



East Dunbartonshire Council

Whistleblowing Policy

Revised September 2014

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Appendix 14 – Whistleblowing Policy

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Monitoring and Review

This policy will be reviewed in line with:

- Legislative Change
- Other external factors
- Feedback on the effectiveness of the policy
- Requests for review by Elected Members, Trade Unions and/or Management

Alternative Formats

All Customer Services and Transformation Team policies and procedures can be found on The Hub.

The policy and procedure can also be made available (on request) in a variety of formats. These can be requested from the Customer Services and Transformation Team by contacting 0141 578 8471. Information will be made available in line with the Council Accessible Information Policy.

1 INTRODUCTION

EMPLOYEES MUST BE AWARE OF THE FOLLOWING IN RELATION TO CONTACTING THE POLICE

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 even to the Council itself. They may also harbour fears of subsequent harassment or victimisation. In such circumstances, the employee may well feel it would be easier to ignore an issue rather than report what may well be nothing more than a suspicion of malpractice.

This Council is fully committed to the highest possible standards of openness, probity and public accountability, and in line with that commitment, employees and others with serious concerns about any aspect of the Council's work and/or the behaviour of Officers and Members, should be able to come forward and voice those concerns. In such instances, it is clearly recognised that certain cases by their very nature will have to proceed on a strictly confidential basis. This policy document makes it clear that staff can do so without fear of reprisals. Any employee who makes a disclosure in good faith, based on the criteria as set out in this policy document, will be protected from any and all victimisation, reprisals, and harassment for so doing. However, the Council will fully support any action by those officers subsequently found to be the victim of vexatious or malicious complaints.

This 'Whistleblowing Policy' is intended to encourage and enable staff to raise serious concerns within the Council.

2 AIMS AND SCOPE OF THE POLICY

(a) This policy aims to:-

- Provide clearly defined channels for staff to raise concerns and receive feedback on any action taken;
- Inform staff on how to take the matter further if they are dissatisfied with the response; and
- Reassure staff that they will be protected from reprisals or victimisation for 'Whistleblowing' in good faith.

(b) There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This 'Whistleblowing Policy' is intended to cover concerns that fall outside the scope of other procedures. That concern may be about something that is :-

- A criminal offence that has been, is being, or is likely to be committed; or
- A failure to comply with a legal obligation; or
- A health and safety risk relating to any individual; or
- A miscarriage of justice; or
- A damage to the environment; or
- Against the Council's Standing Orders or policies; or
- Falling below established standards or practices; or
- The deliberate concealment of information relating to any of the above matters.

3 SAFEGUARDS

(a) Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for, or suspected of, the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. This does not mean that if a employee is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of their 'Whistleblowing'.

(b) Confidentiality

The Council will do its utmost to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be realised and appreciated, however, that the investigation process itself may well reveal the source of the information, and, depending on the outcome, a formal statement by the individual may be required as part of the evidence.

(c) Anonymous Allegations

This policy is designed to encourage staff to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include :-

- The seriousness of the issue raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

(d) Untrue Allegations

If a member of staff makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

4 RAISING A CONCERN

(a) For some minor issues (e.g. personal use of Council equipment, abuse of flexi-time), staff should normally raise concerns with their immediate manager or their superior. In general, however, the 'Whistleblowing Policy' is expected to be used for potentially more serious and sensitive issues (e.g. corruption, fraud and theft) and the first step will be to approach the relative Director (unless he or she is the subject of the complaint, in which case the Chief Executive should be informed). Should the complaint be found by the Director to be substantiated, he or she will consult with the Chief Executive on referring it to the appropriate body. All staff are entitled to raise concerns directly with the Local Government Ombudsman should they be unhappy with the internal investigation in terms of the way it has been undertaken.

(b) Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible, should be set out and the reason why the individual is particularly concerned about the situation. Those who do not feel able to put their concern in writing, can telephone either the 'Whistleblowing Hot Line' or the

appropriate officer. A meeting with the appropriate officer can also be arranged, if desired or required by the individual raising the concern.

- (c) The earlier the concern is expressed, the easier it is to take action.
- (d) Although staff are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- (e) Advice and guidance on how matters of concern may be pursued can be obtained from the Monitoring Officer (the Director of Governance and Regulation).
- (f) Individuals may invite their Trade Union or professional association to raise the matter on their behalf. NB Trades Unions are governed by their own individual rules around confidentiality.

5 HOW THE COMPLAINT WILL BE DEALT WITH

- (a) The action taken by the Council will depend on the nature of the concern. The matters raised may :-
 - Be investigated internally;
 - Be referred to the Police;
 - Be referred to the External Auditors;
 - Form the subject of an independent inquiry by the Ombudsman.
- (b) In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation, to be handled at least initially by the Internal Audit Team, is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other, existing, procedures (e.g. child protection or discrimination issues) will normally be referred for consideration under those procedures.
- (c) Some concerns may be resolved by agreed action without the need for investigation.
- (d) Within ten working days of a concern being received, the Council will write to the complainant :-
 - Acknowledging that the concern has been received;
 - Indicating how it proposes to deal with the matter;
 - Giving an estimate of how long it will take to provide a final response;
 - Telling him/her whether any initial enquiries have been made; and
 - Telling him/her whether further investigations will take place, and if not, why not.
- (e) The amount of contact between the body considering the issues and the complainant will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.
- (f) When any meeting is arranged, staff have the right, if they so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- (g) The Council will take steps to minimise any difficulties which staff may experience as a

result of raising a concern. For instance, if members of staff are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.

- (h) The Council accepts that members of staff need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, members of staff will receive information about the outcomes of any investigations.

5. Protected Disclosures

Section 43B of the Employment Rights Act 1996 has been amended so that a worker who makes a disclosure will only be protected if the disclosure is in the “public interest”. The Enterprise and Regulatory Reform Act 2013 also takes away the requirement for a disclosure to be made in “good faith”. However, if the disclosure is not made in “good faith” the employment tribunal will have the discretion to reduce any compensation awarded to the claimant by up to 25%. This will address the situation where a disclosure might be in the public interest but is made for an ulterior motive.

Employers are now vicariously liable for any detriment that one worker received from another because they have made a protected disclosure. However, a statutory defence has also been added which will protect employers who take all reasonable steps to prevent any such detriment occurring.

The above changes came into force on 25 June 2013 and do not apply to disclosures before then.

6. Alternative Methods Of Taking Forward A Complaint

- (a) This policy is intended to provide staff with an avenue to raise concerns with the Council or the Ombudsman. The Council hopes this will satisfy staff. If an individual feels it is right to take the matter outside this process, the following are possible contact points :-

- The local Council member (if you live in the area of the Council);
- The External Auditor;
- Relevant professional bodies or regulatory organisations;
- Individual’s solicitors;
- The Police.

(b) If a employee does decide to take the matter outside the Council, the Chief Executive (or the Director of Governance and Regulation) should be contacted in the first instance. The employee also needs to ensure that they do not disclose confidential information or that disclosure would be privileged. This can be checked with the Ombudsman who will also advise on ways to proceed.

6. The Responsible Officer

The Chief Executive (or the Director of Governance and Regulation), has the overall responsibility for the maintenance and operation of this policy. That Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the Council.

NB No approach is to be made to the Police authorities except via the Chief Executive or any other

nominated person acting on their behalf. The Chief Internal Auditor may refer any such cases to the Police, but only after receiving the authorisation of the Chief Executive or any other nominated person acting on her behalf, and following notification to the relevant Strategic Director, Head of Service, Departmental Manager, or other nominated officer. In the absence of the Chief Executive or any other nominated person acting on her behalf, the Chief Internal Auditor is then authorised to make appropriate arrangements with the Police authorities.

NO APPROACH IS TO BE MADE TO THE POLICE PRIOR TO CONTACTING THE CHIEF EXECUTIVE OR OTHER PERSON ACTING ON THEIR AUTHORITY WHERE POSSIBLE