

# **Newry, Mourne and Down District Council**

## **Whistleblowing Policy**



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**Version 2.0**

## Policy Control

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## **1. Statement**

The Council is committed to the highest possible standards of openness, probity and accountability in the delivery of its services. Whilst the Council has put in place a wide range of rules, regulations, procedures and codes of practice to deliver its commitments, malpractice, abuse and/or wrongdoing may unfortunately still occur.

We trust that workers will feel able to voice their whistleblowing concerns openly under this policy; however, we recognise that some employees may want to raise their concerns confidentially (or anonymously). This policy document makes it clear that you can raise any concerns you have without fear of victimisation, subsequent discrimination or disadvantage. In developing this Policy the Council recognises the need for an open and honest culture where workers have clear information on how to raise concerns (both internally and externally) and are encouraged to do so in the knowledge that they will be listened to, treated with respect and without fear of reprisal.

## **2. Aims of this Policy**

This policy aims to:

- make you feel confident to raise concerns within the Council, as soon as possible rather than overlooking a problem or blowing the whistle to the media or other external bodies;
- give you avenues to raise concerns and receive feedback on any action taken;
- inform you on how to take the matter further if you are dissatisfied with the response; and
- reassure you that you will be protected from reprisals or victimisation for whistleblowing concerns made in the public interest.

## **3. Scope**

A whistleblowing concern is where an individual discloses information about suspected danger, wrongdoing or illegality that affects others. The individual whistleblower is usually not personally affected by the danger, wrongdoing or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of the investigation into their concern – they are simply trying to alert others. The following list illustrates the types of issues that may be raised:

- conduct which is a criminal offence, e.g. theft;
- disclosures related to miscarriages of justice;
- failure to comply with any legal (or professional) obligation (for regulatory requirements);
- health and safety risks, including risks to the public as well as other workers;
- negligence;
- breach of internal policies and procedures;
- conduct likely to damage the Council's reputation;
- unauthorised disclosure of information ;
- damage to the environment, e.g. pollution;
- the unauthorised use of public funds, e.g. expenditure for non-council purposes;
- fraud and corruption (see also the Council's Anti-Fraud policy for more details);
- any attempt to prevent disclosure of any of the above; and any other unethical conduct which gives you cause for concern.

This policy is primarily for concerns where the interests of others or of the Council itself are at risk. Thus if an individual member of staff feels aggrieved about their personal position then they should use the Grievance Procedure.

#### **4. Related Policies**

This policy should be read in conjunction with the following Council Documents:

- Anti-Fraud policy and the Fraud Response plan;
- Grievance Policy; and
- Complaints Procedure Policy.

#### **5. What is Whistleblowing, and why is it needed?**

The charity, Public Concern at Work (PCAW), has defined whistleblowing as “a worker raising a concern about wrongdoing, risk or malpractice with someone in authority internally or externally.” The Council is committed to developing a culture where all employees are encouraged to raise concerns about poor and unacceptable practice and misconduct safely.

All organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring and to address them when they do occur. Workers are often best placed to identify deficiencies and problems before any damage is done, so the importance of their role as the ‘eyes and ears’ of organisations cannot be overstated. Therefore, whistleblowing provides workers with an opportunity to raise serious, genuine concerns rather than overlooking the problem or blowing the whistle outside. Whistleblowing legislation offers protection to workers who disclose serious concerns and the Council is committed to ensuring that anyone who blows the whistle will not be victimised, harassed or suffer any detriment as a consequence.

The benefits of whistleblowing to the Council include:

- safeguarding the integrity of the Council;
- safeguarding the employees and the wider public; and
- identifying damage and wrongdoing as early as possible.

#### **6. Who is covered by the Policy?**

Legislation defines a whistleblower as a “worker” that is, someone inside the organisation. The policy therefore applies to all people working for the Council. This includes full and part-time, temporary and casual staff and contractors working for the Council on Council premises (for example, agency assignees and builders). It also covers Council suppliers and those providing services under a contract with the Council in their own premises.

Generally a whistleblower has no self interest in the issue being raised. However distinctions may not always be clear cut. A simple way to establish whether an individual raising a concern is a ‘whistleblower’ or a ‘complainant’ is to consider the nature of the concern.

Concern refers to 'others' e.g. the Council, other staff, contractors, the wider public.	<b>Whistleblower</b>
Concern refers to the individual ('self') e.g. a personal grievance, about terms of employment, pay, unfair treatment.	<b>Complainant</b>

The importance of a whistleblowing policy is explicitly covered in the Code of Conduct for Local Government employees, which states that *"Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service"*. Paragraph 4.14 of the Code further states that *"if an employee becomes aware of activities which he/she believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure (NI) Order 1998, and with the Council's confidential reporting procedure, or any other procedure designed for this purpose"*.

It is important to emphasise that it is not in anyone's interests if our Whistleblowing policy is used to pursue a personal complaint or grievance. The Whistleblowing Policy is intended to cover concerns that fall outside the scope of the council's complaints and grievance procedures.

Also, if you are a member of the public with concerns or information which you think we should know about or look into, you should, however, follow the Corporate Complaints process if your concern is about a particular service that we have provided to you. However, if you raise information as a witness about danger, wrongdoing or illegality that affects others, this will be investigated under the Whistleblowing Policy. However, you should be aware that the council can only extend protection to workers who identify themselves when they raise a concern. The legislation does not extend protection to members of the public who raise concerns. The flowchart at **Appendix 1** shows the relationship between these policies.

## 7. Assurance for Staff

The Public Interest Disclosure (Northern Ireland) Order 1998, as amended by the Employment Act (Northern Ireland) 2016, provides statutory protection against dismissal or victimisation where a worker raises a genuine concern in the public interest. The act was introduced to protect workers who wish to report a wrongdoing at work.

The Council is committed to making whistleblowing work in the public interest. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting in the public interest, it does not matter if you are mistaken. The Employment Act (Northern Ireland) 2016 replaced the former good faith test with a public interest test. The change came into effect on the 1<sup>st</sup> October 2017.

Whilst the Council encourages the submission of all genuine disclosures it will nevertheless view very seriously any false and malicious allegations made under this policy. If an allegation is made purely for malicious intent or personal gain and the allegation has no foundation, the Council will regard such allegations as a serious disciplinary offence.

## **8. Confidentiality**

The Council will treat all disclosures made through its whistleblowing policy in a confidential and sensitive manner. The identity of the individual making an allegation will be kept confidential as far as is reasonably possible and will only be disclosed with the whistleblowers consent or on direction of a Court or equivalent regulatory body. If this occurs the Council will discuss, if possible, with the individual how to proceed.

## **9. Anonymous Allegations**

This policy encourages individual staff to put their name to the allegation whenever possible as without this it can be difficult to fully investigate a matter and to corroborate facts. Anonymity makes it impossible to clarify any ambiguous information or ask for additional information to support the allegation. Moreover, the Council will be less able to protect the individual's position or to give feedback on the outcomes of any action taken.

Concerns expressed anonymously will still be welcomed by the Council. However, we would ask anyone thinking of making an anonymous disclosure to consider the following points:

- Detailed investigations may be more difficult, or even impossible, to progress if you choose to remain anonymous and cannot be contacted for further information.
- The information and documentation you provide may not easily be understood and may need clarification or further explanation.
- There is a chance that the documents you provide might reveal your identity.
- It may not be possible to remain anonymous throughout an in-depth investigation.
- It may be difficult to demonstrate to a tribunal that any detriment you have suffered is as a result of raising a concern.

## **10. How to Raise a Concern**

Concerns can be raised in person or in writing providing as much detail as possible. The background and history of the concern, giving names, dates and places where possible should be set out and the reason why you are particularly concerned about the situation.

### *Step 1:*

If you want to raise the matter in confidence, you should say so at the outset in order that appropriate arrangements can be made. Also if you have any personal interest in the matter this should be advised at the outset.

Any concerns that you may have can in the first instance be raised orally or in writing with your Line Manager or Assistant Director.

### *Step 2:*

If the above channels have been followed/considered and:

- you still have concerns; or
- reasonably believe that you will be victimised if you raise the matter internally; or
- believe that disclosure will result in the destruction of evidence; or
- you feel that the matter is so serious that you cannot discuss it with your Line Manager or Assistant Director;

You should contact one of the following officers:

- the Director of the area in which you are employed;
- the Audit Services manager; or
- the Director of Corporate Services.

#### *Step 3:*

If these channels have been followed and you still have concerns, or feel that the matter is so serious that you cannot discuss it with anyone listed above, you should contact the Chief Executive or the Chair of the Audit Committee (contact details are obtainable from the Chief Executive's Office).

#### *Step 4:*

While the Council encourages you to raise your concerns internally, we recognise that there may be circumstances where you feel unable to do so, or have done so but feel that the matter has not been adequately addressed. In these circumstances you have the option of approaching an external organisation, known as a 'prescribed regulator'.

Public Concern at Work (PCAW) is an independent, charitable organisation that runs a free, confidential advice line. They can advise you on how to safely and effectively raise a concern. Their number is 020 7404 6609 or you can email their helpline - [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

Public Interest Disclosure legislation provides a range of prescribed persons to whom disclosures can be made externally, depending on the nature of the concern. Details can be found at the following link: <http://www.legislation.gov.uk/nisr/2014/48/schedule/made>. For example, if you have concerns about the proper conduct of public business, value for money, fraud and corruption in district councils, Local Government Auditors are prescribed to receive such concerns. They can be contacted by emailing [whistleblowing@niauditoffice.gov.uk](mailto:whistleblowing@niauditoffice.gov.uk) or by calling 028 9025 1062.

## **11. How we will Deal with your Concerns**

If you make a whistleblowing disclosure, the Council will, within 10 working days (so long as you have not submitted your concern anonymously):

- formally acknowledge receipt of your concern;
- formally notify you who will be dealing with your concern;
- offer you the opportunity of a meeting to fully discuss the issue;



- respect your confidentiality where this has been requested. Confidentiality will not be breached unless required by law, and we will consult with you prior to any action that could identify you;
- take steps to ensure that you have appropriate support and advice;
- agree a timetable for feedback. If this cannot be adhered to, we will let you know;
- provide you with as much feedback as we properly can; and
- take appropriate and timely action against anyone who victimises you as a result of your disclosures.

When you raise a concern, you may be asked how you think the matter might best be resolved. If we think your concern falls more properly within grievance, bullying or harassment procedures, we will let you know.

All cases no matter who the concern has been raised with, will be carefully logged by the Audit Services Manager to enable the investigation's progress to be monitored in a way that safeguards the identity of the whistleblower.

**Appendix 3** sets out the detail of how the Council will deal with a whistleblowing concern.

## **12. If you are Subject to a Whistleblowing Complaint**

If a whistleblowing complaint, (which could be anonymous) is received against you this will not, on its own, initiate disciplinary action being taken.

Upon receipt of such a complaint, it may be necessary for preliminary enquiries to be undertaken. Where the complaint is potentially serious in nature, the council may initially seek to validate the complaint through observation, enquiry and / or liaison with the Police Service of Northern Ireland (PSNI) and following these you will be informed of the allegations made and will be given an opportunity to provide an explanation.

If following explanation and, if necessary, further investigation there is no evidence to suggest misconduct, the matter will not be referred for disciplinary action. However, if there is evidence of potential misconduct there is a possibility that the council's disciplinary procedures may be implemented to more fully investigate the matter.

## **13. Working in Partnership**

The Council recognises that employees may wish to seek advice and be represented by their Trade Union officers when using the provisions of this Policy, and acknowledges and endorses the role Trade Union officers play in this area. We recognise the importance of working in partnership with Trade unions to create a culture of openness and trust.



#### **14. Policy Review Date**

The policy will be reviewed in line with the Council's agreed policy review cycle i.e. every 4 years (as per Council's Equality Scheme commitment 4.31), or sooner to ensure it remains reflective of legislative developments.

Staff wishing to receive clarification on this policy and/or suggest improvements should contact the Audit Services Manager.

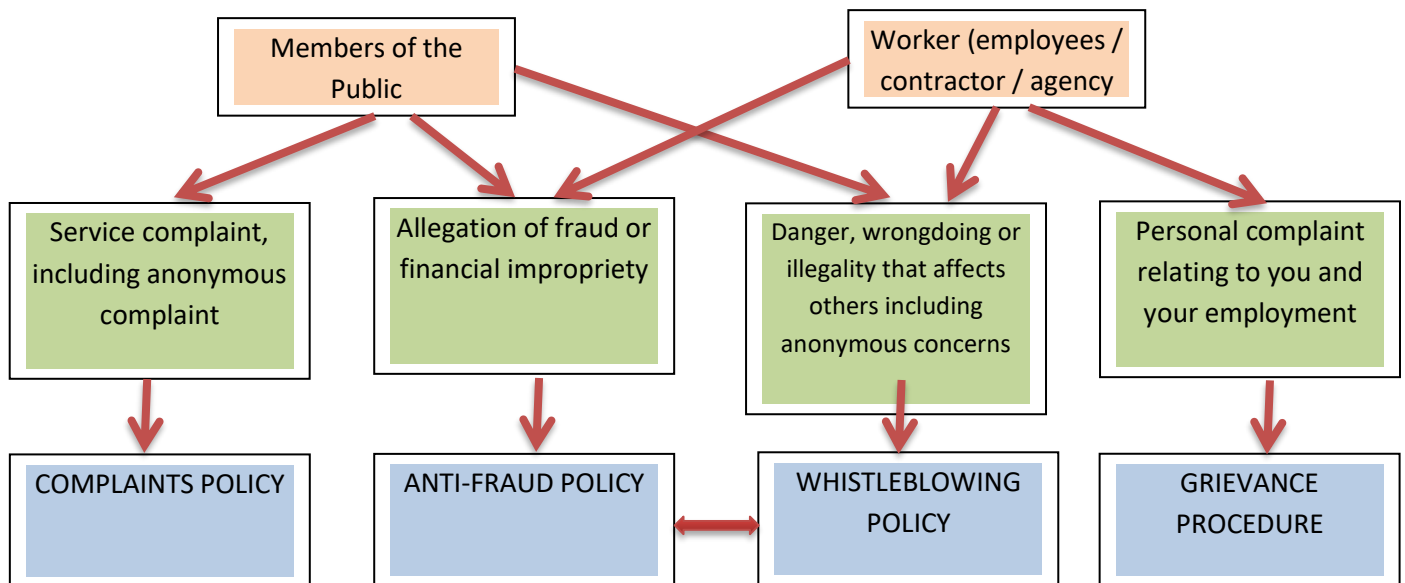
#### **15. Equality Screening**

Having screened the Whistleblowing Policy the decision is that it should not be subject to an Equality Impact Assessment (EQIA) with no mitigating measures required. A copy of the equality screening is available from the Head of Corporate Policy.

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## Flowchart

The diagram below provides an overview of the relationship between the complaints, fraud and whistleblowing policies and the existing grievance procedure. Note that only employees and workers are protected by whistleblowing legislation. More detail is provided in each policy.



### Summary of Roles and Responsibilities

Role	Responsibility
Members	Leadership, approve policy, receive and consider progress updates at the Audit Committee on Whistleblowing (as appropriate).
Chief Executive, Director of Corporate Services, Audit Services Manager	Contact point for whistleblowers to report concerns.
Director of Corporate Services	Director with responsibility for this policy and contact point for whistleblowers to report concerns.
Directors and Assistant Directors	<p>Management should ensure that their staff are aware of relevant Council policies and procedures and ensure they are complied with.</p> <p>Management should be aware of what to do if they receive a whistleblowing complaint (see section 11 of this policy).</p> <p>Managers may be asked, where appropriate, to undertake whistleblowing investigations including; liaising with the whistleblower where possible.</p>
Staff	<p>Staff should ensure they comply with relevant council policies and procedures.</p> <p>Staff should be aware of what to do if they receive a whistleblowing complaint (see section 10 of this policy).</p>
Audit Services Manager	<p>The Audit Services Manager will undertake or provide advice and assistance to the council in undertaking investigations.</p> <p>Acknowledging, logging and monitoring of all whistleblowing cases and investigations and liaising with whistleblowers as and when it is necessary.</p> <p>Policy maintenance and communication, and also a contact point for whistleblowers to report concerns.</p>
External Audit	Local government auditors have been prescribed as persons to whom protected disclosures can be made under the Public Interest Disclosure legislation.
Corporate HR and Legal Services	Provision of specialist advice on investigations as well as potential disciplinary and or criminal matters.

## Appendix 3

### Dealing with a Concern

#### Receipt of Whistleblowing Concerns

It is essential that workers who raise concerns are supported and, as such, managers (and all staff) who receive disclosures from workers should:

- have a positive and supportive attitude towards workers raising a concern;
- record as much detail as possible about the concern being raised and agree this record with the worker;
- be aware of the process following the raising of the concern and explain this to the worker;
- make sure the worker knows what to expect, for example feedback in relation to their concern;
- assure the worker their confidentiality will be protected as far as possible, if they request it;
- make no promises and manage the expectations of the worker;
- make clear that the organisation will not tolerate harassment of anyone raising a genuine concern and ask the worker to let you know if this happens;
- refer the worker to available sources of support, for example to PCaW or a trade union;
- pass the information as quickly as possible to the Audit Services Manager who will log the case and consider the best way in which to respond (see below).

Cases will be carefully logged by Audit Services Manager to enable the investigation's progress to be monitored in a way that, where requested, safeguards the identity of the whistleblower.

#### Initial Enquires

In order 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. Concerns or allegations which fall within the scope of other existing procedures will normally be referred for consideration under these procedures. It may not be necessary to carry out a formal investigation in every case. There may be a range of possibilities, depending on the nature of each case, for example:

- Explaining the context of an issue to the person raising the concern may be enough to alleviate their concerns.
- Minor concerns may be dealt with straight away by line management.
- A review by the Audit Service Manager or Internal Auditor as part of planned audit work might be sufficient to address the issue e.g. through a change to the control environment.
- There may be a role for the NIAO in addressing the concerns raised and either providing assurance or recommending changes to working practices.

Provided you are identifiable and do not request otherwise, the council will usually respond to your concerns within ten working days of the concern being received, and will acknowledge that your concern has been received.

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

- investigated internally;
- referred to the police or other statutory agencies; or
- referred to the Local Government Auditor (Northern Ireland Audit Office).

The course of action will normally be agreed by the Audit Services Manager and or the Director of Corporate Services in consultation with relevant Directors and Assistant Directors. Legal Services advice will be sought where required. The Audit Services Manager, in consultation, with officers above will sign off and endorse the approach to be taken and the appointment of officers to undertake a detailed investigation.

The initial investigation is essentially a 'fact finding' exercise, to establish whether there is a case to answer. It may need to be carried out under the strictest of confidentiality, eg. in cases of suspected fraud and or corruption.

Once this initial investigation has been completed, the investigating officer will report his or her findings and recommendations to the Audit Services Manager (or the Director of Corporate Services if the Audit Services Manager conducts the initial investigation) for further action.

#### Further Action

On the strength of the information provided by the investigation, the Audit Services Manager in Consultation with the Director of Corporate Services will decide whether further action is necessary. If the result of the initial investigation is that there is a case to be answered by any individual, the Council's Disciplinary Procedure will be used to take the matter forward. Where it is evident that statutory or legal requirements have been contravened which may result in civil or criminal action, the appropriate authorities will be informed.

Where there is no case to answer, but where the whistleblower had a genuine concern and was not acting maliciously, the Council will ensure that the whistleblower suffers no reprisals or victimisation.

Where it is established that false allegations have been made maliciously, it will be considered appropriate to act against the individual under the terms of the disciplinary procedure.

#### Feedback

We will give the whistleblower as much feedback as we possibly can. However, we may not be able to tell them the precise action we are taking as this could infringe on our duty of confidence owed by us to someone else.