



**Policy Name:**

**WHISTLEBLOWING  
POLICY AND  
PROCEDURE**

**Version: Final**

**Consultees:**

**NEU, NASUWT,  
UCAC, NAHT, ASCL,  
UNISON and GMB**

**Date Approved:**

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*Please note that all of our policies are fully inclusive of all staff regardless of age, marriage (including equal/same sex marriage) and civil partnership, disability, sex, sexual orientation, pregnancy and maternity, race, religion or belief, gender identity and gender expression*

*Nodwch os gwelwch yn dda bod y trefniadau yn y ddogfen hon yn cynnwys holl staff yn llawn, beth bynnag eu hoedran, statws priodasol (gan gynnwys priodas gyfartal/yr un rhyw) a phartneriaeth sifil, anabledd, rhyw, cyfeiriadedd rhywiol, beichiogrwydd a mamolaeth, hil, crefydd neu gred, hunaniaeth rywiol a mynegiant rhyw.*



# WHISTLEBLOWING POLICY AND PROCEDURE



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## **1 Introduction**

- 1.1 The Council/school governing bodies are committed to the highest possible standards of openness, probity and accountability. In line with that commitment they expect employees, and others that they deal with, who have serious concerns about any aspect of the Council/school to come forward and voice those concerns.
- 1.2 Employees have a significant responsibility to ensure that they, their colleagues and others working in the service area/school follow safe working practices so that children, adults at risk and staff are kept safe at all times. Employees must also understand that they have a duty to report unsafe practices that could lead to a child/adult at risk being harmed or put at risk of harm. Failure to report such practices may lead to disciplinary action being taken against them particularly, if as a result of their failure to report, a child/adult at risk is harmed or put at risk of harm.
- 1.3 Whistleblowers may raise concerns at any time. They may be about incidents that happened in the past, are happening now or the whistleblower genuinely believes that they will happen in the future. Concerns may be raised anonymously and/or confidentially.

## **2 Who is a whistleblower?**

- 2.1 Whistleblowing is defined as: -

*“the disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employee or his/her fellow employees”*

*(Public Concern at Work Guidelines 1997)*

- 2.2 A whistleblower may be: -

- an employee (full and part time, casual, temporary);
- an agency worker;
- an individual undertaking work experience/teaching practice for the Council/school;
- a volunteer; or
- contractor staff working for the Council/school e.g. catering, cleaners, drivers and construction workers.

### **3 Aims and scope of this policy and procedure**

#### **3.1 This policy and procedure aims to: -**

- give confidence to employees about raising concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with Council/school standards and policies so that they are encouraged to act on those concerns;
- provide employees with avenues to raise concerns;
- ensure that employees receive a response to the concerns they have raised and feedback on any action taken; and
- offer assurance that employees are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the Public Interest Disclosure Act (PIDA)1998 (see Section 4) and Employment Rights Act 1996.

#### **3.2 This policy and procedure covers whistleblowing relating to alleged: -**

- sexual, physical or emotional abuse of children/adults at risk or other employees;
- health and safety issues including risks to the general public as well as risks to children/adults at risk and other employees;
- action that has caused or is likely to cause physical danger to any person or risk serious damage to Council/school property;
- unlawful conduct;
- miscarriages of justice in the conduct of statutory or other processes;
- failure to comply with a statutory or legal obligation;
- potential maladministration, misconduct or malpractice;
- action that has caused or is likely to cause danger to the environment;
- abuse of authority;
- unauthorised use of public or other funds;
- fraud or corruption;
- breaches of financial regulations or policies;
- mistreatment of any person;
- unfair discrimination or favouritism;
- racist incidents or acts or racial harassment;
- inappropriate use of social media and other technologies; and
- any attempt to prevent disclosure of any of the issues listed.

#### **3.3 This policy and procedure is in line with the Enterprise Regulatory Reform Act (2013)**

3.4 This policy and procedure is in addition to the Council's/School's Complaints Procedure.

#### **4 Disclosures made in the public interest**

4.1 The Public Interest Disclosure Act (PIDA)1998 and the Employment Rights Act 1996 allow for employees to bring information about a wrongdoing to their employer and where they do so they are protected in certain circumstances where it is in the public interest. This is commonly referred to as "*blowing the whistle*". An employee is a whistleblower where they report certain types of wrongdoing that are in the public interest i.e. where the wrongdoing affects others such the general public. PIDA 1998 protects whistleblowers who speak out against malpractice in the workplace where it is in the public interest.

4.2 PIDA 1998 sets out the full statutory rights and obligations of employees wishing to do this. The Act protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about conduct or practice within the Council/school which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice.

4.3 Qualifying disclosures are disclosures of information where the employee believes it is in the public interest that one or more of the following matters is either happening, has taken place or is likely to happen in the future: -

- a criminal offence;
- the breach of a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of an individual;
- damage to the environment; or
- deliberate attempt to conceal any of the above.

4.4 A confidentiality or "*gagging clause*" or "*non-disclosure agreement*" in a contract of employment or settlement agreement is not valid for a whistleblower. They can be written into these documents but they will not prevent an employee from whistleblowing or reporting a crime.

4.5 Whistleblowers who raise their concerns through the media will lose their legal rights.

## **5 Complaints that do not count as whistleblowing**

- 5.1 This Whistleblowing policy and procedure is intended to cover major concerns that fall outside the scope of other policies and procedures. Personal grievances such as bullying, harassment, discrimination are not covered unless they involve the public interest. These are already covered by the Council's/school's "*Dignity at Work*" policy. In addition, this Whistleblowing policy and procedure does not enable employees to raise a concern about a breach of their own contract of employment. Such concerns can be dealt with under the school's grievance procedure.

## **6 Safeguard against reprisal, harassment and victimisation**

- 6.1 This Whistleblowing policy and procedure makes it clear that an employee can make disclosures without fear of victimisation, subsequent discrimination or disadvantage. It is intended to encourage and enable employees to raise serious concerns within the Council/school rather than overlooking a problem or "*blowing the whistle*" outside.
- 6.2 The Council/school governing bodies will not tolerate harassment or victimisation of employees when matters are raised in accordance with the PIDA provisions. Any employee who victimises or harasses a member of staff as a result of their having raised a concern in accordance with the whistleblowing policy will be dealt with under the Council's/school's staff disciplinary procedures.
- 6.3 The Council/school governing bodies: -
- are committed to good practice and high standards and want to be supportive of employees;
  - recognise that the decision to report a concern can be a difficult one to make. If what the employee is saying is true, however, s/he should have nothing to fear because s/he will be doing his/her duty to her employer and those for whom s/he is providing a service;
  - recognise that support will need to be provided to the employee, at the time the allegation is raised, during the investigation itself and following the outcome of the investigation. The nature and type of support offered will need to be discussed and agreed with the individual employee;
  - will not tolerate any harassment or victimisation (including informal pressures) of the employee who discloses and will take appropriate action to protect him/her when s/he raises a concern; and
  - will guarantee that any investigation into allegations of potential malpractice will not influence or be influenced by any capability, disciplinary, grievance or redundancy procedure that already affect the employee.

## **7 Raising a concern anonymously or confidentially**

7.1 Employees are often the first to realise that there may be something seriously wrong within the Council/school. They may feel, however, that they will be disloyal to their colleagues or to the Council/school and not speak up about their concerns. They may also fear harassment or victimisation. In such circumstances it may be easier for them to ignore the concern rather than report what may just be a suspicion of malpractice. Other users of Council/school services may also have the same concerns particularly parents/carers with regard to their children. Despite these fears it is important that all disclosures are made because this is in the public interest. It is possible, therefore, that whistleblowers may raise their concerns either anonymously or confidentially.

### Anonymous allegations

7.2 Employees should put their name to allegations whenever possible. Anonymous concerns are much less powerful because the Council/school may find it difficult to take the issue forward particularly if it does not have all the information that it needs. Nonetheless anonymous allegations may be considered under this whistleblowing procedure especially concerns raised relating to the welfare of children/adults at risk. In determining whether to take an anonymous allegation forward the Council manager/Headteacher will consider the: -

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

### Confidentiality

7.3 The Council/school governing bodies also recognise that employees may want to raise concerns in confidence and will do their utmost to protect the identity of the whistleblower who does not want their name disclosed. It is recognised, therefore, that at least initially most cases may have to proceed on a confidential basis.

7.4 Investigation into the concern could, however, reveal the source of the information and statements may be required from the employee as part of the evidence which would be seen by all parties involved. If the investigation leads to a prosecution, the whistleblower is likely to be called in to give evidence in court. Where the investigation leads to a charge of misconduct the whistleblower may be asked to attend a disciplinary hearing as a witness.

## **8 Untrue and malicious/vexatious allegations**

- 8.1 When considering bringing a disclosure the employee must: -
- have reasonable belief that it and any allegations implicit in it are substantially true;
  - not do so for personal gain; or
  - in all the circumstances of the case, ensure that it is reasonable to make the disclosure.
- 8.2 Where an employee makes an allegation in good faith but it is not confirmed by further inquiry the matter will be closed and no further action taken.
- 8.3 Where, however, the inquiry shows that untrue allegations were malicious and/or vexatious or made for personal gain then the Council/school governing body will consider taking disciplinary action against the employee who made the allegation. In the most serious of cases this may include their dismissal.

## **9 Allegations concerning child/adult protection issues**

- 9.1 Where an employee raises a concern relating to a child/adult protection issue, their Service Area manager/Headteacher (or Chair of Governors if the concern is about the Headteacher) or the Designated Safeguarding Person (DSP) must deal with the matter in accordance with the Council's/School's Safeguarding Policy.
- 9.2 Where after raising concerns related to child/adult protection issues an employee still has concerns and the issue has not been referred to the Council's Safeguarding Unit, the employee can make a direct referral to the Council's Safeguarding Lead Officer - 01495 766676 or call Customer Care on 01495 762200.

## **10 Procedure for making a whistleblowing allegation**

- 10.1 Employees should raise concerns with their Service Area manager/Headteacher. If the concerns involve the Headteacher then the Chair of Governors should be the first point of contact. Where the concern is about child/adult protection it should be reported to the DSP in accordance with the Council's/School's Safeguarding Policy.
- 10.2 Where employees feel that they cannot express their concerns within the Council/school it is open to them to raise them with someone outside the setting from the list of people/organisations in Section 15 of this policy. Where school based employees are concerned it is expected that the



Chief Officer Education (COE) would be the person to whom they express their concerns outside of the school. Any concern about a Headteacher must be reported by the Chair of Governors to the COE. If the concern relates to the Chair of Governors then the Headteacher must report the concern to the COE. There must be a justifiable reason for not raising the matter with the Council/school or one of the bodies listed in Section 15.

- 10.3 Where the concern relates to a child/adult protection matter the Council's/School's Safeguarding Policy must be followed. Where the concern needs to have police or other statutory agency involvement, the whistleblowing process will be halted until the statutory agencies have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.
- 10.4 The employee should put their concern in writing for the avoidance of doubt using the form given in Appendix 2. They should set out the background and history of the concern; giving names, dates and places where possible and explain the reason for their concerns. Where they feel unable to put the matter in writing they can still raise their concern verbally and should telephone or arrange to meet the appropriate person. They can also ask their trade union or professional association to raise the matter on their behalf or to support them in raising the concern.

## **11 Response to whistleblowing**

11.1 The matter raised may need: -

- consultation with the Council's designated Safeguarding Lead Officer for Child/Adult Protection if there is a concern relating to children/adults at risk;
- to be passed to the Police if it relates to alleged criminal activity;
- to be passed to the S 151 Officer or Head of Internal Audit if there are concerns about financial management or financial propriety in the Council/school; and/or
- to be investigated by the Council/school.

11.2 At this stage concerns/allegations are neither accepted nor rejected.

## **12 Timescale for response**

12.1 The employee will normally receive a written response within 5-working days (except in the case of anonymous allegations): -

- acknowledging that the concern has been received;
- indicating how it is proposed to deal with the matter;
- giving an estimate of how long it will take to provide a final response;

- advising whether any enquiries have been made;
- advising whether further enquiries will take place;
- informing them of support available whilst matters are looked into and following the outcome of the investigation; and
- maintaining confidentiality wherever possible but also explaining that it may not be possible that they can remain anonymous.

### **13 The inquiry process**

13.1 The person receiving the allegation will be the Service Area Manager/Headteacher unless the concern involves the Headteacher in which case the Chair of Governors will be the first point of contact. Where there is a concern about a child/adult protection matter the Council's/School's DSP may also be the first point of contact. There will be a duty on the first point of contact to deal promptly with the matter, to become the contact point for the employee raising the concern and write to the employee within 5-working days to advise them how their concern will be addressed (see 12.1 above). If required the first point of contact can obtain advice on procedure from Human Resources (HR).

13.2 If an investigating officer needs to talk to the employee who raised the concern that employee is permitted to be accompanied by a trade union representative or work colleague not involved in the area of work to which the concern relates.

13.3 The first point of contact will seek to keep the employee informed of progress with their concern in a timely manner. The timescales to be followed, however, may vary depending on the nature of the issue raised and the procedure that is being followed to address the matter.

### **14 The report**

14.1 A report will be produced following the investigation into the concern in accordance with the appropriate process. The matter and action to be taken, if any, will be determined by the person who is identified in the procedure as having the delegated authority to deal with the matter.

14.2 Whilst whistleblowers will not have a say in how their complaint is being dealt with the Council/school accepts that they need to be assured that the matter has been properly addressed. The Council/school may inform the whistleblowers of the action taken and when the investigation has been concluded but may not be able to go into too much detail because of the need to keep the confidence of other people.

- 14.3 The Service Area Manager/ Headteacher (or Chair of Governors)/DSP may, at any point, seek advice on the whistleblowing process from HR.
- 14.4 Where schools are concerned the Headteacher must report, in a general way, all whistleblowing cases on a termly basis to the Governing Body and also in the Headteacher's Annual Report.
- 14.5 All information relating to a whistleblowing disclosure will be securely held. Accurate information relating to any subsequent investigation will be retained securely with the findings of all allegations being clearly recorded including those that are unfounded.

## **15 Taking the matter further**

- 15.1 Employees should raise concerns with the Council/school in the first instance. Disclosure to other bodies should always be a last resort and only justified where disclosures to the Council/school or a regulated body would, in the circumstances, not be adequate or appropriate. If no action is to be taken and/or the employee is not satisfied with the way the matter has been dealt with they can make a complaint under the Council's/School's grievance or complaints procedure or raise their concerns with other organisations as listed below: -

- the Council 01495 – 762200;
- a diocesan authority (for Church schools);
- a trade union or professional association;
- a relevant professional body or regulatory organisation;
- the Children's Commissioner for Wales;
- the Public Services Ombudsman for Wales;
- the Care and Social Services Inspectorate for Wales;
- a solicitor;
- local MP;
- the Police - for concerns of criminal behaviour; or
- Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Telephone 0207 404 6609 or [www.pcaaw.co.uk](http://www.pcaaw.co.uk)).

- 15.2 The NSPCC whistleblowing helpline is also available as an alternative route for employees who do not feel able to raise concerns regarding child protection failures internally or have concerns about the way a concern is being handled by their setting. Employees can call: -

0800 028 0285 or email [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

## 16 Where whistleblowers are treated unfairly

16.1 The Employment Rights Act 1996 sets out the basic principles which afford protection to a whistleblower: -

*“A worker has the right not to be subjected to any detriment by any act, or deliberate failure to act, by his employer done on the ground that the worker has a protected disclosure.”*

16.2 Where an employee raises a concern that could amount to a protected disclosure the Council/school should ensure they do not subject the employee to any disadvantages or detriments as a consequence of this. Such detrimental treatment may include, for example: -

- failure to promote;
- ostracism;
- bullying or harassment; or
- giving a disciplinary sanction or dismissal.

16.3 Detrimental treatment may also apply where the employee has left the Council's/school's service such as providing a bad employment reference or threatening legal action.

16.4 In the circumstance described in (16.2 and 16.3 above) whistleblowers may be able to make a claim before an Employment Tribunal if they feel that they have been dismissed unfairly or victimised after raising a whistleblowing concern. An employee's dismissal or selection for redundancy is considered automatically *“unfair”* if it is wholly or mainly for making a protected disclosure. Whistleblowers may also make a claim for constructive dismissal if they have been placed in a position so untenable that they have no alternative other than to resign and claim unfair dismissal. Claims for unfair dismissal must be made within 3-months of their employment ending.

16.5 Where they raised their concern anonymously whistleblowers may find it harder to argue that the unfair treatment was as a result of their whistleblowing.

**Letter confirming receipt of a protected disclosure (whistleblowing)**

*<Template letter to respond to an employee who has made a protected disclosure – to go on Council/school letterhead>*

*<Employee's name>*

*<Employee's address>*

*<Employee's town>*

*<Employee's postcode>*

Dear *<name>*,

I confirm that on *<please insert date>* I received your *<form/letter/email>* dated *<please insert date>* raising concerns about *<please state issues>*.

In accordance with the Whistleblowing policy and procedure the first step is for you to provide me with more details of your concerns and I shall be pleased, therefore, if you can complete and return the enclosed form to set out your concerns in more detail. You should use this form to provide dates, times, locations and the identities of those involved in the wrongdoing and details of any witnesses who can corroborate the allegations. Once your concerns have been sufficiently clarified, I (if Headteacher is implicated in the wrongdoing, the Chair of Governors) will provide you with a written response as to how the matter will be investigated.

**OR alternatively (where concern involves the Headteacher): -**

*<In accordance with the Whistleblowing policy and procedure the first step is for you to provide me as Chair of Governors with more details of your concerns. Normally, the Headteacher would arrange for the investigation of your concerns. However, as you have implicated him/her in the wrongdoing, I will be your initial point of contact and will provide you with a written response as to how the matter will be investigated. I shall be pleased, therefore, if you can complete and return the enclosed form to set out your concerns in more detail. You should use this form to provide dates, times, locations and the identities of those involved in the wrongdoing and details of any witnesses who can corroborate the allegations>*.

Once your concerns have been sufficiently clarified, I will provide you with a written response as to how the matter will be investigated.

Please be assured that the fact that you are the source of the disclosure will be kept confidential as far as possible. It is possible, however, that individuals you work with may find out. If you are subjected to any detriment or are bullied or

harassed, for making a disclosure, you should inform me immediately and an investigation into the matter will follow to deal with perpetrators.

If you have any queries or concerns in the meantime, please do not hesitate to contact me on *<please insert telephone number>*.

May I also remind you of the support available to you through the Council's independent confidential counselling service "*Wellbeing Solutions Management*" on 01633 – 254646.

Yours sincerely

**Service Area Manager/Headteacher (or  
Chair of Governors if Headteacher is implicated)**

**WHISTLEBLOWING DISCLOSURE FORM****Making a public interest disclosure (whistleblowing)**

This form is intended for use by any individual working in a Council service area/school (including agency/contractor workers and volunteers) who wish to raise an issue about wrongdoing.

This form should be used to report wrongdoing within the Council/school (for example, misconduct of a child/adult protection nature, financial irregularities or health and safety concerns), rather than to raise a personal grievance (for example, if you would like to make an allegation of bullying or harassment, or are complaining that your contract of employment has been breached).

If you are unsure about whether your concerns are best dealt with as whistleblowing or a grievance please read the whistleblowing policy and procedure which provides an example of the issues that should be reported using this form. If, having read the whistleblowing policy, you remain unsure about which procedure to use, please consult your Service Area Manager/Headteacher for further advice. If you are implicating your Headteacher then you should contact your Chair of Governors. Once you have submitted this form the whistleblowing procedure will be invoked. This may result in an investigation which may involve you being interviewed. If so you have the right to be accompanied by a trade union representative or a work colleague.

In certain circumstances, you can request that your concerns be kept anonymous. Where possible, the Council/school will respect a request for anonymity but cannot guarantee that it will be able to do so.

This form should be completed and delivered to *<please insert name of your Service Area Manager/Headteacher and address or to the Chair of Governors if you are implicating the Headteacher>* in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line.

**Formal public interest disclosure (whistleblowing)**

<b>Employee's name:</b>	
<b>Employee's job title:</b>	
<b>Date:</b>	

**Does your public interest disclosure relate to your Service Area Manager/Headteacher?**

Yes/No

**Summary of disclosure:**

*<Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.>*

**Individuals involved:**

*<Please provide the names and contact details of any people involved in your concerns, including witnesses.>*

**Outcome requested:**

*<Please set out how you would like to see the issue dealt with and why and how you believe that this will resolve the issue.>*



**Declaration:**

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the Council/school taking disciplinary action against me.

**Form completed by:  
Name( please print)****Signature:****For completion by the Service Area Manager/Headteacher (or Chair of  
Governors if Headteacher is implicated)**Date form received by the Service Area  
Manager/Headteacher  
(or Chair of Governors if Headteacher is  
implicated)

Name of recipient and job role:

Signature: