

Review of the Confidential Reporting (Whistleblowing) Procedure

1. Summary of the report

This report relates to the revised Confidential Reporting (Whistleblowing) Procedure (appendix 1).

2. Recommendations

That the revised Confidential Reporting (Whistleblowing) Procedure be agreed and adopted.

3. Report Detail

The current Confidential Reporting (Whistleblowing) Policy was last reviewed in 2010. Since that review, legislation has changed, and this procedure reflects those changes, as well as taking the opportunity to make sure the procedure is helping the Council achieve its aims regarding Whistleblowing.

The key legislative changes were:-

1. A disclosure is only protected if it is 'in the public interest'.
2. The requirement for a disclosure to be made 'in good faith' no longer applies as far as protection is concerned. However, the ERA 2013 has introduced a requirement in relation to qualifying disclosures made on or after 25 July 2013, that the worker reasonably believes that the disclosure is made in the public interest in order to qualify for protection.
3. Employers are vicariously liable when one employee causes another a detriment on account of a protected disclosure. Employers are vicariously liable for acts and/or omissions of their workers or agents in such circumstances where a protected disclosure has occurred, irrespective of whether the employer knows about or approves of such acts.
4. Certain healthcare professionals in England, Scotland and Wales were identified as outside of the scope of Whistleblowing protection due to their contractual arrangements. The definition of "worker" in section 43K of the ERA has been widened by this Act to include these professionals.

The procedure is updated to reflect these.

The report was considered by the Standards Committee on 27th January and Members requested the following amendments:-

- inclusion in paragraph 2.2 of the procedure include “discrimination” and “community unrest”; and
- The section relating to anonymity is expanded to ensure that the person reporting would remain anonymous and would be identified by a reference number.

Both of these amendments have been made to the procedure.

4. Financial considerations

None directly related to this report.

5. Legal considerations

The proposed amendments to this Policy reflect the Whistleblowing amendments to the Employment Rights Act 1996 made by the Enterprise and Regulatory Reform Act 2013, which apply to qualifying disclosures made on or after the 25 June 2013.

6. Risk Management

None directly related to this report.

7. Equality implications

An Equality Impact Assessment (EqIA) has been completed on the procedure and actions will be incorporated into the launch once approved.

8. Consultation

The Confidential Reporting (Whistleblowing) Policy went out for consultation to managers and Trade Unions on 24 September 2013. Following consultation, the Trades Unions have agreed support for this procedure.

9. CMT

The Confidential Reporting (Whistleblowing) Policy was approved by CMT on 14 November 2013.

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Confidential Reporting (Whistleblowing) Procedure

Document title	Confidential Reporting (Whistleblowing) Procedure		
Owner	Human Resources Strategic Services		
Status	Draft	Version	
Effective from	To be confirmed	Approved on	To be confirmed
Last updated	April 2014	Last updated by	HR Strategy and Planning Team
Purpose	<p>This 'whistle blowing' procedure plays a key part in maintaining the highest standards of openness, honesty and accountability by requiring everyone to report appropriate concerns.</p> <p>This procedure links to:</p> <ul style="list-style-type: none"> • Code of Conduct for Employees 		

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1. Why do we have this procedure?

- 1.1 The Council is committed to maintaining the highest standards of openness, honesty and accountability.
- 1.2 This 'whistle blowing' procedure plays a key part in maintaining those standards by requiring everyone to report appropriate concerns (**see section 2 - what concerns should be reported?**). The Council's Code of Conduct for Employees makes this a specific obligation for all employees.
- 1.3 If you are a Council employee, a temporary or agency worker working for the Council, a contractor working for the Council on Council premises or provide goods or services to the Council then you are required to report appropriate concerns, in return for which you will be provided with feedback on action taken. You will also be protected from any reprisals or victimisation for 'whistle blowing'.

2.0 What concerns should be reported?

- 2.1 Everyone, at one time or another, may have concerns about something that is happening at work. More often than not, these concerns are relatively minor and you can probably resolve them informally. However, when those concerns are about unlawful conduct, financial malpractice or dangers to the public or environment, it can be difficult to know what to do. Confidential reporting or 'whistle blowing' is about helping people to raise legitimate concerns or worries without opening themselves up to detrimental treatment or risking their job security for raising their concerns in the normal way.
- 2.2 You should report any serious concerns that are 'in the public interest' (see 2.3) and appear to involve:-
 - a criminal offence or breach of the law
 - a miscarriage of justice
 - a health and safety risk to employees or the public
 - damage to the environment
 - community unrest or discrimination
 - unauthorized use of public funds
 - possible fraud or corruption
 - sexual, physical or verbal abuse
 - any other improper conduct that makes you feel uncomfortable in terms of falling below known standards or going against Council policies or practice
 - breach of any legal obligation
 - safeguarding children and vulnerable adults
 - deliberately concealing any of the above



- 2.3 A concern is only 'in the public interest' if it goes beyond matters of personal concern to you. You should **not** use this procedure to report concerns of a personal nature – for example in relation to a grievance or your salary grade (these should, instead, be pursued through the grievance or pay and grading appeal procedures).
- 2.4 Sometimes, a concern may be 'in the public interest' but may also be something that you have a personal interest in. If this is the case, please tell the person that you raise your concern with of your personal involvement.

3.0 When should I report my concerns?

- 3.1 The Council understands that you may be worried about raising a concern, perhaps feeling that it is none of your business or that it is only a suspicion. You may also feel that you are being disloyal to your colleagues or the organisation, or worried about reporting things to the wrong person or in the wrong way.
- 3.2 However, it is your responsibility to report any concerns as soon as possible and the Council would like you to do so at an early stage rather than waiting for 'proof' of any suspicions. Providing that you have reasonable belief that unauthorised activity is taking place, then you should report it. Remember that you will not get into trouble for raising genuine concerns and the Council will protect you if you raise a genuine concern.

4.0 Will the Council protect me if I raise a genuine concern?

- 4.1 You will not be at risk of losing your job or suffer any detriment or retribution from the Council because you have raised a genuine concern. This will still be the case even if investigations subsequently show that there has been no improper conduct. However, if you are already the subject of disciplinary investigation or action, or your job has been placed at risk of redundancy, these proceedings will not be halted because you have raised a genuine concern, instead they will run concurrently.
- 4.2 The Council does not tolerate any discrimination, harassment or victimisation and will take action to protect you if you have used this procedure to raise a genuine concern.
- 4.3 Your identity will remain confidential, it will not be disclosed without your consent. For reporting purposes, you will be identified by a reference number. If the situation arises where the Council cannot resolve the concern without revealing your identity (for example, because your evidence is needed in court) this will be discussed fully with you as to whether and how the Council can proceed.



- 4.4 All concerns will be investigated including those that are raised anonymously and feedback will be provided where relevant and where contact details have been provided and therefore you are encouraged to identify yourself when you report a concern. However, such protection does not apply to you if you raise a concern that you know to be untrue, malicious or vexatious and any such instances will be followed up (where applicable) and may result in disciplinary action.

5. How should I raise a genuine concern?

Please see 5.4 if your concern relates to service users of social care for children or adults.

5.1 Step 1

In many cases you will hopefully feel comfortable in raising your concern with your own manager, either verbally or in writing. The more information that can be supplied, including dates, times, details and names, the greater the opportunity to establish the facts. Although you are not expected to prove beyond doubt the truth of the allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for the concern. You can choose whether to use the form attached at Appendix 1 to report your concerns but in any case it provides a helpful guide on the sort of information that it is helpful to supply when you report your concern. When raising any concern you must ensure that you clearly state that you are raising concerns under the Confidential Reporting (Whistleblowing) Procedure.

5.2 Step 2

If you feel unable to raise the matter with your manager, for whatever reason, please raise the matter with one of the following:

- | | |
|---------------------------------------|--------------|
| ➤ Head of Internal Audit | 01922 654727 |
| ➤ Executive Directors:- | |
| Children's | 01922 652081 |
| Neighbourhood | 01922 653203 |
| Regeneration | 01922 652004 |
| Resources | 07764 628186 |
| Social Care & Inclusion | 01922 652700 |
| ➤ Head of Human Resources | 01922 655600 |
| ➤ Assistant Director Finance | 01922 652102 |
| ➤ Head of Legal & Democratic Services | 01922 654822 |



The above contact list can also be used if you are a contractor or supply goods or services to the Council

or

you can use the [on line notification form](#) which is available on the internal audit intranet page and enables concerns to be reported in a secure and confidential manner

or

you can use the internal audit 'whistleblowing' hotline 01922 655880

5.3 Step 3

If you have followed these channels but still have concerns, or if you feel that you cannot raise your concern with any of the above, please contact the Chief Executive on 01922 652000.

5.4 **If your concern relates to service users of adults or children's social care, the statutory procedure set up to protect the interests of vulnerable service users should be used. In the first instance, such concerns should be directed to Customercareteamsocialcare@walsall.gov.uk**

5.5 If you feel it would be helpful to seek external advice you may wish to contact;

- your trade union
- external auditors
- Citizens Advice Bureau
- the relevant professional body or regulatory body
- the police

or "Public Concern at Work" (020 7404 6609). Public Concern at Work is a leading independent charity whose main objectives are to promote compliance with the law and good practice in the public, private and voluntary sectors. They are a source of further information and advice at www.pcaw.co.uk.

Hopefully, this procedure will give you the confidence to raise any concerns within the Council. However, if you feel unable to do so, the Council would much prefer that you raised the matter with an appropriate external regulator than not at all.



6. What will happen after I have reported my concern?

- 6.1 Once you have reported a concern, the Council will look into it to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation. In any case, within ten days, you will be written to with:
- An acknowledgement that the concern has been received
 - An understanding of the concern that has been reported
 - An indication of how the matter will be dealt with
 - An indication of any initial enquires that have been made
 - Information on staff support mechanisms
 - Notification of any further investigations that will take place and if not, why not
- 6.2 Where appropriate the matters raised may:
- Be investigated by management, Internal Audit, or disciplinary process
 - Be referred to the external auditor
 - Form the subject of an independent enquiry
 - Be referred to the police
- 6.3 The amount of contact between you and those considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you. Where any meeting is arranged, off-site if you wish, you can be accompanied by a trade union representative or a work colleague.
- 6.4 Sometimes you might be asked for your opinion on how the matter might best be resolved. Again, if this is a matter in which you have a personal interest, you must say so.
- 6.5 The Council will give you as much feedback as it possibly can. If requested, the response will be confirmed in writing. However, sometimes the Council will not be able to tell you the precise action taken – for example, if this infringes a duty of confidence owed to someone else.

Remember, malpractice affects everyone and is unacceptable.

Blowing the whistle on it is one way of stamping it out – for good.



Appendix 1

Formal Confidential Reporting (Whistleblowing)

Formal Confidential Reporting (Whistleblowing)	
Employee's name:	
Employee's job title:	
Employee's preferred contact method and details:	
Date:	
Does your public interest disclosure relate to your line manager?	Yes/No
Summary of disclosure:	
<p>Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.</p>	
<p>Please provide the names and contact details of any people involved in your concerns, including witnesses.</p>	



Formal Confidential Reporting (Whistleblowing)**Outcome requested:**

Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.

Declaration:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the organisation taking disciplinary action against me.

Form completed by:	
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Signature:	
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For completion by the organisation:

Date form received by the organisation:	
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Name of recipient and job role:	
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Signature:	
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