

# Public Interest Disclosure

Whistleblowing

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1		May 2024	Updated to reflect staffing changes

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<b>Strategic Alignment</b>
Improving the Council's Resource Base – Ensure the highest standards of public protection.

<b>Next review date</b>	
<b>Review Date</b>	May 2025

# Preamble

The purpose of this procedure is to provide a mechanism for employees, officers, consultants contractors and workers to report to the Council a concern which they have that there is serious wrongdoing within the Council – and to do so with both security and confidence. It draws on the rights and obligations contained within the Employment Rights Act 1996, the Public Interest Disclosure Act 1998, and the Enterprise and Regulatory Reform Act 2013.

This procedure for reporting concerns at work is based on the following principles:

- fair and reasonable treatment at work;
- the right to report concerns reasonably believed to be in the public interest;
- confidentiality;
- openness and accountability, and
- honesty and integrity.

## 1. Introduction

- 1.1 In the course of your employment you may become aware of serious wrongdoing in the Council or you may have information regarding malpractice. This procedure outlines the steps you should take to bring serious situations to the attention of the Council, and has been designed to provide guidance to employees on reporting incidents of malpractice or wrongdoing. It indicates how matters can be expedited thoroughly, discreetly and, so far as possible, in a confidential way if that is necessary. This procedure outlines:-
- what sort of concerns may be reported;
  - the employees covered by this procedure;
  - the nominated individuals in the Council who can be contacted regarding your concerns;
  - the appropriate steps to be taken to report serious wrongdoing or malpractice;
  - how a matter may be raised in confidence when that is appropriate;
  - the rights of employees who are the subject of disclosures;
  - any obligations placed on an employee in terms of bearing witness;
  - the interest of the Council;
  - the right to raise matters of concern and not be subject to any detriment; and
  - the protection which is available to an employee.
- 1.2 The disclosure of information in the public interest involves the reporting of serious concerns about illegal or unethical conduct or behaviour which could be described as serious malpractice in the workplace. The kinds of concerns are those set out at paragraph 2.2 of this procedure.
- 1.3 The principles and guidance outlined in this procedure have been developed against the background of the Council's wish to be open and honest, to encourage high standards of conduct in the workplace and to develop the statutory protections available to employees.
- 1.4 Any employee who has a concern over what they consider is serious wrongdoing within the Council may wish to seek support and advice from their trade union which may be in a position to assist the employee in preparing and making a disclosure report under this procedure.
- 1.5 The title given to this procedure is Public Interest Disclosures. It may also be referred to as the "Whistleblowing" Procedure.

## 2. Reporting Concerns

- 2.1 Most personal concerns at work can be adequately dealt with using other procedures or mechanisms. For instance, if there is an issue about your working conditions which you cannot resolve through other means, you may wish to use the Council's Grievance Procedure. The procedure outlined in this document is designed to deal with issues of illegality or serious malpractice.
- 2.2 The public has a right to expect high standards of service. However, there may be occasions when, due to individual acts, omissions or failings, it may be necessary to bring certain matters which give cause for serious concern to the attention of your employer. If you are concerned about an aspect of individual behaviour or Council practice it may fall under one (or more) of the following categories:
- a criminal offence;
  - a failure to comply with a legal obligation;
  - a miscarriage of justice;
  - danger to the health and safety of an individual;
  - damage to the environment, and
  - the deliberate concealment of information tending to show any of the matters above is being deliberately concealed.
- 2.3 Under the terms of this procedure an employee can report a matter which they reasonably believe to be in the public interest, on a confidential basis to their employer regarding any of these six categories. The categories are by no means mutually exclusive. For instance, you may be aware of a health and safety failure that is also a criminal offence. If you are not sure whether the concern you wish to raise falls into one of the above categories then you may contact one of several Council Officers who will try to assist you in identifying whether the concern which you have falls under one or more of these categories or whether your concern should be better dealt with under a different procedure or route. The officers available to advise on this are the Council's Chief Officer (Legal and Democratic), Chief Officer (Finance) and Chief Officer (People Resources).
- 2.4 An employee may also be a resident in the Council's area or have other good reason to approach a local councillor. Such an employee is free to raise an issue with their councillor. However, advising a local councillor of a concern over serious wrongdoing is not a substitute for advising the Council formally by following the Disclosure Report Procedure set out in Section 4. The onus rests on the employee to make the Public Interest Disclosure by following the defined reporting procedure. This will ensure that the Council deals with the matter formally, and in terms of both the legislation and this Procedure.

## 3. Confidentiality and Anonymity

- 3.1 One of the principles of this procedure is that an employee has the right to report a matter they consider to be in the public interest and the report will be treated on a confidential basis. For the reporting process to have credibility, employees must have confidence that any matter they draw to the attention of their employer will be handled with discretion and tact.

- 3.2 The Council hopes that all staff will be able to voice whistleblowing concerns openly under this policy. If an employee wishes to raise their concern confidentially, the Council will make every effort to ensure the employee's identity is kept a secret. If it is necessary for anyone investigating the employee's concern to know their identity, this will be discussed with the employee.
- 3.3 The Council does not encourage staff to make disclosures anonymously. Proper investigations may be more difficult or impossible if the Council cannot obtain further information. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the officers identified at 2.3 and appropriate measures can then be taken to preserve confidentiality. If an employee is in any doubt, they can seek advice from Protect (<https://protect-advice.org.uk/>), the independent whistleblowing charity, who offer a confidential helpline.
- 3.4 It has to be recognised, however, that in some cases it may not always be possible to preserve total confidentiality, for instance, if the matter reported has to involve agencies such as the police or the Health and Safety Executive. If, in such a situation, the Council can no longer preserve total confidentiality, the employee will be advised of that fact.

## 4. Reporting Procedure

- 4.1 An employee wishing to report a matter that is covered by the categories covered in this procedure should contact the appropriate designated officer in the employing Service in the Council. The designated officers are those identified in Annex 1 to this document. This report should, preferably, be in writing and in order to avoid any doubt, should be described as a "Public Interest Disclosure".
- 4.2 This procedure requires that disclosure reports should be made to the designated officers. Those designated officers are required to be alert to such disclosures and ensure that, as far as it is possible, the confidentiality of such reports is maintained. This will normally involve the report having the personal attention of the designated officer.
- 4.3 If a disclosure report is made which alleges wrongdoing by the Depute Chief Executive or Chief Officer that report should be made directly to the Chief Executive.
- 4.4 Once a report has been submitted the appropriate officer will advise you of the next steps and any expected timescale. This will be done within five working days.
- 4.5 At this stage of the process it is important that confidentiality is maintained by both parties where that is required to ensure that the matter can be dealt with in the appropriate way, avoid prejudice and protect individual rights.
- 4.6 The report will then be considered and a decision taken as to whether, and in what way, the matter should proceed.
- 4.7 Should the appropriate officer decide not to take any action you will be notified and given the reason(s) for this decision.

- 4.8 If the appropriate officer decides that further action is required on the basis of your report, then you will be notified of the decision, subject to the appropriate investigation and the likely timescale, if possible, to do so.
- 4.9 Once the matter has been concluded and the appropriate action taken in response to your report, you will be notified of the outcome. However, sometimes the need for confidentiality may prevent the Council from giving you specific details or any disciplinary action taken as a result. You should treat any information about the investigation as confidential.
- 4.10 Under the terms of this procedure, you may seek a progress update from the appropriate officer regarding the status of your report, although it has to be understood that the response may have to be qualified in order to protect other interests.
- 4.11 While the Council cannot guarantee the outcome you are seeking, the Council will try to deal with your concern fairly and in an appropriate way. By using this procedure, you can help the Council achieve this.
- 4.12 If you are not satisfied with the way your report has been dealt with, you can raise this with the Chief Executive.

## 5. Safeguards

- 5.1 Under the terms of this procedure, any employee making a Public Interest Disclosure report is safeguarded against any detriment in the course of their employment, provided that the report is made in the reasonable belief that it is in the public interest.
- 5.2 For the purpose of this procedure, detriment is defined as any act or omission that penalises the employee for submitting the report. For example, dismissal, harassment, victimisation or any other form of punitive sanction which would not have arisen were it not for the report having been made are prohibited under the terms of this procedure. If you believe that you have been subjected to a detriment, you should immediately report that to the officer who received your disclosure report. If the matter is not remedied, you should raise it formally through the Council's Dignity at Work procedure.
- 5.3 An employee must not threaten or retaliate against another employee making a Public Interest Disclosure Report. Any employee involved in such conduct, may be subject to the Councils' disciplinary procedure. In addition, if an employee is subjected to such detriment by another employee then that other employee could be personally liable.

## 6. Wrong Reports

- 6.1 There may be instances when a report is submitted, based on a genuine belief by the employee that something is wrong at a particular time, which is subsequently demonstrated to be false or inaccurate. In such circumstances, employees will be informed of the discrepancy between their report and the facts at hand. Provided that the Council is satisfied that the employee acted in good faith and had a genuine belief that such a situation should be reported and no personal gain was involved, no further action will be taken against the reporting employee.

- 6.2 If an employee has deliberately submitted a report that they know to be not true or unfounded or with a view to personal gain then they may be subject to the Council's disciplinary procedure.

## 7. Reporting Outwith the Council

- 7.1 The aim of this procedure 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.
- 7.2 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. You are strongly encouraged to seek advice before reporting a concern to anyone external. Protect's confidential helpline is available for this. In addition, Protect has a list of prescribed regulators for reporting certain types of concern.
- 7.3 Whistleblowing concerns usually relate to the conduct of our staff, but they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, you are encouraged to report such concerns internally first. You should contact one of the other key contacts set out in paragraph 2.3 for guidance.
- 7.4 Employees within Health and Social Care can access the National Whistleblowing Standards in relation to NHS Services. Further information can be obtained from the Chief Accountable Officer or accessed [here](#).



**CHIEF OFFICERS TO WHOM PUBLIC INTEREST DISCLOSURES MAY BE REPORTED –**

**WHISTLEBLOWING PROCEDURE**

- |   |   |
|---|---|
| <b>1. Chief Executive's Service</b>             | <b>Des Murray<br/>Chief Executive</b>                           |
| <b>2. Enterprise and Communities Service</b>    | <b>Andrew McPherson<br/>Depute Chief Executive</b>              |
| <b>3. Education and Families Service</b>        | <b>Gerard McLaughlin<br/>Chief Officer (Education – North)</b>  |
| <b>4. Adult Health and Social Care Services</b> | <b>Ross McGuffie<br/>Chief Officer (Health and Social Care)</b> |