



# **BUCKINGHAMSHIRE COUNCIL**

## **DRAFT FOR APPROVAL**

# **WHISTLEBLOWING POLICY AND PROCEDURE**

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### 1. INTRODUCTION

#### 1.1 What is the policy about?

The Public Interest Disclosure Act 1998 protects employees/workers from reprisal, victimisation or harassment at work if they raise a concern that they reasonably believe is in the public interest.

Employees can sometimes be the first to realise that there may be something wrong with procedures/processes, or the conduct of others. However, they may not always express their concerns because they feel that speaking up would be disloyal to their colleagues or the council. They may also fear the threat of harassment or victimisation and in these circumstances, they may feel it easier to just ignore their concern rather than report.

“Whistleblowing” is the term used when an employee passes on information concerning wrongdoing. This is generally referred to as “making a disclosure” or “blowing the whistle”.

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998).

The council is committed to the highest possible standards of openness, honesty, integrity and accountability (refer to the Council’s [Code of Conduct](#)). In line with that commitment we expect employees, and others we deal with, who have any serious concerns about any aspect of the council’s work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant council procedures to report issues in an open and transparent way. However, it is recognised that some cases will have to proceed on a confidential basis.

This policy makes it clear that you can report concerns without fear of victimisation, subsequent discrimination or disadvantage. The Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the council rather than overlooking a problem or “blowing the whistle” outside.

#### 1.2 Who does the policy apply to?

This policy applies to all Buckinghamshire Council employees, and all workers including agency workers, consultants, self-employed workers, apprentices, trainees, contractors and volunteers.

Concerns raised by members of the public will be dealt with under the council’s Anti-Fraud and Corruption Policy where appropriate.

These procedures are in addition to the council’s complaints procedures and other statutory reporting procedures applying to some services.

#### 1.3 This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for you to raise those concerns and receive feedback (where appropriate) on any action taken;
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and

- reassure you that you will be protected from possible reprisals or victimisation if you have reasonable belief that you have made any disclosure in the public interest.

### 1.4 Scope of the policy

An employee who makes a disclosure under this policy must reasonably believe:

- (i) that they are acting in the public interest; and
- (ii) that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
  - conduct which is an offence or breach of the law (either criminal or civil);
  - 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 adults with care and support needs;
  - practice which falls below established standards of practice;
  - unauthorised use of public funds;
  - possible fraud, bribery, corruption in relation to providing or receiving of council services (*please see the [Anti-Fraud and Corruption Policy](#)*);
  - unauthorised disclosure of confidential information;
  - unreasonable conduct resulting in unfair pressures on staff (such as abuse of power, bullying or harassment);
  - discrimination on the grounds of race, colour, creed, ethnic or national origin, disability, age, sex, sexual orientation, marital status, or class;
  - breach of council or statutory codes of practice or the council's standing orders;
  - any other unethical conduct; and
  - covering up information about anything listed above.

The above list is neither exclusive nor exhaustive.

Thus, any serious concerns that you have, which are in the public interest, about any aspects of service provision or the conduct of officers or members of the council or others acting on behalf of the council can be reported under the Whistleblowing Policy.

## 2. PRINCIPLES

2.1 This policy and procedure is founded on the following principles:

- a. Employees/workers have a legal right to report their concerns if they have a reasonable belief that wrongdoing may be occurring, or may have occurred, within the council.
- b. The Public Interest Disclosure Act 1998 protects employees/workers from reprisal, victimisation or harassment at work if they raise a concern that they reasonably believe is in the public interest.

- c. Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.
- d. If a concern is raised in confidence, the employee's or worker's identity will not be disclosed without their consent, unless required by law.
- e. 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).
- f. The employee/worker has a right to be accompanied by an accredited trade union representative or work colleague at any meeting during the Whistleblowing process.
- g. If you have any misgivings about either the process or the managers leading it, you should tell us openly (see section 4) so that we can address your concerns. Any meeting recorded without the consent of all those present (covert recordings) will be treated as a conduct matter.
- h. Maliciously making a false allegation is a disciplinary offence, which may be dealt with under the Conduct and Disciplinary Policy and Procedure.
- i. Trying to identify, harassment or victimisation of a whistleblower (including informal pressures) will be treated as a disciplinary offence, which will be dealt with under the Conduct and Disciplinary Policy and Procedure.
- j. Any person who deters or attempts to deter any individual from genuinely raising concerns under this policy may also be subject to the Council's Conduct and Disciplinary Policy and Procedure.
- k. Issues raised by an employee about their own employment should be dealt with through the Grievance Policy and Procedure or through discussions with their line managers where it is appropriate to do so.
- l. The role of the Council's Monitoring Officer (Deputy Chief Executive) is to promote and maintain high standards of conduct across the Council and to ensure lawfulness and fairness of decision making.
- m. All concerns raised relating to Buckinghamshire Council and schools will be recorded on a central register, held by the Business Assurance function on behalf of the Council's Monitoring Officer. The register will be monitored on a monthly basis by the Governance and Assurance Board.
- n. As part of the ongoing review of the effectiveness of this policy, an annual report will be issued to the Buckinghamshire Council's Audit and Governance Committee of all concerns raised under the Whistleblowing policy.
- o. There will be no unlawful discrimination against any individual in the application of this policy because of 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(covered by the Equality act of 2010).

### 3. SAFEGUARDING

- 3.1 If an employee/worker has a concern that any person who works with children, young people or adults with care and support needs, in connection with their 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; or
  - 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 they may pose a risk of harm to children, young people or adults with care and support needs; or
  - d. Behaved or may have behaved in a way that indicates they may not be suitable to work with children;

then the employee/worker should raise the concern with the Local Authority Designated Officer (LADO) if related to a child or to adult safeguarding in the first instance. 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 Safeguarding Code of Conduct.

### 4. RAISING A CONCERN UNDER THE WHISTLEBLOWING POLICY AND PROCEDURE

- 4.1 How to raise a concern:
- a. In the first instance, the employee/worker should raise their concern verbally or in writing with their immediate manager, or, if the concern involves the direct line manager, their superior. Wherever possible concerns should be made in writing direct by the person raising the concerns using the template [link to be included for template when published]
  - b. The manager 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 adults with care and support needs, the appropriate process should be followed.
  - c. In certain circumstances, you may feel unable, or it may not be appropriate, to raise your concerns with your immediate manager due to the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If this is the case, the concern can be reported to one of the following officers using the same template [placeholder: link to be added when published]:
    - Head of Service;
    - Service Director;
    - Corporate Director;
    - Head of Business Assurance (& Chief Internal Auditor);

- Director of Finance (S151);
  - Deputy Chief Executive (Monitoring Officer); or
  - Chief Executive;
- d. You may also use the Council's Whistleblowing Hotline on 01296 382237 (accessible 24 hours a day) or email [investigations@buckinghamshire.gov.uk](mailto:investigations@buckinghamshire.gov.uk). All calls/emails will be treated in the strictest confidence.
- e. In the event that you wish to raise a concern which involves the Head of Business Assurance (& Chief Internal Auditor), Audit, Assurance and Fraud Manager or one of the Business Assurance Team, your concerns should be raised with the Service Director for Legal and Democratic Services or the Monitoring Officer in the first instance to ensure that the appropriate process is followed.

## 5. HOW WILL THE COUNCIL RESPOND?

- 5.1 Following the recording of the concern, either directly by the whistleblower or the manager to whom it was reported, the completed form should then be immediately forwarded to the Head of Business Assurance (& Chief Internal Auditor) and Audit, Assurance and Fraud Manager via [investigations@buckinghamshire.gov.uk](mailto:investigations@buckinghamshire.gov.uk) for logging and monitoring purposes.
- 5.2 The Head of Business Assurance (& Chief Internal Auditor) and Audit, Assurance and Fraud Manager are independent and have unlimited access to any officer, member or information within the council and, in consultation with the appropriate officer, can agree the most appropriate way of investigating the concern.
- 5.3 Where appropriate, the matters raised may:
- be investigated by management, internal audit and corporate fraud, or an independent employment investigator;
  - be investigated through the disciplinary or grievance process;
  - be referred to the police;
  - be referred to the LADO or Adult Safeguarding Team;
  - be referred to the external auditor; or
  - form the subject of an independent inquiry.
- 5.4 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principles, which the council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures [for example, safeguarding or discrimination issues] will normally be referred for consideration under those procedures.
- 5.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

- 5.6 Within ten working days of a concern being raised, the person with whom you have raised your concerns will respond to you in writing:
- acknowledging that the concern has been received;
  - indicating how the council proposes to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;
  - telling you whether any initial enquiries have been made;
  - supplying you with information on employee support mechanisms; and
  - telling you whether further investigations will take place and if not, why not.
- 5.7 A copy of the response will be forwarded to the Head of Business Assurance (& Chief Internal Auditor) and Audit, Assurance and Fraud Manager for monitoring purposes.
- 5.8 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the council will seek further information from you. However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the Whistleblowing process, specific procedures will need to be applied.
- 5.9 Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the relevant person(s) for a decision to be made as to whether such a course of action is both necessary and proportionate.
- 5.10 **Important:**
- a. All employees must not, under any circumstances attempt to obtain any further information covertly either directly or indirectly without first having complied with the Council's procedures in relation to staff surveillance which can be found in the [Covert Surveillance Policy and Procedure](#). Failure to do so may infringe Human Rights and render the council liable to legal action.
  - b. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a trade union or professional association representative or a work colleague.
  - c. The council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal, civil or disciplinary proceedings the council will arrange for you to receive advice about the procedure.
  - d. The council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will confirm that the investigation has been completed and appropriate actions have been taken. We may not be able to divulge details of the investigation due to confidentiality restrictions.
  - e. This code is intended to provide you with an avenue within the council to raise concerns. The council hopes you will be satisfied with any action taken.

## 6. FURTHER REPORTING OPTIONS

6.1 If following the outcome of the internal investigation outlined in section 5 the employee/worker reasonably believes that the appropriate action has not been taken they may opt to raise the concern outside the council to any of the following:

- Buckinghamshire Council's External Auditor;
- The Comptroller and Auditor General;
- The Police;
- Protect – Speak up, stop harm (visit [www.protect-advice.org.uk](http://www.protect-advice.org.uk) for web-form or telephone on 020 3117 2520);
- A relevant professional body or inspectorate (e.g. OFSTED or Care Quality Commission); or
- A trade union or professional association.

## 7. HOW TO REPORT A CONCERN IF YOU ARE NOT AN EMPLOYEE/WORKER

7.1 If you are not an employee or worker for Buckinghamshire Council (see 1.2) but you have a concern which falls under the scope of the policy (see 1.4), then you may raise the concern via [investigations@buckinghamshire.gov.uk](mailto:investigations@buckinghamshire.gov.uk).

## 8. TRAINING AND AWARENESS

8.1 Awareness of the Whistleblowing Policy and Procedure is raised as part of the Anti-Fraud and Corruption training programme which is delivered across the organisation on a rolling basis. Delivery of the training programme and effectiveness of the policy and procedure will be included in an Annual Report to the Audit and Governance Committee.