

25. Whistle Blowing Policy

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25.1 Introduction

In this Policy 'Whistleblowing' means the reporting by staff, contractors or consultants of suspected misconduct, illegal acts or failure to act within the Council.

The aim of this Policy is to encourage individuals to whom it applied, and whom it applies, and have serious concerns about any aspects of the Council's work, to come forward and voice those concerns.

This Policy intends to:

- Encourage the reporting of suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected, as far as possible.
- Encourage and enable individuals to raise concerns within the Council rather than ignoring a problem or blowing the whistle externally.
- Provide guidance as to how to raise those concerns.
- Reassure individuals that they should be able to raise genuine concerns without fear of reprisals, victimisation, subsequent discrimination, disadvantage or dismissal, even if they turn out to be mistaken, provided the disclosure is made in the public interest.

The Council is committed to conducting business with honesty and integrity, and expects all staff to maintain high standards of conduct, in accordance with the Council's Employee Code of Conduct. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring or to address them when they do occur

Staff, contractors and consultants are often the first to realise that there may be something seriously wrong within an organisation. It is not disloyal to colleagues or the Council to speak up. The Council is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices. To help achieve these standards it encourages freedom of speech.

25.2 What is Whistleblowing

Any serious concerns that staff, contractors and consultants have about service provision or the conduct of officers of the Council, or others acting on behalf of the Council, that:

- make them feel uncomfortable in terms of known standards,
- are not in keeping with the Constitution or Council policies,
- fall below established standards of practice or are improper behaviour,

should be reported.

This may relate to:

- Criminal activity;
- Miscarriages of justice;
- Racial, sexual, disability or other discrimination;
- Danger to health and safety;
- Damage to the environment;
- Failure to comply with any legal, or professional, obligation or regulatory requirements;
- Unauthorised use of public funds or other assets;
- Bribery;
- Financial fraud or mismanagement;
- Negligence;
- Breach of our internal policies and procedures, including the Council's Employee Code of Conduct;
- Conduct likely to damage our reputation;
- Unauthorised disclosure of confidential information;
- The deliberate concealment of any of the above matters.

A whistleblower is a person who raises a genuine concern relating to any of the above, where he/she honestly and reasonably believes it to be in the public interest to raise the concern.

If a staff member is uncertain whether something is within the scope of this Policy they should seek advice from the Monitoring Officer (Director of Law, Governance and Strategy).

This Policy does not form part of any employee's contract of employment and it may be amended at any time.

25.3 What is not covered by the Policy?

This Policy should not be used for:

- complaints relating to an individual's own personal circumstances, such as the way they have been treated at work. In those cases the Grievance Procedure should be used.
- Concerns or complaints any individual member of the public has about services provide to them. This should be raised through the Council's complaints process.
- Concerns or complaints of misconduct of elected members, which should be referred to the Council's Monitoring Officer and dealt with under the Code of Conduct.

In some instances there may be matters which concern multiple of the above and, in such circumstances, the policies will be applied as fits the circumstances provided that all legal requirements are met by the Council in doing so.

25.4 Who can use this Policy?

This Policy is for all individuals, working at all levels of the organisation, including senior managers, officers, employees, secondees, consultants, contractors, trainees, homeworkers, part time and fixed term, casual and agency staff and volunteers (collectively referred to as staff). Members of the public can use the Council's complaints procedure or complain to the ombudsman.

25.5 What does this Policy apply to?

This Policy applies to anything illegal, improper, unethical or wrong that is done by:

- staff
- councillors
- co-opted committee members
- anyone representing the Council

- partner organisations
- contractors, consultants or other suppliers

Examples would include a criminal offence, fraud or corruption, damage to the environment, safeguarding concerns, theft or misuse of public money, breach of a legal obligation, a failure to follow the Council's finance, contract or other rules or a deliberate attempt to conceal any of these things.

The Council has other policies and procedures, for example on recruitment and selection, discipline, grievances, bullying and harassment and diversity. The Whistleblowing Policy should only be used when other policies are inappropriate.

If an employee raises a disclosure whilst they are subject to another of the Council's procedures, for example, Disciplinary, Dispute Resolution, Capability or Absence Management Procedure, parallel investigations may be conducted. The Procedures already instigated will not, in most cases, be suspended. However, the employee's right to raise a concern under this Procedure will not be affected.

25.6 Purpose of Whistleblowing Policy

Any member of staff with serious concerns about any of the Council's work or activities are expected to blow the whistle. This policy document makes it clear that an employee can do so without fear of victimisation, subsequent discrimination or disadvantage. This Policy:

- encourages officers to blow the whistle within the Council rather than say nothing or take their concerns elsewhere
- protects whistle blowers from reprisals as long as they have acted honestly and in the public interest
- provides a procedure for whistle blowing
- ensures whistle blowers get a response
- gives advice on what to do if the response is not good enough.

25.7 Confidentiality

The Council hopes that staff will feel able to voice whistleblowing concerns openly under this Protocol. However, if a whistleblower wants to raise a concern confidentially, the Council will make every effort not to disclose their identity. If it is necessary for anyone investigating the concern to know the whistleblower's identity, this will be discussed with the whistleblower in advance.

The Council does not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if the Investigating Officer cannot obtain further information from the whistleblower. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Monitoring Officer and appropriate measures can then be taken to preserve confidentiality.

If a whistleblower is in any doubt, they can seek independent advice from the independent charity, Protect, who offer a confidential advice line. Their contact details are at the end of this Policy.

25.8 How will the Council protect and support whistle blowers?

It is understandable that whistleblowers are sometimes worried about possible repercussions. The Council aims to encourage openness and will support staff who raise genuine concerns under this Policy, if they reasonably believe it to be in the public interest to do so, even if they turn out to be mistaken.

Staff must not suffer any detrimental treatment as a result of raising a concern or making a disclosure, provided it is made in the honest belief that it is in the public interest to do so. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Monitoring Officer immediately. If the matter is not remedied, you should raise it formally using the Council's Grievance Procedure.

Staff must not threaten or retaliate against whistleblowers in any way. Any staff member involved in such conduct is likely to be subject to disciplinary action. In some cases the whistleblower could have a right to sue them personally for compensation in an Employment Tribunal, and also for the Council to potentially be vicariously liable for their actions.

The Council will protect whistle blowers from reprisals as long as they had a reasonable belief that the allegations were true and made them in good faith. Reprisals will be treated seriously as a disciplinary offence and dealt with through the disciplinary procedure. Where workers blow the whistle but do not cite the Policy they will still be protected under it.

The Council will try to minimise any difficulties resulting from whistle blowing. For example, it will advise whistle blowers about the procedure if they are required to act as witnesses.

25.9 External Disclosures

The aim of this Policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases a whistleblower should not find it necessary to alert anyone externally.

The law recognises that in some circumstances it may be appropriate for a whistleblower to report their concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. The Council strongly encourages whistleblowers to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this Policy.

Whistleblowing concerns usually relate to the conduct of staff, but they may sometimes relate to the actions of a third party, such as a customer, supplier or service provider. In some circumstances the law will protect a whistleblower if they

raise the matter with the third party directly. However, the Council encourages whistleblowers to report such concerns internally first.

25.10 Untrue allegations

Workers will not suffer reprisals for making allegations that turn out to be untrue, as long as they had a reasonable belief that the allegations were true and made them in the public interest.

Allegations that are made without a reasonable belief as to their truth or made maliciously or not made in the public interest are likely to be treated as a disciplinary offence and dealt with through the disciplinary procedure.

25.11 Role of trade unions and professional associations

Workers can raise concerns themselves or ask their trade union or professional association to act on their behalf. Whistleblowers can bring a trade union or professional association representative or a friend with them to meetings.

25.12 How do members of staff blow the whistle?

(a) Saying that the whistle blowing procedure is being used

The whistle blower should wherever possible make it clear from the start that they want to use the whistle blowing procedure. Though it will ultimately be a decision based on the contents of the complaint as to what policy applied to it where there are overlaps with other policies and processes of the Council as outlined in 25.3. In such cases a written explanation will be provided as to which policy applies to what elements and why.

(b) Putting concerns in writing

Whistleblowers should wherever possible put their concerns in writing, giving as much detail and including relevant dates. Whistleblowers are not expected to prove that their allegations are true, but they need to show that there are reasons for raising their concern and it was made in the public interest. If a whistleblower does not feel they can put their concerns in writing, they can be interviewed instead (25.10(c)). Where possible any information or evidence in support of the complaint should be provided with the concerns.

(c) Who should whistle blowers go to with their allegations?

In the first instance concerns should be raised with the relevant line manager or Service Director who may be able to agree a way of resolving concerns in a quick and effective manner.

Where the matter is more serious, or staff feel that their line manager or Service Director has not addressed the concern or if they prefer not to raise it with them for any reason they should contact one of the following:

- the Chief Executive,

- the Monitoring Officer (Director of Law, Governance and Strategy),
- the Group Finance Director,

If the whistleblower suspects fraud or corruption, they can also go to the Council's internal auditors, BDO, or to the Council's appointed external auditors who are currently Ernst and Young, LLP.

Chief Executive – Caroline Green – cgreen@oxford.gov.uk

Monitoring Officer – Emma Jackman – ejackman@oxford.gov.uk

Group Finance Director – Alistair Rush – arush@oxford.gov.uk

Internal Auditors – Yasmin Ahmed, BDO – Yasmin.ahmed@bdo.co.uk

External Auditors – Adrian Balmer, Ernst and Young – abalmer@uk.ey.com

25.13 How will the Council respond to whistleblowing?

(a) Notification of allegation and preliminary investigation

Upon receipt of an allegation under this Policy the person receiving the allegation must immediately notify in writing the Monitoring Officer and the Group Finance Director (unless the allegation relates to one or more of them) of the nature of the disclosure made.

The officers will carry out initial enquires and, where required, preliminary investigations, in order to determine next steps. This may include an initial discussion with the person making the complaint.

(b) Interviews

Where there is a need, either in the preliminary investigation or full investigation where initiated, the whistle-blower may be invited to an interview. The whistleblower may bring a colleague or Union representative to any meetings held under this Policy. The companion must respect the confidentiality of the disclosure and any subsequent investigation. A summary of the interview will be made which should be signed by the person conducting the interview and the whistle blower.

(c) Appointment of an officer to investigate

Where it is considered that further investigation is required, the person receiving the complaint will agree, in consultation with the Monitoring Officer and the Group Finance Director how (unless the allegation relates to one or more of them) the allegation will be investigated and write to the whistleblower within 10 working days. The letter should:

- acknowledge that the whistleblower has used the Whistleblowing Policy
- say how their concern will be dealt with and how long they think this will take
- tell them whether any initial enquiries have been made

- say what further action will be taken (or say why no further action will be taken)
- Tell them they have the right to bring someone with them to any meetings they have to attend about the allegation.

(d) Further action

Where a full investigation is required, the Council will take such further action as is necessary to fully investigate the matter. Further action may include:

- Arranging an investigation by management or internal auditors
- Arranging a disciplinary process
- Referring allegations to the police
- Referring allegations to the external auditor
- Arranging an independent inquiry if the allegations are very serious or complicated

(e) Response to whistle blowers at the end of the investigation

The Council will aim to keep the whistleblower informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent the giving of specific details of the investigation or any disciplinary action taken as a result. Any information given about the investigation should be treated as confidential. If the law allows, the Council will tell the whistle blower the outcome of any investigation within 10 working days of it ending.

(f) Support

Whistleblowers are encouraged to obtain support and advice that may include their trade union representative or HR team contact, a designated representative for bullying and harassment or the charity *Protect*, the whistleblowing charity, which provides a confidential independent advice line for whistleblowers. Contact details are:

Protect (Independent whistleblowing charity)

Advice Line: <https://protect-advice.org.uk/contact-protect-advice-line/>

Website: <https://protect-advice.org.uk/contact-protect-advice-line/>

Address: The Green House, 244-254 Cambridge Heath Road, London E2 9DA

25.14 Taking concerns further

While the Council cannot always guarantee the outcome the whistleblower is seeking, it will deal with the concern raised fairly and in an appropriate way, and in compliance with Human Rights and Equalities legislation.

If a whistleblower is not satisfied with the way in which their disclosure has been handled, they can raise it with one of the other key contacts mentioned above.

If a worker has sought advice and feels it is right to raise their concerns outside the Council, people they could approach include their local Council, their local councillor, the external auditor, the health and safety executive, a government

department, a solicitor, the police, an MP or a relevant professional body or regulatory organisation.

If a worker does raise their concerns outside the Council, they must do it without passing on confidential information. The Monitoring Officer can give advice on this.

25.15 Monitoring and reporting

The Group Finance Director will report to each meeting of the Audit and Governance Committee on the number (if any) of whistle blowing complaints made as part of the Council's anti-fraud and corruption awareness framework.

25.16 Responsibility for this Policy

The Monitoring Officer has overall day to day operational responsibility for this Policy and how it is used and how the Policy is working.

All staff are responsible for the success of this Policy and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff are invited to comment on this Policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Monitoring Officer.

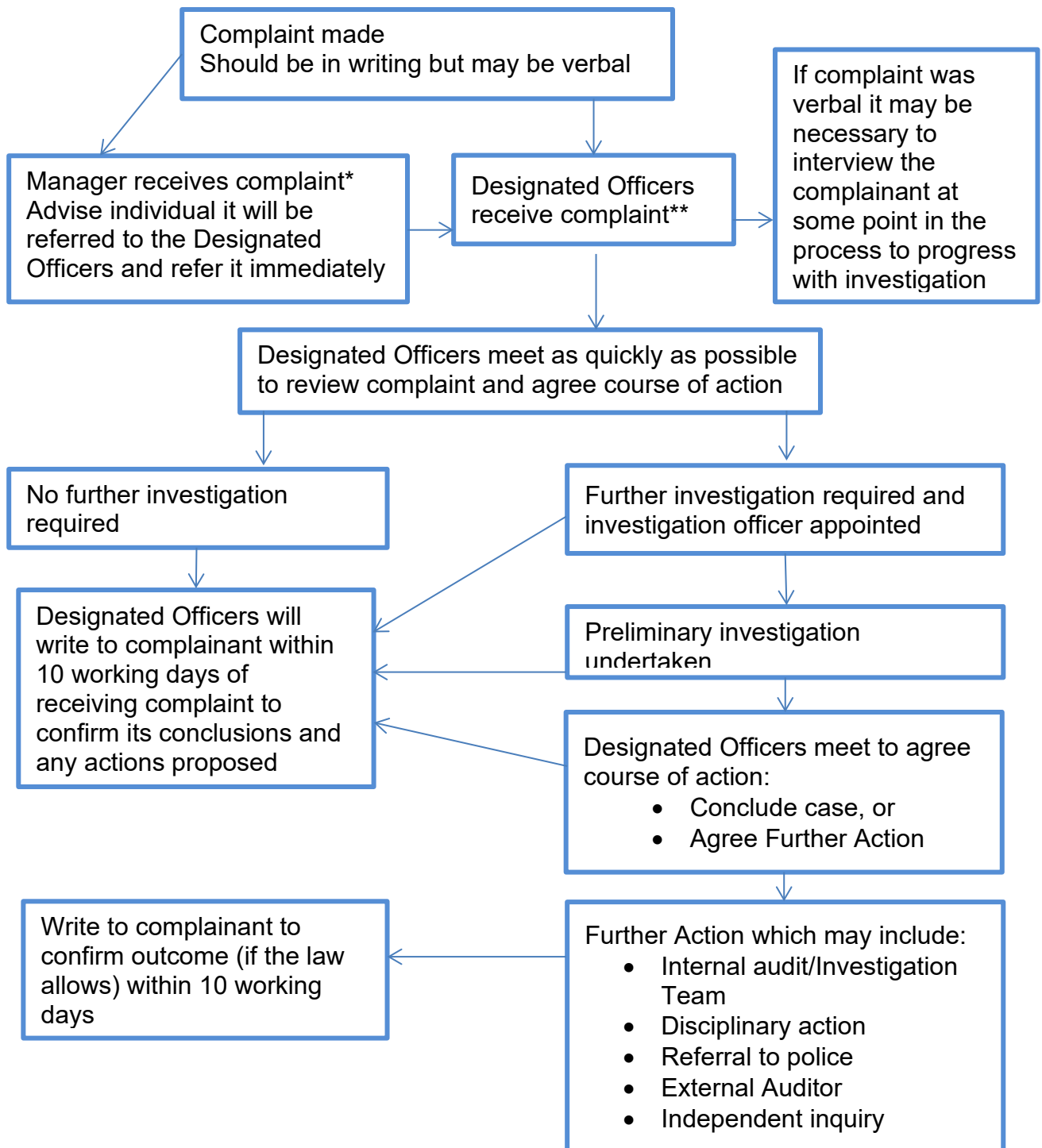
Protect (Independent whistleblowing charity)

Advice Line: <https://protect-advice.org.uk/contact-protect-advice-line/>

Website: <https://protect-advice.org.uk/contact-protect-advice-line/>

Address: The Green House, 244-254 Cambridge Heath Road, London E2 9DA

25.17 How to respond to a whistleblowing concern – Flow chart



* If there is any doubt as to whether the complaint could be considered to be whistleblowing the manager must refer it as such.

** Unless the complaint is about one or more of the Designated Officers when it should be referred to a Deputy Chief Executive or the Chief Executive.

This is an overview only and should be used in conjunction with the Whistleblowing Policy. Designated Officers are Director of Communities and Citizens' Services, Group Finance Director and Monitoring Officer.

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