

Whistleblowing Policy

Produced by *Legal & Governance*

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1 Policy Statement

- 1.1 The Council is committed to the highest possible standards of openness, honesty, integrity, preventing and detecting fraud and corruption and it is everyone's responsibility to pursue these aims.
- 1.2 The term whistleblowing has a specific legal definition, i.e. a disclosure or allegation of serious wrongdoing made by an employee, and a wider public definition, i.e. any disclosure or allegation of serious wrongdoing made by anyone.
- 1.3 This policy seeks to cover both disclosures and allegations of serious wrongdoing made by employees and members of the public in relation to HBC, and where this policy makes reference to a whistleblower; it refers to any individual (including Council employees and/or members of the public) who is making a disclosure or allegation of serious wrongdoing.
- 1.4 This policy is intended to encourage and enable individuals to raise serious concerns with the Council and seeks to set out how the Council will handle and respond to any such allegations, made either by Council staff or members of the public.

2 Aims of the Policy

The aims of this policy are therefore to:

- encourage staff and members of the public to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected.
- provide guidance as to how to raise those concerns.
- reassure individuals that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

3 Scope of the Policy

- 3.1 This policy covers all employees, officers, consultants, contractors, volunteers, interns, casual workers and agency workers as well as members of the public. It applies to, but is not limited to, concerns about any of the following:
 - criminal activity
 - failure to comply with any legal or professional obligation or regulatory requirement
 - danger to health and safety of any individual
 - damage to the environment
 - bribery
 - financial fraud or mismanagement
 - breach of the Council's internal policies and procedures
 - conduct likely to damage the Council's reputation or financial wellbeing
 - unauthorised disclosure of confidential information
 - negligence
 - sexual, physical or verbal abuse, or bullying or intimidation of employees, customers or service users
 - the deliberate concealment of any of the above matters.

3.2 This policy is not designed to be used:

- for raising or reconsideration of matters that come under existing internal Council HR procedures e.g. Grievance, Disciplinary, Capability
- for raising or reconsideration of matters that come under the Council's general complaints procedure or Code of Conduct complaints against elected members
- as an appeal process from any complaint or grievance handled under any of the above procedures.

3.3 Where a complaint made under this policy falls outside the scope of the policy the Council will advise the whistleblower of this and consult with the whistleblower in respect of taking the complaint further. Wherever possible, the Council will comply with the views of the whistleblower, but there are situations where the Council is legally required to pass on details of allegations, without the consent of the whistleblower, such as in safeguarding matters, or where the allegations relate to serious criminal activity undertaken by individuals outside the Council.

4 Commitment

4.1 The Council is committed to ensuring that individuals are protected from reprisals or victimisation for "Whistleblowing" in good faith.

4.2 The Public Interest Disclosure Act 1998 makes it unlawful for the Council to dismiss anyone (or carry out any other form of reprisal) on the basis that they have made a protected disclosure. Employees who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure.

The Act has rules for making a protected disclosure:

- the disclosure must be in good faith
- the whistleblower must believe an allegation to be substantially true
- the whistleblower must not act maliciously or make false allegations
- the whistleblower must not seek any personal gain

4.3 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith. This does not mean that if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your whistleblowing.

4.4 Unlike disclosures by employees, the Public Interest Disclosure Act does not cover disclosures by members of the public. However, the Council considers that any disclosures or allegations made by members of the public in respect of serious wrongdoing should be handled in the same way as disclosures made by employees. Once a disclosure from a member of the public has been received by the Council, it will be handled in the same way as a disclosure made by an employee under the Public Interest Disclosure Act.

- 4.5 Action including disciplinary action may be taken against a whistleblower who makes an allegation without reasonable belief that it is in the public interest to do so (e.g. making an allegation frivolously, maliciously or for personal gain where there is no element of public interest)

5 Raising a Whistleblowing Concern

- 5.1 We hope that in many cases employees will be able to raise any concerns with their line manager either by telling them in person or putting the matter in writing. The line manager may be able to agree a way of resolving a concern quickly and effectively. In some cases they may refer the matter to the Monitoring Officer who has responsibility for the operation of this policy.
- 5.2 However, where the matter is more serious, or an employee feels that their line manager has not addressed their concern, or they prefer not to raise it with them for any reason, they should contact a member of the Council's Corporate Whistleblowing team (details below):

Wallace Sampson
Chief Executive -01423 500600- ext. 56081
or Lynne Niddrie his confidential secretary - ext. 56081

Paul Foster
Section 151 officer & Head of Finance – 01423 500600 - ext. 58591

Jennifer Norton
Monitoring Officer & Head of Legal & Governance – ext. 56036

Sarah Ridley
Head of People and Organisational Development
01423 500600 - ext. 56844

Audit Services Manager – 01423 500600

HBC Fraud Hotline (Non-Benefit Fraud)
01423 500600 - ext. 58455

National Fraud Hotline (Benefit Fraud)
0800 854 440
<https://www.gov.uk/report-benefit-fraud>

- 5.3 Members of the public should contact a member of the Corporate Whistleblowing team to report their concerns.
- 5.4 You can also raise their concerns by completing the online whistleblowing reporting form either on the Intranet or by following [this link](#).
- 5.5 If you do not feel able to put your concern in writing, you can telephone or meet the appropriate Officer. However, concerns are better raised in writing. You should set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation.

- 5.6 The earlier you express your concern, the easier it is to take action.
- 5.7 You can also ask your trade union or other representative of your choice to raise a matter on your behalf.
- 5.8 Any officer who is informed of a potential problem through the Whistleblowing policy or suspects any irregularity must record the following:
- Date Discovered
 - Discovery Method
 - Names of contacts
 - Nature of Irregularity
- 5.9 Where an officer receives such a report, they must not embark on an investigation. The officer must immediately report details of the suspected irregularity to the Monitoring Officer who will convene a meeting with the whistleblower as soon as possible to discuss their concern. The whistleblower may bring a colleague or union representative to any meetings under this policy and such companion must respect the confidentiality of the disclosure and any subsequent investigation. If the matter is subsequently dealt with through another procedure the right to be accompanied will at that stage be in accordance with the relevant procedure.
- 5.10 The Monitoring Officer will take down a written summary of the concern and provide the whistleblower with a copy after the meeting. The Monitoring Officer will also aim to give the whistleblower an indication of how the Council propose to deal with the matter.
- 5.11 If the Monitoring Officer is not available or the complaint relates to the Monitoring Officer, then the Council's section 151 officer should be involved instead of the Monitoring Officer.

6 Confidentiality

- 6.1 We hope that individuals will feel able to voice whistleblowing concerns openly under this policy. However, if you want to raise your concern confidentially, the Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed.
- 6.2 It should be understood that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence. However strenuous efforts will be made to obtain independent evidence which will either excuse you from getting involved further, or where that is not possible corroborate your evidence

7 Anonymous Complaints

- 7.1 We do not encourage anyone to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible.
- 7.2 Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Monitoring Officer or one of the other contact points listed above and

appropriate measures can then be taken to preserve confidentiality. If you are in any doubt you can seek advice from one of these officers or your trade union representative if you are a member or from Public Concern at Work, the independent whistleblowing charity, who offer a confidential helpline. Their contact details are Helpline: (020) 7404 6609.

8 Investigation and Outcome

- 8.1 Once you have raised a concern, the Council will carry out an initial assessment to determine the scope of any investigation. We will inform you of the outcome of our assessment. You may be required to attend additional meetings in order to provide further information. You can bring a colleague or union representative to any such meeting.
- 8.2 In some cases we may appoint an investigator or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter. Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary/grievance process
 - be referred to the police
 - be referred to the internal or external auditor
 - be referred and put through established child protection/abuse procedures
 - form the subject of an independent inquiry
- 8.3 If the allegation discloses evidence of a criminal offence the Monitoring Officer will make a decision as to whether to inform the Police.
- 8.4 If the allegation concerns suspected harm to children the appropriate authorities will be informed immediately.
- 8.5 We will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent us giving you specific details of the investigation or any disciplinary action taken as a result. You should treat any information about the investigation as confidential.

9 If you are not satisfied

- 9.1 If you are not happy with the way in which your concern has been handled, you can raise it with member of the Corporate Whistleblowing team. Alternatively you may contact the chairman of the Audit & Governance Committee or our external auditors:

Mark Kirkham
Partner
MAZARS SALVUS HOUSE
AYKLEY HEADS
DURHAM
DH1 5TS

Tel: 0191 3836314

10 External Disclosures

- 10.1 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally.
- 10.2 The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline, see 7.2 above. They also have a list of prescribed regulators for reporting certain types of concern.

11 Roles and Responsibilities

- 11.1 Members of the Corporate Whistleblowing Team have specific responsibilities as follows:

Monitoring Officer - overall responsibility for the process of managing the complaint in accordance with the Policy and for providing guidance and advice to the Team on compliance issues related to the complaint and measures that are required to rectify/ensure compliance.

Section 151 Officer – to consider the financial implications of any allegations contained within a whistleblowing complaint, and provide guidance and advice to the receiving manager and Monitoring Officer on: (1) Measures to avoid or minimise loss or risk to the Council in both the immediate and longer term; (2) Whether the allegations are a matter for investigation by external audit and the sourcing of an appropriate external auditor; and (3) The allocation of appropriate financial resources to fund any associated costs arising from the whistleblowing complaint.

Head of OD&I – to consider the human resources implications contained within a whistleblowing complaint, and provide guidance and advice to the receiving manager and Monitoring Officer on:

- Implications in terms of matters of discipline, suspension and/or capability
- the appointment of an appropriate internal or external investigator (unless it is a matter for audit investigation)
- appropriate communication with the complainant and subject of the complaint.

12 Monitoring

- 12.1 The Monitoring Officer will maintain a corporate register containing all concerns that are brought to her attention. All officers allocated to look into a concern must ensure the Monitoring Officer is provided with sufficient details for the corporate register.

- 12.2 The Register will record the following details:

- The name and status (e.g. employee) of the whistle-blower
- The date on which the allegation was received
- The nature of the allegation
- Details of the person who received the allegation
- Whether the allegation is to be investigated and, if so, by whom

- The outcome of the investigation
 - Any other relevant details
- 12.2 The Monitoring Officer will review the corporate register and produce an annual report for the Audit & Governance Committee. The report will include a summary of the concerns raised, to which service they related, the post to which the concerns related (if not confidential) and any lessons learned. The report will not include any employee names. The aim of this is to ensure that the Council and/or the relevant service learns from mistakes and do not repeat them, and consistency of approach across the departments.
- 12.3 The corporate register together with the annual reports will be available for inspection by internal and external audit, after removing any confidential details.

13 General Review of the Policy

- 13.1 The operation of the Policy will be reviewed annually by the Monitoring Officer to ensure that it is kept up to date and is in line with any legislative changes and modern employment practices.

Approved:17 September 2018

Management Board:17 September 2018

HR Committee approval on 30 January 2019

Review Date:30 January 2022