

**BUCKINGHAMSHIRE COUNTY COUNCIL**

**WHISTLEBLOWING**

**POLICY AND PROCEDURE**

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## WHISTLEBLOWING POLICY AND PROCEDURE

### 1. Introduction

- 1.1 The Council is committed to achieving the highest possible standards of service and ethical standards in public life.
- 1.2 This document sets out the Council's whistleblowing policy and encourages employees/workers to not overlook concerns they may have but to raise those concerns within the Council through a supportive network.
- 1.3 The policy forms part of the Council's Anti-Fraud and Corruption strategy and provides a structured mechanism for employees/workers to raise any serious concerns about any aspect of the Council's work without the risk of any subsequent detriment or disadvantage.
- 1.4 This policy is in addition to the Council's Complaints and Grievance Procedures. It does not form part of the disciplinary procedures, although disciplinary action may result from the application of this policy.

### 2. Scope

- 2.1 This policy applies to:
  - a. All Buckinghamshire County Council employees, employed under the terms of Bucks Pay Employment Conditions
  - b. Workers, including agency staff, consultants, self employed individuals and trainees engaged to work in Council establishments
  - c. Contractors working for the Council on Council premises and suppliers and those providing services under a contract with the Council on their own premises
  - d. Organisations working in partnership with the Council
  - e. Volunteers working with or for the Council (note that Volunteers are not currently covered by Public Interest Disclosures Act 1998)

This policy does not apply to:

  - a. Members of the general public. Concerns raised by the general public should be made via the Council's Complaints Procedure.
  - b. Employees on Bucks Pay Employment Conditions who are employed in Schools.
- 2.2 This policy does not form part of the BCC contract of employment.
- 2.3 Existing procedures are in place to enable employees/workers to lodge a grievance relating to their own employment. Any serious concerns that an employee/worker has about an aspect of service provision or conduct of any employed or working for BCC, can and should be reported under this policy.

### 3. Roles and Responsibilities

- 3.1 Both managers and employees/workers have a responsibility within this procedure.

Managers will:

- a. Ensure the Whistleblowing procedures are followed correctly, seeking advice from HR where they are unsure.
- b. Support employees/workers who raise concerns under this procedure to ensure that they do not suffer detriment as a result of their action e.g. loss of status/income/conditions of employment.
- c. Inform the Council's Monitoring Officer (Service Director Legal & Democratic) when a concern is raised to them.
- d. Protect the identity of an employee/worker who raises concerns, by only telling those who need to know and asking them to respect the confidentiality of this information.
- e. Ensure that, even in the case of anonymity, the employee/worker is aware that any investigation may reveal the source of the information, and that they may be asked to give a statement as part of the process of gathering evidence.
- f. Where managerial or procedural action through a different policy e.g. Conduct and Discipline, is being taken against the employee who has raised concerns, the manager should contact Human Resources who in turn will contact the Council's Monitoring Officer (Service Director Legal and Democratic ), and other appropriate colleagues, to decide whether that action should be delayed whilst an investigation under the whistleblowing procedure takes place.

- 3.2 Employees/Workers will:

- a. Not blow the whistle for personal gain or with malicious intent but use this procedure to raise concerns in the public interest.
- b. Reasonably believe their allegations and the information they provide are substantially true.

#### **4. Principles**

- 4.1 The policy and procedure contained within this document is founded on the following principles:

- a. That employees/workers have a legal right and duty to report their concerns if they have a reasonable belief that wrongdoing may be occurring, or may have occurred, within the Council.
- b. That the Public Interest Disclosure Act 1998 protects employees/workers from reprisal, victimisation or harassment at work if they raise a concern in the public interest.
- c. To encourage employees/workers to raise serious concerns within the Council initially, rather than overlooking a problem or blowing the whistle outside.

- d. To encourage and enable individuals to raise concerns about any aspect of the Council's work and receive feedback on any action taken without fear of reprisal.
- e. To ensure that individuals receive a timely response to their concerns.
- f. Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).

## **5. Definition of Whistleblowing**

- 5.1 Whistleblowing occurs when an employee or worker raises a concern about a dangerous or illegal activity that they are aware of through their work and that may affect others, e.g. customers, members of the public, or their employer. A concern raised, also known as a protected disclosure under the Public Interest Disclosure Act 1998, must be in the public interest to qualify for protection.
- 5.2 The Whistleblower may not be directly or personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of the investigation and as such should not be expected to prove their case. Instead, he or she may raise the concern, also known as a protected disclosure, using the process outlined in this policy, so that others can address it.
- 5.3 Concerns that are covered by this policy include:
  - Conduct which is an offence or breach of law
  - Failing to comply with a legal obligation
  - Health and Safety risks, including risks to the public as well as employees/workers
  - Damage to the environment
  - Abuse of clients
  - Safeguarding concerns relating to children, young people or vulnerable adults
  - Practice which falls below established standards of practice
  - Possible fraud, corruption or financial irregularity including unauthorised use of Council funds (*please see the BCC Anti Fraud and Corruption Framework*)
  - Any other unethical conduct
  - Covering up information about anything listed above
- 5.4 This policy incorporates provisions that are required from the Public Interest Disclosure Act 1998.

## **6. Exclusions**

- 6.1 This policy does not cover the following cases:

- a. Issues raised by the general public – in these instances the Council's Complaints Procedure should be used
- b. Issues raised by an employee about their own employment – this is dealt with through the grievance procedure
- c. Concerns regarding Safeguarding will be raised under the Whistleblowing Policy to ensure that the employee/worker raising the concern is protected by Public Interest Disclosure Act 1998. However, the concern itself may be dealt with under the Managing Allegations Policy.

See Figure 1 for how to identify which policy, Complaints, Grievance, Managing Allegations or Whistleblowing, should be used to deal with a concern. See Toolkit for examples of situations that may apply to the Whistleblowing policy.

- d. This policy is not to be used as an appeal mechanism for other procedures i.e. following an unfavourable outcome from a grievance procedure unless employees/workers feel that the process in another procedure was significantly and seriously compromised.
- e. Employees/workers must not use dismissal or redundancy selection as sole reasons for making a disclosure under this policy.

## **7. Misuse of the policy**

- 7.1 The Council will take seriously any concerns raised that are subsequently proven to have been made maliciously. Any employee/worker who is found to have acted maliciously, may be subject to disciplinary action.
- 6.2 If, however, an employee/worker raises a concern in good faith that is not later confirmed by investigations, no action will be taken against that employee/worker.

## **8. Confidentiality & Anonymity**

- 8.1 If a concern is raised in confidence, the employee's or worker's identity will not be disclosed without first informing them. If the situation arises where the Council is unable to resolve the concern without revealing the identity, e.g. because evidence is needed in court, this will be discussed first with the employee/worker who raised the concern to agree how to proceed. However, the Council will not disclose the identity of the whistleblower to the person who is the subject of the disclosure or others not involved in the investigation unless it is absolutely necessary to do so and only with prior consent from the whistleblower.
- 8.2 It is important to note that it will be much more difficult to investigate the matter or proceed in instances where a concern is raised anonymously. Accordingly, whilst the Council will consider anonymous reports, it may not be possible to apply all aspects of this policy for concerns raised anonymously.
- 8.3 It is expected that all parties involved in the whistleblowing process will maintain strict confidentiality throughout by ensuring that only the people who need to know have access to details of the case. (with the exception of any legal obligations requiring action from the Council, e.g. in health and safety matters)

- 8.4 Any person found to have breached the terms of this policy in relation to confidentiality may be subject to action under the Council's Conduct and Discipline procedures.

## **9. Safeguarding**

- 9.1 If an employee/worker has a concern that any person who works with children, young people or vulnerable adults, in connection with his/her employment or voluntary activity, has:
- a. behaved in a way that has harmed a child, young person or vulnerable adult or may have harmed a child, young person or vulnerable adult
  - b. possibly committed a criminal offence against or related to a child, young person or vulnerable adult
  - c. behaved towards a child, young person or vulnerable adult in a way that indicates he/she is unsuitable to work with children, young people or vulnerable adults

the employee/worker should raise the concern via the Whistleblowing Policy as this policy affords the employee/worker protection under the Public Interest Disclosure Act 1998. It is important that a safeguarding concern is raised as a matter of urgency as the safety of others may be dependent upon the concern being dealt with swiftly. The concern may then be dealt with under the procedures surrounding Safeguarding Vulnerable Adults and Managing Allegations against Staff and Volunteers working with Children and Young People.

## **10. Raising a Concern under the Whistleblowing Policy**

- 10.1 In the first instance, the employee/worker should raise their concern orally or in writing with their immediate manager, or, if the concern involves the direct line manager, the Service Director. If the concern involves a Service Director an approach should be made to the Strategic Director.
- 10.2 Alternatively, if the employee or worker feels unable to raise a concern to an appropriate level of line management they may use the Council's Whistleblowing Hotline on **01296 382237** or email [audit@buckscc.gov.uk](mailto:audit@buckscc.gov.uk).
- 10.3 Concerns can also be raised through the employee/workers trade union representative. The representative should then seek advice on procedures from the local representative.
- 10.4 Workers, such as agency workers or contractors, should raise a concern with their contact within the Council, usually the person to whom they report.
- 10.5 The employee/worker must make it clear that they are raising the concern under the Whistleblowing policy.
- 10.6 If they wish to remain anonymous, they should make this clear to the person they contact.
- 10.7 Employees/workers will not be required to provide evidence of the concern but will be expected to demonstrate that there are reasonable grounds for raising the issue.

- 10.8 Employees/Workers should have nothing to fear by reporting concerns and individuals who do invoke the Whistleblowing procedures will be seen as 'witnesses' rather than 'complainants' by the Council.
- 10.9 Any investigations that are deemed necessary following the reporting of a concern will not be influenced by any disciplinary or redundancy procedures that may already affect employees/workers.
- 10.10 If an initial concern raised within the Council includes any possible financial irregularity, the Service Director (Finance & Commercial) should be informed by the Service Director/Strategic Director.
- 10.11 The employee/worker has a right to be accompanied by an accredited trade union representative or work colleague at any meeting throughout the Whistleblowing process.
- 10.12 The Council will not meet any costs associated with the attendance of the representative or colleague at a Whistleblowing meeting beyond granting paid time off to a Council employee.

## **11. Formal Stages of the Whistleblowing Procedure<sup>1</sup>**

### **11.1 Stage 1 – Meeting with Line Manager or Service Director**

- a. On receipt of the concern from the employee/worker, the Line Manager/ Service Director should inform the Council's Monitoring Officer (Service Director, Legal & Democratic) as to the nature of the concern.
- b. The Line Manager/Service Director will then either continue to deal with the concern or refer it to another appropriate Senior Manager. Where concerns raised involve Children, Young People or Vulnerable Adults, the appropriate process should be followed. (Please see Toolkit Section 11 for further information).
- c. The Line Manager/Service Director will then write to the employee/worker within 5 working days of receipt of the concern to arrange a meeting to discuss the details of the concern that has been raised. This meeting should take place promptly.
- d. The Line Manager/Service Director should take notes of the details of the concern either during or straight after the meeting.
- e. The Line Manager/Service Director will then carry out a preliminary investigation and make a decision on whether a full investigation needs to take place or if urgent action needs to be taken e.g. referral to the police.
- f. If a decision to carry out an internal investigation is made, the Line Manager/Service Director will appoint an Investigating Officer, and any parties involved in the concern will be interviewed. Notes of all meetings and interviews should be made.

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<sup>1</sup> Figure 2 – Flowchart on Bucks County Council's Whistleblowing Procedure

- g. The Line Manager/Service Director will then notify the employee/worker of the outcome in writing within 5 working days of the date of the meeting. This time limit may be extended if the investigation is fairly complex and will take time but the employee/worker who raised the concern must be notified of any delay. This letter must be copied to the Council's Monitoring Officer – the Service Director ( Legal and Democratic) .
- h. If the employee/worker is dissatisfied with the outcome at Stage 1, they may opt to take the matter to Stage 2 by writing to the Strategic Director within 10 working days of the date of the decision letter at Stage 1.
- i. The Council will also notify the person that is the subject of the disclosure within 5 working days of the date of the meeting. Upon receipt of the confirmation the individual will be able to appeal any decisions by writing to the Line Manager/Service Director.

## **11.2 Stage 2 – Meeting with Strategic Director**

- a. If the employee/worker has notified the Strategic Director (Hearing Officer) in writing that they are dissatisfied with the outcome at Stage 1, the Strategic Director will write to the employee/worker within 5 working days of receiving the letter to arrange a meeting to discuss the continuing concerns. This meeting should take place promptly.
- b. The Strategic Director may then decide to investigate further and will need to decide what action to take. The employee/worker must be updated with the outcome of the meeting, within 5 working days, copying the response to the Council's Monitoring Officer.
- c. If the employee/worker is dissatisfied with the outcome at Stage 2, they may opt to take the matter to Stage 3, by raising the concern outside the Council, within 10 working days of the date of the decision letter at Stage 2.
- d. Following a Hearing if the employee/worker is dissatisfied with the way in which procedures were followed, they should put their concerns in writing to their relevant HR contact in order that concerns may be addressed.

## **11.3 Stage 3 – Raising the Concern Externally**

- a. At Stage 3, the employee/worker is entitled to take their concern to any of the following<sup>2</sup>:
  - A County Councillor or the local Member of Parliament
  - The District Auditor
  - The Police
  - Public Concern at Work<sup>3</sup> ([www.pcaw.co.uk](http://www.pcaw.co.uk) or telephone 020 7404 6609)

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<sup>2</sup> In taking their concerns outside the Council, the employee/worker should, as far as possible, avoid revealing confidential information (e.g. about pupils, clients or other workers).



- A relevant professional body or inspectorate (e.g. OFSTED OR SSI)
- A trade union or professional association
- The Local Government Ombudsman

## **12. Service Director/Strategic Director**

- 12.1 Service Directors may raise their concern initially to the Strategic Director and then the Chief Executive if they wish to take the concern to a Stage 2.
- 12.2 In the event that a Strategic Director wishes to raise a concern under the Whistleblowing Policy, they will need to address their concerns to the Chief Executive in the first instance, or directly to a Member of the Council.

## **13. Investigation**

- 13.1 When a concern is raised through the Whistleblowing Policy, it may be necessary to carry out an internal enquiry. In this instance, an Investigating Officer will be appointed by the Hearing Officer (Strategic Director) and is responsible for investigating events surrounding or leading to the concern raised.
- 13.2 The Investigating Officer will meet any other parties or witnesses named in the investigation or deemed to be relevant. At this point, a written summary of interview notes and any findings should be produced for the Hearing Officer.
- 13.3 If further allegations or information come to light during the course of the investigation the Hearing Officer must be kept informed.

## **14. Action under the Whistleblowing Policy**

- 14.1 Feedback will be given to the employee/worker who has raised the concern under the Whistleblowing Policy. However, it may not be possible to tell the employee/worker the precise action that may be taken as a result as this may infringe a duty of confidence owed by the Council to another employee/worker.
- 14.2 Prior to any investigation, the Manager/ Service Director may decide to:
- Take action without the need for an investigation
  - Take urgent action before an investigation takes place, e.g. suspension of an employee/worker, if sufficient initial evidence indicates this is warranted. See the Conduct and Discipline Policy for details on Suspension .
  - Undertake an investigation e.g. through the disciplinary procedure, Managing Allegations against Staff and Volunteers Working with Children and Young People, Safeguarding Vulnerable Adults process or by internal audit through the

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<sup>3</sup> Public Concern at Work is an accredited legal advice centre so an employee/worker who approaches this organisation does not breach the duty of confidence that they owe to their employer.

Anti-Fraud and Corruption Statement of Policy if the case involves financial irregularity or corruption.

- Refer the concern straight to the police. If a concern is referred straight to the police then an internal investigation must not be carried out as the police will wish to speak to all parties involved.
- Arrange an independent enquiry

14.3 The employee/worker should be kept informed as to what decision has been made and an explanation given for the decision.

14.4 If a decision is made to take action under another policy e.g. Conduct and Discipline or Managing Allegations, after an investigation, the Manager/Service Director should:

- Write to the employee/worker who has raised the concern to inform them of the outcome within 5 working days of the meeting, copying in the Council's Monitoring Officer.
- Give reasons for the decision made and explain that the employee/worker has a right to take the matter to the next level and give details of how they should do this.

14.5 If, following the use of the whistleblowing procedures, an individual believes they are being subjected to detrimental treatment by any person within the Council, they must inform their relevant Line Manager immediately and appropriate action will be taken to protect them from any reprisals.

14.6 As part of the Council's commitment to dealing with concerns raised via this policy, any person who victimises or harasses an individual as a result of their having raised a concern under the procedure may be subject to disciplinary action.

14.7 Similarly any person who deters or attempts to deter any individual from genuinely raising concerns under this policy may also be subject to disciplinary action.

## **15. Records**

15.1 The Council's Monitoring Officer (Service Director, Legal and Democratic ) will keep a central register of all concerns raised relating to Buckinghamshire County Council and Schools. Confidential records of the outcome of any concerns raised will also be maintained.

15.2 Records should not be kept on the file of the individual who raised the concern under any circumstances.

15.3 As part of the ongoing review of the effectiveness of this policy, an annual report will be issued to the Buckinghamshire County Council Standards Committee of all concerns raised under the Whistleblowing policy.

**Review Date: June 2014**

Figure 1

## WHICH POLICY TO USE WHEN A CONCERN IS RAISED

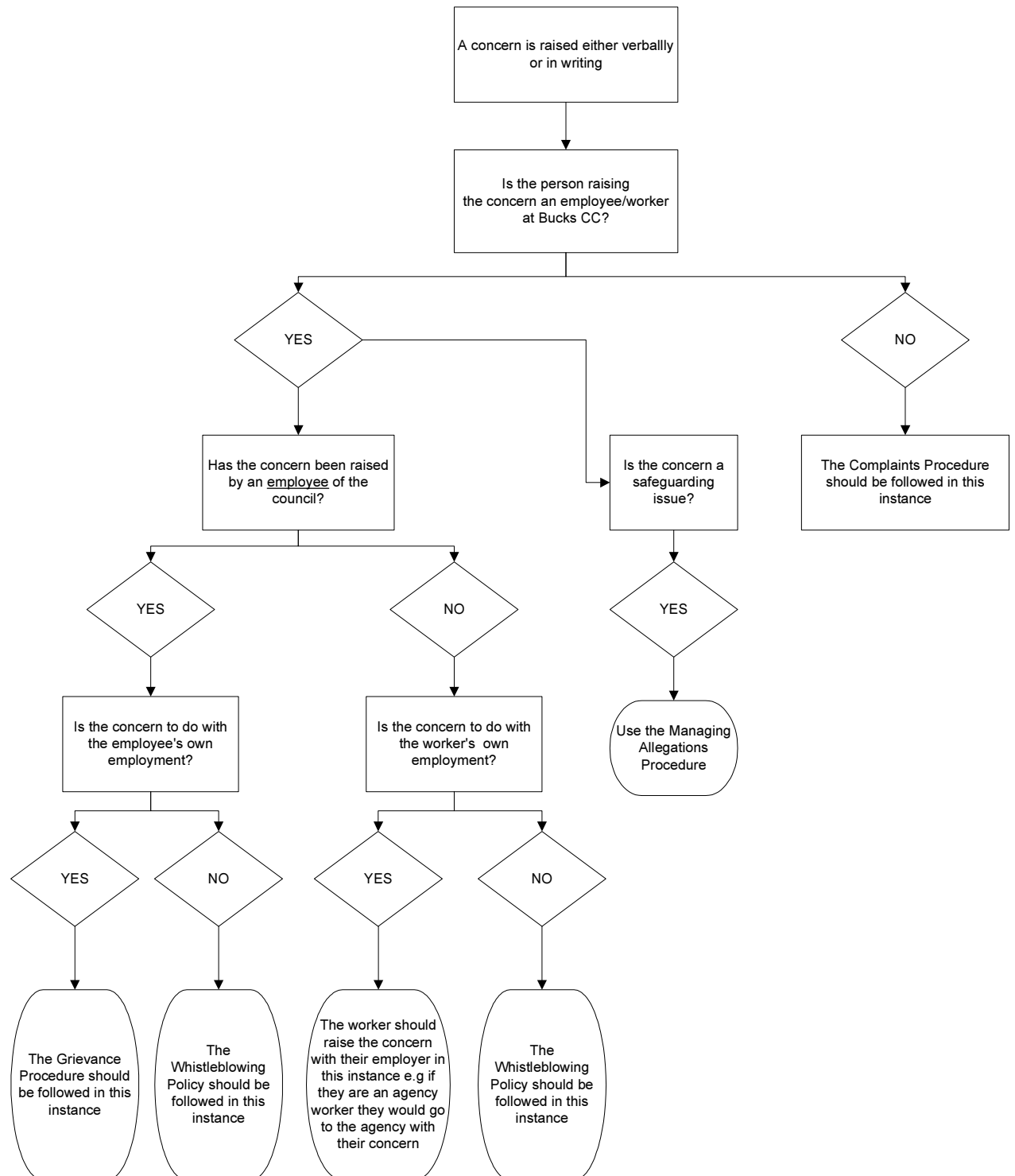


Figure 2

## THE COUNCIL'S WHISTLEBLOWING PROCESS

