



WHISTLEBLOWING POLICY

Polasaí Sceithreachta

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1. INTRODUCTION

- 1.1 The Council is committed to the highest possible standards of openness, transparency and accountability. In line with that commitment, the Council encourages employees and others that it deals with who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.2 Within this policy 'Whistleblowing' means the reporting by employees and people who work for the council of suspected misconduct, illegal acts or failure to act within the Council's Employee Code of Conduct. It should not be confused with a complaint which could be about anything and does not necessarily affect others (e.g. complaints about delivery of a service, individual staff grievances or actions contained within the Harassment & Bullying Policy).
- 1.3 Employees are often the first to realise that there may be something seriously wrong within the Council, however, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. The aim of this policy is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of victimisation, subsequent discrimination, disadvantage or dismissal. This is encouraged rather than overlooking a problem or "blowing the whistle" outside. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.4 This procedure is in addition to the Council's complaints procedure and other statutory reporting procedures applying to some departments. Members of the Extended Corporate Leadership Team are responsible for making people

receiving services aware of the existence of this procedure. This will be achieved by communication through regular channels.

2. AIMS AND SCOPE

- 2.1 This policy aims to:
- a) Encourage employees to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice
 - b) Provide avenues for employees to raise those concerns and receive feedback on any action taken
 - c) Ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied
 - d) Reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure in good faith
- 2.2 It applies to all employees and those employees of contractors working for the Council on Council premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care services, early years providers and other similar activities.
- 2.3 The policy is intended to enable employees (and others as appropriate) who become aware of wrongdoing in the Council affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated.

It is not intended to replace existing procedures:

- If your concern relates to your own treatment as an employee, you should raise it under the existing grievance or bullying & harassment procedures [Policies, Procedures & Guidance](#)

Advice and guidance as to whether the matter could be dealt with informally, if it is a minor issue, or whether an alternative policy or procedure is more applicable, can be sought from HR and/or Trade Union representatives before deciding whether the matter should be referred to the Council's Confidential Reporting Officer as a whistleblowing complaint.

- If a person receiving services has a concern about services provided to them, it should be raised through the [Complaints policy](#)
- Complaints about Community Councils or individual Community Councillors' should be dealt with under the [Community Council Complaints Procedure - Moray Council](#)

- For complaints of misconduct by Council Councillors, please refer to the [Complaints Policy](#), Council's Monitoring Officer or the [Ethical Standards Commissioner](#). For complaints from Councillors against Council employees, these should be lodged with the Chief Executive in accordance with their responsibility for the [Code of Conduct](#).

3. PURPOSE

3.1 The Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These concerns include:

- conduct which may be an offence or a breach of the law
- failure to comply with a legal obligation
- disclosures relating to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damage to the environment
- inappropriate or unauthorised use of public funds, or other funds administered by Council employees
- inappropriate or unauthorised use of Council assets
- possible fraud and corruption
- sexual, physical, neglect or other abuse of people receiving services
- other unethical conduct.
- Sexual harassment

Please note that this list is not exhaustive.

4. SAFEGUARDS

4.1 Harassment or Victimisation

The Council is committed to good practice and high standards and wants to be supportive of employees.

The Council recognises that the decision to report a concern can be a difficult one to make. If what an employee is saying is true, they should have nothing to fear because they will be doing their duty to their employer and those for whom they are providing a service.

The Council will not tolerate any harassment or victimisation of individuals reporting concerns (including informal pressures) and will take appropriate action to protect them when they raise a concern in good faith either during or after the investigation. In addition, employees will not be at a detriment in terms of opportunities for promotion, transfer or training due to whistleblowing. More

details are contained within the [Public Interest Disclosure Act 1998](#) which provides strong protection for workers who raise a genuine concern about malpractice.

Any investigation into allegations of potential malpractice will not influence or be influenced by any other formal procedures that already affect employees.

4.2 Legislation and Legal Rights

The development and application of this policy and its procedures is guided by the following legislation which give guidance on the rights of employees:

- The Public Disclosure Act 1998
- Employment Rights Act 1996 as amended by the Employment Rights Act 2025
- Enterprise and Regulatory Reform Act 2013

This policy does not remove any rights or protection provided by the Acts. The Council has a responsibility to be aware that it will be vicariously liable for the actions of workers who subject a colleague to any kind of detriment because they have blown the whistle, unless they can demonstrate they took all reasonable steps to prevent this happening.

4.3 Confidentiality

All concerns will be treated in confidence, and every effort will be made not to reveal the employee's identity if they so wish. At the appropriate time, however, the employee's identity may have to be revealed (e.g. employees may need to come forward as a witness). Should this situation arise, employees will be contacted in advance. The nature and detail of the concerns may be disclosed to relevant parties to facilitate an investigation.

4.4 Anonymous Allegations

This policy encourages employees to put their name to allegations whenever possible. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the recipient. In exercising this discretion the factors to be taken into account would include:

- a) The seriousness of the issues raised
- b) The credibility of the concern; and
- c) The likelihood of confirming the allegation from attributable sources

4.5 Untrue Allegations

If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. However, this procedure is not designed to support employees to make an allegation which is either

malicious or for personal gain. If an allegation is made frivolously, maliciously or for personal gain, appropriate action will be taken which may include disciplinary action.

5. RESPONSIBILITIES

- 5.1. The Council, acting through the Head of People, Change and Community Strategy, as Confidential Reporting Officer, has overall responsibility for the maintenance and operation of this policy. That officer will ensure that a record of concerns raised is maintained along with the outcomes (but in a form which maintains confidentiality). The Service Manager Internal Audit and Risk (Chief Audit Executive) has a specific responsibility in terms of the Council's financial regulations for the investigation of possible fraud or corruption and of any financial irregularities or misuse of resources. The Chief Governance Officer (Monitoring Officer) has a responsibility for ensuring the Council is properly advised on avoidable risk and is acting in accordance with legal and procedural requirements.
- 5.2. The responsibility for determining whether or not any concern raised meets the public interest test will rest with the Head of People, Change and Community Strategy. In exercising this responsibility, the Head of People, Change and Community Strategy will act on behalf of the Council and will take account of relevant professional advice, including advice from the Chief Governance Officer (Monitoring Officer) and the Service Manager Internal Audit and Risk (Chief Audit Executive), as appropriate. The rationale for any determination will be documented and retained in accordance with the Council's governance and record-keeping arrangements. Where there is dispute regarding whether a concern constitutes a qualifying protected disclosure, the matter may be reviewed by the Chief Governance Officer.

6. PROCESS / RELEVANT INFORMATION

6.0 How to raise a concern

- 6.1 How an employee raises a concern depends very much on the seriousness and sensitivity of the issues involved and who is involved. As a first step, an employee should normally raise concerns with their immediate manager or their superior, unless they are implicated or involved in the issue causing concern.

Whenever any matter arises which involves, or is thought to involve, fraud or irregularity, the Service Manager Internal Audit and Risk (Chief Audit Executive) should be notified. If the matter is particularly sensitive an employee may contact the Head of People, Change and Community Strategy directly who acts as the Council's Confidential Reporting Officer.

The officer receiving notification of the concern, after due consideration and consultation as appropriate, will determine what action should be taken and will inform the employee of their decision.

If any concern relates directly to the Head of People, Change and Community Strategy, Service Manager Internal Audit and Risk (Chief Audit Executive) or the services for which they have responsibility, the matter should be raised with the Chief Governance Officer.

- 6.2 Concerns may be raised verbally or in writing but the employee should make it clear that they are raising the issue under the “Whistleblowing” policy. An employee who wishes to make a written report is invited to use the following format:
 - a) the background and history of the concern (giving relevant dates);
 - b) the reason why there are particular concerns about the situation
 - c) provide an indication as to which category(ies) outlined in para 2.3 the concern(s) are aligned to.
- 6.3 The earlier the concern is expressed the easier it is to take action, so employees should not delay in reporting their concerns.
- 6.4 Although an employee is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern. However, an employee should not attempt to investigate the matter themselves, nor should they report any suspicions they have to anyone who does not have proper authority to conduct an investigation. This is particularly where criminal activity is suspected and where special rules apply to the gathering of evidence.
- 6.5 Advice and guidance on how matters of concern may be pursued can be obtained from the Head of People, Change and Community Safety, Service Manager Internal Audit and Risk (Chief Audit Executive) and/or Chief Governance Officer/Monitoring Officer as appropriate.
- 6.6 An employee may wish to consider discussing their concern with a colleague first and may find it easier to raise the matter if there are two (or more) who have had the same experience or concerns. However, an employee should not take any action which may impede an enquiry. Once you have raised a concern under the Whistleblowing (Confidential Reporting) Policy you should be mindful that any further discussions with other parties may impede the maintenance of confidentiality and integrity of the investigation.
- 6.7 An employee may seek advice, guidance and support from their Trade Union and invite their trade union representative or a colleague to be present during any meetings or interviews in connection with the concerns.

How will the Council Respond

- 6.1 The Council will respond to the concerns. Investigating the concerns is not the same as either accepting or rejecting them.
- 6.2 Where appropriate, the matters raised may:
- a) Be investigated by management, internal audit or through the disciplinary process;
 - b) Be referred to the police;
 - c) Be referred to the external auditor;
 - d) Form the subject of an independent inquiry.
- 6.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to establish whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. However, the Council must also ensure a fair process for its employees and ensure that those accused have a full and fair opportunity to respond to concerns in accordance with any relevant procedures. Concerns or allegations which fall within the scope of specific procedures (for example, child protection, discrimination or harassment issues) will normally be referred for consideration under those procedures.
- 6.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this may be taken before any investigation is conducted. Investigations should be conducted according to the principles outlined in the Councils Best Practice Guidance. Whilst this applies specifically to disciplinary and grievance investigations, the principles in terms of a fair and reasonable investigative process will also apply to whistleblowing complaints where there is a need to undertake an investigation. In addition, due consideration should be given to any specific requirements relating to investigations of financial irregularity in accordance with the Policy to Combat Fraud, Theft, Bribery and Corruption.
- 6.5 Within 10 working days of a concern being raised, the Head of People, Change and Community Strategy Confidential Reporting Officer) or Service Manager Internal Audit and Risk (Chief Audit Executive) as responsible person will write:
- a) acknowledging that the concern has been received;
 - b) indicating how we propose to deal with the matter;
 - c) giving an estimate of how long it will take to provide a final response;
 - d) supplying information on employee support mechanisms if appropriate;
 - e) advising whether further investigations will take place and, if not, why not.
 - f) confirm whether or not the concern raised is considered to be a qualifying protected disclosure in accordance with the legislation (ref para 4.2)

Any determination as to whether a concern constitutes a qualifying protected disclosure is made by the Council, acting through its designated officers, and not by any individual in a personal capacity

- 6.6 The amount of contact between the officers considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from the employee.
- 6.7 Where any meeting is arranged, the employee, if they so wish, can be accompanied by a trade union or professional associate representative or a colleague.
- 6.8 The Council will take steps to minimise any difficulties which the employee may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice, guidance and support about the procedure.
- 6.9 The Council accepts that the employee needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the Council will inform the employee of the outcomes of any investigation.

How can the matter be taken further

- 6.10 This policy is intended to provide employees with an avenue within the Council to raise concerns. The Council hopes employees will be satisfied with any action taken. If not, and if it is felt right to take the matter outside the Council, the following are possible contact points:

- a) The external auditor (Audit Scotland)
- b) Trade Union (The Certification Officer)
- c) The Police
- d) Relevant professional bodies or regulatory organisations
- e) HM Revenue and Customs
- f) Scottish Environmental Protection Agency
- g) Food Standards Scotland
- h) Scottish Social Services Council
- i) Health & Safety Executive
- j) The Pensions Regulator
- k) The Care inspectorate

The above list has been extracted from the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2014, and whilst it is not exhaustive it does comprise the persons most likely to be of relevance to the work of a Local Authority. The full list can be found at:-

[The Public Interest Disclosure \(Prescribed Persons\) Order 2014](#)

[Whistleblowing: list of prescribed people and bodies - GOV.UK](#)

For further advice online Protect can offer confidential advice on raising concerns. They can be contacted through [Protect - Speak up stop harm - Whistleblowing Homepage](#)

- 6.11 If employees decide to take the matter outside the Council, they should ensure that they do not disclose confidential information. In cases of doubt, advice can be obtained from the Head of People, Change and Community Strategy.

7. RELATED DOCUMENTS

(available at [Policies, Procedures & Guidance](#))

The Council has a range of other policies and procedures in place to support employees to raise concerns and have them dealt with. Consideration should be given as to whether any of these are more relevant and appropriate or whether the confidential reporting policy should be used.

Bullying & Harassment Policy
Policy to Combat Fraud, Theft, Bribery and Corruption
Grievance
Employee Code of Conduct
Scheme of Administration and Standing Orders
Financial Regulations

8. TEMPLATE DOCUMENTS

N/A

9. VERSION CONTROL

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