

Whistleblowing Policy & Procedure

Version: 3.5



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Related HR links

Conduct and work performance

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Version Control

Version Number	Effective Date	Details of Last Revision
2	1/11/13	
2.1	9/9/14	Updated onto new policy template
3	14/6/17	Workers now included in the policy, making it clearer on how to whistle blow, emphasising employee protections and updating title changes and contact details
3.1	5/4/19	Reflect change of organisational name
3.2	19/5/21	Reviewed by HR Team and Legal Services
3.3	20/5/21	Transferred onto Accessibility Template
3.4	2/3/22	Updated links to new Connects
3.5	17/8/22	Updates made to improve accessibility

Equality Impact Assessment:

A robust and up-to-date Whistleblowing policy benefits those with protected characteristics by providing a safe means by which they can report wrongdoing. National best practice in relation to whistleblowing, further developed in response to high-profile cases of sexual harassment, has been incorporated into the 2020 review of this Policy.

Prepared by: HR Team

1. Introduction

- 1.1 If Council employee suspects wrongdoing within the Council, there are a number of ways this can be dealt with. Normally the first step would be to report this to your Manager, whom failing your Head of Service or Executive Director. The Council also has existing policies and procedures to deal with disciplinary and grievance issues which involve individual members of staff. It has a Corporate Fraud Hotline which allows both public and employees to confidentially report potential cases of fraud. However, there will be other occasions when it is not possible or appropriate to use these procedures. This Whistleblowing Policy relates to such occasions, when in the course of their work, Council workers (including agency workers) become aware of serious wrongdoing in the Council or have information regarding malpractice. These acts or omissions may be committed by an individual, more than one individual in the Council or external contractors working for the Council. The Flowchart attached at Appendix provides guidance on the choice between reporting something as Whistleblowing and other procedures.
- 1.2 Whistleblowing is the term used when a worker passes on information concerning such wrongdoing. It is also known as making a protected disclosure, because if used properly, following this Policy, it will protect the employee from repercussions. The wrongdoing will typically (although not necessarily) be something they have witnessed at work.
- 1.3 The disclosure of such wrongdoing should only be made in the public interest and this procedure outlines the steps that should be taken to bring such serious situations to the attention of the Council. This procedure has been designed to provide guidance to workers on reporting incidents of malpractice or wrongdoing and indicates how matters can be expedited thoroughly, discreetly and in a confidential way. There are separate procedures in place to enable employees to lodge a grievance relating to their own employment, and the whistleblowing procedure should not be used for personal grievances. Similarly, where fraud is suspected, unless there are particular reasons why this is not advisable, it is best to report this to the Corporate Fraud Hotline (email corporatefraud@north-ayrshire.gov.uk or telephone 01294 324585 or 01294 324586).
- 1.4 The principles and guidance outlined in this procedure have been developed to implement the [Public Interest Disclosure Act 1998](#). This provides that workers who make a disclosure, or 'blow the whistle' in respect of wrongdoing in any of the categories listed at 2.2 below, then in using the procedure laid down by their organisation they will be protected from dismissal, or detriment short of dismissal, such as bullying or harassment from another employee. It is essential that the worker must reasonably believe that they are acting in the public interest. This protection also applies to workers who have made a protected disclosure to their previous employer.

- 1.5 The Council recognises that the decision to report a concern can be a difficult one, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation of the worker making the disclosure and will act to protect workers when they raise a concern in the public interest. Any allegation of harassment or victimisation of workers who have made disclosures will be taken seriously and managed appropriately.
- 1.6 The procedures also complement the provisions of the Employee Code of Conduct, the Council's Financial Regulations and Codes of Financial Practice, Corporate Procurement Procedures and Counter Fraud and Corruption Strategy.

2. Categories of Malpractice/Wrongdoing

- 2.1 The public has the right to expect high standards of service. However, there may be occasions when due to individual acts, omissions, or corporate failings it may be necessary to bring certain matters which give cause for concern to the attention of the Council. The Council recognise that workers are often the first people to witness types of wrongdoing and malpractice, and that the information they uncover could prevent such malpractice and wrongdoing.
- 2.2 If a worker is concerned about or witnesses an aspect of individual behaviour or malpractice which falls under one (or more) of the following categories they should, where reasonably practicable, report this by following the procedures as defined below:
- A criminal offence has been, is being or is likely to be committed
 - A person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject
 - A miscarriage of justice has occurred, is occurring or is likely to occur
 - The health and safety of any individual has been, is being or is likely to be endangered
 - The environment has been, is being, or is likely to be damaged
 - Information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed
- 2.3 All Council employees have a responsibility to report any concerns they may have that cases of at-risk children or adults are being mismanaged, or not being provided with the support that they need. The Council recognise that it can be difficult to speak about these issues; however, we encourage a culture of openness and transparency, where the priority is on improving services to vulnerable children and adults by naming and addressing problems, rather than apportioning blame.

- 2.4 The categories listed above are by no means mutually exclusive. For instance, a health and safety failure may also be a criminal offence.
- 2.5 If the concern does not fall within the scope of any of the categories listed above then another procedure should be considered, such as the grievance, disciplinary or harassment procedures, or by reporting the issue through the Corporate Fraud Hotline.
- 2.6 If there is any doubt about which procedure is appropriate for the circumstances the Head of Service (People & ICT) or the Head of Democratic Services may be consulted for advice.

3. Confidentiality

- 3.1 The Council will do its best to protect an individual's identity when he/she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

4. Reporting Procedure

- 4.1 A worker wishing to report a matter that is covered by the categories stated in the Categories of Malpractice/Wrongdoing should contact the Head of Democratic Services or the Head of Service (People & ICT). The report should preferably be in writing using the form attached at Appendix 2, although it will be acceptable to telephone or arrange a meeting.
- 4.2 The worker should provide whatever information they have relating to their concern, and give names, dates and places where possible. The worker does not require to provide evidence of the wrongdoing or malpractice but must have a reasonable belief that it is taking place.
- 4.3 A worker wishing to report fraudulent or corrupt activity, whether perpetrated by employees, elected members, partner organisations, suppliers or service users should contact the Corporate Fraud Team, which is a specialist investigative unit to prevent and detect frauds or attempted frauds against the Council. The Corporate Fraud Team can be contacted by email corporatefraud@north-ayrshire.gov.uk or telephone on 01294 324585 or 01294 324586. For further information please see the North Ayrshire Council Counter Fraud and Corruption Strategy.
- 4.4 Individuals may invite their Trade Union representative to raise a matter on their behalf.
- 4.5 The Head of Democratic Services or the Head of Service (People & ICT) will make an initial assessment of the nature of the report and where relevant

make enquiries to establish whether or not these procedures are appropriate in the circumstances of the case.

- 4.6 Where the matter is not one that should be investigated via these procedures, the Head of Democratic Services or the Head of Service (People & ICT) will advise the worker who to contact in relation to their concern.
- 4.7 Where the concern reported is relevant to these procedures the Head of Democratic Services or the Head of Service (People & ICT) will either investigate the concern personally or it will be investigated by an appropriate senior officer.
- 4.8 The worker making the report will be advised of the next steps that will be taken and of the likely timescale. The aim is wherever possible, to investigate and determine whistleblowing cases within 3 months.
- 4.9 If a meeting is required with the worker making the report, they may be accompanied by their trade union representative or another North Ayrshire Council employee if they so wish.
- 4.10 It is important that confidentiality is maintained by both parties to ensure that the matter can be dealt with in the appropriate way, avoid prejudice and protect individual rights.
- 4.11 Under the terms of this procedure, the worker making the report may seek a progress update regarding the status of the report.
- 4.12 Once the matter has been concluded and the appropriate action taken in response to the report the worker will be notified accordingly. Feedback will be provided by the Head of Democratic Services or the Head of Service (People & ICT). It should be noted that it may not be possible to give details of precise actions taken where this will infringe a duty of confidence owed to another person or any rights that person may have under data protection legislation.

5. Contact with Regulatory Bodies

- 5.1 Workers who wish to make protected disclosures are required to follow the reporting procedure detailed earlier. The only exceptions to this will be where the worker reasonably believes that they will suffer a detriment as a result of making a disclosure internally, or where the worker is dissatisfied with the outcome of the findings of an investigation into their concerns. Where this is the case and the disclosure is not made for personal gain a disclosure may be made to the relevant regulatory body. The relevant regulatory bodies for local government in Scotland are listed in the Government Guidance: [Whistleblowing: list of prescribed people and bodies](#). The Accounts Commission for Scotland, whose details appear below are the general Whistleblowing regulator for Councils. Depending on the Council service

where the wrongdoing occurs it may also be possible to get in touch with another regulator listed in the Government Guidance.

Accounts Commission for Scotland

The Secretary to the Accounts Commission
Accounts Commission for Scotland
102 West Port
Edinburgh
EH3 9DN
Tel: 0131 625 1500
Email: correspondence@audit-scotland.gov.uk
Website: www.audit-scotland.gov.uk

- 5.2 Protect is an independent Charity providing confidential advice to workers who witness wrongdoing or malpractice in the workplace and who find themselves in a whistle-blowing dilemma.

Protect – the Whistleblowing Charity

The Green House
244-254 Cambridge Heath Road
London
E2 9DA
Telephone: 020 3117 2520
Email: whistle@protect-advice.org.uk
Website: www.protect-advice.org.uk

6. Contact with Media

- 6.1 Contact with the media (whether press or web-based media or social media) is not a protected disclosure for the purposes of employment law. Any worker contacting the media will no longer enjoy the statutory protections detailed in Section 7 of this Policy. Disclosure to the media during the course of, or after the completion of a Whistleblowing investigation, whether conducted internally or via a regulatory body, may lead to disciplinary action. This particularly likely where internal or regulatory agency remedies have not been exhausted or there is no imminent or clear danger to the public interest or irreversible damage.

7. Safeguards

- 7.1 A worker making a disclosure based on one or more of the categories of Malpractice/Wrongdoing detailed in paragraph 2.2 will be protected from any detriment in the course of their employment as long as:
- They reasonably believe it be true
 - It is in the public interest; and
 - Disclosure is made following the Council's reporting procedure.

- 7.2 For the purposes of this procedure, detriment is defined as any act or omission that penalises the worker for submitting a report on one or more of the Categories of Malpractice/Wrongdoing set out in 2.2. So, for example, dismissal, selection for redundancy, harassment, victimisation, or any other form of detrimental action are prohibited under the terms of this procedure. Similarly, the denial of contractual benefits, such as annual increments, which would otherwise accrue but that are withheld because a worker has submitted a report, is prohibited.
- 7.3 These safeguards also apply to any worker who has made a protected disclosure to their previous employer.
- 7.4 Workers who 'blow the whistle' on malpractice or wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. The dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure. However if a case goes to an employment tribunal and the tribunal think the disclosure was made in bad faith, it will have the power to reduce compensation by up to 25%. The law in relation to this is contained within the [Employment Rights Act 1996](#).
- 7.5 Workers whose employment with the Council terminates by way of a Settlement or Compromise Agreement are not prevented from using this Whistleblowing Policy to make a disclosure in the public interest, even if they have entered into a non-disclosure agreement.

8. False Reporting

- 8.1 There may be instances when a report is submitted, based on reasonable belief by the worker that something is wrong at a particular time, which is subsequently demonstrated to be false or inaccurate. In such circumstances, workers will be informed of the discrepancy between their report and the facts at hand. Provided that the Council is satisfied that the employee had a reasonable belief that such a situation should be reported, no further action will be taken.
- 8.2 If a worker has deliberately submitted a report that they know to be untrue or unfounded this may lead to a disciplinary investigation and disciplinary action against the worker.

Whistleblowing Flowchart

