



WHISTLEBLOWING POLICY

1.0 INTRODUCTION

- 1.1 City of York Council is committed to achieving high standards of integrity and accountability. This policy provides a framework for employees and contractors, to raise concerns which they believe are in the public interest and may relate to illegal, improper or unethical conduct.
- 1.2 The Council tries to create an open environment in which employees and those working on behalf of City of York Council are encouraged to raise issues with the confidence that they will be acted upon appropriately.
- 1.3 The Public Interest Disclosure Act 1998 (PIDA) protects employees against detrimental treatment or dismissal as a result of any disclosure of information in the interests of the public. This policy is designed to conform to legislation¹ as well as guidance from the government and relevant bodies².
- 1.4 This policy should be used where there are concerns about consequences for other employees or the public, and does not apply to matters relating exclusively to one's own employment.
- 1.5 A guide for managers or other employees on how to proceed if they receive a whistleblowing report is contained in Appendix A of this policy.

2.0 AIMS AND SCOPE OF THE POLICY

2.1 The policy aims to:-

- encourage employees to raise any serious concerns they have about their workplace or working practices;
- ensure that employees get a response to their concerns and that they are aware of how to pursue them if they are not satisfied with any action or inaction; and
- assure employees that if they raise any concerns in the public interest, action will be taken to protect them from possible reprisals or victimisation.

2.2 This policy applies to any person working for the Council. This includes both permanent and temporary staff, staff from maintained schools and also covers agency personnel and staff seconded to or from a third party. Contractors working for the Council may also use the provisions of this policy to make the Council aware of any relevant concerns and will receive

¹ PIDA 1998 was updated by the Enterprise and Regulatory Reform Act 2013.

² Whistleblowing guidance has been issued by the Department for Business, Energy & Industrial Strategy, the National Audit Office and the charity, Public Concern at Work.

the same protections from their own employer as if they worked for the Council.

- 2.3 Protection under PIDA is not provided to job applicants, self employed workers or volunteers, however concerns can still be reported through whistleblowing channels.
- 2.4 Set out below is a list of circumstances that should be reported through this policy and qualify for protection under legislation:
- a) a criminal offence has been committed, is being committed or is likely to be committed, e.g. corruption, theft, or fraud³;
 - b) a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject, e.g. breach of any statutory Code of Practice;
 - c) a miscarriage of justice has occurred, is occurring or is likely to occur;
 - d) the health or safety of any individual has been, is being or is likely to be endangered, e.g. abuse of any vulnerable adult or child;
 - e) the environment has been, is being or is likely to be damaged; or
 - f) information tending to show any matter falling within any of the above categories has been, is being or is likely to be deliberately concealed, e.g. failure to take reasonable steps to report or resolve any situation which is likely to cause significant financial loss to the Council.
- 2.5 This whistleblowing policy is intended for people to raise concerns that are in the public interest and where the interests of others or of the organisation itself are at risk. It is intended to supplement, rather than to replace, other employment procedures whereby employees of the Council may already raise complaints or matters of genuine concern relating to their own employment.

3.0 SAFEGUARDS

- 3.1 The Council recognises that the decision to report a concern can be a difficult one to make. In many cases it is employees who are most likely to be in the best position to learn of any malpractice or wrongdoing within the Council or school setting and to identify something which falls below the standards which the Council and the public are entitled to expect. The Council is grateful to all employees who report their concerns.
- 3.2 Employees should have nothing to fear by reporting their concerns, if what they are reporting is true (or they honestly believe the information is true

³ If clarification is required as to whether an issue constitutes a criminal offence or comes under any other section on this list then employees and contractors can contact Veritau for advice.

even if it is later found out to be incorrect). No action will be taken against anyone genuinely reporting a concern.

- 3.3 Deliberately providing false or misleading information however is a serious matter which may result in disciplinary action being taken. Equally deterring another employee from reporting their concerns is a serious matter and also may result in disciplinary action.
- 3.4 The Council will not tolerate the harassment or victimisation of anyone who has raised a concern. However, it is recognised that an individual may nonetheless want to raise a concern in confidence under this policy. If a member of staff asks the Council to protect their anonymity, efforts will be taken to protect their identity from being disclosed. If a situation arises where a concern cannot be resolved without revealing their identity (for instance, because evidence is needed in Court or will be revealed as part of a subsequent investigation) this will be fully discussed with the employee in question.
- 3.5 The policy encourages employees to put their names to allegations. Concerns expressed anonymously will still be considered by the Council, however complaints of this type are much less powerful and harder to substantiate and therefore will be treated with a degree of caution. It will also not be possible to provide feedback to the member of staff reporting the concern during or following any investigation. Anonymous reports are preferred to silence however.

4.0 HOW TO RAISE A CONCERN

- 4.1 Employees should normally raise concerns with their immediate line manager. However, if it is believed that your line manager is involved in the malpractice being reported or has failed to take appropriate action when the matter has been raised previously, then your concern should be raised with your Assistant Director, or in the case of school based staff, the Chair of Governors.
- 4.2 It is, however, appreciated that there may be times when an employee feels unable to use the above procedure; the issue may involve line managers and senior officers (e.g. AD or Director) or the issue was already raised through the normal channels but had not been addressed or resolved. In these cases the employees can contact the Council's independent whistleblowing hotline on 0800 9179 247, which is overseen by Veritau Ltd.

5.0 HOW THE COUNCIL WILL RESPOND

- 5.1 All whistleblowing reports will be carefully considered and initial enquiries will be made to help decide whether an investigation is appropriate, and if so what form it should take.
- 5.2 The line manager or the officer who has been assigned to carry out the whistleblowing investigation will endeavour to write or speak to the whistleblower within 10 working days to acknowledge that the concern has been received.
- 5.3 Officers assigned to investigate a whistleblowing report will be determined by the nature of the report, e.g. safety issues could be investigated by the Health & Safety Team, alleged fraud or criminality by the Counter Fraud Team, employment issues by a manager from another service with support from Human Resources.
- 5.4 The amount of contact between the officers considering the issues and the whistleblower, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the whistleblower.
- 5.5 If a face to face meeting is necessary or desirable the whistleblower has the right, if they so wish, to be accompanied by a Union representative who is not involved in the area of work to which the concern relates.
- 5.6 The Council will, as far as it is able, take steps to minimise any difficulties which the whistleblower may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the Council will, where appropriate and as far as it is able to do so, provide advice about the procedure.
- 5.7 The Council accepts the whistleblower needs to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, e.g. data protection, information about the outcomes of any investigations will be provided.
- 5.8 All whistleblowing reports will be logged centrally. The chief executive, section 151 officer and monitoring officer will be notified of relevant whistleblowing reports. Numbers of whistleblowing reports and significant trends in reporting will be reported annually to the Audit and Governance Committee.

6.0 HOW MATTERS CAN BE TAKEN FURTHER

6.1 This policy is intended to provide staff with an appropriate avenue to raise concerns within the Council. If employees have reported concerns in accordance with the Council's whistleblowing policy but are not satisfied that the issues have been properly addressed then they may contact:

- The Council's External Auditor - Mazars⁴;
- The NSPCC or Ofsted (for concerns about children at risk of abuse)⁵;
- Relevant professional bodies or regulatory organisations⁶, for example, the Information Commissioner's Office, Care and Quality Commission (CQC), and the Health and Safety Executive.

6.2 Disclosure of a concern to a non-prescribed body (e.g. newspapers or social media) is not covered by whistleblowing legislation and the protections it offers. Before undertaking this type of action it is recommended that staff seek specialist advice.

7.0 INDEPENDENT ADVICE

7.1 Free confidential advice on how to raise a concern about malpractice at work can be sought from the independent charity Public Concern at Work on 0207 4046609, at www.pcaw.co.uk, or via email whistle@pcaw.co.uk. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

8.0 REVIEW OF THE POLICY

8.1 The Policy will be reviewed at least every 3 years or when significant changes to whistleblowing legislation, the organisation or case law occurs.

⁴ Mazars act as the council's external auditor (see www.mazars.co.uk for further details).

⁵ The NSPCC and Ofsted offer dedicated national whistleblowing hotlines (see www.nspcc.org.uk and www.gov.uk/government/organisations/ofsted for further details).

⁶ The Department for Business, Innovations and Skills maintains a list of prescribed persons and organisations who may be contacted, www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies.



Managers Guidance on Whistleblowing

1.0 **Introduction**

- 1.1 The Council's whistleblowing policy is designed to encourage and support employees and contractors in expressing their concerns about the workplace.
- 1.2 All Council employees in managerial or supervisory positions are expected to take employee concerns seriously and follow the process set out in this guidance.

2.0 **What is a whistleblowing complaint?**

- 2.1 Any concern about working practices or malpractice that is reported in confidence should be considered under the whistleblowing policy. It is not necessary for a member of staff or contractor to use the term "whistleblowing" in order for a report to be considered under the policy.
- 2.2 Whistleblowing relates to concern for others rather than oneself. If a member of staff is reporting that they solely have been mistreated, then this should be considered under other Council policies, e.g. Grievance Procedure.
- 2.3 Whistleblowing reports must come from Council workers (including temporary members of staff and contractors). Reports from members of the public are not considered to be whistleblowing and should be directed to the Council's Complaints and Feedback Team.
- 2.3 Whistleblowing reports can be made anonymously however the person making it should be informed that reporting concerns in this way carries less weight (see section 3.5 of the whistleblowing policy).
- 2.4 Any report that falls within the categories set out by legislation (see section 2.4 of the whistleblowing policy) afford the whistleblower protection under law. It is important to make this determination at an early stage in order to ensure that the whistleblower is given correct advice and the Council acts in accordance with legislation.
- 2.5 If, after consulting the whistleblowing policy, there is a doubt as to whether a report constitutes whistleblowing then advice should be sought from Veritau and/or the Human Resources department in order to reach a conclusion.

3.0 **Reporting receipt of a whistleblowing concern**

- 3.1 All whistleblowing reports should immediately be reported to three parties:

- Assistant Director in charge of area or Chair of Governors in the case of a school.
 - Human Resources advisor responsible for area;
 - Veritau – Internal Audit & Counter Fraud Service⁷.
- 3.2 If the report involves any of the people or groups named above then the report should be escalated to a more senior officer, e.g. Director, Chief Executive, Head of Internal Audit, or Assistant Director for Education (in the case of schools).
- 3.3 Veritau maintains the Council's central log of all whistleblowing reports. They should be updated at the beginning and the end of any whistleblowing investigation in order to keep a complete record of the report and how it was dealt with.
- 3.4 In some cases, the details of the initial report will be sufficient to determine that it will not fall under whistleblowing policy. In this situation the member of staff making the report should be informed of the reasons why their concern is not covered and be signposted to an alternative route. A record of this discussion should be kept and an outline of the matter should be sent to Veritau to be entered in the central log.
- 4.0 **Taking a concern forward**
- 4.1 The person who first receives the whistleblowing report (i.e. supervisor or manager) should arrange a meeting with the whistleblower as soon as possible (ideally within 10 days, see section 5.2 of the whistleblowing policy) to gather additional information on the report. This meeting should flesh out the initial report and help determine how the report should be investigated.
- 4.2 This initial meeting can be done in person, in or outside Council offices, or via telephone. It is important to find an environment that the member of staff feels comfortable with. They may be supported by a trade union representative or colleague. A note taker can be brought to the meeting with prior agreement from the whistleblower.
- 4.3 If anonymity is requested then every effort should be made to keep the whistleblower's identity concealed. Anonymity however cannot be guaranteed. If there is a possibility due to the circumstances of the report that the whistleblower's identity will become known, then they should be advised of this at the earliest possible stage.

⁷ Veritau should be contacted via whistleblowing@veritau.co.uk

- 4.4 A record of this meeting should be written either contemporaneously or shortly following the meeting. These notes must be kept securely.
- 4.5 No commitments should be made about the process or outcome of the whistleblowing report, however they should be reassured that their concerns will be taken seriously.
- 4.6 Following the meeting further details should be provided to the Assistant Director (or more senior manager) in charge of the area and Veritau. The relevant Assistant Director (or more senior manager), with advice from Veritau, will assign the investigation to a suitable person. This may be the manager who initially took the whistleblowing report or a member of staff from another area. In cases of potential criminality or health and safety then Veritau and the Health and Safety Team respectively will normally take the responsibility for investigating the concern.
- 5.0 **Conducting an investigation**
- 5.1 At the outset of an investigation the person responsible for looking into the concern should inform the whistleblower that they are taking the matter forward.
- 5.2 Updates during the course of the investigation should be provided to the whistleblower but only if it is appropriate (e.g. is data protection observed) and does not prejudice the investigation. If this is the case then it may be appropriate to only update the whistleblower once the investigation has concluded.
- 5.3 It is advisable that notes are taken throughout the investigative process in terms of actions taken and conclusions reached.
- 5.4 The anonymity of the whistleblower should be considered before any and all actions are taken in connection with the investigation. If a situation arises where it is not possible to resolve the whistleblowing report without the identity of the whistleblower becoming known, then this should be reported to and discussed with that person before the action is taken. The person's name should only be made known to other employees on a need to know basis. Equally if the whistleblowing report is about a specific person then that person's identity should be also be protected.
- 5.5 At the conclusion of an investigation a report should be drafted outlining any supporting or non-supporting evidence, conclusions reached, and recommendations. This report should be sent to the senior responsible manager (ie Assistant Director), Veritau, and if relevant the HR advisor assigned to the case.

6.0 Special Circumstances

Anonymous Concerns

- 6.1 If a concern has been made anonymously then it must still be treated as credible and dealt with through the procedure detailed in this guidance.

Victimisation

- 6.2 If the whistleblower reports that their identity has become known and they are being victimised then this should be reported to the relevant HR advisor as soon as possible. The Council may be in contravention of whistleblowing legislation if action is not taken to address this.

Vexatious / Malicious reports

- 6.3 If a whistleblower acts in bad faith or raises malicious, vexatious, or knowingly untrue concerns in order to harm colleagues, their department or the Council then they will face disciplinary action. If you suspect this is the case then this should be reported to the relevant HR advisor as soon as possible.

External Disclosures

- 6.4 It is important to be supportive and encouraging to those raising a concern. However, if an employee indicates that they are considering taking their concerns outside of the Council, for example to the media or social networking sites, you should advise them that:

- you will not be able to support them if they do so;
- external disclosures to outside bodies may not be covered by the whistleblowing policy and relevant legislation;
- their actions may represent an unauthorised disclosure;
- they could jeopardise any legal protection they may have; and
- they could face disciplinary action themselves.

- 6.5 If a whistleblower does make an external disclosure then this should be reported to the relevant HR advisor and Veritau as soon as possible. Some types of disclosure are covered by national legislation but a consideration of whether this was an appropriate action should be considered on a case by case basis.

Support

- 6.6 If you have any queries or issues concerning whistleblowing then seek advice from your manager, the HR department or Veritau.