

# Whistleblowing Policy

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## Document Control

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# 1 Why does the Council need this Policy?

1.1 The purpose of this policy is to provide workers who have serious concerns about malpractice or wrongdoing in the Council with a route to raise such issues within the organisation at an early stage and in an appropriate way, rather than overlooking them or raising them with an outside body. Making such a disclosure is commonly known as 'whistleblowing'. For the definition of "worker" in this context please see paragraph 2.1 below.

1.2 The Council is committed to applying high standards of integrity, openness and accountability and seeks to conduct its activities and functions in a responsible manner. In support of that commitment, the Council encourages workers to come forward and voice their concerns where they become aware of a whistleblowing issue, raising it in accordance with this policy and accompanying procedure.

1.3 The policy allows for the information to be disclosed without fear of reprisal and independent of line management, where appropriate.

1.4 There is legal protection for workers against being penalised or dismissed by their employer because of raising certain serious concerns, known as 'qualifying disclosures', details of which are shown under 13.3 and appendix 1 below.

1.5 Whilst there is no specific legal requirement for an organisation to have a specific Whistleblowing Policy, best practice would be for such a policy to be in place.

1.6 This policy and accompanying procedure will help ensure that the Council is legally compliant in respect of whistleblowing and will mitigate the risk of any legislative breach. It should also reassure workers that it is safe and acceptable to speak up, enabling concerns to be raised at an early stage.

1.7 It is anticipated that any 'qualifying disclosure' will be made directly to the Council in the first instance. However, if an individual feels unable to use the Council's policy and accompanying procedure, the disclosure can be made to a relevant outside body. A list of prescribed outside bodies can be found on the Gov.uk website under the link

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

## 2 Application and Scope Statement

- 2.1 This policy applies to workers of Aberdeen City Council. For the purposes of this policy, “worker” is defined as individuals who have entered into or works under (or, where the employment has ceased, worked under)
- a. a contract of employment; or
  - b. any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; and
  - c. agency workers and individuals supplied via an intermediary.
- 2.2 It provides workers with a mechanism for raising their concerns in relation to information they believe shows malpractice or wrongdoing in the Council, allowing for this to be disclosed internally without fear of reprisal and independently of their line manager, if appropriate.
- 2.3 It aligns with the Council’s Guiding Principle of ‘valuing each other’, confirming a commitment to ensuring everyone is treated with dignity and respect and supported by the organisation.
- 2.4 The policy does not apply to workers who wish to raise concerns about a service they have received from the Council. Such concerns should be raised via the corporate Complaints Handling Procedure [Complaints handling procedure | Aberdeen City Council](#)
- 2.5 In addition, the policy does not apply to those who wish to raise concerns relating to their own employment. Such concerns should be raised under the Managing Grievances policy and accompanying procedure [PeopleAnytime - Managing-Grievances.pdf - All Documents \(sharepoint.com\)](#) and/or the Dignity and Respect at Work policy and accompanying procedure [Dignity-and-Respect-at-Work-Policy.pdf \(sharepoint.com\)](#).
- 2.6 Job applicants, and workers who carry out work or services for another party who is their customer or client are excluded from the legal protections for whistleblowers.
- 2.7 It should be noted that Settlement Agreements between the Council and a worker cannot be used to prevent a worker from making a Whistleblowing disclosure.

## 3 Responsibilities

- 3.1 Chief Officers are responsible for the application of the policy and accompanying procedure within their service delivery remit, ensuring that a supportive culture exists in which whistleblowing concerns can be raised without fear of reprisal.
- 3.2 Chief Officer – P&OD is responsible for ensuring that appropriate training is in place.

### 3.3 The Council's Monitoring Officer is responsible for:

- Deciding if a disclosure is 'qualifying' in accordance with the legislation and whether it can be considered under the policy and accompanying procedure and notifying the complainant
- Identifying an officer to investigate the issue(s)
- Discussing and agreeing the scope of an investigation with the investigating officer and ensuring that a thorough investigation is undertaken
- Meeting with the complainant to explain the outcome of an investigation, following its completion
- Communicating any action points arising from the whistleblowing concern to the relevant Chief Officer for implementation
- Reporting to committee, as appropriate, on the number and type of whistleblowing cases
- Signposting complainant to Scottish Public Services Ombudsman in the event the decision is not 'qualifying' or to the grievance process
- Where it is more appropriate for a complaint to be handled under a different policy or process, for example Complaint Handling Protocol or Managing Grievances, the matter will be referred to the appropriate Service of the Council

### 3.4 Line managers are responsible for:

- Ensuring that workers are aware of this policy and accompanying procedure
- Ensuring that whistleblowing concerns raised with them are channeled through the accompanying procedure
- Ensuring that workers are appropriately supported following their raising a whistleblowing concern
- Ensuring that no worker is subjected to victimization or any unfair treatment because of raising a whistleblowing concern.

### 3.5 Employees and workers are responsible for:

- Familiarising themselves with the content of this policy and accompanying procedure
- Being vigilant in respect of illegal or unethical conduct in the organisation and to immediately report issues of that nature that they become aware of
- Submitting any 'qualifying disclosures' in accordance with this policy and accompanying procedure
- Co-operating with management during any investigation and throughout the whistleblowing process
- Not victimizing or mistreating colleagues who submit a whistleblowing concern.

3.6 A breach or misuse of this policy may result in the potential use of other corporate procedures e.g. disciplinary procedure.

3.7 Non-compliance with the policy should be reported to the employee's line manager.

3.8 Any feedback on the policy or suggestions for improvement can be communicated to the Chief Officer – P&OD or Employee Relations and Wellbeing Manager and this will be taken into account as part of the regular review of this policy.

## 4 Supporting Procedures & Documentation

4.1 An accompanying Whistleblowing procedure has been put in place to support adherence to this policy which can be found on the intranet.

4.2 The policy also links to:

- The Council's Guiding Principles
- The Managing Discipline policy and accompanying procedure and guidance
- Managing Grievances policy and accompanying procedure and guidance
- Dignity and Respect at Work policy and accompanying procedure and guidance
- Employee Code of Conduct
- Council's Financial Regulations
- Fraud, Bribery and Corruption policy
- Health and Safety policy
- Corporate Complaints procedure

## 5 About this Policy

5.1 The policy is not creating any specific regulations or requirements other than what is stated under Core Principles below.

### Policy Core Principles

5.2 Only a 'qualifying disclosure' in accordance with the legislative provisions will be considered under the policy and accompanying procedure, with the person raising the issue(s) requiring to believe it to be in the public interest (see appendix 1 below).

5.3 Disclosures regarded as 'non-qualifying', such as where the law is broken when making a disclosure, or where the information is protected under legal professional privilege, are not protected by the legislation and will not be covered by the policy and accompanying

procedure.

- 5.4 The Council's Monitoring Officer will make the determination on whether the disclosure is 'qualifying' in accordance with the legislation and hence whether it can be considered under the policy and accompanying procedure.
- 5.5 Employees and workers are encouraged to raise any concerns about malpractice or wrongdoing, regardless of the level of seniority of a person(s) who may have been involved in the alleged act(s).
- 5.6 All concerns raised under the policy and accompanying procedure will be treated in confidence and every effort will be made not to reveal an individual's identity if they so wish. However, an employee or worker may need to be identified and/or called as a witness in connection with an investigation at a later point. On these occasions prior consent will be sought, and further support and assistance given to the individual concerned.
- 5.7 Victimization or any unfair treatment of a worker for raising a 'qualifying disclosure' will be regarded as a disciplinary issue.
- 5.8 Any matters raised under the policy will be investigated thoroughly and as promptly as possible and the outcome reported back to the individual who raised the issue.
- 5.9 The policy and accompanying procedure will not be used to reconsider matters which have already been addressed through other policies and procedures.
- 5.10 Concerns expressed anonymously will be considered at the discretion of the Council. In exercising this discretion, the factors to be considered would include the seriousness of the issue(s) raised; the credibility of the concerns; and the likelihood of confirming the allegations from alternative sources. Due to the anonymity of these type of concerns, whistleblowers in these instances will not ordinarily be able to receive feedback and that any action taken to look into a disclosure could be limited. Feedback to anonymous whistleblowers may be provided via a scheduled telephone appointment or to an anonymized email address.
- 5.11 If an individual makes a 'qualifying disclosure' in the public interest but it is not confirmed by an investigation, no action will be taken against the employee or worker who raised the matter.
- 5.12 Where following investigation an allegation(s) raised is found to be false or malicious the Council will seek to take disciplinary action against the individual(s) concerned and will aim to minimise any potential negative impact the false or malicious allegation(s) may



have had.

5.13 Disclosure to the media or social media is not permitted before, during and after the completion of a whistleblowing investigation either conducted internally or via a regulatory body. An individual making a disclosure to the media in these circumstances may face disciplinary action.

## 6 Risk

6.1 The following identified risks will be mitigated against through having this policy in place.

- Compliance - having a whistleblowing policy and supporting guidance in place will reduce the risk of legislative non-compliance with the purpose of the policy being to identify and address any malpractice or wrongdoing, including illegal activity, and ensuring that workers are protected against any detriment for raising legitimate concerns.
- Operational – The biggest operational risk is that workers do not feel empowered and protected to “whistleblow” where they see potential cases of serious malpractice or wrong doing. Having this policy in place will give workers the confidence to raise such issues, thus enabling the organisation to address matters appropriately and contain any potential negative impacts that could affect business efficiency.
- Financial – these risks will be mitigated by the policy as it should contribute to avoiding claims against the Council relating to malpractice or wrongdoing. Such claims, as well as any losses incurred, could otherwise be very costly.
- Reputational - the policy should also contribute towards reducing reputational risk, as if any malpractice or wrongdoing is identified and addressed timeously this will help to avoid adverse publicity and demonstrate that the Council has in place robust processes for dealing with such events. In addition, being supportive towards employees and workers who raise whistleblowing issues should help to enhance the Council’s reputation as a good employer.

6.2 There have been no unintended effects and consequences identified resulting from the introduction of the policy.

6.3 The risks identified will be managed and mitigated through application of the policy across the Council. This will be undertaken by ensuring the policy and accompanying procedure are readily available to all and that support is provided from People and Organisational Development and Governance in the interpretation of the policy, where required.

6.4 Monitoring will be undertaken of any feedback from stakeholders or others in relation to the identified risks and appropriate action taken if any concerns arise.

6.5 The policy should support the organisation's 'PREVENT' obligations as part of the 'CONTEST' framework by helping to ensure that workers' concerns about any malpractice or wrongdoing in the organisation are listened to and addressed as appropriate, with them being afforded the protection against any detriment for raising a legitimate issue as well as support from management. This should help to maintain employees' and workers' health and wellbeing, reduce their vulnerability and in turn make them less susceptible to radicalization and being drawn into terrorist organisations. Further information on this subject is available on this link [Prevent Awareness \(sharepoint.com\)](https://sharepoint.com)

## 7 Environmental Considerations

7.1 Whistleblowing can cover a variety of disclosures, including where a worker reasonably believes that damage to the environment is occurring, has taken place, or is likely to happen in future. Having this policy in place will provide employees and workers with a means to raise such issues, helping to ensure environmental protection in relation to Council activities; with the legal safeguards also available to workers against any disadvantage through raising legitimate concerns.

## 8 Policy Performance

8.1 The main factors determining the effectiveness of the policy and whether it adds the value intended is the usage of the policy by employees and workers who wish to raise concerns about any malpractice or wrongdoing in the Council and the consistency in its application by managers and the Monitoring Officer. It is not expected that it will be used extensively, with malpractice or wrongdoing likely to be issues that arise only occasionally, but it is important that the Council has in place a robust policy and accompanying procedure which is available for when the need arises.

8.2 The effectiveness of the policy will be measured through gathering data on the number and type of whistleblowing cases being raised through the policy and accompanying procedure, making annual comparisons, and through collecting any feedback from users of the policy and accompanying procedure, including in relation to organisational culture around encouragement to raise concerns.

8.3 The Council's Monitoring Officer will report to committee, as appropriate, on the number and type of whistleblowing cases, ensuring that confidentiality is maintained.

## 9 Design and Delivery

9.1 The policy links to the 'Workforce Design' principle of the Target Operating Model (TOM) in that it is concerned with organisational culture. The Council aims to apply high standards of integrity, openness and accountability and seeks to conduct its activities and functions in a responsible manner. Having a whistleblowing policy and accompanying

procedure in place where employees and workers are encouraged to come forward and raise their concerns if they become aware of issues relating to malpractice or wrongdoing, and supported in doing so, will contribute to a positive culture in the organisation. It also accords with the Council's Guiding Principles, particularly in relation to the commitment to valuing and supporting staff.

- 9.2 The policy also links to the 'Prosperous Place' theme in the Local Outcome Improvement Plan (LOIP) which indicates that all people in the City are entitled to live in a manner in which they feel safe and protected from harm and supported where necessary. All citizens are equally entitled to enjoy these aspirations, including service users and Council employees and workers. Having a whistleblowing policy and accompanying procedure in place which can help to identify and address any malpractice or wrongdoing in the organisation, including illegal practices, will help ensure citizens, service users, employees and workers are all protected from the effects of any such activity.

## 10 Housekeeping and Maintenance

- 10.1 The Policy replaces the existing Whistleblowing policy and will be reviewed biennially with any necessary updates made to it and the accompanying procedural document.

## 11 Communication and Distribution

- 11.1 This policy and accompanying procedure will be shared directly with the Extended Corporate Management Team to enable their communication and distribution in accordance with responsibilities set out in section 3.
- 11.2 The policy and accompanying procedure will be available to view on the organisation's shared areas on the intranet.

## 12 Information Management

- 12.1 Information generated by the application of this policy and accompanying procedure will be managed in accordance with the Council's Corporate Information Policy and Supporting Procedures.

## 13 Definitions and Understanding this Policy

- 13.1 Whistleblowing – is making a disclosure in the public interest. It means that if an individual believes there is malpractice or wrongdoing in the organisation this can be reported by following the correct process, and by doing this the legal protections will apply to the whistleblower from suffering detriment as result of raising such concerns.
- 13.2 Public interest – a disclosure in the public interest is one about malpractice or wrongdoing in the public sector that serves the public interest. For an allegation to be considered a public interest disclosure under the legislation it must be made to the employer as a whistleblowing concern (or to a proper authority – see 1.6 above for list

of prescribed authorities for making complaints to).

13.3 Qualifying disclosure - are disclosures of information where the employee or worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above.

13.4 Worker – the definition of worker for whistleblowing purposes includes

1. individuals who have entered into or works under (or, where the employment has ceased, worked under)
  - d. a contract of employment; or
  - e. any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; and
2. agency workers and individuals supplied via an intermediary.

## 14 External Sources of Guidance

The following are external sources of Whistleblowing guidance

- UK Government - [Whistleblowing: Guidance for Employers and Code of Practice \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- ACAS - [The law on whistleblowing at work: Whistleblowing at work - Acas](https://www.acas.org.uk)
- Protect - [Protect - Speak up stop harm - Protect - Speak up stop harm \(protect-advice.org.uk\)](https://www.protect-advice.org.uk)

## Appendix 1

### Summary of Legislative Provisions

- The Public Interest Disclosure Act 1998 (as amended by the Enterprise and Regulatory Reform Act 2013) gives legal protection to workers against being penalised or dismissed by their employer because of raising certain serious concerns, known as 'qualifying disclosures'.
- A 'qualifying disclosure' is any disclosure of information that in the reasonable belief of the individual, is made in the public interest.
- The list of 'qualifying disclosures' in the legislation is where one or more of the following has been, is being, or is likely to be committed: - A criminal offence; a failure or likely failure to comply with any legal obligation; a miscarriage of justice; putting health and safety of any individual in danger; damage to the environment; deliberate concealment relating to any of the foregoing.
- It is not necessary for the individual to have proof of the above, a reasonable belief is sufficient.
- The legislative provisions ensure that no one is disadvantaged in raising legitimate concerns.
- The legislation protects a 'worker' who makes a whistleblowing complaint from suffering detriment as result of raising concerns. The term 'worker' is given a wide definition in the legislation covering those mentioned in 2.1 above.
- It should be noted that whistleblowers are protected whilst they are in employment and after employment has ended.
- If an employee is dismissed because they were a whistleblower, the dismissal will be automatically unfair. An employee will also be unfairly dismissed if they are selected for redundancy because they were a whistleblower.
- Some disclosures are regarded as 'non-qualifying disclosures', such as where the law is broken when making a disclosure, or where the information is protected under legal professional privilege. The worker is not protected by the legislation for whistleblowing in respect of a 'non-qualifying disclosure'.