

## WHISTLE-BLOWING POLICY

### 1.0 INTRODUCTION

- 1.1 Individuals working within or for an organisation are often the first to realise that there may be something seriously wrong within it. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Whistle-blowing is the term used when someone who works within or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, elected members and contractors who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns.
- 1.4 This policy sets out the ways in which individuals may raise concerns that they have and explains how those concerns will be dealt with. It also gives protection to the person raising concerns.
- 1.5 The policy applies to all employees, elected members, ex-employees (within 3 months of cessation of their employment with Halton Borough Council), volunteers, or contractors working for the Council on Council premises (for example, agency staff, builders and drivers). It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
- 1.6 This policy has been developed taking into account:
- The Public Interest Disclosure Act 1998, which protects whistle-blowers who report concerns, from subsequent harassment, victimisation and other unfair treatment arising out of the disclosure. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concern about, health and safety at work.
  - The sections of the Enterprise and Regulatory Reform Act 2013 relating to protected disclosures.
- 1.7 This policy has been discussed with the relevant trade unions and has their support.

## **2.0 AIMS OF THIS POLICY**

### **2.1 This policy aims to:**

- encourage individuals to feel confident in raising serious concerns and to question and act upon concerns about practice and procedures;
- provide avenues for individuals to raise those concerns and receive feedback on any action taken;
- ensure that individuals receive a response to their concerns and are aware of how to pursue them if not satisfied;
- reassure individuals that they will be protected from possible reprisals or victimisation from those working within or for the Council if they have a reasonable belief that they have made any disclosure in good faith.

### **2.2 The Policy of Conduct for Local Government Employees states that**

*“Employees will be expected through agreed procedures and without fear of recrimination to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.”*

### **2.3 This policy supports that statement.**

## **3.0 SCOPE OF THIS POLICY**

**3.1** It is important to know the difference between a ‘Whistle-blow’ and a ‘grievance.’ A Whistle-blow has a public interest aspect to it, as it puts at risk others. A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy.

**3.2** This policy is not a substitute for and does not replace other relevant policies within the Council. Where the concerns raised relate to a breach of one of those policies they will be investigated under that policy. This policy is not intended to be used where other more appropriate procedures are available. These may include, but are not limited to:

- Disciplinary Procedure
- Child and Adult Safeguarding Policies and Procedures
- Dignity at Work Policy
- Grievance Procedure
- Single Equalities Scheme
- Corporate Complaints Policy

**3.3** This policy supports the Council's Anti-Fraud and Anti-Corruption Strategy and the Fraud Response Plan. It is intended to help anyone working within or for the Council, if they have major concerns over any wrong-doing within the

organisation, to raise concerns internally rather than overlooking the problem or blowing the whistle externally unless the whistle blower feels that is the most appropriate way. However, the Council will support you in raising a matter externally if you feel this is the best course of action.

3.4 Specific examples of concerns that could be raised under this policy, if a reasonable belief that one or more of them may have occurred, could include:

- Concerns relating to matters covered by internal Council policies and procedures, such as;
- Actions or behaviour that make you feel uncomfortable in terms of falling below established standards of practice or which amount to improper conduct
- Actions in breach of the Council's Standing Orders and policies;
- Damage to the environment;
- Dangerous procedures or practices risking health and safety, including risks to the public, service users and to other employees;
- Other unethical conduct;

Concerns relating to matters that may, following investigation, need to be dealt with under policies and procedures external to the Council, such as;

- Conduct which is a criminal offence or a breach of the law;
- Disclosures related to miscarriages of justice;
- The unauthorised use of public funds;
- Fraud and corruption;
- Sexual or physical abuse of service users;
- Other unethical conduct;

3.5 These are known as qualifying disclosures under the Public Interest Disclosure Act 1998

3.6 This list is not meant to be exhaustive but gives examples of potential malpractice. The overriding concern should be that it is in the public interest for the potential malpractice to be corrected and sanctions taken if need be

3.7 This policy will be referenced where relevant and made available for inspection and use as part of the awarding of any Council contracts.

#### **4.0 SAFEGUARDS AND PROTECTION**

4.1 The Council recognises that the decision to report a concern can be a difficult one to make. The Council will not tolerate any harassment, victimisation

(including informal pressures), disadvantage, detrimental action or deliberate failure to act. The Council will take appropriate action to protect you when you raise a concern which you have a reasonable belief to be in the public interest and has disciplinary policies, including those on Harassment & Bullying at Work, which are designed to protect Whistle-blowers from all forms of harassment in the workplace.

- 4.2 Any investigation into allegations of potential malpractice will normally not be interrupted by any employment procedures that may already be underway. It is not the Council's intention to delay action taken under the disciplinary or other policies, pending the completion of investigations taken in accordance with this policy, unless the Council considers that the merits of a particular case warrant this, or unless the matter becomes a police matter which prevent further internal processes.
- 4.3 In all cases, the provisions of The Public Interest Disclosure Act (PIDA) will be adhered to. However, the Enterprise & Regulatory Reform Act (ERRA) introduces a Public Interest test requirement on Whistle-blowers. In order to receive the protection of PIDA, whistle-blowers will be required to show that they reasonably believed that the disclosure they are making is in the Public Interest. This should be done through the evidence they present when raising their concern. The procedure for making allegations is set out in Section 7 of this policy. Further information on the ERRA can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk)
- 4.4 If an allegation is made that is reasonably believed to be in the public interest, but it is not confirmed by the investigation, no action will be taken against the person making the allegation. If it is found, however, during the investigation that an allegation has been made vexatiously, maliciously or for personal gain, disciplinary action may then be taken.
- 4.5 As a whistle blower, legal protection is also given by the Public Interest Disclosure Act 1998. If a whistleblower makes what is known as a "qualifying disclosure" under the 1998 Act to their employer or certain other persons/bodies, and this is done reasonably and in the public interest, it will be unlawful to subject them to any detriment.
- 4.6 If a case progresses to an Employment Tribunal, compensation may be awarded if the Council breaches the 1998 Act, following a successful claim for 'detrimental treatment'. Compensation may be reduced however if the allegation was not made in good faith.

## **5.0 CONFIDENTIALITY**

- 5.1 All concerns will be treated in confidence and every effort will be made not to reveal the identity of the person making the allegation if they so wish (subject to any legal requirements or decisions). This cannot be guaranteed however if a person needs to come forward as a witness. For example, if a hearing is

needed, either by law, or under a Council procedure, the employee disclosing the concern may be required to give evidence.

5.2 The employee disclosing a concern should ensure that they only inform the person(s) identified in part 7 below.

5.3 If the nature of the whistle blow requires disclosure to other people to conduct an investigation, then the employee who originally disclosed this will be informed that this needs to happen.

## **6.0 ANONYMOUS ALLEGATIONS**

6.1 This policy encourages those making the allegation to put their name to your disclosure and receive the protection of PIDA whenever possible. Concerns expressed anonymously are much less powerful but will be considered where there is enough detail to justify further investigation.

6.2 Any anonymous concerns or allegations received under this policy will be referred to the Head of Internal Audit and will be logged and investigated as far as possible under the process outlined in section 8 of this policy.

## **7.0 HOW TO RAISE A CONCERN**

7.1 As a first step, the person making the allegation should normally raise concerns with their immediate manager or the supervisor of their manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the person making the allegation believes that their own manager is involved, they should approach one of the following:

- Operational Director and Monitoring Officer (Legal and Democratic Services);
- Strategic Director – Enterprise, Community and Resources
- Head of Internal Audit
- Chair of the Standards Committee (who can be contacted by a letter addressed to the Chair of the Standards Committee and sent to the Municipal Building, Kingsway, Widnes, WA8 7QF)

7.2 These individuals may also provide advice and guidance on matters of concern under this policy.

7.3 Concerns may be raised verbally or in writing. Individuals who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

- 7.4 The earlier a concern is expressed, the easier it is to take action. Although a person is not expected to prove beyond doubt the truth of an allegation, they should demonstrate to the person contacted that there are reasonable grounds for the concern.
- 7.5 The person making the allegation is able to invite a trade union representative, professional association representative or a colleague to be present during any meetings or interviews in connection with the concerns raised.
- 7.6 Wherever possible concerns or allegations should be reported internally. If the person making the allegation is unwilling or unable to report the matter internally there are a number of other agencies they may be able to report their concerns to and which can be accessed at the following link:

[List of prescribed people and bodies](#)

- 7.7 The Small Business, Enterprise and Employment Act 2015 amends the Employment Rights Act to require "prescribed persons" under the whistleblowing legislation to produce annual reports on all whistleblowing disclosures made to them. These reports will not contain the names of the people who made the disclosures.
- 7.8 The full list of prescribed people and bodies is included at Appendix 2 in the version of this policy published on the Councils intranet.
- 7.9 A new Whistleblowing Advice Line ran by the NSPCC Helpline has officially launched. This has been developed to provide support to employees wishing to raise concerns over how child protection issues are being handled in their own or other organisations. The NSPCC Whistleblowing Advice Line can be reached on 0800 028 0285.
- 7.10 The advice line is not intended to replace any current practices or responsibilities of organisations working with children. The helpline advisors would encourage professionals to raise any concerns about a child to their own employer in the first instance. However, the advice line offers an alternative route if whistleblowing internally is difficult or professionals have concerns around how matters are being handled.

## **8.0 HOW THE COUNCIL WILL RESPOND**

- 8.1 The Council will respond to and investigate any concerns raised under this policy. All allegations and concerns raised under this policy will be formally recorded and logged in a secure register held by the Responsible Officer (or their designated representative) identified in section 9 of this policy.

8.2 Matters raised may be:

- Investigated by management;
- Investigated by internal audit;
- Progressed through internal procedure;
- Referred to the Police;
- Referred to the external auditor;
- The subject of an independent enquiry;
- Dealt with via any other appropriate procedure, for example, child protection, abuse of vulnerable adults' procedure.

8.3 In order to protect anybody accused of misconduct, an initial investigation will be made to decide whether a full investigation is appropriate and, if so, what form it should take. If appropriate, Human Resources will be informed.

8.4 Some concerns may be resolved following an initial investigation without the need for full investigation.

8.5 Within ten working days of your concern being raised, the person making the allegation may be invited to a meeting in person to discuss your concern.

8.7 The Council will write to the person making the allegation:

- indicating how it plans to deal with the matter
- giving an estimate of how long it will take to provide a full response
- Supplying information on staff support mechanisms, for example welfare or Occupational Health

8.8 The amount of contact between the person making the allegation and any officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided.

8.9 If, following initial investigation, a formal investigation of an allegation is required under this policy, this will be conducted in line with the process set out within the Council Disciplinary procedure.

8.10 The Council will minimise any difficulties which may be experienced as a result of raising a concern. For instance, if a person is required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure. It is important for whistle-blowers to understand that making a whistle-blowing allegation doesn't give them an automatic right to anonymity, but does give them protection from harassment or victimisation and that the Council will not tolerate any form of this from anyone working within or for the Council.

- 8.11 If urgent action is required, for example if there is an urgent health and safety or safeguarding concern, this will be taken before any investigation is conducted.
- 8.12 This process is set out in the form of a flowchart and attached at Appendix 1 of this policy

## **9.0 THE RESPONSIBLE OFFICER**

- 9.1 The Head of Internal Audit has overall responsibility for the maintenance and operation of this policy and will maintain a record of all concerns raised and any outcomes. This record will be in a form which does not compromise your confidentiality and may be officially delegated to a named officer to maintain. The Head of Internal Audit will report as necessary to the Council.

## **10.0 HOW THE MATTER CAN BE TAKEN FURTHER**

- 10.1 If the person making the allegation feels it is right to take the matter outside the Council, the following are possible contact points:
- the external auditor
  - Citizens' Advice Bureau
  - relevant professional bodies or regulatory organisations
  - a relevant voluntary organisation
  - the police
  - organisations prescribed from time to time by the Secretary of State for the purpose of protected disclosure under the Public Interest Disclosure Act
- 10.3 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any potential wrongdoing in the workplace. In the majority of cases it should not be necessary to alert anyone externally.
- 10.4 The law recognises however, that in some circumstances it may be appropriate to report your concerns to an external body, such as a regulator. A list of these agencies and contacts are linked to at paragraph 7.6 and again at Appendix 2 of this policy as published on the intranet.
- 10.5 If the matter is taken outside the Council, confidential information should not be exposed, for example such as that covered by the Data Protection Act 1998. It is advised that advice is sought before reporting a concern externally. The independent whistle blowing charity, [Public Concern at Work](#) operates a confidential hotline (020 7404 6609) and can provide advice as necessary.

## **11.0 REVIEW OF THE POLICY**

- 11.1 This policy will be reviewed annually, and changes made to the policy as deemed appropriate following necessary consultation with interested parties.

Halton Borough Council Whistle Blowing Policy

Flow Chart

