



## WHISTLEBLOWING

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## 1.0 INTRODUCTION

“Whistleblowing” is the commonly used term to describe a disclosure made to someone in authority alleging fraud, corruption, malpractice or wrongdoing on the part of another person. In employment, whistleblowing refers to a worker making a disclosure about a colleague’s conduct in the course of employment, or about the employer’s practices.

South Lakeland District Council is genuinely committed to providing an environment of openness where individuals feel that they are able to raise concerns regarding serious malpractice. This Policy, formulated in accordance with the provisions of the Public Interest Disclosure Act 1998, sets out the procedure for raising concerns about such matters and affords anyone raising a concern under the policy protection from reprisal.

All of us might at some time have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are major concerns about serious malpractice unlawful conduct, financial irregularities or dangers to the public or the environment, it can be difficult to know what to do.

As detailed in the Public Interest Disclosure Act 1998, to qualify for protection a disclosure must show that one or more of the following events has happened, is happening or is likely to happen:

- A criminal offence has been, is being or is about to be committed
- There has been, is or is about to be a failure to comply with legal obligations
- There has been, is or is about to be a serious miscarriage of justice
- The health and safety of individuals or groups has been, is being or is about to be jeopardised
- The environment has been, is being or is about to be severely damaged
- Information about the above is or has been concealed

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it’s none of your business or that it’s only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

The Council has introduced this policy and procedure to enable you to raise your concerns about such possible malpractice at an early stage and in the right way. We would rather that you raised the matter when it is just a concern rather than wait for proof.

If something is troubling you, which you think we should know about or look into, please use this procedure. If you follow its advice, we assure you that your concerns can be raised in complete confidence and without any fear of reprisal.

***If in doubt - raise it!***

## 2.0 SCOPE OF THE POLICY

This policy applies to you whether you are a permanent or temporary employee, agency or casual member of staff or if you work as a contractor or volunteer. Basically anyone who works for the Council under any type of contract will fall within the scope of the protection afforded under this Policy

### **3.0 THE DIFFERENCE BETWEEN AGRIEVANCE AND A PROTECTED DISCLOSURE**

There is a difference between a grievance and a protected disclosure.

A grievance will concern an employee personally, i.e. the individual may have a complaint about their working conditions, their pay or working hours or the amount of work that they are expected to do. This is not a Whistleblowing matter and should not be reported as such.

A protected disclosure will concern the conduct of another person in the workplace (whether or not that conduct affects the complainant personally), in circumstances where the complainant genuinely believes the conduct in question amounts to a criminal offence, a breach of a legal obligation or something likely to endanger health and safety or damage the environment.

### **4.0 CONDUCT THAT MIGHT JUSTIFY WHISTLEBLOWING**

There are many types of conduct that might justify you 'blowing the whistle'. Examples include:

- The employment of illegal immigrants;
- The use of unsafe equipment or unsafe working practices;
- Falsification of financial records
- Bribery
- Improper or unauthorised use of public or other funds
- Unethical behaviour
- Failure to comply with a legal obligation
- Theft

### **5.0 OUR ASSURANCES TO YOU**

#### **5.1 Your Personal Protection**

The Council is committed to a Policy of openness and the prevention and exposure of serious malpractice. If you raise a genuine concern under the 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 good faith, it does not matter if you are mistaken. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue or who raises a matter outside the procedure specified below.

#### **5.2 Your Confidence**

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that you may nonetheless want to raise a concern in confidence under this Policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.

### **6.0 HOW THE COUNCIL WILL HANDLE THE MATTER**

Once you have told the appropriate person (see section 8.0) of your concern, they will initially assess what action should be taken. This may involve an internal inquiry or a more formal investigation. You will be informed of who is handling the matter, how you can contact them and whether your further assistance may be needed. You will receive written confirmation summarising your concern and setting out how the Council proposes to handle it.

When you raise the concern you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, we do ask that you advise us at the outset. If your concern falls more properly within the Grievance Procedure HR will advise you accordingly.

Whilst the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.

## **7.0 MANAGER'S RESPONSIBILITY**

It is a manager's responsibility to:

- Deal with any concerns that are raised in accordance with the policy ensuring that they are treated seriously and investigated as appropriate.
- Ensure that appropriate arrangements are made if the individual wishes to raise the matter in confidence.
- Ensure that anyone raising a concern in accordance with the terms of the policy is protected from reprisal.
- Notify the HR Group of any concerns that are formally brought to their attention.
- Ensure the concern raised is formally recorded with the Section 151 Officer or nominated representative.

All managers will receive training in:

- The legislative framework governing 'whistleblowing' in accordance with the provisions of the Public Interest Disclosure Act 1998.
- The Council's Whistleblowing Policy.

## **8.0 PROCEDURE FOR RAISING A CONCERN**

You should indicate if you want to raise the matter in confidence so that appropriate arrangements can be made when taking a matter forward.

### **8.1 Raising a concern internally**

You are strongly advised to use internal means to resolve your concerns in the first instance.

#### **Step One - Informal**

If you have a concern about malpractice, we hope you will feel able to raise it initially with your manager or Union representative. This may be done verbally or in writing.

#### **Step Two - Formal**

If you feel unable to raise the matter with your manager, for whatever reason, please raise the matter, in writing, with the next managerial level within your service/department.

#### **Step Three**

If these channels have been followed and:

- You still have concerns,
- If you cannot raise the matter in your service/department because you feel the people whom you would report it to may be involved in the malpractice or
- If you feel that the matter is so serious that you cannot discuss it with any of the above, then:

#### **Please write or telephone:**

The Chief Executive or Director Policy & Resources (Monitoring Officer)  
South Lakeland District Council,  
South Lakeland House,  
Lowther Street, Kendal,  
Cumbria. LA9 4UQ

Telephone 01539 793 105 (Chief Executive) or (Monitoring Officer) 01539 793 106

Or

Telephone the Council's Independent Fraud Hotline 0800 389 2330

## **8.2 Raising a concern if you work for a Contracting Organisation or Agency**

Contractor or Agency workers who become aware of possible malpractice within the Council should raise the problem in writing with the Procurement and Contracts Manager, the Assistant Director (Resources) or the Director of Policy and Resources, (Monitoring Officer).

Employees of a contracting organisation who become aware of possible malpractice within their own organisation should use their own internal procedures for reporting the matter. However, if the issue is not resolved and is affecting the delivery of the Council's services, then the problem should be raised as above.

## **8.3 If you are dissatisfied**

If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this Policy. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly. By using this Policy, you will help us to achieve this.

## **8.4 What NOT to do if you have a concern**

If you do suspect malpractice of any kind don't;

- Ignore the matter
- Approach or accuse individuals directly
- Try to investigate the matter yourself
- Convey your suspicions to anyone other than those with the proper authority to deal with the matter
- Be afraid of raising your concern, as this policy will afford you protection.

## **9.0 INDEPENDENT ADVICE**

If you are unsure whether to use this procedure or you want independent advice at any stage, you may contact:

- **If applicable**, your trade union representative
- The Human Resources Group
- The Shared Internal Audit Service, provided by Cumbria County Council, telephone 01228 817294
- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work. This policy has been drafted using their best practice policy template.

## **10.0 EXTERNAL CONTACTS**

Whilst we hope this policy gives you the reassurance you need to raise such matters internally or as a contract or agency worker, we would rather you raised a matter with the appropriate regulator than not at all. Therefore, provided you are acting in good faith, you feel you have exhausted or are unable to use internal channels to report the malpractice and you have evidence to back up your concern, you may also wish to contact:

- **The District Auditor** (if you believe there has been financial or procedural irregularity).
- **The Police** (if you believe that a criminal act is about to or has taken place).
- **Relevant professional bodies** (if you believe that professional misconduct has taken place).

- **The Health and Safety Executive** (if you believe that a serious breach of health and safety legislation has occurred).

## **11.0 SUPPORT FOR ANYONE INVOLVED IN A COMPLAINT**

It is recognised that all those involved in a 'whistleblowing' issue may experience different emotional or psychological reactions to their experiences. The Council's independent and confidential counselling service (accessed via the Occupational Health Service) is available to all concerned. Further details can be obtained from the HR Group or via the HR website.

## **12.0 MALICIOUS ALLEGATIONS**

The Council expects that anyone making a disclosure will do so in good faith. Malicious or vexatious allegations will not be afforded protection under this Policy and will be considered gross misconduct, which will be dealt with under the Council's Disciplinary Policy.

An employee's dismissal (or selection for redundancy) will be automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure. If such a case goes to an Employment Tribunal and the tribunal thinks the disclosure was made in bad faith, it will have the power to reduce compensation by up to 25%.

An employee will have to satisfy the following criteria to claim Public Interest Disclosure protection:

1. That he or she made a disclosure
2. That they followed the correct disclosure procedure
3. That they were dismissed or suffered a detriment as a result of making the disclosure

## **13.0 INFORMATION ON AND COMMUNICATION OF THE POLICY**

- The Council will take all reasonable steps to ensure that this policy receives all necessary publicity and is communicated to employees' and workers through established lines of communication and training. The policy will also be shown on the Council's website and be available on the Intranet.
- The Council will provide annual updates to staff and Members reminding them of the Whistleblowing policy and the reporting and investigation mechanisms but it is the responsibility of Assistant Directors to communicate and to promote awareness of the Policy to their staff.
- All Contractors and those providing goods and services to the Council will be made aware of the Whistleblowing Policy at contract commencement.

## **14.0 LINKS TO OTHER POLICIES/GUIDELINES**

Other Council policies that may be relevant include:

- Anti-Fraud and Corruption Policy
- The Grievance Policy
- The Disciplinary Policy
- Register of Gifts and Hospitality Guidelines
- Financial & Contract Procedure Rules/Standing Orders
- Money Laundering

## **15.0 REVIEW**

This policy will be reviewed by July 2016 or earlier in the light of operating experience and/or changes in legislation