

CITY OF YORK COUNCIL

**WHISTLE-BLOWING POLICY AND
GUIDELINES**

OVERVIEW

This document provides guidelines to employees and managers on how to make and deal with issues raised under the Public Interest Disclosure Act 1998.

Policy Guidelines for Employees

1. What is 'whistleblowing'?

- a. Whistleblowing refers to the reporting of any serious malpractice taking place within the Council.

2. What concerns can I raise under the policy?

- a. The Public Interest Disclosure Act states that you may be protected when you raise a concern for certain reasons. The following provides an indication of the concerns you can raise under this policy:

- fraud, corruption or financial irregularities,
- the physical, mental or sexual abuse of clients,
- breaches of health & safety policy and dangerous practices,
- criminal conduct,
- serious damage to the environment,
- failure to comply with a legal obligation,
- money laundering;
- miscarriage of justice.

- b. If you are unsure as to whether it is appropriate to raise a concern under this policy you can seek advice from your line manager, departmental Human Resources team, the Council's Money Laundering Reporting Officer (Head of Legal Services), trade union representative or one of the Council's designated Whistleblowing Advisers. School based staff can also seek advice from the Headteacher, Chair of Governors or a member of the school management team.

- c. The malpractice might be carried out by Council employees, contractors, consultants, elected Members or school governors.

3. Will my identity be kept confidential?

- a. It is in the Council's interest that concerns are raised so we can put them right and we will protect workers who voice concern, this includes protecting the confidentiality of the worker. However, you should be aware that if a concern is to be investigated, you will be asked to provide information and your identity may have to be disclosed. If this is the case, you will be informed in advance and the Council will make

sure you are given support and protection. The Council will work to ensure that only those involved in the investigation are aware of your identity.

- b. The Council wants people to give their name when making an allegation so that we can check the facts and make sure the it is not merely malicious or mischievous. If you feel unable to give your name this should not stop you reporting your suspicions. Anonymous allegations will be considered but will be much more difficult to investigate. All documentation relating to the concern raised will be kept confidential and in a secure place.

4. Will I be protected from victimisation?

- a. It can be difficult for workers to raise concerns and the Council will provide support for those that do. We will not tolerate victimisation or harassment of those who raise genuine concerns and will treat these actions as a serious disciplinary offence.

5. What happens if a malicious allegation is made?

- a. If the Council believes that you made an allegation frivolously, maliciously or for personal gain you will face disciplinary action.

6. What will happen if my concern is not upheld?

- a. You may raise a genuine concern that is not upheld by an investigation. In such circumstances you will be thanked for raising your concerns. No action will be brought against you. You will continue to be protected against harassment.

7. Who can I raise a concern with?

- a. This will often depend of the nature of the allegation and how serious it is. Normally you should raise any issues with your immediate line manager. If however, you feel that the matter cannot be resolved by talking to your line manager you can speak to their line manager or your Head of Service. Schools based workers can raise concerns with their Head of Department, Headteacher or Chair of Governors. You can seek advice from your departmental Human Resources Team, the Council's Money Laundering Reporting Officer (Head of Legal Services), or trade union representative on the most appropriate way of reporting your suspicions.

- b. If you do not feel able to contact any of these people you can talk to any one of the Council's designated Whistleblowing Advisers who are responsible for making sure that an enquiry is made in response to all concerns raised. Suzan Hemingway, Head of Civic, Democratic and Legal Services, is the lead officer in the Council for Whistleblowing and can be contacted on extension 1004.

The Council's other Whistleblowing Advisers are:

Directorate advisers:

Graham Terry, Housing and Adult Social Services ext 4004
Kevin Hall, Learning, Culture and Children's Services ext 4202
Sian Hansom, City Strategy ext 1505
Sarah Kirby, Neighbourhood Services ext 3109
Tricia Pearce, Resources, ext 2911
Kevin Banfield, Chief Executive's, ext 1723

Corporate advisers:

Suzan Hemingway, Head of Civic, Democratic and Legal Services, ext 1004
Liz Ackroyd, Assistant Director (audit & risk management), 1706
Max Thomas, Audit and Fraud Manager, ext 2940
Jamie Sims, Acting Head of Human Resources ext 1711

- c. If you have concerns about the possible misuse of public funds you should contact your line manager or the Chief Internal Auditor on 551706. Concerns regarding suspected benefit fraud should be raised with the Council's Fraud Team on 552917 or via the 24 hour Benefit Fraud Hotline on 552935. Alternatively you can e-mail benefit.fraud@york.gov.uk
- d. Where you know or suspect that money laundering activity is taking/has taken place, or you become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the Council's Money Laundering Reporting Officer (MLRO). This is the Head of Legal Services. Initially, this disclosure may take the form of an informal discussion with the MLRO to clarify the suspicions. Please note, failure to report a money laundering offence is a criminal act in itself. Your disclosure should then be made to the MLRO using the proforma report which can be found in Appendix A of the Council's Anti-Money Laundering Guidance Note.

- e. The Council recognises that you may wish to seek advice and be represented by your Trade Union when using this policy. The Council acknowledges and endorses the role trade union officers can play in helping to identify concerns and alert management of these.

8. What if I am an Elected Member?

- a. Whistleblowing is not a means of political opposition because it involves officers in the investigation process and provides people who raise concerns with protection including, where possible, anonymity.
- b. Elected Members have many opportunities to question officers, participate in decision making or review decisions made. Elected Members are encouraged to use the substantial opportunities available to them through the democratic process to engage and consider decisions or call in decisions to be looked at in the overview and scrutiny process. In addition Elected Members have other means of raising concerns, including the responsibilities under the Code of Conduct.
- c. The Head of Civic, Democratic and Legal Services is available to advise Elected Members on the options open to them to raise a matter or concern.
- d. If you are an Elected Members who wishes to raise concerns under this policy, you should contact the Monitoring Officer (the Head of Civic, Democratic and Legal Services or the Chief Executive. If a worker raises a concern with an Elected Member, the Elected Member should refer the worker to the procedure as outlined in paragraph 7 a-e.
- e. Concerns raised by Elected Members under this policy will be subject to the same process as other concerns, as detailed below.

9. What if I am a school Governor?

- a. School Governors who wish to raise concerns under this policy should contact a designated Whistleblowing Adviser, the Director of Learning, Culture and Children's Services or the Chief Executive.

10. What information should I give when raising a concern?

- a. You should make it clear that you are raising your concern under the Whistleblowing Policy. You should let us know your concerns as early as possible and provide as much factual information as you can. This should include names, dates, places, history and why you are concerned. You should also provide your name and contact number if you feel able to do so. You can provide this information in writing and you are encouraged to do so using the Council's Whistleblowing Report Form, if you wish but this is not necessary.
- b. If you are reporting money laundering or suspected money laundering you should complete the proforma report which can be found in Appendix A of the Council's Anti-Money Laundering Guidance Note, in as much detail as possible.
- c. You will receive a written acknowledgement of your concern within 10 days of raising the concern.

11. What are the roles and responsibilities of those involved?

- a. The following people will fulfil the roles and responsibilities described:

Complainant	The complainant is the person who has raised the concern under the Whistleblowing Policy
Whistleblowing Advisers	Whistleblowing Advisers are Council employees who are responsible for receiving reports of suspected malpractice or wrongdoing, and for ensuring that the appropriate officers are informed. The Whistleblowing Adviser will inform the relevant Director (unless the Director concerned is potentially implicated), the Head of Human Resources and the Chief Internal Auditor (where the concern relates to a financial matter) that a report has been received. If the relevant Director is potentially implicated, the Adviser will inform the Chief Executive.
The Council's Money Laundering Reporting Officer (MLRO)	This is the Head of Legal Services. The MLRO will determine the most appropriate course of action in accordance with the Council's Money Laundering guidance, but is responsible for reporting all suspected money laundering activities to the Serious Organised Crime Agency (SOCA).

WHISTLE-BLOWING GUIDELINES

Director	<p>The relevant Director is the Director of the service area to which the concern relates. The Director is responsible for determining the scope and objectives of the initial enquiries, for nominating a Chief Officer or the Chief Internal Auditor to undertake the initial enquiries and for informing the Chief Executive that a concern has been raised. The Director is also responsible for deciding, based on the findings of the initial inquiries, if a full investigation is required. If a full investigation is required, the Director is responsible for nominating a Senior Officer / the Chief Internal Auditor to undertake the investigation, for overseeing the investigation and deciding what action to take upon completion of the investigation. Where the concern relates to possible fraud, corruption or financial irregularities then the investigating officer will normally be the Chief Internal Auditor. Where the investigation relates to a financial matter then any decision by the Director will be taken in consultation with the CFO.</p> <p>If the relevant Director is potentially implicated in the matter this role will be undertaken by the Chief Executive, or another Director nominated by the Chief Executive.</p>
Chief Officer	<p>With the exception of suspected fraud, corruption or financial irregularities, the Chief Officer is the person who will undertake any initial enquiries into the concern which has been reported and for completing this work in a timely manner.. The Chief Officer will be nominated by the relevant Director i.e. the Director of the area to which the concern relates.</p>
Chief Internal Auditor (CIA)	<p>This is the Assistant Director (Resources) – Audit and Risk Management. The CIA is responsible for conducting any initial enquiries into suspected financial irregularities, fraud or corrupt practice. In accordance with Financial Regulations, the CIA will report his/her initial findings to the Council's Chief Finance Officer (CFO) and the Chief Executive. The CIA may also be required to conduct any subsequent investigation (where the matter is of a financial nature).</p>
Chief Finance Officer (CFO)	<p>This is the Director of Resources. The rights and responsibilities of the CFO are set out in the Council's Constitution and Financial Regulations. Where a whistleblowing concern is found to relate to a breach of the Council's Financial Regulations then the CFO may require specific remedial action is taken in accordance with the sanctions and remedies set out in the Regulations.</p>
Senior Officer	<p>The Senior Officer is the nominated person who will undertake the full investigation into the concern, if one is required. The Senior Officer will report his/her findings to the Director.</p>

12. What is the procedure for investigating a concern?

Stage 1 – Initial enquiries

- a. Initial enquiries will be made by a Chief Officer, who will be nominated by your Director (unless that Director is potentially implicated in the matter) or the Chief Internal Auditor (where the concern relates to possible fraud, corruption or other financial irregularities). If the relevant Director is potentially implicated in the matter the initial enquiries will be undertaken by the Chief Executive, or another Director nominated by the Chief Executive. The purpose of the initial enquiry is to determine whether an investigation is appropriate and, if so, what form it should take. The Director will notify the Head of Human Resources, the Chief Internal Auditor and the Chief Executive that they have been notified of a concern and that they will be making initial enquires.
- b. As part of the initial enquiries the Chief Officer or Chief Internal Auditor will determine whether the concern raised falls within the scope of the Whistleblowing Policy.
- c. The Chief Officer or Chief Internal Auditor will write to you within 10 working days of receiving the reported concern, thanking you for raising the concern, and informing you of;
 - what action has already been taken
 - what we intend to do next
 - how long we think this will take
 - whether any more information is required from you.
- d. Once the initial enquiries are complete the Chief Officer or Chief Internal Auditor will prepare a report setting out their findings and recommendations. The report will be sent to the Director and the Chief Finance Officer (where the matter is of a financial nature). The Director will decide what further action to take. Where the matter relates to suspected fraud, corruption or other financial irregularities then any decision will be taken in consultation with the Chief Finance Officer.
- e. Some concerns may be resolved without the need for full investigation, for example, if the issue has already been investigated in the past with a successful resolution. We will contact you and inform you if the matter is not to be further investigated and why.

- f. Any decision to take further action will depend on the nature of the concern which has been raised. The concern raised may:
- be investigated internally (the most likely option);
 - be referred to the Police or other appropriate agencies e.g. criminal acts;
 - be referred to the external auditor;
 - form the subject of an independent inquiry;
 - or be subject to any combination of the above.

Stage 2 – Full Investigation

- g. If the concern is to be investigated internally, the investigation will be lead by a Senior Officer. Where the concern relates to possible fraud, corruption or financial irregularities then the investigating officer will normally be the Chief Internal Auditor. The Senior Officer or Chief Internal Auditor will report to the Director and the Chief Finance Officer (where the matter being investigated is of a financial nature). If the matter concerns a senior officer, both the initial enquiry and any investigation will normally be lead by a Director from a different department. If the matter concerns the Chief Executive, the Leader of the Council will be responsible for ensuring the matter is investigated.
- h. If we need to meet you, the Senior Officer or Chief Internal Auditor will contact you to see how we can do this whilst maintaining confidentiality. If you are required to give evidence to an investigation we will provide you with appropriate advice and support. You may bring along a trade union representative or friend to any meetings it is necessary for you to attend. Your departmental Human Resources Team will advise you on how you can be supported throughout the process.

Outcome

- i. Providing that there are no legal constraints, we will let you know the outcome of the investigation so that you can see the matter has been properly addressed. This will be done in writing within 10 days of the investigation being completed. We will, of course, respect confidentiality in doing so.
- j. One possible outcome of a full investigation is that the Council needs to use its disciplinary procedure to take action. Where this is the case

you will be informed if you are required to take part in the process and what this will involve.

13. How long will the initial enquiries and, if required, a full investigation, take?

- a. It depends on the nature of the concern and the complexity of the investigation how long it will take to undertake the initial enquiries and, if required, a full investigation. However the Council will treat your concern as a priority and will act as quickly as possible.
- b. You will be informed of the outcome of the initial enquiries in writing within ten days of the completion of the enquiries.
- c. If a full investigation takes place, providing that there are no legal constraints, you will be informed of the outcome of the investigation in writing within ten days of the completion of the investigation.

14. Can I raise my concern with an external body?

- a. This policy encourages you to disclose concerns **within** the Council. External disclosures to other bodies should only be made in exceptional circumstances, for example, if you have already raised your concern and no action has been taken or there has been a cover up or if you reasonably believe your allegation will not be properly investigated. You are encouraged to seek advice, e.g. from your trade union representative, before making an external disclosure.
- b. In such circumstances workers can make disclosures to the following contact points:
 - Trade Union
 - District Auditor
 - The Police
 - Public Concern at Work
 - Health & Safety Executive

- c. Employees and workers of the Council have a duty not to undertake any actions that may bring the Council in to disrepute (see Employee Code of Conduct). If you do decide to report your concerns outside the Council, you must ensure you have very good reason for doing so as outlined above and you must not disclose confidential information. Workers should raise concerns with the external bodies above and not with others, such as the press.

Guidelines for Managers/Whistleblowing Advisers

Summary

1. These guidelines provide information for managers and Whistleblowing Advisers on how to respond if a concern is raised with you under the Council's Whistleblowing Policy. At all stages you should seek advice from your own line manager/Director and Human Resources.

Procedure

2. Managers and Whistleblowing Advisers who receive a concern raised under the policy should immediately inform their Director (and the Director of the Complainant if this is a different person), the Head of Human Resources, and the Chief Internal Auditor (where the matter being raised is of a financial nature). The Director of the complainant will be responsible for informing the Chief Executive that a concern has been raised.
3. Within 10 working days of the concern being raised, the Director or Chief Internal Auditor should write to the whistleblower acknowledging their concern, and outlining:
 - what action has already been taken
 - what happens next
 - how long they think this will take
 - whether any more information is required.
4. If the concern relates to money laundering, the matter should be passed to the Council's Money Laundering Reporting Officer (Head of Legal Services).

Stage 1 – Initial Enquiries

5. Initial enquiries will be made by a Chief Officer, who will be nominated by the relevant Director (unless that Director is potentially implicated in the matter) or the Chief Internal Auditor (where the concern relates to possible fraud, corruption or other financial irregularities). If the relevant Director is potentially implicated in the matter the initial enquiries will be undertaken by the Chief Executive, or another Director nominated by the Chief Executive. The purpose of the initial enquiry is to determine whether an investigation is appropriate and, if so, what

form it should take. The Director will notify the Head of Human Resources, the Chief Internal Auditor and the Chief Executive that they have been notified of a concern and that they have commissioned initial enquires.

6. As part of the initial enquiries the Chief Officer or Chief Internal Auditor will determine whether the concern raised falls within the scope of the Whistleblowing Policy.
7. Once the initial enquiries are complete the Chief Officer or Chief Internal Auditor will prepare a report setting out their findings and recommendations. The report will be sent to the Director and the Chief Finance Officer (where the matter is of a financial nature). The Director will decide what further action to take. Where the matter relates to suspected fraud, corruption or other financial irregularities then any decision will be taken in consultation with the Chief Finance Officer.
8. The Director will write to the person who raised the concern within 10 working days of the completion of the initial enquiries informing them of:
 - what action has already been taken
 - what the Council intends to do next
 - how long this will take
 - whether any more information is required.
9. Some concerns may be resolved without the need for full investigation, for example, if the issue has already been investigated in the past with a successful resolution. Where this is the case the person who raised the concern will be contacted and informed that the matter is not to be further investigated and why.
10. Any decision to take further action will depend on the nature of the concern which has been raised. The concern raised may:
 - be investigated internally (the most likely option);
 - be referred to the Police or other appropriate agencies e.g. criminal acts;
 - be referred to the external auditor;
 - form the subject of an independent inquiry;
 - or be subject to any combination of the above.

11. If the Director has cause to believe that the Complainant raised a frivolous or malicious allegation, or raised the concern for personal gain, they will take the appropriate action under the Council's disciplinary procedure, or in the case of Elected Members, report the matter to Standards Committee.

Stage 2 – Full Investigation

12. If the concern is to be investigated internally, the investigation will be lead by a Senior Officer. Where the concern relates to possible fraud, corruption or financial irregularities then the investigating officer will normally be the Chief Internal Auditor. The Senior Officer or Chief Internal Auditor will report to the Director and the Chief Finance Officer (where the matter being investigated is of a financial nature). If the matter concerns a senior officer, both the initial enquiry and any investigation will normally be lead by a Director from a different department. If the matter concerns the Chief Executive, the Leader of the Council will be responsible for ensuring the matter is investigated.

Outcome

13. Providing that there are no legal constraints, the person who raised the concern will be advised of the outcome of the investigation. This should be done within 10 days of the completion of the investigation.
14. If the outcome of the full investigation is invoking of the Council's disciplinary procedure to take action, the person who raised the concern will be advised that they are required to take part in the process and what this will involve.
15. All documentation relating to the concern raised (e.g. witness statements) must be stored in a secure place and kept confidential.