



# Whistleblowing policy

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## 1.0 Introduction

- 1.1 This policy outlines the process and procedure for employees to raise their concerns if they have reason to believe that wrong doing is being perpetrated by others at the council. Oldham Council is committed to openness, probity and accountability. 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.
- 1.2 Whistleblowing occurs when a person raises a concern about dangerous, illegal activity or any wrong doing within their organisation. It can involve sharing potentially vital information about health and safety risks, environmental factors, possible fraud, harm of children or vulnerable adults, covering up for someone and other serious activities.
- 1.3 This policy applies to all our employees, employees of contractors working for us (e.g. agency staff, builders and drivers), employees of suppliers and those providing services under a contract or other agreement with us in their own premises (e.g. care homes), voluntary workers working with us and people who in the course of their work come into contact with our employees.
- 1.4 The council wants to encourage and enable employees to raise their concerns at an early stage and to do so in the right way. This includes any occasion when an employees is concerned that their colleagues or the council are acting unlawfully and / or where there are concerns that colleagues or councillors are breaching the council's Code of Conduct and its other operational or financial rules. It is not disloyal to colleagues or to the council to make a disclosure. It is essential issues are addressed immediately, so employees should 'blow the whistle' as early as possible to prevent any real damage being done.
- 1.5 This policy is approved locally by the trades unions where additional support is available. It explains what the council wants employees to do if they have concerns, clarifies their rights and responsibilities, identifies the steps which employees can take and puts this into the context of the Public Disclosure Act 1998 and the Employment Rights Act 1996.
- 1.6 Although this policy provides guidance on how issues should be raised with the council, it does not preclude any employee from reporting an issue with the police in conjunction with the whistleblowing process, where it is believed that criminal activity is involved.
- 1.7 Other procedures exist to register a grievance about an employee's own employment. If an employee has an individual complaint relating to their employment, for example, their contract of employment, pay or conditions, this should be raised under the council's Grievance Policy.
- 1.8 This policy is non-contractual and as such we may review, amend or withdraw this policy from time to time in line with changes to employment legislation or organisational needs.

## 2 Principles

- 2.1 We want all employees to understand how to report issues and know who to report them to; secure in the knowledge that their concerns will be treated seriously, dealt with sensitively and with due confidentiality. Employees will be given full support from senior management and the council will do all it can to help employees throughout the investigation.

## 3 How employees can raise a concern

- 3.1 The first step depends on the seriousness and sensitivity of the issues and who is thought to be involved. Whenever possible, employees should normally raise concerns with their immediate manager or superior. If an employee believes that management is involved, they should approach the Audit and Counter Fraud Team. They can be contacted on 0161 770 4897 or by email at [investigations@oldham.gov.uk](mailto:investigations@oldham.gov.uk).
- 3.2 Employees will not be expected to prove the wrongdoing, but will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- 3.3 Concerns should be raised in writing. See whistleblowing form.
- 3.4 If an employee does not feel able to put the concern in writing, they can telephone or meet a member of the Internal Audit and Counter Fraud Team (or one of the Appropriate Officers (see 3.5 below). They are used to working in complete confidence and are trained to listen carefully.
- 3.5 Alternatively, advice and guidance on how matters of concern may be pursued can be obtained from the appropriate officer. Within the council these are;

Director of Legal Services (Monitoring Officer)	0161 770 4822
Head of Corporate Governance	0161 770 4783
Director of People	0161 770 4695
Director of Finance	0161 770 4902
Chief Executive	0161 770 3542

- 3.6 The final route is to invite a trade union or a professional association to raise the matter through our whistleblowing procedure on the employee's behalf.

## 4.0 How employees are safeguarded when raising a concern

- 4.1 This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions.
- 4.2 The Act makes it unlawful for the council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

4.3 The Public Interest Disclosure Act 1998 and Employment Rights Act 1996 clearly define what types of disclosure qualify employees for protection against dismissal and detrimental treatment by your employer. These are known as 'protected disclosures.'

4.4 The following qualify as a protected disclosure:

- Criminal offences (Section 43B(1)(a), ERA 1996).
- Breach of any legal obligation (Section 43B(1)(b), ERA 1996).
- Miscarriages of justice (Section 43B(1)(c), ERA 1996).
- Danger to the health and safety of any individual (Section 43B(1)(d), ERA 1996).
- Damage to the environment (Section 43B(1)(e), ERA 1996).
- The deliberate concealing of information about any of the above (Section 43B(1)(f), ERA 1996).

4.5 A disclosure will also be protected if the information disclosed is of a nature that shows that any of the above is likely to be deliberately concealed.

#### Harassment or victimisation

4.6 We will not tolerate harassment or victimisation by those involved with the matters of concern or from others. It will take action to protect employees when they raise a concern in the public interest. The council takes its responsibilities in this seriously as it is responsible as the employer for any detriment caused.

4.7 Due regard and sensitivity will be exercised by all involved in the process to ensure that employees do not suffer detrimental treatment as a result of raising a complaint.

4.8 If employees are already the subject of disciplinary or redundancy procedures, those procedures will not be halted as a result of an employee whistle-blowing.

#### Anonymous Allegations

4.9 This policy as a whole encourages employees to put their name to the allegation.

4.10 Although concerns expressed anonymously are much less powerful they will be considered taking into account:

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

4.11 Employees will be unable to be told the outcome of any investigation of a concern which was brought forward anonymously.

#### Confidentiality

4.12 We will do its best to protect employee identity when they raise a concern and do not want their name to be disclosed.

- 4.13 It is important to note that the investigation process may ultimately need to reveal the employee as the source of information. On some occasions a statement by the employee may be required as part of the evidence.

#### Untrue allegations

- 4.14 If an employee makes an allegation in the public interest and reasonably believed it to be true, but it is not confirmed by the investigation, no action will be taken against the employee.
- 4.15 If, however, an employee makes malicious or frivolous allegations, or repeated allegations which have no foundation, disciplinary action will be taken against the employee.

### **5.0 How we will respond**

- 5.1 The action taken 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;
  - form the subject of an independent inquiry.
- 5.2 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. Most matters will, initially, be investigated internally. Concerns or allegations which fall within the scope of specific current procedures (for example, child protection or discrimination issues) will normally be dealt with through those routes.
- 5.3. Within 10 working days of a concern being received, the council will write to the employee:
- acknowledging that the concern has been received;
  - indicating how it proposes to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;
  - informing the employee as to whether any initial enquiries have been made; and
  - informing the employee as to whether further investigations will take place and, if not, why not.
- 5.4 Some concerns may be resolved by immediate action without the need for an investigation.
- 5.5 The amount of contact between the officer(s) considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the amount and clarity of the information the employee provided. If necessary, further information will be sought.
- 5.6 When any meeting is arranged with the employee as a whistle blower, they have the right to be accompanied by a trades union or professional association representative, or a colleague who is not involved in the area of work to which the concern relates.

- 5.7 We will act as necessary to minimise any difficulties which employees may experience as a result of raising a concern. For instance if, later, employees are required to give evidence in criminal or disciplinary proceedings, we will advise the employee directly as to the procedure.
- 5.8 We accept that employees need to be assured that the matter has been properly addressed so, subject to legal constraints, the employee will receive information about the outcomes of any investigations.

## 6.0 What employees can do if our response does not resolve their concern

- 6.1 This policy is intended to provide employees with an avenue to raise concerns and to have them resolved inside the council. We hope our investigations and the action arising from them will resolve their concern. If not, and the employee feels it is right to take the matter outside the council. In such circumstances, employees should seek advice from our Monitoring Officer to ensure correct procedures are followed and that confidential information is not disclosed.

## 7.0 The Monitoring Officer

- 7.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. S/he maintains a record of concerns raised and the outcomes (but in a form which does not endanger employee confidentiality).
- 7.2 Details of all concerns raised and subsequent information will be retained for 5 years. The purpose of this is to ensure that a central record is kept which can be cross referenced with other complaints in order to monitor any patterns of concern and to assist the Head of Corporate Governance in monitoring the effectiveness of this policy.

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