



ARDS BOROUGH COUNCIL

FINANCE SECTION

Policy:	Whistleblowing
Presented to:	Risk Management & Audit Committee 29th Nov 07
Adopted by Policy & Resources Committee:	12 December 2007
Ratified by Council:	17 December 2007
Reviewed:	21 January 2010
Due for next review:	January 2012
Officer responsible for policy review:	Project Accountant (Internal Auditor)
File:	CG 8290

1.0 Purpose

Council employees owe a duty to the Council (as their employer) and to the public at large to be honest and trustworthy in dealing with the Council and its business. As stewards of public funds, they must have *and be seen to have*, high standards of honesty, propriety and integrity in the exercise of their duties.

All employees are required to report any issue of concern regarding the provision of services or management of those services. In most cases, this will be done through the usual line management channels.

The purpose of this policy is to:

- Encourage employees to feel confident in raising concerns
- Reassure employees that they will be protected from reprisals or victimisation for raising concerns in good faith in accordance with this policy
- Reassure employees that their concerns will be taken seriously
- Provide information about how to raise concerns and explain how the Council will respond

For the purpose of this policy the term “*employees*” includes current and former employees; agency employees; employees working for the Council on a temporary basis; casual or seasonal workers and trainees. The term is also intended to include suppliers and contractors engaged by the Council and working on Council premises.

Elected members will also be covered by the provisions of this policy.

2.0 Scope

This policy is in addition to and distinct from the Council's Fraud and Corruption Policy and is not intended to cover concerns that can be progressed under existing Human Resources procedures.

This policy is intended to cover reasonably serious concerns that may be about something that:

- Is unlawful, or
- Is contrary to the Council's Standing Orders or policies, or
- Falls below established standards or practice; or
- Amounts to improper conduct

Any concerns that employees may have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under this policy. The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

3.0 Policy Statement

3.1 WHISTLEBLOWING : DESCRIPTION AND EXAMPLES

There is no legal definition of whistleblowing but it may be described as *"the action taken by an employee, former employee or member of an organisation, in reporting misconduct to people or entities that have the power and presumed willingness to take corrective action."*

The misconduct is usually a violation of law, rule, regulation and/or a direct threat to public interest. Whistle-blowing does NOT include personal grievances about managers or colleagues and should be used as a last resort when all other channels have been exhausted.

The types of activity that should be disclosed include, but are not limited to, the following:

- fraud or corruption
- financial irregularity
- unauthorised use of public funds
- serious maladministration arising from deliberate improper conduct
- unethical activities which may be of a criminal nature
- health and safety violations
- damage to the Environment caused by unethical / illegal behaviour or activities
- deliberate concealment of information relating to any of the above

For example:

- Malpractice or ill treatment of a client/customer by an employee,
- Repeated ill treatment of a client/customer, despite a complaint being made
- A criminal offence has been committed, is being committed or is likely to be committed
- Suspected fraud
- Disregard for legislation, particularly in relation to health and safety at work
- Damage to the Environment caused by unethical / illegal behaviour or activities
- Breach of standing Financial Regulations
- Showing undue favour over a contractual matter, or to a job applicant
- A breach of any code of conduct or protocol
- Information on any of the above has been, is being, or is likely to be concealed.
- Abuse of clients/customers

It does not include mismanagement which arises from weak or poor management rather than a malpractice.

3.2 SAFEGUARDS AGAINST HARASSMENT OR VICTIMISATION

The Council recognises 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 subject that gives rise to the concern. If concerns are raised in good faith, there will be nothing to fear because employees will be doing their duty to the employer and to those for whom they are providing a service.

Whistleblowers raising matters of concern internally are protected from harassment, victimisation, disciplinary action or dismissal or any other disadvantage at work (even if their disclosure of any wrongdoing or malpractice is not substantiated after investigation), provided they disclose issues in good faith.

The Council will not tolerate harassment or victimisation and will take such action as is necessary to protect employees when they raise concerns in good faith under this policy. Disciplinary action will be taken against any member of staff who tries to stop another employee from raising a concern or who is responsible for any act of recrimination or victimisation against an employee who raises a concern.

If the whistleblower is already subject to disciplinary or redundancy procedures, these will not be halted as a result of the whistleblowing.

3.3 CONFIDENTIALITY

The Council will use its best efforts to protect an employee's identity when they raise a concern and do not want their identity disclosed. If the situation arises where we are not able to resolve the concern without revealing the whistleblower's identity (for instance because his/her evidence is needed in court), we will discuss with that employee whether and how we can proceed.

If an individual is subsequently required to give evidence in criminal or disciplinary proceedings, the Council will arrange for him/her to receive advice and support.

3.4 ANONYMOUS ALLEGATIONS

This policy encourages employees to put their names to any allegation. A concern expressed anonymously is much less powerful and it is often difficult to gather sufficient evidence and check its reliability. It may be more likely that malicious allegations will be made anonymously. It is possible to keep your identity confidential without being anonymous.

Whilst anonymous allegations will be considered at the discretion of the Council. In exercising the discretion, the Council will take account of all relevant factors which will include:

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

3.5 UNTRUE ALLEGATIONS

If staff make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. However, concerns that are raised frivolously, maliciously, for personal gain or where they are known to be untrue may result in disciplinary action or, in the case of agency employees, the termination of the agency contract. In the case of contractors, the matter will be reported to the Council's officer managing the contract so that a decision can be made about the appropriate action to take.

3.6 HOW TO RAISE A CONCERN WITHIN THE COUNCIL

Employees are expected to report concerns as soon as they arise and avoid any unnecessary delay in doing so.

Except for raising concerns in good faith, employees are not required to 'prove' the truth of any allegation. However, you will need to demonstrate that there are reasonable grounds for the concern, and will be expected to co-operate with any investigation that takes place.

As a first step employees should raise concerns with their line manager or Director, however, this depends on the seriousness and sensitivity of the issues involved and who is thought to be involved in the alleged wrongdoing or malpractice. (If an employee considers that he/she needs to raise the matter externally please refer to section 3.8 of this policy).

Where it is not felt appropriate to raise a concern with the manager or Director then the following people within the Council may be approached:

Chief Executive (Mr. A Boreland)	Telephone 028 91 824191
Director of Corporate Services (Mr. D M Clarke)	Telephone 028 91 824192
HR Manager (Ms. R McCullough / Ms. S Rea)	Telephone 028 91 824019
Internal Auditor (Ms.V Keating)	Telephone 028 91 824006
Chair of the Audit Committee (Councillor M Oswald)	Telephone 028 91 873306 Mobile 07771608019

When reporting a concern as much information and detail as possible should be provided, setting out the background and history of the matter. In particular information should include:

- full names of the people involved or who know about what is happening;
- dates of events; and
- any other relevant documentation.

It is preferable, although not essential at this early stage, that concerns are raised in writing. This will help the investigator to quickly focus their investigation on the main issues.

When any meeting or interview is arranged, employees may, if they so wish, be accompanied by a trade union official or a workplace colleague.

3.7 HOW THE COUNCIL WILL RESPOND

In order to protect individuals, and those accused of possible wrongdoing or malpractice, initial enquiries will be made by the relevant senior officer to ascertain whether an investigation is appropriate and, if so, what form it should take.

Concerns or allegations which fall within the scope of any other specific procedures (e.g.child protection, discrimination) will normally be referred for consideration under those procedures. The overriding principle which the Council will have in mind is the public interest.

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

- Be investigated internally;
- Be referred to the Police;

- Be referred to the external auditor; or
- Form the subject of an independent inquiry.

The Council will inform the employee raising the concern:

- who is handling the matter,
- how he/she can be contacted and
- whether their further assistance may be needed.

Employees will also be provided with details of support available which will include access to counselling facilities.

If requested by the employee, the Council will write to him/her summarising the concern and setting out how we propose to handle it. When an employee raises the concern he/she may be asked how they think the matter might best be resolved. If there is any personal interest in the matter, we do ask that we are made aware of this from the outset. If the concern falls more properly within the Grievance Procedure we will inform the employee.

While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give the employee as much feedback as we properly can. If requested, we will confirm our response in writing. Please note, however, that we may not be able to detail the precise action taken where this would infringe a duty of confidence owed by us to someone else.

3.8 RAISING A CONCERN OUTSIDE THE COUNCIL

This policy is intended to provide employees with an avenue to raise concerns **within** the Council.

There may be circumstances where an employee considers that he/she needs to raise the matter externally, perhaps because:

- Of the need to involve the appropriate external regulatory body
- The employee considers that the matter has not been properly addressed; or
- An employee reasonably believes that the matter will be covered up.

If the employee feels it is right to take the matter outside the Council, the following are possible contact points:

- Local Council member;
- Local Government Auditor (Telephone: 028 90 251063)
- Northern Ireland Audit Office (Telephone: 028 90 251100)
- Employee's relevant professional bodies or regulatory organisation;
- Employee's trade union;
- Employee's solicitor; and
- Police (Telephone: 0845 600 8000)

3.9 PROTECTION OF “WHISTLE BLOWERS”

In circumstances where an employee decides to raise the matter externally, he/she will only be protected under this procedure, and under employment law, where the disclosure is made in accordance with the Public Interest Disclosure (NI) Order 1998.

This means that the disclosure must show one or more of the following:

- Criminal Offence
- Breach of any legal obligation
- Miscarriage of justice
- Danger to health and safety of any individual
- Danger to the environment
- The deliberate concealing of information about the above

and the disclosure must be made in one of the following ways:

- In the course of obtaining legal advice;
- To the relevant prescribed regulatory body providing the disclosure is made:
 - In good faith, *and*
 - The employee reasonably believes that any information disclosed, and any allegation contained in it, are substantially true, *and*
 - The employee reasonably believes the prescribed body is responsible for the matter of concern

(see [Public Concern at Work \(PCaW\) - Northern Ireland Prescribed Regulators](#))

- To other third parties (including the media) where the employee makes the disclosure:
 - In good faith, with reasonable belief that the information and allegations are substantially true, *and*
 - Does not make the disclosure for personal gain, *and*
 - Has already raised the matter with the Council or prescribed regulator, unless the employee reasonably believes that he/she will suffer a detriment, or there is no prescribed regulator and he/she reasonably believes that evidence will be concealed or destroyed if he/she makes the initial disclosure to the Council, *and*
 - In all of the circumstances it is reasonable to make the disclosure.
- The disclosure is of an exceptionally serious nature and the whistleblower makes the disclosure:
 - In good faith, with reasonable belief that the information and allegations are substantially true, *and*
 - Does not make the disclosure for personal gain, *and*
 - The relevant failure is of an exceptionally serious nature, *and*
 - In all of the circumstances it is reasonable to make the disclosure.

It should be noted that all concerns should be raised in good faith and where the information is believed to be true i.e. more than just suspicion. Employees who report suspected fraud or corruption may have legal redress if they ‘suffer detriment’ under this Order.

4.0 Director's Approval

D M Clarke
Director of Corporate Services

5.0 Council Approval

Presented to Risk Management & Audit Committee on **29th November 2007**

Adopted by the Policy & Resources Committee **12 December 2007**

Approved by Council on **17 December 2007**