



**East Dunbartonshire Council**

**Whistleblowing Policy**

**September 2017**

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## 1 &INTRODUCTION

This Council is fully committed to the highest possible standards of openness, probity and public accountability, and in line with that commitment, employees and others with serious concerns about any aspect of the Council's work and/or the behaviour of Officers and Members, should be able to come forward and voice those concerns. In such instances, it is clearly recognised that certain cases, by their very nature, will have to proceed on a strictly confidential basis.

This policy document makes it clear that employees can do so without fear of reprisals. Any employee who makes a disclosure in good faith, based on the criteria as set out in this policy document, will be protected from any and all victimisation, reprisals, and harassment for so doing. However, the Council will fully support any action by those officers subsequently found to be the victim of vexatious or malicious complaints.

This 'Whistleblowing Policy' is intended to encourage and enable employees to raise serious concerns within the Council.

## 2 AIMS AND SCOPE OF THE POLICY

This Policy is intended to enable those 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.

The Whistleblowing Policy 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 harassment procedures.
- If a client has a concern about services provided to him/her, it should be raised as a complaint to the Council.
- & Complaints of misconduct by an elected member are dealt with under a separate procedure (for further information please contact the Council's Monitoring Officer).

The Policy applies to all:

- employees of East Dunbartonshire Council,
- employees of contractors working for the Council for example, agency employees,
- employees of suppliers,
- those providing services under a contract or other agreement with the Council in their own premises, for example, care homes, and
- voluntary workers working with the Council.

This policy aims to:

- Encourage you to feel confident in raising serious concerns at earliest opportunity and to question and act upon concerns about practice;
- Provide clearly defined channels for employees to raise concerns and receive feedback on any action taken;
- Inform employees on how to take the matter further if they are dissatisfied with the response; and
- Reassure employees that they will be protected from reprisals or victimisation for 'Whistleblowing' in good faith.

There are existing procedures in place to enable employees to lodge a grievance relating to their own employment.

This 'Whistleblowing Policy' is intended to cover concerns that fall outside the scope of other procedures. That concern may be about something that is:

- A criminal offence that has been, is being, or is likely to be committed; or
- A failure to comply with a legal obligation; or
- A health and safety risk relating to any individual; or
- A miscarriage of justice; or possible bribery or fraud, the theft or unauthorised use of public funds or equipment; or
- A damage to the environment; or
- Against the Council's Standing Orders or policies; or
- Falling below established standards or practices; or
- The deliberate concealment of information relating to any of the above matters.

### **3 SAFEGUARDS**

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 and in good faith, reasonable belief to be true and not for personal gain.

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.

#### **a) Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make and Council Policy seeks to alienate fear of reprisal from those responsible for, or suspected of, the malpractice.

If you believe what you are saying is true and that it is in the public interest, you are protected by the law, you will be doing your duty to your employer and those for whom you are providing a service. You will not be at risk of losing your job or suffering as a result.

The Council will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith. This does not mean that if a member of employees is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of their 'Whistleblowing'.

#### **b) Confidentiality**

The Council will do its utmost to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be realised and appreciated, however, that the investigation process itself may well reveal the source of the information, and, depending on the outcome, a formal statement by the individual may be required as part of the evidence.

### c) Anonymous Allegations

This policy is designed to encourage employees to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include :-

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

### d) Untrue Allegations

If a member of employees makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

### e) Support

Throughout this process:

- you will be given full support from Senior Management
- your concerns will be taken seriously; and
- the Council will do all it can to help you throughout the investigation.

If appropriate, the Council will consider temporarily re-deploying you for the period of the investigation.

For those who are not Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

## 4 RAISING A CONCERN

You can report issues via several methods:

- Online at [www.eastdunbarton.gov.uk/whistleblowing](http://www.eastdunbarton.gov.uk/whistleblowing)
- Email to [whistleblowing@eastdunbarton.gov.uk](mailto:whistleblowing@eastdunbarton.gov.uk)
- Telephone 0300 123 4510
- In writing to Corporate Fraud Team, William Patrick Library, 2-4 West High Street, Kirkintilloch, G66 1AD

- a) All employees are entitled to raise concerns directly with the Local Government Ombudsman should they be unhappy with the internal investigation in terms of the way it has been undertaken.
- b) All reports should include as much information as possible, in particular all anonymous reports. Information provided should include the background and history of concern, names of all known to be involved, dates and places and of the reason why suspicion was raised. A meeting with the appropriate officer can also be arranged, if desired or required by the individual raising the concern.
- c) The earlier the concern is expressed, the easier it is to take action.

- d) Although employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- e) Employees must not undertake any investigation on their own accord. All investigatory actions must be undertaken by appropriately trained officers.
- f) Advice and guidance on how matters of concern may be pursued can be obtained from the Workforce Strategy Lead.

## **INDEPENDENT ADVICE**

If you are unsure whether or how to raise a concern or you want confidential advice, you can contact the independent charity Public Concern at Work on 020 7404 6609 or at [www.pcaw.co.uk](http://www.pcaw.co.uk).

Their lawyers and advisers can give you free confidential advice on how to raise a concern about serious malpractice at work.

Individuals may invite their Trade Union or professional association to raise the matter on their behalf. NB Trades Unions are governed by their own individual rules around confidentiality

## **5 HOW THE COMPLAINT WILL BE DEALT WITH**

- a) 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 or Specialist Reporting Agency;
  - Be referred to the External Auditors;
  - Form the subject of an independent inquiry by the Ombudsman.
- b) In order to protect individuals and the Council, initial engagement will take place between Human Resources and the Corporate Fraud Team to decide whether an investigation is appropriate and if so what form it would take. Concerns or allegations which fall within the scope of other, existing, procedures (e.g. child protection or discrimination issues) will normally be referred for consideration under those procedures.
- c) If a concern is raised directly to a line manager the manager must immediately forward details either:
  - Online at [www.eastdunbarton.gov.uk/whistleblowing](http://www.eastdunbarton.gov.uk/whistleblowing)
  - Email to [whistleblowing@eastdunbarton.gov.uk](mailto:whistleblowing@eastdunbarton.gov.uk).

Initial enquiries will then be undertaken as noted above. Failure to comply will result in disciplinary action being taken up to and including dismissal.

- d) Some concerns may be resolved by agreed action without the need for investigation.
- e) Within ten working days of a concern being received, the Council will write to the complainant:

- 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;
- Telling him/her whether any initial enquiries have been made; and
- Telling him/her whether further investigations will take place, and if not, why not.

- f) & The amount of contact between the body considering the issues and the complainant will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.
- g) & When any meeting is arranged, employees have the right, if they so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- h) & The Council will take steps to minimise any difficulties which employees may experience as a result of raising a concern. For instance, if members of employees are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.
- i) & The Council accepts that members of employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, members of employees will receive information about the outcomes of any investigations.

## **6 PROTECTED DISCLOSURES**

- a) & Section 43B of the Employment Rights Act 1996 has been amended so that a worker who makes a disclosure will only be protected if the disclosure is in the “public interest”. The Enterprise and Regulatory Reform Act 2013 also takes away the requirement for a disclosure to be made in “good faith”. However, if the disclosure is not made in “good faith” the employment tribunal will have the discretion to reduce any compensation awarded to the claimant by up to 25%. This will address the situation where a disclosure might be in the public interest but is made for an ulterior motive.
- b) & Employers are now vicariously liable for any detriment that one worker received from another because they have made a protected disclosure. However, a statutory defence has also been added which will protect employers who take all reasonable steps to prevent any such detriment occurring.
- c) The above changes came into force on 25 June 2013 and do not apply to disclosures before then.

## **7 ALTERNATIVE METHODS OF TAKING FORWARD A COMPLAINT**

This policy is intended to provide employees with an avenue to raise concerns with the Council or the Ombudsman. The Council hopes this will satisfy employees. If an individual feels it is right to take the matter outside this process, the following are possible contact points:

- The External Auditor;
- Relevant professional bodies or regulatory organisations;
- Individual’s solicitors;
- The Police.

## **Whistleblowing Reports Made to Elected Members**

This section applies to cases where an employee, or other person to whom this policy applies, makes a whistleblowing report or complaint directly to an elected member of this authority.

- & If an elected member is approached in connection with a concern covered by this policy, they should encourage individuals to raise the concern in accordance with this policy.
- & In cases where an elected member receives a whistleblowing report, they shall forward it to the Corporate Fraud Team who will then process the report in line with this policy.
- & Elected Members must not investigate concerns raised themselves.

## **8 THE RESPONSIBLE OFFICER**

The Audit Risk Manager has the overall responsibility for the maintenance and operation of this policy. This Officer, or nominated officer, will maintain a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the Council.

## **9 REVIEW**

The procedure and associated policy will be reviewed by the Audit and Risk Manager or their nominee with the Workforce Strategy Team on an annual basis, to reflect organisational changes, best practice, operational experience and legislative updates, in order to maintain its effectiveness. Where there are material changes the amended policy will be referred to the Policy Resources Committee.