

Confidential Reporting (Whistleblowing) Policy



Walsall Council

Version Control

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Purpose	To maintain the highest standards of openness, honesty and accountability by requiring everyone to report appropriate concerns.		

This policy links to:

- Our Council Plan
- Walsall Proud
- Code of Conduct for Employees
- Collective Grievance Policy
- Counter Fraud and Corruption Policy
- Financial Rules and Contract Rules
- Workforce Strategy
- Behaviour & Standards Framework
- Organisational Development Strategy
- Grievance Policy
- Dignity at Work Policy
- Disciplinary Policy

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council is committed to maintaining the highest standards of openness, honesty and accountability. This whistleblowing policy plays a key part in maintaining those standards by requiring everyone to report appropriate concerns. The council's Code of Conduct for Employees makes this a specific obligation for all employees.
- 1.6 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Workers should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of. Any matter raised under this policy will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.
- 1.7 This policy enables staff and members to raise concerns about any financial or other malpractice in the council without fear of being subject to victimisation or discrimination for whistleblowing. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern.

2.0 Scope

- 2.1 This policy applies to all council employees (including Directors, Executive Directors, the Chief Executive and fixed term and temporary employees).
- 2.2 This policy also applies to other workers, such as casual workers, agency workers, supply workers, trainees, interim workers and contractors/suppliers.
- 2.3 This policy applies to council employees who work in council maintained schools.
- 2.4 Some matters relating to employment do not fall within the scope of this policy and are dealt with under separate arrangements. Out of scope of the confidential reporting (whistleblowing) policy are the following;
- Use of or decisions made under the disciplinary policy, grievance policy, collective grievance policy, dignity at work policy, sickness absence policy, performance and ill health capability policy or the probation policy – issues raised in relation to any of these policies should be addressed through the hearing process of those policies or the council’s formal appeals policy;
 - Use of or decisions made under the redundancy policy or the organisational change management policy – issues raised in relation to any of these policies should be addressed through the formal change consultation process or the council’s formal appeals policy;
 - Use of or decisions made under the right to request flexible working policy – issues raised in relation to this policy should be addressed through the appeal process contained within the specific policy;
 - Use of or decisions made under the recruitment and selection policy – issues raised in relation to this policy should be addressed through the complaints process contained within the specific policy;
 - Any matters relating to pay and grading or job evaluation including levels of pay remuneration, applications for grading, re-evaluation requests and job evaluation outcomes/appeals – should be dealt with through the job evaluation and grading process (policy) and the separate appeals policy for job evaluation;

3.0 Principles

- 3.1 The Public Interest Disclosure Act 1998 protects an individual making a protected disclosure from any form of detriment. A qualifying disclosure will be ‘protected’ if the employee reasonably believes that it is made “in the public interest”. ‘Detrimental treatment’ includes being unfairly penalised, disciplined or subjected to any other detriment, including suffering bullying or harassment from another employee, worker or individual. It is an integral part of this policy that individuals can ‘blow the whistle’ without fear of recrimination, reprisal, or be disadvantaged in any way.

- 3.2 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 whistleblowing is a way to help people to raise legitimate concerns or worries without opening themselves up to detrimental treatment or feeling like they are risking their job security for raising their concerns in the normal way.
- 3.3 You should report any serious concerns that are ‘in the public interest’ (see 3.4) and appear to involve illegal or unethical conduct:-
- 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 discrimination
 - unauthorised use of public funds
 - possible fraud or corruption
 - breach of any legal obligation
 - safeguarding children and vulnerable adults
 - deliberately concealing any of the above
- 3.4 A concern is only ‘in the public interest’ if it goes beyond matters of personal concern to you, that you have reasonable belief of such an act occurring, having occurred or likely to be committed. You should not use this policy 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 job evaluation and grading policy and appeal policies).
- 3.5 Sometimes, a concern may be ‘in the public interest’ but may also be something in which you have a personal interest. If this is the case, please tell the person that you raise your concern with of your personal involvement.

When should I report my concerns?

- 3.6 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. If you are not sure whether or not to raise a concern, you should first discuss the issue with your line manager or HR.
- 3.7 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 of an illegal or unethical nature 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.

Will the council protect me if I raise a genuine concern?

- 3.8 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, such protection does not apply to you if you raise a concern that you know to be untrue, malicious or vexatious, by knowingly disclosing false information; such instances will be followed up (where applicable) and may result in disciplinary action.
- 3.9 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.
- 3.10 The council does not tolerate any discrimination, harassment or victimisation and will take action to protect you if you have used this policy to raise a genuine concern regarding illegal or unethical conduct as described above.
- 3.11 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.
- 3.12 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. The effectiveness of any whistleblowing investigation may be limited where an individual chooses not to be identified.
- 3.13 Repeat complaints / concerns will not normally be reconsidered if the same or similar matter has previously been raised and dealt with under this policy.
- 3.14 When an individual makes a disclosure, the council will process any personal data collected in accordance with GDPR. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.
- 3.15 Any matters discussed as part of this process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.
- 3.16 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any

employee who makes a whistleblowing disclosure. Details of which can be found on the HR intranet pages.

- 3.17 The Council is committed to demonstrating principles of equality, diversity and inclusion throughout all its interactions and expect all employees to do the same under their duty to comply with the Code of Conduct. Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act to enable employees to fully participate.

4.0 Accountabilities

4.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- Acting on any disclosure brought to their attention, ensuring it is progressed through the appropriate channels and logged with the council's Monitoring Officer;
- Ensuring strict confidentiality is maintained throughout the process;
- Ensuring steps are taken to resolve any breakdown in relationships between employees following a whistleblowing disclosure;
- Ensuring that employees are aware of their responsibilities in accordance with this policy.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Raising any concerns as soon as possible with their line manager in the first instance or through alternative appropriate mechanisms;
- Ensuring that it is made clear the concern is being raised under the confidential reporting (whistleblowing) policy from the outset;
- Complying with the requirements of this policy and procedure.

5.0 Procedure

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

A process flowchart explaining the stages and responsibilities of this policy can be viewed in Appendix 1.

5.1 Step 1 – Raising concerns internally

- 5.1.1. 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.

- 5.1.2. 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.
- 5.1.3 You can choose whether to use the form attached at Appendix 2 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.
- 5.1.4 When raising any concern you must ensure that you clearly state that you are raising concerns under the confidential reporting (whistleblowing) policy.
- 5.1.5 If you feel unable to raise the matter with your manager or another senior manager in your area, for whatever reason, please raise the matter with one of the following:

Chief Officer Contact	Telephone Number
Director of Governance / Monitoring Officer	01922 654822
Director of HR, OD and Administration & Business Support	01922 655600
Executive Directors	
Adult Social Care, Public Health and Hub	01922 654710
Childrens and Customer	01922 654827
Economy, Environment and Communities	01922 654618
Resources and Transformation	01922 652322
Chief Executive	01922 652000

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 online 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 on 01922 655880 where you will be able to leave a voice recorded message.

- 5.1.6 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees / workers should not agree to remain silent. They should report the matter to one of the Directors or Executive Directors listed in the table at 5.1.5 above.

5.2 Step 2 – Recording and investigating concerns

- 5.2.1 Following the submission of a whistleblowing concern, the receiving manager must first ensure that the complaint meets the criteria outlined in 3.3 of this policy in order to be considered and progressed as a whistleblowing complaint. If the manager is unsure, they can seek advice from the Monitoring Officer or Director of Human Resources to see which of the Council's policies is the most appropriate route to consider the concern (e.g. the grievance policy or appeals policy maybe more appropriate for concerns of a personal nature).
- 5.2.2 Once satisfied that the complaint or part of the complaint is eligible to be reported under the confidential reporting (whistleblowing) policy the matter must be centrally recorded by the Council's Monitoring Officer. Whoever receives the complaint/concern must ensure they directly log the issue immediately with the Monitoring Officer and continue to provide brief details of the ensuing investigation and the outcome to the Monitoring Officer throughout the process (the CRP logging sheet provides a template to help submit the required information to the Monitoring Officer).
- 5.2.3 The recipient of the complaint, usually the line manager (or alternative appropriate person) will arrange an investigation into the matter (either by investigating the matter personally or immediately passing the issue to someone in a more senior position dependent on the concern).
- 5.2.4 Where there are or maybe potential employment implications in any whistleblowing concern the line manager (or person who carries out the investigation) must immediately inform the relevant HR Business Partner (if not done so already) and a disciplinary process may be initiated. Any disciplinary process may also run concurrently with a whistleblowing investigation if necessary.
- 5.2.5 The investigation may involve the worker/individual who raised the concern and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. All statements will be taken into account and the individual raising the concern may also be asked to comment on any additional evidence obtained.

- 5.2.6 Once the investigation is complete the line manager responsible for progressing the complaint will provide a copy of the final report, including the detail of the concern, the investigation findings and the outcome including any proposed recommendations (if appropriate) to the Monitoring Officer (by completing the CRP logging sheet and attaching the full report). The line manager will also take any necessary management action, including reporting the matter to any appropriate government department or regulatory agency (where appropriate).
- 5.2.7 Following conclusion of the investigation the line manager responsible for progressing the complaint will inform the worker/individual who raised the concern, of the outcome of the investigation including briefly what management action has been taken or is proposed (where this is appropriate). If no action is to be taken, the reason for this will briefly be explained.
- 5.2.8 An anonymous and summarised version of the CRP logging sheet maintained by the Monitoring Officer will be shared on a regular basis with the Council's Audit Committee.
- 5.2.9 **For concerns raised against Directors, Executive Directors or the Chief Executive;** an initial panel meeting will be held with an appropriate Executive Director, the Monitoring Officer and Director of Human Resources to jointly decide on the most appropriate person to take the investigation forward. In exceptional circumstances where it is considered not appropriate for an internal investigation, an external investigator may be appointed. Where the initial panel decide to use an external investigator, the rationale for this should be documented and will need to outline panel considerations and justify the decision. Consideration should include, whether there is an unbiased person at an appropriate level, with the required / specialist skill set available to conduct the investigation. (Please note where a complaint is raised against either the Monitoring Officer or the Director of Human Resources, they will be substituted on the panel by a second Executive Director or the Chief Executive as appropriate).
- 5.2.10 The appointment of an external investigator will be determined by the Monitoring Officer and/or Director of Human Resources as appropriate, and they will determine the required appropriate qualification of the investigator.
- 5.2.11 Where the outcome of an external investigation denotes potential disciplinary action, any further disciplinary investigations and the disciplinary process will be managed internally.
- 5.2.12 On the conclusion of any investigation raised against **Directors, Executive Directors or the Chief Executive;** the Monitoring Officer and Director of Human Resources will support the Executive Director or Chief Executive (as appropriate) to determine any necessary management action in response to the whistleblowing concern and where this does not otherwise form part of a subsequent disciplinary investigation/process.

5.2.13 The CRP logging sheet summarising the complaint, outcome and management actions still needs to be submitted to the Monitoring Officer (as per 5.2.6 of this policy).

5.3 Step 3 – Concerns over the investigation

5.3.1 If you are concerned that the investigating officer has failed to make a proper investigation or has failed to report the outcome of the investigation to the Monitoring Officer, please contact the Chief Executive on 01922 652000, who will either;

1) confirm that the Monitoring Officer is aware of the complaint, subsequent investigation and final outcome and that this has been appropriately recorded and will form part of a future report to be considered by the Council's Audit Committee; or,

2) arrange for another manager to review the investigation carried out, make any necessary enquiries and submit their own report to the Monitoring Officer, where the findings and outcome or recommendations of the second investigation are different to the first, this will be reported to the Corporate Management Team who will consider next steps and any appropriate management action (supported by the Monitoring Officer and/or Director of Human Resources – as appropriate).

5.3.2 If on conclusion of point 5.3.1 the individual raising the complaint reasonably believes that the appropriate action has not been taken, they have the option to report the matter to the proper authority. The relevant legislation sets out a number of bodies to which qualifying disclosures may be made, including:

- HM Revenue & Customs;
- the Financial Conduct Authority;
- the Competition and Markets Authority;
- the Health and Safety Executive;
- the Environment Agency;
- the Independent Office for Police Conduct; and
- the Serious Fraud Office.

5.4 Concerns relating to service users of social care for children or adults

5.4.1 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 Seeking external advice

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

- your trade union representative;
- Citizens Advice Bureau;
- the relevant professional body or regulatory body;
- the police;
- external auditors; or,
- Independent charity 'Protect' who offer information, support and advice on reporting public interest concerns, on 020 3117 2520 or at www.protect-advice.org.uk.

Hopefully, this policy 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.

5.6 Contact following raising a concern

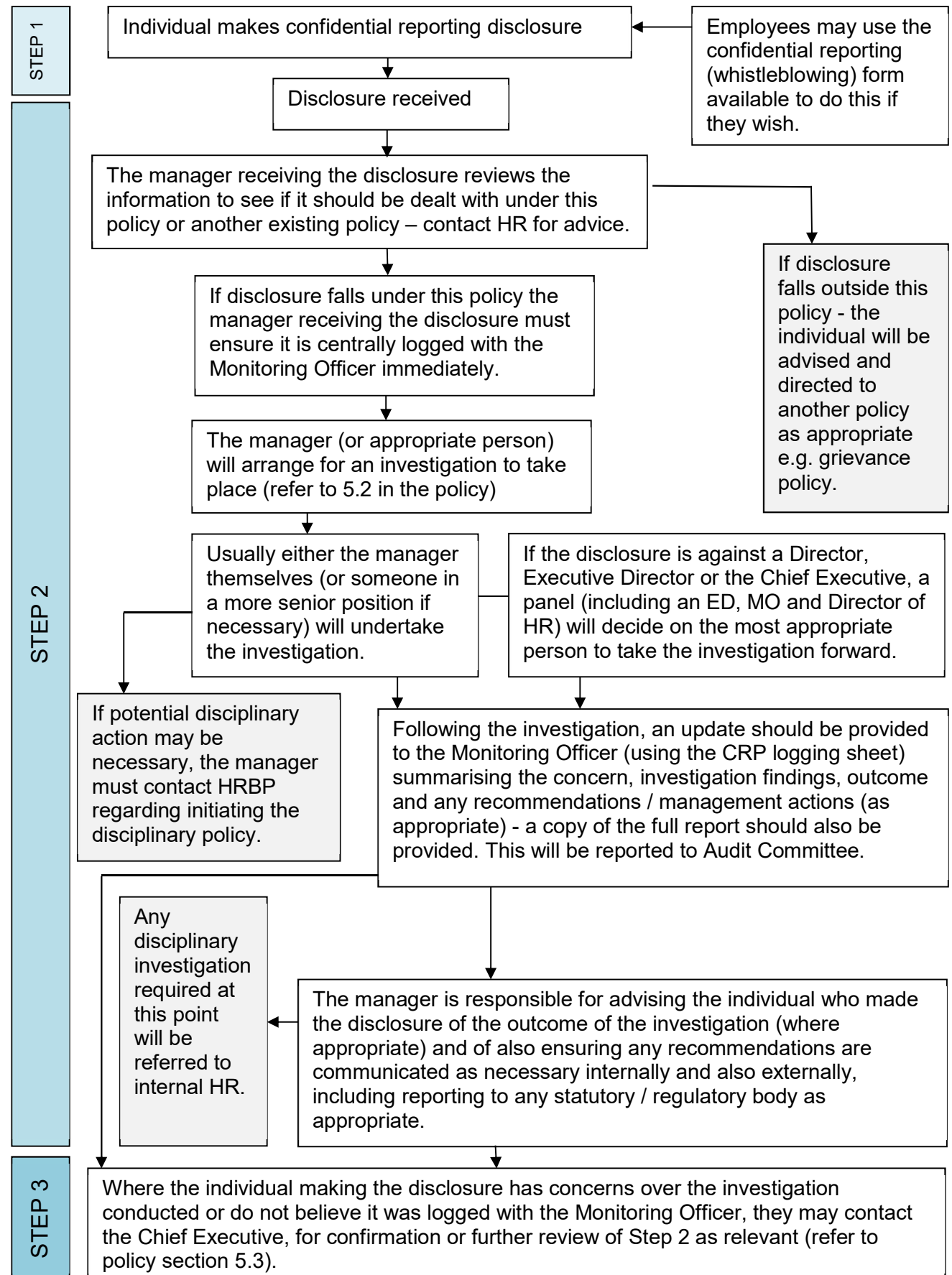
- 5.6.1 The amount of contact between you and those considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the council will seek further information from you. Where any meeting is arranged, off-site if you wish, you can be accompanied by a trade union representative or a work colleague (if you are an employee/worker).
- 5.6.2 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.
- 5.6.3 Where appropriate the matters raised may:
- Be investigated by management / internal audit, and/or result in a disciplinary process commencing;
 - Be referred to an external auditor / external investigator;
 - Form the subject of an independent enquiry;
 - Be referred to the police.
- 5.6.4 The council will give you as much feedback as is possible. 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.

6.0 Recording and monitoring concerns

- 6.1 The council's Monitoring Officer will maintain a list of concerns raised under this policy.
- 6.2 Whoever receives the concern must ensure they log the issue with the Monitoring Officer.

- 6.3 On conclusion of any investigation a copy of the final report and outcome must be submitted to the Monitoring Officer.
- 6.4 A report on the number and type of concerns raised and the outcomes will be taken to the Council's Audit Committee on a regular basis. The report will not include information identifying any whistleblower, information shared will be in accordance with the Data Protection Act 2018.

Appendix 1 – Process flowchart



Appendix 2 - Confidential Reporting (Whistleblowing) Form

Confidential Reporting (Whistleblowing) Form

Details of individual raising the concern	
Name of individual raising the concern:	
Job title – if you work for the council: If you are not a council employee/worker, please insert not applicable (n/a)	
Preferred contact method and details:	
If you are an employee/worker - does your public interest disclosure relate to your line manager?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Summary of disclosure:	
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.	

Names and contact details (including witnesses):

Please provide the names and contact details of any people referred to above who are involved in your concerns, including witnesses.

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 as an employee (if applicable).

Print Name:

Signature:

Date:

For completion by the organisation:

Date form received by the organisation:

Name of recipient

Job Title:

Signature:

Please ensure all confidential reporting disclosures are logged with the Monitoring Officer immediately using the CRP logging sheet and that any updates including the final outcome/report are also provided to the Monitoring Officer.

