



# Whistleblowing Policy

Produced by Human Resources

# Gateshead Council Whistleblowing Policy

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## Whistleblowing Policy

### 1. The aims of the Policy

#### The aims of this policy are to:-

- Encourage employees to feel confident in raising serious concerns and to question and act upon concerns about unacceptable behaviour or practice within the Authority.
- Provide avenues for employees to raise those concerns and receive feedback on any action taken.
- Ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied and;
- Reassure employees that they will be protected from possible reprisals or victimisation if employees have a reasonable belief that they have made any disclosure in good faith.

It is not intended that this policy and its associated procedure, be used to raise concerns relating to employment matters where more appropriate procedures are available and where there is no public interest element for example:

- <sup>1</sup>Grievances or matters relating to alleged breaches of the employee's contract of employment
- <sup>2</sup>Bullying & Harassment

Some employees may have separate statutory duties to report specific types of concerns e.g. child protection matters.

### 2. Definition of Whistleblowing

Whistleblowing is the raising of a concern within the workplace about a danger, risk, malpractice or wrongdoing which affects others. Officially this is called 'making a disclosure in the public interest'.

This policy has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act amended the Employment Rights Act 1996, which also protects employees who take action over, or raise concerns about, Health & Safety at work.

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council, or they may fear harassment or victimisation. In these circumstances employees may feel that it is easier to ignore the concern rather than report what may be a suspicion of unacceptable behaviour or malpractice.

### 3. Who may use this policy

This policy applies to all employees regardless of their length of continuous service, including those with fixed term or temporary contracts. However, it does not apply to employees appointed by, or employed by, the governing body to work in a school.

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<sup>1</sup> (Policy can be found on the HR portal of the intranet)

<sup>2</sup> (Policy can be found on the HR portal on the intranet)

Maintained schools should have their own whistleblowing policy and procedure in place and this should include the name of a person they can contact in the local authority in case a staff member feels they should report to someone outside the school.

Elected Members should report their concerns to either the Strategic Director, Corporate Services and Governance, or the Chief Executive.

For the avoidance of doubt and to ensure clarity the term 'employee' will be used throughout this policy.

#### **4. Commitments**

The Council is committed to the highest standards of openness, probity and accountability. In line with that commitment, we encourage Council employees and Members, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns.

The Strategic Director, Corporate Services and Governance has overall responsibility for the maintenance and operation of this policy and maintains a record of the concerns raised and the outcomes (but in a format which would not endanger confidentiality).

The Council will not tolerate harassment or victimisation and will take action to protect the employee when they raise a concern. If an employee raises a genuine concern under this policy, they will not suffer any detriment in connection with their employment. Therefore, if an employee makes an allegation with reasonable belief that it is in the public interest, then they will not face retribution if their allegation proves to be unfounded.

## Procedure

### 1. Introduction

Whistleblowing is the raising of a concern within the workplace that has come to the attention of an employee during the course of their work, about a danger, risk, malpractice or wrongdoing which affects others.

Some examples of whistleblowing matters include:-

- criminal offences;
- fraud, corruption and bribery;
- physical, emotional or sexual abuse of children or vulnerable adults and the elderly in care, or other improper conduct;
- health and safety issues concerning transport that puts the safety of passengers at risk;
- health and safety issues concerning the workplace that puts the safety of workers or visitors or the public at risk;
- unlawful conduct / discrimination;
- failure to comply with legal obligations, breaches of legislation, for example the Data Protection Act;
- inducements or payments in exchange for awarding contracts or other approvals, for example planning permission;
- risks to the environment;
- conduct which is an offence or a breach of the law;
- disclosures related to miscarriage of justice;
- the inappropriate or unauthorised use of public funds or other resources;
- covering up a wrongdoing of any of the above.

This list is not exhaustive.

Where a concern relates to fraud, corruption or bribery, employees should also refer to the Council's Counter Fraud and Corruption Policy and Statement on the Prevention of Bribery.

#### 1.1 Confidentiality

The Council recognises the employee may want to raise a concern in confidence. If confidentiality is requested, all reasonable efforts will be made to avoid revealing the employee's identity, unless disclosure is a requirement by law. Furthermore, to carry out a proper investigation, it may not be possible to keep the employee's identity confidential and they may need to come forward as a witness at an appropriate time. If it becomes necessary to reveal the employee's identity the Council will inform the employee concerned.

#### 1.2 Anonymous Allegations

Employees should be encouraged to put their name to the allegation. Concerns expressed anonymously are much less powerful and unlikely to be effective, but they may be considered

at the discretion of the Strategic Director, Corporate Services and Governance.

In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from named sources.

### **1.3 Untrue or Malicious Allegations**

If an employee makes an allegation with reasonable belief that it is in the public interest, but it is not confirmed by the investigation, no action will be taken against them. However, if the employee makes malicious or vexatious allegations, appropriate action may be taken. Similarly, if a worker/volunteer makes malicious or vexatious allegations, the Council will consider dispensing with their services.

## **2. How to raise a concern**

1. As a first step, the employee should raise their concerns, with their immediate line manager, or other appropriate manager. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If for some reason they are unable to raise the concern with their manager they should contact their Service Director. If the employee does not feel they are able to report to their Service Director they can address their concern in writing to the Strategic Director, Corporate Services and Governance.
2. Concerns should be put in writing and should include the following;-
  - the background, history and detail of your concern/s
  - names, dates and places where possible
  - the reason why you are concerned about the situation.
3. When the appropriate manager receives the concern in writing they should contact HR for advice and guidance and forward a copy of the concern to the Strategic Director, Corporate Services and Governance for monitoring purposes.
4. If the employee does not feel able to put their concerns in writing, they can telephone or arrange to meet the appropriate person; they may also invite their trade union representative to raise a matter on their behalf.
5. The employee will not be expected to prove the truth of their allegation(s) However, they will need to demonstrate to the appropriate person contacted that there are reasonable grounds for their concern.

## **3. Safeguarding Matters**

Concerns about the safety of any child should be reported to Referral and Assessment on 0191 433 2410/ 2349/ 3417/ 2505/ 2540/ 2653 (office hours), or 0191 477 0844 (out of hours).

In an emergency phone the Police on 999.

If an employee has any concerns about any member of staff or a volunteer working with children then this should be reported to the Local Authority Designated Officer (LADO) on 0191 433 3554

Adult safeguarding concerns can be reported to the Business Manager-Safeguarding Adults

In the event an employee is peripatetic, working off site, or not reporting to their usual base in the course of the working day, and are unable to report a safeguarding incident, they should communicate their concerns immediately to their line manager. It is then the line manager's responsibility to refer the matter onto the appropriate person.

#### **4. How will the Council respond?**

1. The action taken by the Council will depend on the nature of the concern.

The matters raised may:

- Be investigated internally ( this is the most likely option);
- Be referred to the Police;
- Be referred to the external auditor;
- Form the subject of an independent inquiry;

or any combination of the above.

**Anonymous allegations will also be investigated as above.**

2. In order to protect individuals and the Council, initial enquiries will be made to decide what investigation is appropriate and if so, what form it should take. Concerns which come within the scope of existing procedures (e.g. child protection issues) will normally be considered under those procedures.

Some concerns may be resolved by agreed action without the need for an investigation.

3. Within 10 working days of a concern being received the Council will:-

- Acknowledge receipt of the concern in writing;
- Indicate how it proposes to deal with it;
- Provide the employee with the name of the person who will be dealing with their concern
- Give an estimate of how long it will take to provide a final response;
- State whether any enquiries have been made, and;
- State whether any further investigations will take place, and if not, why not.
- Forward a copy of the concern to the Strategic Director, Corporate Services and Governance for monitoring purposes

4. If necessary, further information will be sought from the employee raising the concern.

If a meeting is arranged between the appropriate person responsible for dealing with the concern under this procedure and the employee raising it, then the employee has the right to be accompanied by a trade union representative, or a colleague who is not involved in the area of work to which the concern relates. Employees and their representative(s) must respect the need for complete confidentiality

5. At the conclusion of the investigation, the Council will confirm in writing to those raising the concern information about the outcome of the investigation unless this is not possible for legal reasons.

## **5. How the matter can be taken further?**

1. If the employee is not satisfied with how their concerns have been handled they should seek appropriate advice prior to raising a matter externally either from their Trade Union or their own solicitor.  
However, if the employee is not satisfied with the outcome, or feel it is right to take matters outside the Council, the employee should refer to the list of possible external contact points below for advice before taking further action :-
  - their trade union or ;
  - the independent charity Public Concern at Work on 020 7404 6609.  
(Their lawyers can give free confidential advice at any stage about how to raise a concern about serious malpractice at work.);
  - the Audit Commission 0844 798 3131

Employees can benefit from employment protection if they blow the whistle by making a disclosure to a prescribed person. A list of Prescribed Persons can be found at <http://www.gov.uk/government/uploads/system>

2. The Council would rather an employee raised a matter with the prescribed external body / appropriate regulator, than not at all. Employees may raise a concern with any of the above provided that:
  - they make an allegation with reasonable belief that it is in the public interest and ;
  - they reasonably believe that the information disclosed, and any allegation contained in it, is substantially true and;
  - they do not make the disclosure for personal gain.
3. It is important that disclosures are not made directly to the media but are internally directed through this policy and procedure. Failure to do so may result in the exposure of confidential information or information relating to vulnerable service users which could lead to disciplinary action.

## **6. Protection for Whistleblowers**

If an employee believes that they are suffering a detriment for having raised a concern they should report this immediately in writing to the Strategic Director, Corporate Services and Governance as they have overall responsibility for the policy. The Strategic Director will appoint an appropriate senior manager to investigate this allegation.

Subjecting an employee to a detriment means subjecting them to any disadvantage because they blew the whistle. This could include (but is not limited to) any of the following:-

- Failure to promote
- Denial of training
- Closer monitoring
- Ostracism
- Blocking access to resources
- Unrequested re-assignment or re-location

- Demotion
- Suspension
- Disciplinary sanction
- Bullying or harassment
- Victimisation
- Dismissal
- Failure to provide an appropriate reference or
- Failing to investigate a subsequent concern.

Should the allegations be proven then disciplinary action will be taken against the relevant person responsible.

## **7. Monitoring**

Periodic audits will be undertaken by Corporate Services and Governance to ensure the effectiveness of this policy which will include:

- A record of the number and types of concerns raised
- The outcomes of investigations
- Feedback from individuals who have used the arrangement
- Any complaints of victimisation
- Any complaints of failure to maintain confidentiality
- A review of employee awareness, trust and confidence in the arrangement.