

Section 5 - Whistle Blowing Policy

How to raise any concerns and what happens next

1. Introduction

- 1.1 We are committed to the highest possible standards of openness, honesty, integrity and accountability. As part of this commitment we are keen that activity, which falls below these standards, is reported to the Council in order that it can be dealt with promptly.
- 1.2 We acknowledge that members of the public and workers are often the first to realise that there may be something wrong regarding the activities of the Council or that the Council is suffering loss in some form.
- 1.3 We also recognise the need to encourage people with concerns about any aspect of the Council's work to come forward and voice those concerns. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice or dangers to the public (including Council service recipients), or the environment, it can be difficult to know what to do.
- 1.4 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may also fear you may not be taken seriously or be victimised in some way. If you are a Council worker you may also feel that raising the matter would be disloyal to colleagues, managers or to the service. You may decide to say something but find that you are not sure how to raise the issue or are not sure what to do next.
- 1.5 We have developed this document specifically to enable you to raise your concerns about suspected malpractice at an early stage and in the right way. We would rather that you raised the matter when it is just a concern rather than wait for proof. This document is intended to encourage and enable you to be able to communicate serious concerns with the Council rather than overlooking a problem.
- 1.6 If something is troubling you, which you think we should know about, or look into, please use the processes described in this document to report your concern. Please don't ignore the concern.

2. Aims

- 2.1 This document aims to:
 - encourage anyone (members of the public or workers) to feel confident in raising serious concerns;

- reassure you that if you raise any concerns in good faith and reasonably believe them to be true, i.e. “whistle-blow”, you will be protected from victimisation and your concerns will be taken seriously;
- provide avenues for members of the public and workers to raise concerns and receive appropriate feedback on any action taken;
- ensure that you get an appropriate response to the concerns you have raised from the Council and, if not satisfied, show how they may take the matter further if they are dissatisfied with the response.

3. Definition – What is ‘Whistle Blowing’?

3.1 For the purpose of this document ‘whistle-blowing’ is the raising of a serious concern about a suspected danger, risk, malpractice, misconduct, illegality or wrongdoing within the Council which affects others. The official name for whistle blowing is ‘making a disclosure in the public interest’.

3.2 Concerns could be about:

- a criminal offence (e.g. fraud, corruption etc.) may have or has been committed;
- a miscarriage of justice has been or is likely to occur;
- the health or safety of an individual has been or is likely to be endangered;
- public funds are being used in an unauthorised manner;
- the environment has been or is likely to be damaged;
- the Council’s own rules, e.g. Constitution, have been or are being breached;
- abuse (e.g. neglect, physical, sexual etc.) of a service recipient or Council employee is taking place;
- discrimination towards a service recipient, e.g. disability, race etc.
- human trafficking and/or modern slavery e.g. criminal, sexual or labour exploitation; domestic servitude etc;
- information relating to any of the above is being deliberately concealed.

The list is not exhaustive.

3.3 ‘Whistleblowing’ is viewed by the Council as a positive act that can make a valuable contribution to the Council’s efficiency and long-term success.

4. Scope

4.1 This document may be used by anyone, including members of the public or any ‘worker’ in the Council.

4.2 A ‘worker’ includes permanent and temporary employees of the Council, agency workers, apprentices and Council employees seconded to a third party. Workers can be full time or part time.

- 4.3 A 'member of the public' is any individual who is not a 'worker' in the Council. This includes suppliers, contractors, partners, consultants, service providers, Council service recipients, customers, claimants, other Local Authorities or organisations, Councillors and any members of the general public.
- 4.4 It is not intended that this document, and its associated procedures, be used to raise concerns which fall within the scope of other Council procedures where more appropriate procedures are available, for example:
- if an individual has a complaint about service delivery then the Council's 'Complaints and Feedback Procedure' should be used;
 - if a Council worker has a personal grievance about how they themselves have been treated then the Council's 'Grievance Procedure' should be used; and
 - if a Council worker considers they are being harassed at work then the Council's 'Harassment at Work' Policy should be used.

However if you are uncertain which procedure to use, please use the procedure described in this document initially. We would rather you raised your concerns than not at all.

5. Safeguards

Harassment or Victimisation

- 5.1 We recognise 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 the malpractice. We will not tolerate victimisation and will take reasonable action to protect you when you raise a concern in good faith.

Confidentiality

- 5.2 We will do our best to protect your identity when you raise a concern and do not want your name to be disclosed. If you ask us to protect your identity by keeping your name confidential, we will not disclose it without your consent or unless instructed by a Tribunal or Court. If the situation arises where we are not able to resolve the concern without revealing your identity (e.g. a statement by you may be required as part of the evidence) we will discuss with you whether and how we can proceed.

Anonymous Allegations

- 5.3 This policy strongly encourages you to put your name to your allegation. Concerns expressed anonymously will be much more difficult for us to look into or to protect your position or to give you feedback. Concerns raised anonymously are much less powerful and less likely to be effective, but they will be considered at the discretion of the Council.

5.4 In exercising discretion, the factors to be taken into account would include:

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

6. How to raise a concern directly with the Council

6.1 If you are a member of the public, as a first step, you should normally raise concerns with the Council's Complaints and Feedback Team. An alternative would be to contact the Director of the service area involved.

If you are a worker for the Council you should normally, as a first step, raise your concerns with your immediate manager or their superior.

6.2 However, whether a worker or a member of the public, who you wish to contact in the Council initially, will depend on the seriousness and sensitivity of the issues involved, who you are comfortable contacting or who is thought to be involved in the malpractice. For example, if you believe that management of the particular service area is involved then you should not contact managers in that services but another senior officer in the Council. The following individuals can be contacted:

- Chief Executive;
- Executive Director of Corporate Services;
- Assistant Director of Law and Governance;
- Assistant Director of People Management;
- Assistant Director of Business and Property Services; and
- Senior Manager - Assurance (as the manager of Internal Audit).

Please say if you want to raise the matter in confidence so the person you contact can make appropriate arrangements.

Specific contact details are described in Appendix 1.

6.3 Concerns are better raised in writing. You are invited to set out the nature of the concern, the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.

6.4 Raise your concern immediately or at the earliest opportunity. The earlier you express the concern, the easier it is for us to take effective action.

6.5 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

6.6 In order to aid any subsequent investigation it is advised that you, whether a worker or a member of the public, do not inform others once you have raised concerns under the Whistle Blowing Policy as this can undermine any investigation/action and also increase the risk of your identity becoming known where you wish to remain anonymous.

7. How the Council will respond

7.1 The action taken by the Council will depend on the nature of the concern. The matters raised may be:

- investigated internally;
- investigated by an appointed external investigator/person;
- referred to the Police and/or other Regulators;
- referred to the Council's External Auditor.

7.2 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection) will be referred for consideration under those specific procedures.

7.3 Some concerns may be resolved by agreed action without the need for investigation.

7.4 Within ten working days of a concern being received, we will write to you, where possible:

- acknowledging that the concern has been received;
- indicating if possible, in overall terms, how we propose to deal with the matter.

7.5 The amount of contact between the Council 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, further information will be sought from you.

7.6 We will take steps to minimise any difficulties, which you may experience as a result of raising a concern.

7.7 We accept that you need to be assured that the matter has been properly addressed and, as such, where possible, we will provide information in this regard when we consider the matter closed.

8. How the matter can be taken further

8.1 This document is intended to provide you with an avenue to raise concerns directly with us and to give you the reassurance you need to raise such matters in this manner.

8.2 We hope you will be satisfied with the response from us. If you are not, and if you feel, for whatever reason, you cannot, as a first step, raise the matter directly with us then the following are possible contact points depending on the nature of your concern:

- relevant regulatory organisations;
- your legal advisor/solicitor;
- the Council's External Auditor – Mazars LLP (0191 3836300);
- the Police;
- your local Councillor (if you live in the area of the Council);
- your local MP;

Specific contact details are described in Appendix 2.

We would rather you raised a matter with the appropriate regulator or outside body than not at all.

If you, as a worker, are thinking of reporting a concern to a body or person outside the Council, appropriate legal advice should be sought prior to raising a concern. Unless certain conditions are satisfied when raising your concern outside the Council there is a risk you may not be protected by the Public Interest Disclosure Act 1998. (Please refer to paragraph 9.3 below for more information).

9. Further Information for Workers who wish to 'Whistle Blow'

Legal/Employment Rights and Protection

- 9.1 The Public Interest Disclosure Act 1998 ("PIDA") makes it unlawful for the Council to dismiss any Council worker or allow them to be victimised on the basis that they have made an appropriate lawful disclosure (i.e. raised a concern) in accordance with provisions of PIDA and have made the disclosure in the public interest.
- 9.2 This document has been written to take account of the relevant provisions of PIDA which protects workers. By following the procedures described in this document to raise a serious concern (i.e. make a disclosure) then you, as a worker, should be legally protected from any form of victimisation for raising a legitimate concern. The relevant provisions include:
- a) the worker raises a concern (makes a disclosure) that they reasonably believe to be in the public interest i.e. for the public good, the concern affects others and not the worker raising the concern. (See Paragraph 3.1.)
 - b) the concern raised (disclosure made) must relate to wrongdoing falling into categories listed in PIDA. (See Paragraph 3.2.)

c) the concern has been raised (a disclosure has been made) in the correct way to persons or bodies referred to in PIDA. (See Sections 6 and 8)

9.3 As stated in paragraph 8.2 it is advised a worker should seek legal advice prior to you raising a matter external to the Council. As a worker, if you choose not to report a serious concern to the Council, i.e. your employer, or to an outside body referred to in Section 8 but to report a concern to another outside body you will only be protected by PIDA if certain conditions are satisfied. These are that:

- i) the worker does not make the disclosure for the purposes of personal gain;
- ii) it is reasonable to make the disclosure in the circumstances;
- iii) the worker makes the disclosure in good faith;
- iv) the worker reasonably believes that the information disclosed and any allegation contained in it, are substantially true.

Sources of Independent Advice

9.4 If you are unsure whether to use this Policy or you want independent advice at any stage, you may contact:

- if applicable, your trade union;
- the independent charity Protect (formerly Public Concern at Work) on 020 3117 2520. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work;
- Your solicitor/legal advisor.

Harassment and Victimisation

9.5 If you raise a genuine concern under this policy, you will not suffer any detriment in connection with your employment. Therefore, providing you are acting in good faith, it does not matter if you are mistaken.

9.6 However, this does not mean that, if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your disclosure.

9.7 If you believe that you are being disadvantaged at work for having raised a serious concern then you should report this to the Council's Assistant Director of People Management. Activity of this kind could include failure to promote, demotion, denial of training, closer monitoring, ostracism, blocking access to resources, unrequested reassignment, suspension, disciplinary sanction, bullying, victimisation, dismissal, or failing to investigate a further concern.

Where proven, we will take appropriate sanctions against those who subject an individual to detriment for raising a concern.

Untrue or Malicious Allegations

- 9.8 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations or make an allegation for personal gain, disciplinary action may be taken against you.

Support

- 9.9 In addition to the Council support described in Sections 5 and 7 above, throughout the whistle blowing process:

- you will be given full support from senior management;
- your concerns will be taken seriously; and
- we will do all we can to help you e.g. advice and guidance on how matters of concern may be pursued can be obtained from the Council's People Management team; if you are required to give evidence in criminal or disciplinary proceedings, we will advise you about the procedure etc.

- 9.10 Prior to raising a concern, if applicable, you may wish to involve your Trade Union or professional association representative to gain advice. You may also invite your trade union or professional association to raise a matter on your behalf.

- 9.11 As part of the whistle blowing process when any meeting is arranged with you, you have the right, if you so wish, to be accompanied by a Trade Union colleague, a work colleague, a professional association representative or a friend who is not involved in the area of work to which the concern relates.

Disclosure of Information

- 9.12 If, as a worker, you do take the matter outside the Council, you need to ensure that you do not disclose confidential information. Council employees should refer to Section 2 of the Code of Conduct for Employees which has already been issued to you. Copies can be obtained from the Council's People Management team or viewed at www.sunderland.gov.uk under Part 5 Section 2 of the Council's Constitution. Other workers, e.g. agency workers, should refer to clauses within their contract relating to the disclosure of confidential information.

A worker will not be protected by PIDA if the worker discloses information which has been obtained by the Council whilst obtaining legal advice and is subject to 'legal privilege'. Legal privilege is a fundamental legal right which allows individuals and corporate bodies to resist disclosure of confidential and sensitive material.

10. The Responsible Officer

- 10.1 The Assistant Director of Law and Governance has overall responsibility for the maintenance and operation of the Whistle Blowing Policy. The Assistant Director of Law and Governance will maintain a corporate register of the number and nature of the concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Chief Executive and Council, where appropriate. All officers allocated to look into a concern must ensure the Assistant Director of Law and Governance is provided with sufficient details for the corporate register.
- 10.2 The Policy will be reviewed on an annual basis to ensure the Policy remains up to date and to ensure it remains effective. The review will be carried out by the Executive Director of Corporate Services, the Assistant Director of Law and Governance and the Assistant Director of People Management.

Whistle Blowing Policy
Contact Details (Council)

Contact	Details
Council	
Complaints and Feedback Team	Tel no: 0191 561 2464 E-mail: complaints@sunderland.gov.uk Web site: www.sunderland.gov.uk
Chief Executive	Tel no: 0191 561 1112
Executive Director of Corporate Services	Tel no: 0191 561 1507
Assistant Director of Law and Governance	Tel no: 0191 561 7849
Assistant Director of People Management	Tel no: 0191 561 7849
Assistant Director of Business and Property Services	Tel no: 0191 561 2825
Senior Manager - Assurance	Tel no: 0191 561 2861 Address: Sunderland City Council Civic Centre, Burdon Road, Sunderland, Tyne and Wear SR2 7DN Web site: www.sunderland.gov.uk
Internal Audit	Tel no: 0191 561 2824 E-mail: internal.audit@sunderland.gov.uk Web site: www.sunderland.gov.uk

Whistle Blowing Policy - Arrangements

Contact Details (External)

Contact	Details
External to Council	
External Auditor	Tel no: 0191 383 6300 Address: Mazars LLP (Durham Office) Salvus House Aykley Heads Durham City Co Durham DH1 5TS
Police	Local Police Station (Yellow pages)
Local Councillors	Web site: www.sunderland.gov.uk
MP	Web site: www.parliament.uk/mps-lords-and-offices
Relevant regulatory authorities (See Note 1 below)	Web site: www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2)

Note 1

A list of regulatory organisations prescribed by legislation to whom a 'whistle blower' could report their concern if they chose not to contact the Council directly is held on the UK government website at www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2).

If a Council worker chooses to report a concern outside the Council to one of the regulatory organisations on the prescribed list they will be protected under the provisions of the Public Interest Disclosure Act 1998 provided

- a) they also reasonably believe that the information, and any allegation when raising a concern, is true.
- b) they reasonably believe that the concern being raised relates to the regulatory organisation being contacted.