

# Guidance for managers - Whistleblowing

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## **1.0 PURPOSE**

- 1.1 To assist line managers when they are required to follow up any matters raised by members of staff through the County Council's whistleblowing policy.

## **2.0 SCOPE**

- 2.1 All matters raised by employees or the employee's trade union/professional association representative, relating to suspected criminality, waste, abuse of power, fraud, theft, corruption, discrimination, damage to property, non-compliance with policies or risks to the health and safety of individuals or the abuse of vulnerable people. If any of the issues raised relate to Members, these should always be referred to the Assistant Chief Executive (Legal and Democratic Services).
- 2.2 These procedures do not cover complaints made by the public but do include concerns raised by agency workers and contractors. These procedures also do not cover matters which would otherwise be covered by the Resolving Issues at Work policy.

## **3.0 RESPONSIBILITY**

- 3.1 As a line manager you are responsible for investigating concerns raised with you through the whistleblowing policy promptly, thoroughly, impartially and in a confidential manner.
- 3.2 You should follow a series of steps, starting with an initial review to establish whether there is any substance to the concerns. If the concerns appear to be substantiated then you should conduct a fact finding investigation or refer the matter to someone else to deal with, as follows:
- In the case of suspected fraud, corruption or other financial loss, report the matter to the Head of Internal Audit who will then decide how any further investigation should be conducted;
  - In the case of a staffing matter, report the matter to a member of the HR team who will advise you on what further action to take;
  - In the case of waste, non-compliance with policies or risks to health and safety within your service area, take action to prevent any further reoccurrence and consider reporting the matter to your Corporate Director;
  - In the case of waste, non-compliance with policies or risks to health and safety in other service areas, report the matter to the relevant Corporate Director;
  - In the case of suspected abuse of vulnerable people, report the matter immediately to your Corporate Director.

- 3.3 Once you have completed an investigation you should decide what, if any, further action needs to be taken. Further action may include addressing any weaknesses in procedures, improving controls, changing working practices, instigating disciplinary action or referral of the matter to others (including HR, the Head of Internal Audit or the police).
- 3.4 Finally, you should feedback to the employee who first raised the concern.

#### **4.0 PROCEDURE**

##### **Initial fact finding review**

- 4.1 If an employee reports a whistleblowing concern then you should make a detailed confidential note of the issue(s) raised. Where possible you should try to establish what is factual information and what is simply speculation or hearsay. If an interview is conducted in accordance with the Police & Criminal Evidence Act, an employee is entitled to be accompanied by a solicitor. Advice should be sought from Internal Audit and HR, as soon as is reasonably possible, if you feel that the concerns raised may be of a criminal nature. Care must be taken to ensure that initial investigations and interviews do not compromise any future case.

You should also try to keep any information you record relevant to the matter being reported. You should ask the employee whether there is anyone else who may be able to substantiate the concern and whether they would be prepared to come forward to assist in any investigation. The employee reporting the concern should also be asked whether they wish to remain anonymous during the course of any further investigation.

- 4.2 If another employee may be able to substantiate the concern then you should arrange to meet with them. You should record all relevant information provided, whether or not it accords with the original complaint. If it is someone who is not employed by the council (for example, an agency worker or a contractor) then you should use your discretion and judgement to decide whether it is appropriate to discuss the concern with them.
- 4.3 If another employee may be able to substantiate the concern but the indications are that they do not wish to be involved then you should use your discretion and judgement to decide whether it is appropriate to approach them on an informal basis. You should encourage the employee to cooperate in the investigation but if they decline then their wishes should be respected. In such circumstances you will only be able to rely on the employee making the original complaint.
- 4.4 After the initial discussion with the employee and anyone else who agrees to provide information then you will need to decide whether there are grounds to investigate the concern further. If you decide there is insufficient evidence or there are other reasons not to investigate the matter further then you should record your decision and communicate this to the employee who raised the concern. If the employee is unhappy with your decision then you should offer

them the opportunity to discuss the matter with a more senior manager in your directorate.

- 4.5 If you become aware of a concern as a result of receiving an anonymous letter, telephone call or other form of communication then you should follow the same steps as above to substantiate the information provided. There is always a possibility that you may recognise the identity of the employee who is reporting the matter but you should respect their wishes to remain anonymous.

### **Investigation**

- 4.6 Any investigation should be undertaken promptly, thoroughly and in an impartial manner. The purpose of the investigation is to establish the facts and, if necessary, to decide what further action is required. Further action may include addressing any weaknesses in procedures, improving controls, changing working practices, instigating disciplinary action or referral of the matter to others (including HR, the Head of Internal Audit or the police). The following measures should be observed:
- All documentation and records relating to the investigation should be retained on a separate file;
  - All information should be treated as confidential and the files should be kept in a secure location;
  - You should sign and date all notes you make;
  - You should explain the reasons why you are asking questions or requesting information from the people you approach unless you do not wish to alert the employee(s) who are the subject of the investigation (for example, if you believe they may try to conceal or tamper with the evidence);
  - You should concentrate on the facts relevant to the investigation and therefore limit the scope of your enquiries accordingly. However, if other allegations are made during the investigation these should be noted and followed up;
  - If you suspect that fraud, theft, corruption or other serious malpractice may be involved then you should immediately inform the Head of Internal Audit;
  - If you suspect that bullying or harassment of staff, or discrimination may be involved then you should immediately inform a member of the HR team;
  - Advice should be sought from the Head of Internal Audit or a member of the HR team if you are unsure about how to proceed at any stage in the investigation.
- 4.7 You may need to interview the employee(s) who are the subject of the investigation. Employees have the right to be accompanied by a trade union representative or work colleague. At this stage any interview should be

limited to establishing the facts but it may be necessary to warn the employee(s) concerned that the information they provide may be used in subsequent disciplinary proceedings. You should make every effort not to disclose the name of the employee who originally raised the concern. You should make detailed notes of the interview and sign these.

### **Malicious or vexatious allegations**

- 4.8 If your investigation reveals evidence which suggests that the concern has been raised for malicious or vexatious reasons then this should be regarded as a serious disciplinary offence. You should seek advice from a member of the HR team in such circumstances.

### **Other matters**

- 4.9 If the employee who originally raised the concern is unhappy about the conduct of your investigation then you should refer them to a more senior manager in your directorate.
- 4.10 If the concern relates to the activities of another public body (for example, the NHS or a district council) the details should be passed to the Head of Internal Audit who will liaise with the appropriate officer in the body concerned. It is important not to discourage the whistleblower from providing information once they have decided to come forward so they should be made aware that the details will be passed on confidentially, and if requested anonymously, for investigation under the protocols of the relevant body.

### **Reporting back to the whistleblower**

- 4.11 You should report back to the employee who raised the concern within ten working days:
- Acknowledging that the concern has been received;
  - Indicating how it is proposed to deal with the matter;
  - Giving an estimate of how long it will take to provide a final response;
  - Stating whether any initial enquiries have been made; and
  - Stating whether further investigations will take place and, if not, why not.
- 4.12 You should also report back once you have completed your investigation. If the investigation is taking longer than expected then you should inform the employee of this and provide a revised expected completion date.