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Whistleblowing Policy

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1. INTRODUCTION

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. They may also fear harassment or victimisation. In these circumstances, it may appear to be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Council is committed to achieving the highest possible standards of service. In line with that commitment, employees with serious concerns about any aspect of the Council's work are encouraged to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. The Council encourages staff to participate without fear of reprisals.

This Whistleblowing Policy has been produced to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. It has been written in accordance with the Public Interest Disclosure Act 1998 and is supported by the recognised trade unions.

Under the Public Interest Disclosure Act 1998, employees who speak out against corruption and malpractice at work will have statutory protection against victimisation and dismissal, providing that the disclosure is made in good faith. It will be automatically unfair to dismiss any employee because they have made a protected disclosure and it will be unlawful to subject them to any other detriment, such as demotion. Employment Tribunals can award redeployment or compensation to successful claimants.

Detailed information on what is classed as a protected disclosure is contained in section 3 of this document on pages 3 & 4.

2. AIMS AND SCOPE OF THIS POLICY

This policy (1) sets out the procedure for employees to raise concerns and receive feedback on any action taken, (2) allows employees to take the matter further if they are dissatisfied with the Council's response and (3) reassures employees that they will be protected from reprisals or victimisation for whistleblowing in good faith. Employees will be aware that there is an existing procedure in place to enable a grievance to be lodged relating to their own employment. This Whistle blowing Policy is intended to cover concerns that fall outside the scope of the grievance procedure. Employees may have concerns about a practice that maybe:

- i) unlawful
- ii) against the Council's Procedure Rules or policies
- iii) amounts to improper conduct.

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 who may be responsible for malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. Any such cases of harassment will be dealt with in accordance with the Council's 'dignity at work' procedure. However, it does not mean that if employees are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of their Whistleblowing.

3. CONFIDENTIALITY

The Council will endeavour to protect employees' identity when they raise a concern and do not want their name to be disclosed. It must be appreciated however that the investigation process usually reveals the source of the information and a statement may be required from staff as part of the evidence, which will be seen by all parties.

However, if an employee requests protection of identity by keeping their disclosure confidential, it will not be disclosed without their consent. If the situation arises where the Council is not able to resolve the concern without revealing the identity (e.g. in a disciplinary situation) the individual will be contacted for a discussion on how the investigation can proceed.

In exceptional circumstances, it may be possible for employees to provide confidential statements that do not have to be authorised. In these circumstances the identity will remain confidential and the individual will not be required to attend any subsequent disciplinary hearing.

ANONYMOUS ALLEGATIONS

The Whistleblowing Policy encourages staff to put their name to an allegation. Concerns expressed anonymously are less forceful, but they will be considered at the discretion of the appropriate Service Director/Head of Service.

In exercising the discretion, the factors to be taken into account will include:

- i) the seriousness of the issues raised
- ii) the credibility of the concern
- iii) the likelihood of substantiating the allegation.

Under the Public Interest Disclosure Act 1998, staff will receive protection if the disclosure is made in good faith and is about:

criminal acts; a failure to comply with a legal obligation; miscarriage of justice; a danger to health and safety; damage to the environment and any attempt to cover up these acts.

Even if the disclosure is a qualifying one as above, the rules governing the disclosure are as follows:

- staff must disclose the information in good faith
- staff must believe it to be substantially true
- staff must not act maliciously or make false allegations
- staff must not seek any personal gain

If you do not tell the Council who you are, it will be much more difficult for the investigating officer to look into the matter or to provide feedback. Accordingly, while the Council will consider anonymous reports, this policy is not well suited to concerns raised anonymously.

MALICIOUS ALLEGATIONS

If employees make an allegation in good faith, which is not confirmed by the investigation, no action will be taken against that member of staff. If however, employees make malicious allegations, disciplinary action **will** be taken.

4. PROCEDURE

As a first step, employees should normally raise concerns with their immediate manager or supervisor. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the matter. If employees want to raise the matter with someone else, they should approach their relevant Head of Service.

There are certain matters where the officers listed below should be contacted:

- i) In respect of any matters involving actual or potential unlawful conduct, maladministration or contravention of the law:
Paul Lucas
Director of Legal and Democratic Services
- ii) In respect of any potential irregularity affecting any financial or other resources of the Council:
Steve Merritt
Group Director for Corporate Services

Or

Roger Hull
Head of Internal Audit & Risk Management

- iii) In respect of any other service related issue or employment matter:
Tony Wilkins
Director of Human Resources

Managers who receive a complaint from an employee must treat that complaint as potentially serious and investigate appropriately. The matter raised must be kept in confidence and not disclosed to any other party unless instructed to do so. If the complaint highlights their Head of Service or Divisional Director being involved in the matter, then managers should contact the Director of Human Resources for advice and guidance unless it is in respect of (i) and (ii) above.

In addition, if employees or managers are unclear as to the appropriate person to approach, they should contact the Director of Human Resources in the first instance. He will ensure that the matter is considered correctly. Concerns are better raised in writing and employees should include relevant dates, incidents and witnesses. If employees do not feel able to put their concerns in writing, then they can telephone or meet the appropriate Officer. The earlier employees express the concern, the easier it is to take action. Although employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for their concern. Employees may invite their trade union to raise the matter on their behalf.

5. INVESTIGATION AND RESPONSE OF THE COUNCIL

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- i) be investigated internally via Human Resources or in the case of fraud or corruption, the Internal Audit Section. The Internal Audit Section has devised a separate policy on Anti-Fraud and Corruption and its employees are trained in handling these investigations in the proper manner. They can be contacted on (01443) 744360.
- ii) be referred to the Police
- iii) be referred to the External Auditor (Wales Audit Office)
- iv) form the subject of an independent inquiry

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those

procedures. Some concerns may be resolved by agreed action without the need for investigation. As soon as possible after a concern is received, the appropriate Division will write to employees acknowledging their concern(s) and indicating the future course of action.

The amount of contact between the Officers considering the issue and employees will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from employees. When any meeting is arranged, employees have the right to be accompanied by a Trade Union representative or work colleague.

The Council will take steps to minimise any difficulties that employees may experience as a result of raising a concern. For instance, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will advise employees about the procedure. The Council accepts that employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, employees will receive information about the progress of the investigation and the outcomes of such investigations. Where possible, this will be provided in writing by the investigating officer.

6. FURTHER ACTION OUTSIDE THE POLICY

This policy is intended to provide employees with an avenue to raise concerns within the Council. Should an employee remain unsatisfied following this, and if they feel it is right to pursue the matter externally, then the following possible contact points are available:

- i) Council Members (if staff live in the area of the Council)
- ii) the External Auditor (Wales Audit Office). The Wales Audit Office can be contacted on telephone number 01443 680500
- iii) relevant professional bodies or regulatory organisations e.g. Inland Revenue or Health & Safety Executive
- iv) Police.

If employees do take the matter outside the Council, then employees need to ensure that they do not disclose confidential information.

The Director of Human Resources has overall responsibility for the maintenance and operation of this policy. That Officer will maintain a record of concerns raised and the outcomes (but in a form which does not compromise confidentiality) and will report as necessary to the Council.

GUIDANCE NOTE FOR EMPLOYEES

The following guidance should be followed if you suspect fraud, corruption, a criminal act, a failure to comply with a legal obligation, a miscarriage of justice, a danger to health & safety, damage to the environment or any attempt to cover up these acts in any area of Council activity.

DO

1. **Make an immediate note of your concerns.**

Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

2. **Convey your suspicions to someone with the appropriate authority and experience.**

This is usually your line manager or the Internal Audit Service. Alternatively, the Director of Financial Services or the Director of Human Resources should be contacted.

3. **Deal with the matter promptly, if you feel your concerns are warranted.**

Any delay may cause the Council to suffer further financial loss.

DON'T

1. **Do nothing.**

2. **Be afraid of raising your concerns.**

You must not suffer any recrimination as a result of voicing a reasonably held suspicion. The Council will treat any matter you raise sensitively and **in confidence**.

3. **Approach or accuse any individuals directly.**

4. **Try to investigate the matter yourself.**

There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case.

5. **Convey your suspicions to anyone other than those with the proper authority.**

6. **Remember the Public Interest Disclosure Act 1998 has the following rules for making a protected disclosure.**

You must disclose the information in good faith.

You must believe it to be substantially true.

You must **not** act maliciously or make false allegations.

You must **not** seek any personal gain.