

## **PART 5H - WHISTLE-BLOWING POLICY (VERSION 2.6)**

### **1 Overview**

This document sets out how the Council implements the provisions of the Public Interest Disclosure Act 1998.

#### **1.1 Introduction**

1.1.1 The Public Interest Disclosure Act 1998 provides a framework to promote responsible whistle- blowing by workers. This policy enables the City of York Council to comply with the provisions of the Act.

1.1.2 The Council is proud of our track record of probity and high ethical standards. However, we are not complacent and we recognise that malpractice can sometimes occur. The Council wants to encourage workers to raise any concerns they may have so that we can resolve matters, prevent risk and continue to deliver high quality services to the people of York. We recognise that workers may sometimes find it difficult to speak up due to fear of victimisation and that it can sometimes seem easier to ignore malpractice rather than report it.

1.1.3 City of York Council expects the highest standards of probity from all those who work for and with the Council. These standards are set out in the Council's Employee Code of Conduct. If you work for the Council, you have a responsibility to voice any concerns you have about malpractice so that appropriate action can be taken and we positively encourage you to do so. This policy encourages you to raise any concerns within the Council and protects you from victimisation for doing so.

1.1.4 If you work with vulnerable people or children you have a clear responsibility to report any abuse. Failure to do so may be considered a disciplinary offence.

1.1.5 Members and senior management are responsible for ensuring compliance with this policy and the Council's legal obligations under the Public Interest Disclosure Act 1998. They will receive an annual report outlining the number and type of any concerns raised under the policy and how these have been resolved. They will not be provided with any further details that could identify individuals and confidentiality will be fully protected.

#### **1.2 Scope**

1.2.1 All those who work for the Council, whether permanent, casual or temporary employees or contractors can raise any concerns they may have under this policy. Elected Members and school governors can also raise concerns under this policy. Separate procedures are available for

complaints from members of the public. This policy will be widely communicated throughout the Council.

1.2.2 There are other policies and procedures available for raising issues regarding employment and service matters and this policy is not intended to replace those. Examples include:

- (a) complaints of harassment or bullying between staff should be raised under the Council's Bullying & Harassment procedure;
- (b) complaints about pay and grading should be raised under the Council's Regrading Procedure;
- (c) complaints about other employment matters e.g. lack of promotion or training, should be raised under the Grievance Procedure.

1.2.3 This policy should only be used for serious malpractice within the Council as defined in the attached guidelines. The line manager of the service will deal with issues of a minor nature.

1.2.4 The Council has an established procedure on 'How to Safeguard Public Money.' If you have concerns about the handling of public funds you should contact your line manager or the Internal Audit Manager. Concerns regarding Benefit fraud should be raised with the Fraud Team on 552931 or the 24 hour Benefit Hotline answer phone / fax on 553453. You should refer to the Council's 'How to Safeguard Public Money' leaflet.

### 1.3 **Implementation Date**

1.3.1 This policy and associated procedures will come into effect on 1<sup>st</sup> April 2005.

## 2 **Guidelines**

### 2.1 **Policy Guidelines for Employees**

2.1.1 What is 'whistle-blowing'?

- (a) Whistle-blowing refers to the reporting of any serious malpractice taking place within the Council.

2.1.2 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:

- i) fraud, corruption or financial irregularities,
  - ii) the physical, mental or sexual abuse of clients,
  - iii) breaches of health & safety policy and dangerous practices,
  - iv) criminal conduct,
  - v) serious damage to the environment,
  - vi) failure to comply with a legal obligation,
  - vii) 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, trade union representative or one of the Council's designated Whistle-blowing 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.

### 2.1.3 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.

### 2.1.4 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.

### 2.1.5 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.

### 2.1.6 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.

### 2.1.7 Who can I raise a concern with?

- (a) This will often depend on 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 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 Whistle-blowing Advisers who are responsible for making sure that an enquiry is made in to all concerns raised. The Head of Civic, Democratic and Legal Services, is the lead officer in the Council for Whistle-blowing and can be contacted on extension 1004.

A list of the Council's other Whistle-blowing Advisers is available on the Council's website (<http://democracy.york.gov.uk/ecCatDisplay.asp?sch=doc&cat=12829&path=0>).

- (c) 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.

- (d) Elected Members who wish to raise concerns under this policy should contact a designated Whistle-blowing Adviser or the Chief Executive. If a worker raises a concern with an Elected Member, the Member should refer the worker to the procedure as outlined in paragraph 2.1.7 (a)-(c). School Governors who wish to raise concerns under this policy should contact a designated Whistle-blowing Adviser, the Director of Learning, Culture & Children's Services or Chief Executive.

### 2.1.8 What information should I give when raising a concern?

- (a) You should make it clear that you are raising your concern under the Whistle-blowing 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 if you wish but this is not necessary.

### 2.1.9 What is the procedure for investigating a concern?

- (a) The action taken by the Council will depend on the nature of the concern raised. The concern raised may:
  - i) be investigated internally (the most likely option)
  - ii) be referred to the Police e.g. criminal acts
  - iii) be referred to the external auditor
  - iv) form the subject of an independent inquiry
  - v) or any combination of the above.
- (b) Initial enquiries will be made by your Chief Officer to decide whether an investigation is appropriate and, if so, what form it should take. 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.
- (c) If the concern is to be investigated internally, the investigation will be lead by a senior officer who will report to the Chief Executive. If the matter concerns a senior officer, both the initial enquiry and any investigation will be lead by a Chief Officer from a different department. If the matter concerns the Chief Executive, the Leader of the Council will be responsible for ensuring investigation of the matter.

- (d) If you raise your concern under this policy we will write to you within ten working days of receiving the concern saying:
  - a. thank you for raising your concern
  - b. what action we have already taken
  - c. what we intend to do
  - d. how long we think this will take
  - e. whether any more information is required from you.
- (e) If we need to meet you we 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.
- (f) 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. We will, of course, respect confidentiality in doing so.

### 2.1.10 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:
  - a. Trade Union
  - b. District Auditor
  - c. The Police
  - d. Public Concern at Work

- e. Health & Safety Executive
- (c) 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 in paragraph 2.1.2(a) 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.

### **3 Guidelines for Managers/Whistle-blowing Advisers**

#### **3.1 Summary**

- 3.1.1 These guidelines provide information for managers and Whistle-blowing Advisers on how to respond if a concern is raised with you under the Council's Whistle-blowing Policy. At all stages you should seek advice from your own line manager/Chief Officer and departmental Human Resources Manager.

#### **3.2 Procedure**

- 3.2.1 Managers and Whistle-blowing Advisers who receive a concern raised under the policy should immediately inform their Chief Officer (and the Chief Officer of the worker if this is a different person) and departmental Human Resources Manager. The manager/Whistle-blowing Adviser and the Chief Officer of the worker should undertake initial enquiries to ascertain if a formal investigation is required.
- 3.2.2 If the manager/Whistle-blowing Adviser and Chief Officer decide that a formal investigation is not required they should notify the worker in writing outlining the reasons why and thanking them for raising their concern.
- 3.2.3 If the manager/Whistle-blowing Adviser and Chief Officer decide a full investigation is to be conducted, the Chief Executive must be informed. He/she will decide the best arrangements for dealing with the matter, appointing a senior manager to conduct the investigation. This senior manager will report to the Chief Executive on the investigation. If the allegation concerns a Chief Officer, the investigator will be a Chief Officer from another department or the Chief Executive. (If the Chief Executive is the subject of concern, the Leader of the Council will make arrangements for an investigation). How the investigation is conducted will depend on the nature of the concern, e.g. criminal acts will be referred to the Police. The departmental Human Resources Manager will be responsible for ensuring the worker who raised the concern has adequate support throughout the investigation.

- 3.2.4 Within 10 working days of the concern being raised, the manager /Whistle-blowing Adviser and Chief Officer should write to the worker saying:
- i) thank you for raising their concern
  - ii) what action has already been taken
  - iii) what happens next
  - iv) how long they think this will take
  - v) whether any more information is required from the worker
- 3.2.5 The departmental Human Resources Manager should be notified in writing of the following:
- i) a concern has been raised under the Whistle-blowing Policy
  - ii) the nature of the concern (e.g. breach of Health & Safety)
  - iii) action to be taken (e.g. no investigation, referral to police etc.)
  - iv) outcome of action taken
- 3.2.6 All documentation relating to the concern raised (e.g. witness statements) must be stored in a secure place and kept confidential.

## 4 Procedure

