

Part 12 H: Employee Whistle-Blowing Policy

1 INTRODUCTION

1.1 The Council:-

- Is committed to the highest possible standards of service, honesty and accountability.
- Believes that its employees can help maintain these standards.

1.2 Whilst the Council is subject to a wide range of external inspections and audits from various statutory and regulatory bodies, it recognises that wrong doing, whilst rare, can occur.

1.3 The Code of Conduct for Employees makes clear that the Council expects employees who have serious concerns about aspects of its work or practices which affect the integrity of the organisation or the safety of its employees or the general public (see paragraph 2.1 below for more detail) to come forward and voice those concerns. The Council's view is that its employees have an important part to play in reporting any such situations, since they can be the first to realise that some wrong doing is happening within the Council.

1.4 The Council recognises that employees may sometimes be reluctant to express their concerns because they feel that this would be disloyal to managers, employees and others in the Council. They may also fear harassment or victimisation. These factors could lead to employees ignoring the problem rather than reporting it, particularly if it is just a suspicion.

1.5 This document therefore seeks to:-

- Reinforce the Council's expectations that employees should raise serious concerns about wrong doing at work.
- Provide employees with guidance on concerns raised.
- Reassure employees they will be supported and protected from victimisation or harassment.
- Inform employees how they can take matters further if they are not satisfied with the Council's response.

1.6 The Whistle-Blowing policy is not a substitute for the Council's other policies and procedures on such matters as personal grievances, bullying and harassment or health and safety. It should also not be

used to raise matters relating to an employee's own terms and conditions of service.

2 SCOPE OF WHISTLE-BLOWING POLICY

2.1 The Whistle-Blowing policy is intended to provide for a protected disclosure of information in situations where employees have a reasonable belief that there is serious wrong doing at work by other employees, managers, Councillors, suppliers, contractors or others acting on behalf of the Council. Concerns, which should be raised, could be about acts or omissions, which have led, or could in the future lead to, future wrong doing within the Council. These include:-

- Conduct which is against the law, a miscarriage of justice, or fails to meet a legal obligation.
- Financial irregularities including fraud, corruption, poor value for money, or unauthorised use of public funds.
- Failure to observe health and safety regulations, or action which involves risks to the public or other employees.
- Action causing major harm to the environment.
- Employees claiming benefits to which they are not entitled.
- Sexual, racial, physical or other abuse of service users.
- Other cases of malpractice, negligent, unprofessional or unethical behaviour.
- Concealment of any of the above.

2.2 The Council believes that the procedures described in this document will provide employees with the means to raise issues internally but it also recognises that there may be exceptional occasions where external disclosure is appropriate. Annex 1 provides a flow chart of the whistle blowing process

2.3 Where the Whistle-Blower raises an issue about another employee's conduct then, following an initial investigation of the matter under the Whistle-Blowing policy, the matter may, if considered appropriate, be dealt with by management, as part of an appropriate personnel procedure, eg the Discipline or Capability procedure or Bullying and Harassment procedure.

2.4 This document does not cover school based employees, for whom separate procedures apply.

3 SAFEGUARDING FOR EMPLOYEES

- 3.1 The Council recognises that employees may sometimes be reluctant to raise concerns, and therefore stresses the following safeguards.
- 3.2 The Council will support and protect employees who raise a concern about the harassment/victimisation (including informal pressures). It will investigate any claim of harassment/victimisation and, depending on the outcome, may take action against the perpetrator in accordance with the Discipline or Capability procedure.
- 3.3 The Council will endeavour to protect employees from victimisation or harassment if they raise any concerns, in accordance with the safeguards contained in the Public Interest Disclosure Act.
- 3.4 Employees should only make allegations in good faith and where they know or reasonable suspect that serious wrong doing has occurred, is occurring or will occur. If the Council finds that an employee has made allegations maliciously or for personal advantage, it will take action against the employee in accordance with the Discipline or Capability procedure.
- 3.5 All reported wrong doings will be treated in absolute confidence, with every effort made by the Council not to reveal an employee's identity if they so wish. At the appropriate time, however, an employee may need to become an identified witness, particularly if it has not been possible to substantiate the allegations by other means. The implications of this and the setting up of appropriate support or protection arrangements will be carefully and sensitively discussed with the Whistle-Blower by management. However, once the Council is aware of an allegation of serious wrong doing, it will need to take appropriate action to investigate which may involve the identity of the whistleblower becoming known.
- 3.6 Employees raising concerns under the Whistle-Blowing policy, and managers to whom allegations are disclosed, must ensure that they maximise confidentiality in all areas, including amongst service users and other employees.

Anonymous Allegation

- 3.7 Anonymous allegations are those which are unsigned and unidentifiable. All allegations will be investigated, although employees need to be aware that anonymous allegations are much less powerful and are more difficult for the Council to act upon. The Whistle-Blowing policy encourages employees to put their names to the allegation.
- 3.8 In considering anonymous allegations, the Council will take the following factors into account:-
 - The seriousness of the matter raised.
 - The credibility of the allegation made.

- The likelihood of obtaining information from other sources which can confirm the allegation.

4 WHO TO CONTACT TO RAISE A CONCERN

4.1 Employees should, when raising an issue, make it clear that it is part of the Whistle-Blowing policy. Details should also, where possible, be provided in writing.

4.2 An employee raising an issue about serious wrong doing under this policy should contact the Corporate Director of their Department.

4.3 If:-

- (1) The employee considers the response of the Corporate Director is unsatisfactory or
- (2) Believes that the Corporate Director is involved in or has condoned, or taken no actions on, the wrong doing, or
- (3) Believes it necessary, for any good reason, to take the matter up outside their department, they should contact one of the following senior managers:-

- Chief Executive (ext 226323)
- Corporate Director - Resources (ext 226263)
- Assistant Director - Legal & Democratic Services/ Monitoring Officer (ext 227350)
- Assistant Director - Finance/Section151 Officer (ext 226587)
- Senior Manager - Audit (01228 226261)

4.4 In some situations an employee may wish to take advice from and/or involve a colleague or Trade Union representative. These may also be present during any subsequent meetings or interviews.

Whistleblowing on alleged fraud, corruption or poor value for money

4.5 Where the whistleblower is reporting a case of potential fraud or corruption or poor value for money, this must be reported to one of the following officers:

- Assistant Director - Finance (S.151 Officer) Tel 01228 226587
- Assistant Director - Legal & Democratic Services (Monitoring Officer) Tel 01228 227350
- Senior Manager - Audit Tel 01228 226261

Alternatively your suspicions can be reported via the Fraud Hotline by ringing 0800 3892330 or emailing the Fraud email account fraudreport@cumbriacc.gov.uk using the fraud referral form

This is in accordance with the Council's Counter Fraud and Corruption Policy.

Whistleblowing on alleged money laundering

4.6 Where the whistleblower is reporting a case of potential money laundering, this must be reported to one of the following officers, who act as Money Laundering Reporting Officers:

- Assistant Director - Finance Tel 01228 226587
- Senior Manager - Audit Tel 01228 226261

This is in accordance with the Council's anti money laundering policy which forms part of the Counter Fraud and Corruption Policy.

5 HOW THE COUNCIL WILL RESPOND

5.1 Depending upon the nature of the alleged serious wrong-doing, the Council will arrange for the matter to be:-

- Investigated internally by departmental management, Internal Audit or a senior manager from another department and/or
- Referred to the Audit Commission or investigated as part of an independent inquiry and /or
- Referred to the appropriate external enforcement agency (eg Health and Safety Executive, Environmental Agency) or the appropriate Government Department.

5.2 Investigations will be properly planned and controlled to ensure a thorough and speedy conclusion.

5.3 In some situations the problem may be resolved without the need for a major investigation. If urgent action is required, for example to secure relevant evidence or to protect the safety of individuals, this will be taken immediately.

5.4 All cases raised under this Policy, (whether addressed to the Director (paragraph 4.2) or outside the Department (paragraph 4.3) will be registered immediately by the manager with one of the officers outlined in paragraph 4.3(3), who will write to the complainant within 10 working days of the concern being raised. The letter will acknowledge receipt of the concern and indicate how the Council proposes to deal with the matter.

5.5 The Investigating Officer will provide the employee raising the concerns with initial feedback on the actions being taken, and the likely timescale, within 20 working days of the complaint being made. Thereafter, feedback will be provided on an agreed regular basis. Subject to any legal constraints, the Council will inform the Whistle-Blower of the outcome of the investigation.

5.7 The Council will identify an individual to provide support and advice to the employee raising the concern throughout the investigation and in any subsequent developments.

- 5.8 A contact/liaison officer will also be provided to any employee under investigation as part of a Whistle-Blowing complaint.
- 5.9 If the employee subsequently feels victimised or harassed as a result of raising a concern in accordance with this procedure, they should advise the person identified in paragraph 5.7 or anyone from the list in paragraph 4.3.
- 5.10 If the employee, when informed of the management response to the complaint is dissatisfied, they should put their concerns in writing to the Leader of the Council who will arrange for their concerns to be further considered.

6 WHAT SHOULD EMPLOYEES DO IF THEY ARE NOT SATISFIED WITH THE COUNCIL'S RESPONSE

- 6.1 The Council considers that the Whistle-Blowing policy provides effective mechanisms for employees to raise concerns internally. It establishes a range of contact managers, both in the employee's own department and within other Council departments. There is also a Responsible Officer to oversee the application of the Whistle-Blowing policy (see paragraph 7).
- 6.2 If an employee is dissatisfied with the Council's response through its internal procedures, they can consider contacting an external organisation. However, the Council would not expect employees to make disclosure to the press. If the employee feels it is necessary to raise the issue externally, they should contact the appropriate external organisation:-
- **Environment Agency** (PO Box 544, Rotherham, S60 1BY
Tel No: 08708 506506) – in relation to any planning/environment issues
 - **External Audit** (Grant Thornton, 4 Hardman Square, Spinningfields, Manchester M3 3EB Tel No: 0161 953 6900,) – in relation to any financial issues
 - **Health and Safety Executive** (2 Victoria Place, Carlisle CA1 1ER Tel No 01228 548482) – in relation to any Health & Safety issues
 - **Care Quality Commission** (Citygate, Gallowgate, Newcastle upon Tyne NE1 4PA Tel No: 03000 616161) – in relation to any Adult Services issues
 - **Ofsted** (Royal Exchange Buildings, St Ann's Square, Manchester M2 7LA Tel No: 08456 404040) - in relation to any Children's Services issues
- 6.3 Employees need to be careful and take advice before making an external disclosure and they should normally have used the internal procedure first.

- 6.4 The Public Interest Disclosure Act 1998 provides some employment protection rights to individuals who “blow the whistle” outside their organisation. However, the type of information, and the situations in which concerns are disclosed externally, are tightly defined in the legislation. The Act only protects those making disclosures which are considered to be in the public interest and therefore not all issues listed in paragraph 2.1 would be covered.
- 6.5 The Council must, however, reserve the right to take action in accordance with the Discipline or Capability procedure against an employee where an external disclosure is made which is damaging to the Council and is not protected under the terms of the Act.

7 THE RESPONSIBLE OFFICER

- 7.1 The Monitoring Officer is responsible for the operation of the Whistle-Blowing policy and will ensure that it is kept under review and updated. The policy will be subject to a formal review on a two-yearly basis.
- 7.2 Any employee who is dissatisfied with the application of this policy should contact the Monitoring Officer.

8 OTHER WORKERS AND SUPPLIERS

- 8.1 The Whistle-Blowing policy applies to Council employees and other workers, including freelance staff, temporary and agency staff, trainers, volunteers, consultants and contractors. The policy will be published to all such groups. Should such staff wish to raise a concern the procedures in this document should be followed.
- 8.2 This policy applies to all employees in organisations who work in partnership with the Council who wish to raise any concerns they may have.
- 8.3 The policy is also available to suppliers. They should raise any issue with the Client Officer or if not appropriate one of the following officers.
- Assistant Director - Legal & Democratic Services (Monitoring Officer) Tel 01228 227350
 - Assistant Director - Finance (S.151 Officer) Tel 01228 226587
 - Senior Manager - Audit Tel 01228 226261

This page is intentionally left blank