

# HYNDBURN BOROUGH COUNCIL

## “WHISTLEBLOWING” POLICY

### **1. INTRODUCTION**

- 1.1 People working for the Council (including our employees, contractors and councillors) may become aware of wrongdoing or malpractice within the Council, but may find it difficult to express such concerns. This could be because they believe speaking out would be disloyal to colleagues or to the Council, or they may fear some form of reprisal. It can sometimes seem easier to ignore concerns instead of reporting suspicions that something may be wrong.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. If you work for the Council you have a responsibility to raise any concerns you may have about any aspect of the Council's work so that appropriate enquiries can be made and action taken if needed. No issue or concern is too small. This policy is intended to encourage and enable those working for the Council to raise their concerns with confidence and, if possible, in confidence. The Council is committed to ensuring that those who work for it will not be victimised or suffer disadvantage if reporting genuine concerns.
- 1.3 It also makes good business sense for the Council to enable people to raise their concerns. This policy is a key part of the Council's risk management arrangements and it is intended that it will:
- deter wrongdoing within the Council
  - help us to pick up potential problems early
  - minimise costs from accidents, investigations and litigation
  - maintain and enhance the Council's reputation
- 1.4 The Council has discussed this policy with the relevant Trade Unions and has their support.
- 1.5 There are already procedures enabling employees to raise issues regarding their employment. This policy does not replace these and is not intended to be used by those who are dissatisfied generally at work. These other policies and procedures include :

#### **Policy/Procedure**

#### **Possible Concerns**

#### **Dignity At Work Policy**

All forms of bullying and harassment, including discrimination against employees on the ground of any of the protected characteristics set out in the Equality Act 2010

#### **Health & Safety Policy**

Any health and safety risks including risks to the public or employees

#### **Recruitment and Selection Policy**

All aspects of the recruitment and selection process

**Member Code of Conduct**

Concerns about the behaviour of a Councillor

**Grievance Procedure**

Concerns that you have been unfairly treated by the Council

**What is the difference between a whistleblowing concern and a grievance ?**

**Whistleblowing** is where an employee has a concern about risks, malpractice or wrongdoing that has a public interest aspect to it. It could be something that adversely affects other employees, the Council itself and / or the public.

A **grievance** is a dispute about an employee's own employment position and usually has no public interest dimension.

Sometimes a whistleblowing issue can be entangled with a grievance, such as where an employee complains about being made to use a dangerous vehicle or piece of equipment. In such circumstances the Council will consider the circumstances and decide whether the matter is best dealt with under its whistleblowing or grievance procedures.

**2. AIMS AND SCOPE OF THIS POLICY**

2.1 The aims of this policy are to

- Encourage you to act on concerns about unacceptable practices or behaviour within the Council
- Provide ways for you to raise concerns and receive feedback on any action taken
- Allow you to take the matter further if you are dissatisfied with the Council's response, and
- Reassure you that you will be protected from reprisals or victimisation for whistleblowing in good faith

2.2 It is not possible to provide a complete list of matters which might cause you concern, but examples of what is covered by this policy include the following:

- Fraud, corruption or financial irregularities, such as offering or taking bribes or unauthorised use of public funds
- Unfair discrimination
- Health and safety issues, whether these affect the public or other employees
- Criminal conduct
- Damage to the environment
- Negligence
- Unprofessional behaviour, such as misreporting performance data
- Failure to comply with established standards of practice or Council policy
- Sexual or physical abuse of customers or any other safeguarding issue

Your concern may relate to Council employees, contractors, consultants or councillors.

### **3. SAFEGUARDS**

#### **Harassment or victimisation**

- 3.1 The decision to report concerns can be a difficult one to make. The Council will provide support for those who do and will not tolerate any harassment or victimisation of whistleblowers. Victimisation of a whistleblower is a serious disciplinary matter, which may lead to dismissal. We will take action if we become aware of anyone seeking to discover the identity of, or to confront, a whistleblower.
- 3.2 This does not mean if you are already the subject of any disciplinary or redundancy procedures, that those procedures will be halted as a result of raising a concern. It should be noted that these arrangements do not guarantee protection for any substantive misconduct which you may be involved in.

#### **Confidentiality**

- 3.3 Wherever possible, all concerns raised under this policy will be treated in confidence and your name will not be revealed without your consent, unless this is required by law. It will often be possible to establish the truth about your concern by using other sources of information and the Council will seek to do this if possible without involving you further. However please be aware that:
- your colleagues may try to guess your identity if they become aware that a concern has been raised; and
  - as any investigation progresses there may be a legal requirement to disclose your identity even if you don't consent to this (for example, under court disclosure rules); and
  - you may be asked to come forward as a witness if the investigation into the concern results in disciplinary action or a criminal prosecution.

If your identity is disclosed, or becomes known, we will take steps to ensure that you are protected and supported. Appropriate and timely action will be taken against anyone who seeks to harass or victimise you because you have raised a concern.

#### **Raising concerns anonymously**

- 3.5 The Council encourages you to let us know who you are when you raise your concerns, as allegations expressed anonymously can be less powerful and can be much harder to investigate and verify. However, if you do feel unable to give your name, this should not prevent you from reporting your suspicions. We will still consider your concern, but we will not be able to provide you with any feedback or let you know the outcome of any investigation that takes place.
- 3.6 The Council will not automatically ignore anonymous allegations. When deciding whether and how to respond to such concerns it will take account of factors such as:
- the seriousness of the issues raised
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources.

#### **False Allegations**

3.7 If your concern is genuinely held and is made in good faith, but is not confirmed by the investigation, you will not suffer as a result. However, disciplinary action may be taken against you by the Council if you make malicious or vexatious allegations.

#### **4. WHO DOES THE POLICY COVER**

4.1 Any of the following may raise a concern under this policy:

- All Council employees – including temporary staff
- A trade union on behalf of one or more of its members employed by the Council
- Any agency staff working for the Council
- Anyone not employed by the Council but seconded to it or working as part of a shared service arrangement
- Contractors working for the Council
- Members of the public
- Councillors

4.2 This policy covers any malpractice or wrongdoing by:-

- (a) any employee of the Council
- (b) any Councillor
- (c) any contractor, supplier or consultant of the Council in the course of their work for the Council

#### **5. HOW TO RAISE A CONCERN**

5.1 You should normally raise concerns orally or in writing with your immediate manager or their superior. This will depend on who you think is involved in the malpractice and how serious the issues are. If you do not feel that the matter can be resolved by talking to your line manager (for example if you believe that they may be involved or because you have already raised the issue with them but your concern has not been addressed) then you can speak to their manager or raise it with one of the officers listed in paragraph 5.2.

If you are a councillor, you should raise your concern with the Executive Director (Legal & Democratic Services), who is the Council's Monitoring Officer.

5.2 Advice and guidance on how matters of concern can be pursued can be obtained from any of the following at The Council Offices, Scaitcliffe House, Ormerod Street, Accrington (telephone 01254 388111):

<b>Chief Executive</b>	David Welsby	Ext 2110
<b>Executive Director (Legal and Democratic Services)</b>	Jane Ellis	Ext 2146
<b>Executive Director (Resources)</b>	Martin Dyson	Ext 2973

**Head of Human Resources**      Kirsten Burnett      Ext 2694

Or you may raise your concern with the following at The Town Hall, Broadway,  
Blackburn Road, Accrington (telephone 01254 388111)

**Head of Audit and  
Investigations**      Mark Beard      Ext 2634

- 5.3 You should let the Council know your concerns as soon as possible and you should not investigate the matter yourself. You should be careful that the individual your concern relates to is not accidentally “tipped off”, as incriminating evidence could be removed or destroyed.
- 5.4 You should tell us the history of your concern, giving names, dates and places wherever possible, and the reason why you are particularly concerned about the situation.
- 5.5 You may also get somebody else to raise the concern on your behalf, such as your trade union, legal or professional association representative, or a friend. Such a person may also represent you at any meeting which is held relating to your concern.

## **6. HOW THE COUNCIL WILL RESPOND**

- 6.1 All allegations will be taken seriously by the Council. This policy will be applied where the relevant manager identifies the concern as raising a whistleblowing issue, even if the person raising the concern does not describe their concern in that way. However, the action taken by the Council will depend on the seriousness of the allegation. **Guidance for managers in dealing with whistleblowing concerns is attached as Appendix 1 to this policy.**
- 6.2 Initially the Council will make inquiries to decide whether an investigation is appropriate and, if so, what form it ought to take. Where your concern falls within the scope of a specific procedure it will normally be referred for consideration under that procedure. Where the concern needs to be referred on to a more specialist function (such as internal audit or health and safety), this will be done as soon as possible. You will be asked whether you want direct contact with that function or would prefer communication to be with your original contact officer.
- 6.3 Some concerns may be resolved by an agreed course of action without the necessity for an investigation. However where an investigation is necessary it may:
- be investigated internally by the Council
  - be referred to the Police
  - be referred to the Council’s External Auditor
  - be referred for an independent inquiry
- 6.4 If you raise concerns under this policy then the Council will write to you within 5 working days:
- Acknowledging that the concern has been received
  - Summarising the concern you have raised
  - Confirming whether you have raised the concern openly or in confidence
  - Supplying information about the staff support mechanisms available to you
  - Indicating how the Council proposes to deal with the matter
  - Telling you whether any initial enquiries have been made;

- Offering you the opportunity of a meeting, if appropriate, to fully discuss the issue
- Telling you whether further investigations will take place, and if not, why not
- Indicating when the Council hopes to be able to provide you with feedback about the progress of its investigation and the outcome of the investigation

6.5 The amount of contact needed between you and the person investigating your concern will depend on the nature of the matters raised, the amount of clarification or further information needed from you and the ease of obtaining independent verification. Where specific enquiries need to be made in the area where the whistleblower works, you will be forewarned so that you are prepared to answer questions along with everyone else.

6.6 If the Council does need to meet with you, you will be contacted to see how this can be done whilst maintaining confidentiality. When any meeting is arranged you have the right to be accompanied by a trade union or professional representative or a friend who does not work in the part of the Council to which the concern relates. The Council will, if you prefer, arrange for the meeting to be held at a location different from your usual place of work.

6.7 The Council will try to minimise any difficulties you might have as a result of raising your concern. If you are required to give evidence, for example, the Council will advise you about the procedure and ensure you receive support at court. However, the Council cannot provide legal representation for you.

6.8 Providing that there are no legal constraints the Council will let you know the outcome of any investigation, so that you can feel assured that the matter has been properly addressed. Due to the legal obligation of confidentiality we owe to other employees, we may not be able to tell you the outcome of disciplinary action taken against another employee.

## **7. RAISING YOUR CONCERNS OUTSIDE THE COUNCIL**

7.1 This policy is intended to enable you to raise your concern with the Council and have it dealt with by the Council. However if you are dissatisfied with the outcome of an internal investigation, or if you are unwilling to raise your concerns within the Council or believe that you need independent advice, then you may consider one of the following contact points

- your local councillor (if you live within the area of the Council)
- your Trade Union (e.g. Unison whistleblowing hotline 0800 597 9750)
- any relevant professional body or regulatory organisations
- your solicitor
- The Local Government Ombudsman, via their Advice Team between 8.30am and 5.00pm Monday to Friday (telephone 0300 061 0614 or 0845 602 1983) or visit their website at [www.lgo.org.uk](http://www.lgo.org.uk) for concerns about maladministration only
- The Council's External Auditors – Mazars, One St Peters Square, Manchester, M2 3DE, tel: 0161 238 9200.
- Public Concern at Work, Suite 301, 16 Baldwin Gardens, London EC1N 7RJ – an independent charity specialising in giving confidential advice about the whistleblowing process and your rights. Alternatively you may contact the PCAW

advice line between 9.00am and 6.00pm Monday to Friday on 020 7404 6609 or visit their website for further information at [www.pcaw.co.uk](http://www.pcaw.co.uk)

- Lancashire Crimestoppers on 0800 555 111 or Lancashire Police on 101

7.2 The Department for Business Innovation & Skills also publishes a list of prescribed bodies to whom whistleblowing disclosures can be made. The following list isn't comprehensive, but includes the bodies that might be of relevance to the Council (the full list can be found on the Departments website at [www.bis.gov.uk](http://www.bis.gov.uk)):

Proper conduct of Council business, value for money, fraud and corruption in respect of the provision of public services

#### **The Comptroller and Auditor General**

National Audit Office  
157-197 Buckingham Palace Rd  
London SW1W 9SP  
Tel: 020 7798 7999  
[www.nao.org.uk/contact-us](http://www.nao.org.uk/contact-us)

UK taxes, national insurance

#### **HM Revenue and Customs**

Freepost NAT22785  
Cardiff CF14 5GX  
Tel: 0800788 887  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

Fraud or other misconduct in relation to companies

#### **Intelligence Hub**

Insolvency Office  
3<sup>rd</sup> Floor, Cannon House  
18 Priory Queensway  
Birmingham B4 6FD  
Tel: 0300 678 0017  
[Intelligence.Live@insolvency.gsi.gov.uk](mailto:Intelligence.Live@insolvency.gsi.gov.uk)

Charities

#### **Charity Commission**

Tel: 0300 066 9197  
[www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

Consumer protection, matters about the sale of goods and services that adversely affect consumers

#### **Competition and Markets Authority**

Victoria House  
37 Southampton Row  
London WC1B 4AD  
TEL: 020 3738 6000

Data protection and freedom of information

#### **The Information Commissioner's Office**

Wycliffe House, Water Lane,  
Wilmslow, Cheshire SK9 5AF  
Tel: 0303 123 1113  
[www.ico.gov.uk](http://www.ico.gov.uk)

Damage to the environment, including pollution and flooding

#### **The Environment Agency**

National Customer Contact Centre  
PO Box 544  
Rotherham S60 1BY  
Tel: 03708 506 506  
[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

Food standards

**Food Standards Agency**

Aviation House  
125 Kingsway  
London WC2B 6NH  
Tel: 020 7276 8829  
[helpline@foodstandards.gsi.gov.uk](mailto:helpline@foodstandards.gsi.gov.uk)

Health and safety

**The Health and Safety Executive**

Tel: 0300 003 1647  
[www.hse.gov.uk/contact/raising-your-concern](http://www.hse.gov.uk/contact/raising-your-concern)

Trade unions

**Certification Officer**

22<sup>nd</sup> Floor, Euston Tower  
286 Euston Rd  
London NW1 3JJ  
Tel: 020 7210 3734  
[info@certoffice.org](mailto:info@certoffice.org)

- 7.3 If you do decide to report your concern outside the Council then you must be sure that you have a good reason for doing so and you should take care not to disclose any confidential information. This is very important as the Public Interest Disclosure Act 1998 does not give you blanket protection if you go public with your concern. For example, you may be subject to disciplinary action if you disclose confidential information in circumstances not covered by the Act.

**8. THE RESPONSIBLE OFFICER**

- 8.1 The Executive Director (Legal and Democratic Services), as the Council's Monitoring Officer, has overall responsibility for the maintenance and operation of this policy. She maintains a record of concerns raised and the outcomes (in a form which does not endanger your confidentiality) and will report as necessary to the Council.
- 8.2 All managers must notify the Executive Director (Legal and Democratic Services) if concerns are raised with them that are covered by this Whistleblowing Policy. Upon completion of a whistleblowing investigation they must return the form attached at Appendix 2 to the Monitoring Officer who will retain it securely and confidentially.
- 8.3 The Council's Standards Committee also has a responsibility for reviewing the content and operation of this policy to ensure that this policy reflects best practice. The Standards Committee will make recommendations to the Council's Cabinet if it feels that this policy requires amendment

**SUMMARY**

Whilst the Council tries to maintain the very highest standards of conduct serious failure, irregularities and wrong doing do occasionally occur. The Council encourages you to expose malpractice and will do what it can to protect you and ensure complaints are properly investigated.



## **Appendix 1**

### **Guidance For Managers When Dealing With A Whistleblowing Concern**

#### **General responsibilities:**

It is the manager's responsibility to:

- Consider whether this policy applies when concerns are raised with them even if the person raising the concern does not describe it in those terms,
- Deal with any whistleblowing concerns that are raised with them in accordance with this policy
- Notify the Executive Director (Legal and Democratic Services) of any concerns that are brought to their attention that fall within the remit of this policy
- Ensure that such concerns are treated seriously and are investigated as appropriate
- Ensure that appropriate arrangements are made if an individual wishes to raise a concern in confidence
- Ensure that anyone raising a concern in accordance with this policy has appropriate advice and support, and it protected from reprisal
- Ensure that anyone raising a concern in accordance with this policy receives appropriate feedback about the outcome of any investigation
- Ensure that the form attached as Appendix 2 is forwarded to the Executive Director (Legal and Democratic Services) upon completion of the whistleblowing investigation

#### **What do I do when a concern is first raised with me ?**

When a concern is raised, listen carefully and avoid pre-judging the issue. You must take all concerns seriously, but it may not be necessary to carry out a formal investigation in each case.

You should establish:

- When the concern first arose and, if relevant, what prompted the decision to report it now
- If the information is first hand or hearsay
- Whether the employee has raised the concern with anyone else and, if so, to what effect.
- Whether the employee is seeking confidentiality
- If the employee is concerned about reprisals
- Whether and when the employee wants feedback

When deciding upon an appropriate course of action, you should consider:

- How serious and urgent the risk is
- Whether the concern raises a safeguarding issue
- Whether the concern falls within the remit of the whistleblowing policy or other procedures. If you are unclear whether it the concern is covered by the Whistleblowing Policy or not, please take advice either from the Head of HR, the Head of Internal Audit or the Executive Director (Legal & Democratic Services).
- Whether you need to refer the concern to a senior manager or specialist function (such as HR, health and safety or internal audit)

## **Dealing with the concern**

If the concern is a whistleblowing matter, You should read the Whistleblowing Policy carefully and familiarise yourself with its requirements. There are a number of possible options available to you, depending on the nature of the case and you can take advice from the officers listed in paragraph 5.2 of this policy if you are uncertain about the most appropriate course of action. In any event, you should document the rationale for the approach chosen. For example:

- Explaining the context of an issue to the person raising the concern may be enough to alleviate their concerns;
- You might be able to address minor concerns with straight away as the relevant line manager;
- A review by internal audit as part of planned audit work might be enough to address the issue, for example through a change to the control arrangements;
- There may need to be a formal investigation;
- More complex or significant cases may need to be referred to the police or the Council's external auditors for investigation. If the concern relates to a possible criminal offence, please contact the Head of Internal Audit or the Executive Director (Legal & Democratic Services) as soon as possible and before taking any steps to investigate the concern. They will advise you whether the concern should be passed straight to the police.

## **Who do I involve ?**

If the concern is a whistleblowing matter you should notify the Executive Director (Legal & Democratic Services) as soon as possible. If the concern relates to other employees you should also inform the Head of HR. If the concern relates to financial irregularity you should inform the Head of Internal Audit.

If the issue is sensitive you should keep the number of people involved in conducting any investigation to a minimum.

If you are unsure how to conduct the investigation you should seek advice from the Head of HR, the Head of Internal Audit or the Executive Director (Legal & Democratic Services).

## **Communication with the whistleblower**

You should write to the person raising the concern within 5 working days of the concern being raised. Your letter should address all of the points set out in paragraph 6.4 of the Whistleblowing Policy. You should also:

- ask them to contact you if they have any questions or have any further information about the concern;
- assure them that their confidentiality will be protected as far as possible if they have requested this;
- make it clear that the Council will not tolerate harassment of anyone who raises a concern and ask them to let you know if this happens.

If the person raising the concern has requested confidentiality, any communication with them should be discrete, so as to protect their identity.

You should provide the person raising the concern with appropriate feedback during the course of any investigation if they want this. You won't usually be able to divulge details

about the investigation, but you could provide reassurance that the investigation is still ongoing and give an indication of the likely timescale for its completion.

You should provide appropriate feedback following the conclusion of the Council's response to the concern. If the concern has resulted in disciplinary action against other members of staff, you may not be able to give full details to the person raising the concern. In such circumstances you may want to agree the content of your response with the Head of HR.

### **Confidentiality**

Please ensure that you are familiar with the requirements of the Whistleblowing Policy in respect of confidentiality (see paragraph 3.3 of the Policy). There are practical steps you can take to protect the confidentiality of the person raising the concern, such as:

- Ensuring that paper files are clearly marked as confidential and are locked away in a filing cabinet when not in use. Similarly, electronic files can be password protected;
- Ensuring that the minimum number of people have access to the investigation file;
- Being discreet about when and where any meetings are held with the person raising the concern; and
- Ensuring that confidential paperwork isn't left on your desk or on printers or photocopiers.

### **Formal investigations**

If you are conducting a formal investigation:

- Ensure you do not have a conflict of interest
- Record as much detail as possible about the concern and agree this record with the person raising the concern at the outset
- Produce clear terms of reference for your investigation at the outset – be clear about the scope of the investigation ;
- Produce an investigation plan – set out what evidence needs to be gathered and how it will be gathered (e.g. document search, interviews etc.)
- Decide how best to engage with the whistleblower and to manage their expectations
- Ensure that all investigation work is clearly documented - you should keep a written record of the concern, your investigation and your findings

**Appendix 2**

**Whistleblowing Policy: Monitoring Information**

**Confidential**

(a copy of this form should be sent, marked as confidential, to the Executive Director (Legal and Democratic Services) upon conclusion of any action taken in response to a whistleblowing concern, even if this did not result in a formal investigation)

<b>Service Area</b>	
<b>Summary of whistleblowing concern</b>	
<b>Investigating Officer</b>	
<b>Action taken / outcome of investigation</b>	
<b>Was confidentiality requested by the person raising the concern?</b>	
<b>Was confidentiality maintained?</b>	
<b>Has feedback been given to the person raising the concern?</b>	
<b>What advice and support has been given to the person raising the concern ?</b>	
<b>Executive Director (Legal and Democratic Services)'s comments</b>	