2 The key areas of change are as follows:
- Updated key officer contact information.
  - Introduction of a clear process for whistleblowers to raise complaints regarding the conduct of the investigation into their concerns.
  - *Whistleblowing – Manager’s Guidance* revised to give more detail on the stages of an investigation, in line with ACAS (Advisory, Conciliation and Arbitration Service) guidance.
- 2.3 The Committee’s final approval of these documents is sought.

### **SOURCE DOCUMENTS**

Source Documents	Location
Whistleblowing Policy	Internal Audit Octagon 1, Shire Hall, Cambridge



## WHISTLEBLOWING POLICY

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**THE COUNCIL WANTS YOU TO BE CONFIDENT THAT YOUR CONCERNS WILL BE TAKEN SERIOUSLY AND THAT YOU WILL BE PROTECTED FROM VICTIMISATION OR BULLYING OR HARRASSMENT IF YOU RAISE A CONCERN.**

If you have a concern about the Council's services please read this policy. You may think this policy does not apply to the concern you have – IT DOES, we can give confidential advice about ANY concern you may have regarding the Council and its services.

If you want to informally / confidentially discuss this policy or your concerns you can contact:

- Janet Atkin (LGSS Head of HR Advisory) – 01223 699495
- Duncan Wilkinson (LGSS Chief Internal Auditor) - 01908 252089 or email [Duncan.Wilkinson@milton-keynes.gov.uk](mailto:Duncan.Wilkinson@milton-keynes.gov.uk)
- Sue Grace (Director of Corporate and Customer Services) – 01223 699248
- Sue Stagg (LGSS Head of Health Safety & Wellbeing) – 07721522896
- Fiona McMillan (Director of Law & Governance & Monitoring Officer) – 01733 452361
- Chris Malyon (Chief Finance Officer & Section 151) - 01223 699241
- Gillian Beasley (Chief Executive) - 01223 728595

Or

The Whistleblowing hotline on 01908 252525

Or

Public Concern At Work on 0207 404 6609 or [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)  
PCAW are an independent charity and information provided to PCAW is protected under the Public Interest Disclosures Act. Their helpline is where their lawyers provide confidential advice free of charge.

You may also wish to contact your trade union for advice or support in making a whistleblowing disclosure.

**The details of such discussions will not be released to anyone else within the Council without your express consent and meetings can be held at a time and place of your choosing.**

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## 1. INTRODUCTION

- 1.1 This policy seeks to provide a process that gives anyone with a concern about the Council the confidence to bring that concern to our attention.
- 1.2 All officers, councillors and partners have a responsibility to protect the Council's interests through the proper adherence to this policy. This is required for reasons of open and accountable governance, stakeholder trust and compliance with U.K. and E.U. law.
- 1.3 Cambridgeshire County Council operates within legal requirements and regulations and expects its employees to co-operate in this by adhering to all laws, regulations, policies and procedures. Any employee becoming aware of inappropriate conduct is obliged to report this activity. This policy also applies to contractors, consultants, partners and agency staff and other stakeholders including Councillors.
- 1.4 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. Councillors, customers and stakeholders are also in a position to identify concerns that affect Council services and need to be addressed.
- 1.5 Individuals with a concern may fear that they will be victimised or harassed if they raise the concern. In these circumstances it may feel easier to ignore the concern. However, such concerns should not be ignored and suspicions of malpractice should be reported.
- 1.6 It is recognised that certain cases will have to proceed on a confidential basis but in accordance with the Freedom of Information Act this policy seeks to provide a transparent method for dealing with concerns. Whistleblowers can have confidence through this policy that they have the fullest protections afforded by the Public Interest Disclosures Act.
- 1.7 Specifically the code of practice set out in this policy makes it clear that staff and others can make reports without fear of reprisals and sets out what protections are in place under this policy. This Code is intended to encourage and enable concerns to be raised within the Council so that they can be addressed, rather than overlooking problems or raising them outside the Council.
- 1.8 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourages employees, customers, contractors, employees of subsidiaries, stakeholders or any other person with serious concerns about any aspect of the Council's work to come forward and voice those concerns. This process is commonly referred to as "whistle blowing".

## **2. AIMS AND SCOPE OF THIS POLICY**

### **2.1 This code of practice aims to:**

- Encourage and enable any person to feel confident in raising serious concerns and to question and act upon concerns
- Provide avenues for any person to raise concerns and receive feedback on any action taken
- Ensure everyone making a referral receives a response to their concerns
- Describe how to take the matter further if dissatisfied with the Council's response
- Reassure anyone making a referral that they will be protected from reprisals or victimisation.

### **2.2 The Whistleblowing Policy is intended to cover any concerns that fall outside the scope of other policies. Concerns that could be raised under the policy include:**

- 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.

### **2.3 If a member of staff is uncertain how best to raise any concern, it may be raised initially under this policy. If a concern is raised which does fall under the scope of another corporate policy, the concern will then be referred for investigation in line with the relevant policy guidance.**

### **2.4 The concern may be something that makes a person feel uncomfortable in terms of known standards, their experience or the standards to which they believe the Council subscribes. If in doubt, please contact either a named contact on the front cover of this policy or Public Concern at Work to have a confidential discussion.**

### **2.5 For the avoidance of doubt, if you have concerns that any person may be being mistreated / abused you can discuss your concerns in confidence with those listed on the front cover of this policy.**

### **2.6 There are existing procedures in place, which must be followed, 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 the contacts on the front cover of this policy if you have any doubts.**

### **2.7 For the avoidance of doubt, this policy applies to all employees, councillors, contractors, consultants, schools, agency staff and other stakeholders who are acting on behalf of, or in partnership with, the Council.**

### **2.8 Any disclosure of information that, in the reasonable belief of the worker, is made in the public interest, shall be deemed a qualifying disclosure.**

- 2.9 This policy incorporates the provisions that are required from the Public Interest Disclosure Act 1998.

### **3. HOW TO RAISE A CONCERN**

- 3.1 When an individual wishes to raise a concern, he or she will need to identify the issues carefully. They must be clear about the standards against which they are judging practice. Whilst not exhaustive they should consider the following:
- Is it illegal?
  - Does it contravene professional codes of practice?
  - Is it against government guidelines?
  - Is it against the Council's guidelines?
  - Is it about one individual's behaviour or is it about general working practices?
  - Does it contradict what the employee, councillor, contractor, consultant, agency staff or other stakeholder has been taught?
  - Has the individual witnessed the incident?
  - Did anyone else witness the incident at the same time?
- 3.2 Concerns from staff should normally be raised with their immediate manager, in the first instance. Similarly, non-employees (e.g. agency workers or contractors) should raise a concern in the first instance with their contact within the Council, usually the person to whom they directly report.
- 3.3 In some cases, the nature or sensitivity of the concern means that this may not always be appropriate. If a person feels they cannot raise their concern with their immediate manager they are able to go directly to the Chief Internal Auditor. They may also do so if, having raised a concern with the immediate manager/contact, they feel there has not been an appropriate response.
- 3.4 Others wishing to raise a concern should consider whether to raise that concern directly with the relevant senior officer of the service involved or use the Council's existing Complaints process. Details of all such contacts can be found on the Council's website.
- 3.5 Given the possible contractual issues, Annex A of this policy gives specific guidance to contractors and partners of the Council in raising such concerns.
- 3.6 Concerns may be raised verbally or in writing. Anyone who wishes to make a written report should give the background and history of the concern (giving relevant dates if possible) and the reason why they are particularly concerned about the situation.
- 3.7 If the individual wishes, they may ask for a private meeting with the person to whom they wish to make the complaint and can be accompanied if they wish. An employee may invite their trade union or professional association representative, work colleague or legal representative to be present during any meetings or interviews in connection with the concerns they have raised.
- 3.8 When making a complaint verbally, the individual should write down any relevant information and date it. They should keep copies of all correspondence and relevant information.
- 3.9 It should be noted that often the earlier a concern is expressed the easier it is to take appropriate action.



- 3.10 The individual should ask the person to whom they are making the complaint what the next steps will be and if anything more is expected from them.
- 3.11 Although a person is not expected to prove the truth of an allegation that is made, it will be necessary to demonstrate that there are sufficient grounds for concern. It is not necessary for any person to undertake investigations into their concern prior to contacting the Council, as this may undermine any ultimate action needing to be taken.
- 3.12 Advice and guidance on how specific matters of concern may be pursued can be obtained from the Council's Internal Audit Service. Phone 01908 254230 or email [internal.audit@cambridgeshire.gov.uk](mailto:internal.audit@cambridgeshire.gov.uk). Alternatively staff may wish to get confidential advice from their trade union or professional association
- 3.13 Staff may wish to consider discussing their concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of them who have had the same experience or concerns.
- 3.14 Where a person feels that they cannot approach anyone in the Council, they may wish to report their concerns through the external independent reporting scheme called Public Concern At Work. PCAW are an independent charity providing a legal advice service designated by the Bar Council and information provided to PCAW is protected under the Public Interest Disclosures Act. Their helpline number is 0207 404 6609. Their email is [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk), where their lawyers provide confidential advice free of charge.
- 3.15 The individual who is the subject of an investigation may be made aware that an issue has been raised but this will be entirely dependent on the nature of the issue. This point will be superseded where necessary in order to allow the subject to provide a defence.

#### **4. SUPPORTING THE INDIVIDUAL TO RAISE A CONCERN**

##### **4.1 Harassment or Victimisation**

- 4.1.1 The Council recognises that the decision to raise a concern can be difficult, not least because of the fear of reprisals.
- 4.1.2 The Council will not tolerate harassment or victimisation and will take action to protect individuals who raise concerns. This does not mean that if the individual is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of raising a concern under this policy.
- 4.1.3 It is the clear instruction to those officers (through this formal policy) of the Council who liaise with whistleblowers that they shall not release information to identify a whistleblower to any person within the Council and will only release those details to a proper person outside the Council when there is a legal requirement to do so, e.g. a court order. The only exception to this shall be where the whistleblower themselves gives written permission to do so.
- 4.1.4 Any person applying pressure upon such officers to identify whistleblowers shall be subject to the same provisions as outlined in 4.1.6 below.
- 4.1.5 Where a whistleblower alleges they are / have been victimised / harassed as a result of raising a concern, that matter shall be reported to Chief Executive or S151 Officer. Such allegations shall be investigated by the Chief Internal Auditor or LGSS Director of Law and Governance. Where the investigations may identify (either indirectly or directly) the

whistleblower, the way forward shall be agreed with the whistleblower and any resultant action confidentially reported to the Chair of the Audit & Accounts Committee.

4.1.6 Each case will be considered on its merits. Any incident of victimisation or harassment of someone who has made a referral under this policy would normally be considered:

- A matter of Gross Misconduct if done by an employee of the Council
- A matter for the Council to consider termination of a contract if done by or at the request of a contractor. If there are concerns that a contractor is victimising, or has victimised, a whistleblower an independent review may be requested
- A matter that would be referred to the Constitution & Ethics Committee if undertaken by or at the request of a Councillor
- A matter that could affect the service provided to a customer if done by or at the request of that customer.

#### 4.2 Confidentiality

4.2.1 All concerns will be treated in confidence and every effort will be made not to reveal the identity of the person highlighting the concern if that is the wish of the individual.

4.2.2 Individuals are encouraged to put their name to any allegation. The Council will do its best to protect the individual's identity when they do not want their name 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.

4.2.3 At the appropriate point in any investigations the subject of the allegation may be made aware of the allegation in order to provide a defence. In these cases the identity of the Whistle-blower will not be divulged to the subject of the allegation or their representatives unless the Whistle-blower gives written consent to do so to the investigating officers.

#### 4.3 Anonymity

4.3.1 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include :

- Seriousness of the issue
- Credibility of the concern
- Likelihood of being able to obtain the necessary information

#### 4.4 Untrue Allegations

4.4.1 Any individual who makes an allegation in good faith which is not subsequently confirmed by the investigation, will have no action taken against them and will continue to have protection under this policy from victimisation or harassment.

4.4.2 If, however, an individual makes malicious or vexatious allegations, action may be taken against them.

## **5. HOW THE COUNCIL WILL RESPOND**

- 5.1 In order to protect individuals and the Council, an initial review will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of specific procedures (for example, child protection or discrimination issues), will normally be referred for consideration under those procedures.
- 5.2 It should be noted that some concerns may be resolved by agreed action without the need for investigation. Equally some issues may be investigated without the need for initial enquiries. If urgent action were required, this would be taken before any investigation is conducted.
- 5.3 The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may be:
- Investigated by management, Internal Audit, HR, or other appropriate person
  - Referred to the External Auditor
  - Referred to the police
  - The subject of an independent inquiry.
- 5.4 The Council will send an initial acknowledgement of receipt of concern within a couple of days and will then write to the person raising the concern within 7 -10 working days (i.e. initially the individual or representative with whom the report was lodged as set out in Sections 4.1 and 4.2):
- Acknowledging that the concern has been received
  - Indicating how it proposes to deal with the matter
  - Giving an indication of when a final response or update will be provided
  - Telling the person whether any initial enquiries have been made
  - Supplying the person with information on staff support mechanisms and
  - Telling the person whether further investigations will take place and, if not, why not.
- 5.5 Every effort will be made to resolve the matters raised as soon as possible, in the interests of the Council, the person raising the concern and the person(s) being investigated.

- 5.6 The amount of contact between the officers considering the issues and the person 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.
- 5.7 Where 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 work colleague who is not involved in the area of work to which the concern relates.
- 5.8 The Council will take appropriate steps to minimise any difficulties, which a person may experience as a result of raising a concern and provide advice and support should they be required to give evidence, e.g. at a disciplinary hearing. Such support may include the ability to give evidence via video link.
- 5.9 The Council accepts that the person raising a concern needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the person raising the concern will be kept informed as the investigation progresses unless they have requested otherwise. At the very least they should receive an update on the investigation by the date implied by the estimated response time given in section 5.4

## **6. HOW THE MATTER CAN BE TAKEN FURTHER**

- 6.1 Any individual has the right and responsibility to refer a concern to the Police if they suspect a criminal act.
- 6.2 This policy is intended to provide 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 investigations that may be carried out. However, if they are not satisfied and feel it right to take the matter outside the Council, the matter can be raised with:
- Public Concern At Work on 0207 404 6609 or [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)
  - Relevant professional bodies or regulatory organisations
  - A solicitor.
- 6.3 In taking advice from sources outside the Council, a person must ensure that, so far as possible, it is raised without confidential information being divulged and would, other than in exceptional circumstances, be expected to have exhausted the internal routes available first.
- 6.4 If an individual wishes to complain to the Council about how the investigation of their concerns was carried out, they should address their complaint directly to the Head of Human Resources or the Chief Internal Auditor. The Head of Human Resources and Chief Internal Auditor will then notify the Chief Executive that a complaint has been made regarding a whistleblowing investigation, determine which service is best placed to deal with the complaint, and appoint an appropriate officer to deal with the complaint. In deciding who should deal with the complaint the following should be considered:
- Which officer and service conducted the whistleblowing investigation;
  - Which service has the most independence and objectivity in relation to the original investigation; and
  - The skills needed to deal with the complaint.

- 6.5 This is separate to the Council's corporate complaints procedure, which assumes that a complaint should first be dealt with by the relevant service area, as the service area is likely to have been involved in the investigation. The review of a complaint regarding a whistleblowing investigation will be reported to the Chief Executive, and as such is equivalent to the third and final stage of the corporate complaints procedure.

## **7. ROLES AND RESPONSIBILITIES**

- 7.1 The responsibility for the operation of this policy rests with the Executive Directors to ensure all staff are fully aware of its provisions. The Chief Internal Auditor must be advised of all referrals so that an annual report to the Council's Audit & Accounts Committee can be compiled.
- 7.2 Investigations should be undertaken by appropriate officers with expertise and will be dependent upon the issue raised. Internal Audit and Human Resources will jointly ensure that investigations are swift and effective and undertaken by someone with relevant skills and experience. Internal Audit and Human Resources (HR) will act as the corporate services who maintain records of all referrals and subsequent investigations received by the Council.

### **Additionally:**

- 7.3 Internal Audit will lead on all financial referrals, including those where there are significant financial implications to an allegation. The Audit team will ensure that concerns raised through the informal process are logged and trends identified.
- 7.4 Human Resources will lead on allegations regarding serious misconduct of Council employees. The HR team will advise and support employees involved in the investigation process, to ensure that such processes are fair and supportive to all those involved.
- 7.5 The Monitoring Officer will lead on allegations regarding misconduct of Councillors and any issues where there is alleged unlawfulness or criminality.
- 7.6 As the Monitoring Officer has a statutory obligation to take action to avoid the Council acting unlawfully, officers are required to inform the Monitoring Officer of any whistleblower report received. This will be treated with appropriate confidentiality in line with investigations.
- 7.7 Employees: In all contracts of employment there is an implied understanding of mutual trust and confidence between the employer and employee. All employees, therefore, have a responsibility to raise concerns about work and they may do so in the manner described in this policy.
- 7.8 Line managers: Must create an open and fair culture within their area of responsibility and ensure that staff concerns are listened to and action taken where necessary. Line managers are responsible for ensuring that there is a safe environment for staff to raise their concerns and that there is no retribution as a result of someone raising their concerns.
- 7.9 Audit & Accounts Committee: is responsible for assuring the Council that the risks across the Council are being identified and managed. It is therefore responsible for ensuring that this policy is robust and for ensuring that the principles within this policy are upheld.

## **8. HOW THE POLICY WILL BE MONITORED**

- 8.1 The Council has a responsibility for registering the nature of all concerns raised and to record the outcome. The Council's Internal Audit Service will produce an annual report to the Audit and Accounts Committee, which will identify any patterns of concern and assess the effectiveness of the policy.
- 8.2 This policy will be publicised via the Council's Website and specifically:
- Every new employee will be advised to familiarise themselves with the policy when joining the Council;
  - Every contract will require the contractor to communicate the policy to their staff and adopt its provisions when working for the Council;
  - Every employee of a Limited Liability Partnership (LLP) owned by the council will be provided a copy of the policy when joining the LLP, together with training on the whistleblowing procedures of their organisation and the circumstances where each policy will apply;
  - All newly elected members shall be provided a copy of the policy.
- 8.3 A public leaflet will be produced and placed in the Council's public areas to promote the policy and invite feedback.
- 8.4 An annual survey will be undertaken by Internal Audit to gauge the awareness of the policy and individual whistleblowers will be asked more detailed questions about their perceptions of the policy in practice.

## **9. REVIEW**

- 9.1 This procedure will be kept under review and any amendments will be subject to consultation with staff representatives. It will be reviewed by the Council's Audit and Accounts Committee on an annual basis.

**ANNEX A****Procedure for Contractors / Partners, including employees of subsidiaries**

1. This procedure is for Contractors who want to raise a concern and once a concern is raised it will be treated in line with the main policy.
2. As a first step contractors should normally raise concerns with their manager, who will then inform the lead Council officer who is dealing with that particular contract. If contractors do not have a manager, they should raise their concerns direct with the lead Council officer. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if contractors believe that their manager or lead Council officer is involved, they should approach the LGSS Director of Law and Governance at the Council direct. Otherwise, the lead Council officer receiving notification of concerns under this policy will inform the LGSS Director of Law and Governance that a confidential report has been received and provide a copy. If the concern relates to financial irregularities or failures of financial controls the lead Council officer receiving the report will also immediately notify the Chief Internal Auditor.
3. Concerns may be raised verbally or in writing. Individuals who wish to make a written report are invited to use the following format:
  - The background and history of the concern (giving relevant dates if possible);
  - The reason why the individual is particularly concerned about the situation.
4. It should be noted that often the earlier a concern is expressed the easier it is to take appropriate action.
5. Advice and guidance on how specific matters of concern may be pursued can be obtained internally from the Internal Audit Service. Alternatively contractors may wish to get confidential advice from their trade union or professional association.
6. Contractors may wish to consider discussing their concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
7. Contractors may invite their trade union or professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns they have raised.

**ANNEX B**

**General Survey**

- (1) Have you thought about using the Whistleblowing Policy in the last 12 months?
- (2) If yes, but you didn't make a referral, what prevented you?
- (3) On a scale of 1-10 (with 10 being perfect) how would you rate the policy in meeting the needs of someone who has concerns about the Council's services?
- (4) If you answered less than 10, what can we do to change so that you would score 10?

**Specific Survey for those who have raised a concern**

- (1) On a scale of 1-10 (with 10 being perfect) how good do you feel the Council's Whistleblowing arrangements are?
- (2) If you answered less than 10, what can we do to improve so that you would have scored a 10?
- (3) Were you able to obtain sufficient advice before making your referral?
- (4) Did you use normal management structures or the corporate officers?
- (5) Were your concerns properly addressed?
- (6) Were the implications of a referral (e.g. confidentiality and timescales) explained to you?
- (7) Were you provided with regular feedback (if you wanted it)?
- (8) If you asked for confidentiality was that effectively provided?
- (9) Do you feel you suffered harassment, victimisation or any other negative consequence from raising your concern?



## Whistleblowing – Manager's Guide

### 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.

### 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.

### 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 the whistleblower refuses to disclose their name discuss next steps with Internal Audit and HR. 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.

### 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.

### 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'.

### 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 an initial acknowledgement of receipt of concern by email within a couple of days and then 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.

### 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.

### 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.

### 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.

### 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.

