

Whistleblowing Policy and Procedure

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1. Purpose

1.1 It is important to the Council that any fraud, misconduct or wrongdoing by employees, workers, Elected Members or volunteers of the Council, or by those providing services on behalf of the Council is reported and properly dealt with.

1.2 The Public Interest Disclosure Act enables individuals to raise concerns where they have a reasonable belief that:

- A criminal offence;
- A miscarriage of justice;
- An act creating a risk to health and safety;
- A breach of other legal obligation;
- Damage to the environment;
- Concealment of any of the above;

is being, has been or is likely to be committed, and it is in the public interest to disclose it, without fear of dismissal, victimisation or detriment. This policy and procedure sets out how such concerns should be raised and handled within the Council.

1.3 *This policy and procedure has been developed in consultation with Heads of Service and Trade Unions and has been approved by the Chief Executive and Corporate Board.*

2. Applicability

2.1 This Policy applies to:

2.1.1 All employees working for the Council, including those working from home or at non-Council locations, except those working in schools to whom the school's whistleblowing policy will apply.

2.1.2 Other persons including elected members, consultants, agency staff, volunteers and contractors working for the Council, external organisations working with or providing services on behalf of the Council.

2.1.3 For the purposes of this policy and procedure those specified in 2.1.1 and 2.1.2 will be referred to collectively as 'workers'.

2.2 This Policy and Procedure is concerned with disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his/her own contract has been, or is likely to be, broken he/she should use the Council's [grievance procedure](#).

2.3 The Policy and Procedure is in addition to the Council's [Complaints Policy](#), the [Anti Fraud and Corruption Policy](#), Anti-Bribery Policy and Anti Money Laundering Policy (available from the Chief Internal Auditor).

2.4 It is the responsibility of each employee and other person mentioned in section 2.1 to familiarise themselves with and adhere to this Policy.

3. Policy

- 3.1 The Council is committed to the highest standards of openness, probity and accountability.
- 3.2 The Council encourages all those listed in section 2 above to be aware of the importance of preventing and eliminating wrong-doing at work, and to raise serious concerns using the procedure below.
- 3.3 The Council will ensure these concerns are taken seriously and investigated thoroughly, promptly and confidentially, and that appropriate remedial action is taken.
- 3.4 The Council will protect workers who raise concerns, based on a reasonable belief, under this procedure from dismissal, victimisation or detriment because they have made a disclosure.

**The section above is the policy of the Council.
Sections 4 to 12 contain the procedure to be followed when a concern is raised.
Sections 13 to 22 provide additional guidance to workers and managers.**

Procedure

4. How to raise a concern

- 4.1 Workers are encouraged to raise concerns early to enable appropriate remedial action to be carried out.
- 4.2 Workers should report concerns to their line manager, or where they are concerned that their manager is involved in the wrong doing, to their manager's manager, or via the whistleblowing helpline as specified in section 5 below.
- 4.3 Concerns may be raised orally or in writing. It is helpful to the investigation if the worker provides the following information:
 - 4.3.1 The background history of the concern (giving relevant names and dates)
 - 4.3.2 The reason the worker is particularly concerned about the situation.A form is provided in [appendix one](#) that workers can use to raise their concerns.
- 4.4 Workers are encouraged to put their name to their allegation as anonymous allegations are harder to investigate. Where a worker asks to remain anonymous, the Council will respect his/her request, but cannot guarantee that it will be able to do so.
- 4.5 Where allegations are raised anonymously they will be considered at the discretion of the Chief Executive in consultation with the Head of Human Resources.
- 4.6 Where the Chief Executive is the subject of the allegation, the allegation will be considered by the Head of Human Resources and the Leader of the Council.

5. Whistleblowing help line

- 5.1 Where the worker has concerns but is unsure whether to raise them or where he/she believes that senior management is involved in the wrong doing, or remains unsatisfied that a concern that he/she has raised with his/her manager or manager's manager has been handled satisfactorily, he/she should seek advice from the Head of Human Resources.
- 5.2 Workers may contact the Head of Human Resources by telephone, email or in writing as follows;

Whistleblowing Helpline	Telephone	01635 519358
	Email	roreilly@westberks.gov.uk
	Post	Robert O'Reilly Head of Human Resources Council Offices Market Street Newbury. RG14 5LD

- 5.3 The Head of Human Resources will decide how the concern should be dealt with, seeking advice from those listed at 6.3 as relevant, and will pass the case to an appropriate manager to be handled.

6. Handling concerns

- 6.1 The manager receiving the concern will hold an initial meeting with the employee as soon as possible to acknowledge the concern has been raised and clarify the details.
- 6.2 Where the matter can be resolved simply, for example where there has been a misunderstanding or misinterpretation of an event, the manager will explain this to the employee, check that the employee is satisfied that the matter is resolved and keep a record of the decision.
- 6.3 Where the manager decides the matter should be taken further, he/she should seek advice from one or more of the senior managers listed below on how to proceed with the concern:
- The Chief Executive
 - A Corporate Director
 - The Head of HR
 - The Head of Finance
 - The Head of Education
 - The Head of Legal Services

This/these manager(s) will be referred to as the 'advising manager(s)'.

- 6.4 No-one implicated in the allegations will be involved in conducting the investigation.
- 6.5 If urgent action is required this will be taken before an investigation is conducted.
- 6.6 Within ten working days of the concern being raised, the recipient of the concern will contact the worker to:
- Indicate how it is proposed to deal with the matter
 - Give an estimate of how long it will take to provide a final response
 - Tell the worker whether any initial enquiries have been made
 - Provide information on staff support mechanisms
 - Inform the worker whether further investigations will take place and if not, why not
- 6.7 Concerns that fall within the scope of Council procedures (e.g. child protection issues, disciplinary issues) will normally be considered under those procedures.
- 6.8 Where it is not clear that the concern falls under the scope of a Council procedure, the manager will investigate the concern and present his/her findings to the advising manager(s). The advising manager(s) will decide upon an appropriate course of action.
- 6.9 The advising manager(s) will delegate responsibility for ensuring that any remedial action required is carried out to appropriate manager(s).
- 6.10 The advising manager(s) will also advise whether matters should also be:
- referred to the police
 - referred to the internal auditor
 - form the subject of an independent inquiry
 - referred to a regulatory agency
 - referred to a government department
- 6.11 The advising manager(s) will inform the manager that received the concern of the outcome.
- 6.12 Managers receiving concerns should notify the Head of HR of all concerns raised and the outcome once resolved so that they can be recorded (in a form that will not endanger confidentiality) for reporting purposes.
- 6.13 Subject to legal constraints, the worker will be informed of the outcome of the investigation and any action that will be taken as a result.

7. Safeguards against dismissal, victimisation or detriment

- 7.1 A worker who makes a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised because he/she has made a disclosure.
- 7.2 The Council will keep the matter confidential as far as possible. Where an investigation confirms the allegations workers may be required to attend hearings as witnesses.

- 7.3 Anyone (including managers and co-workers) found to subject a worker who has made a protected disclosure to inappropriate action under a formal procedure, bullying, harassment, victimisation or detriment may be subject to disciplinary or other appropriate action.
- 7.4 An instruction to cover up wrong doing is a disciplinary offence. Workers should report circumstances in which they are told not to raise or pursue any concern, even where they are told not to by a person in authority such as a manager.

8. Malicious allegations

- 8.1 It is not necessary for a worker to have proof that wrong doing is being, has been, or is likely to be committed; a reasonable belief is sufficient.
- 8.2 Information given should be true to the best of the worker's knowledge, information and belief. Maliciously making a false allegation is a disciplinary offence and will be handled under the Council's disciplinary procedure.

9. Taking the matter further

- 9.1 Where the worker is not satisfied that appropriate action has been taken he/she should contact the Head of Human Resources (see section 5 above). The Head of HR will consider what, if any, further action is required, seeking advice from those listed in 6.2 as appropriate. The Head of HR will inform the employee of how the matter will be taken forward.
- 9.2 If worker is still not satisfied he/she should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:
- HM Revenues and Customs
 - The Financial Services Authority
 - The Office of Fair Trading
 - The Health and Safety Executive
 - The Environment Agency
 - The Director of Public Prosecutions
 - The Serious Fraud Office

10. Roles and Responsibilities

- 10.1 The overall responsibility for this policy and procedure within WBC rests with the Chief Executive.
- 10.2 The Head of Human Resources has overall responsibility for the maintenance and operation of this policy and procedure. The Head of HR will keep a record of concerns raised and outcomes (in a form that does not endanger confidentiality) and will report as necessary to the Council.
- 10.3 Managers receiving concerns are responsible for reporting the concern and the outcome to the Head of HR so that it can be recorded.
- 10.4 All managers are directly responsible for implementing this policy and procedure within their service areas, and for the adherence of their staff.

10.5 Workers have an individual responsibility to adhere to this policy and procedure.

11. Failure to comply with WBC Whistleblowing Policy and Procedure

11.1 Workers are expected to report concerns. For some categories of employees failing to report a concern may be failing in their professional duty and be in breach of legislation; this may result in disciplinary action being taken.

12. Review

12.1 This policy and procedure will be reviewed to respond to any changes and at least every 3 years.

Guidance

Guidance for workers

13. What type of concerns are covered by this policy and procedure?

13.1 As a worker you may be the first to realise that there may be something seriously wrong within the Council. It may be tempting to do nothing as you may feel that voicing your concerns would appear disloyal to colleagues or the Council. You may also be afraid that it may lead to repercussions against yourself. However, it is important that you raise your concerns promptly so that the Council can take action to rectify them.

13.2 The Council is committed to ensuring that any wrong-doing is rectified as soon as possible and that workers are supported in raising any serious concerns. The whistleblowing policy and procedure explains how you should raise your concerns, and the protection you are entitled to.

13.3 You should report any serious concerns that you have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council.

13.4 Concerns covered by the Public Interest Disclosure Act are listed in 1.2 above and may be something that makes you feel uncomfortable in terms of something that:

- Is against the law
- Puts someone at risk
- Breaches the Council's standards, policies or procedures
- Is against the Council's Standing Orders, Financial Regulations or policies and procedures
- Falls below established standards of practice
- Amounts to improper conduct

14. How are you protected when raising a concern?

14.1 The Council will not dismiss you because you have raised a concern under this procedure, and will protect you against victimisation or other detriment, so long as you have a reasonable belief that the wrong-doing is being, has been, or is likely to be committed, and it is in the public interest to disclose it. The

information that you give should be true to the best of your knowledge, information and belief.

14.2 You are not expected to investigate the concern yourself, just to be able to explain the reasons for your concern.

14.3 Any investigation into concerns of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

15. What to do if you have a concern

15.1 You should raise your concern as specified in section 4 of the procedure. If you are not sure if you should raise something it may help to talk things through with your manager, or to seek advice from the whistleblowing helpline (see section 5 above).

16. What to expect when you have raised a concern

16.1 The manager you raise your concern with should meet you to discuss your concern in more detail. He/she will then consider how to handle the matter.

16.2 If the manager believes that the matter can be resolved simply – for example where he/she believes that there has been a misunderstanding, or that you have misinterpreted what has happened – he/she will discuss this with you. If you are happy with the outcome of the discussion the process will end.

16.3 If the manager believes further investigation/action is required, he/she may:

- Make some initial enquiries
- Seek advice from a senior manager listed in section 6.2 (referred to as the advising manager(s))

16.4 The manager will contact you again within 10 working days of you raising the concern as stated in section 10 of the procedure. This may be orally or in writing.

16.5 Where possible the matter will be kept confidential. However, there may be circumstances where this may not be possible, for example where the Council is required to report a criminal offence.

16.6 You may be required to attend meetings and/or provide a written statement as part of the investigation. You may ask for meetings to be held off site, and you may bring a trade union representative or work colleague to attend meetings. You should inform the manager in advance of the meeting if you intend to bring someone to the meeting with you.

16.7 You may be asked to comment on other evidence gathered during the investigation.

16.8 Where investigation confirms that wrong-doing has occurred you may be required to attend hearings to give evidence.

16.9 Where possible you will be informed of the outcome of the investigation and what, if any, action will be taken as a result.

17. What to do if you believe your concern has not been handled properly

- 17.1 If you believe that your concern has not been handled properly you can contact the whistleblowing hotline (see section 5 above)
- 17.2 If you are still dissatisfied you may decide to take the matter outside the Council as specified in section 9 above. You should make sure you do not disclose personal information about an individual/individuals, or sensitive business information. If in doubt you should contact the whistleblowing help line (see section 5).

Guidance for managers handling concerns

18. What to do when a concern is raised

- 18.1 Take concerns seriously whether they are raised orally or in writing. Meet with the worker to discuss their concern more fully.
- 18.2 The worker may request that the meetings are held away from his/her normal place of work. Where possible you should agree with the worker where the meeting will be held.
- 18.3 The worker has the right to be accompanied at meetings by a trade union representative or work colleague.
- 18.4 Do not ignore anonymous disclosures – seek advice from the Head of HR (see point 4.5).
- 18.5 If the matter can be dealt with quickly and easily, for example where there has been a misunderstanding, you should explain the matter to the worker and check that he/she is satisfied that the matter is resolved. Keep a written record of your decision.
- 18.6 Where the matter needs to be taken further you should discuss how to proceed with those listed in 6.2, as appropriate to the case. This/these manager(s) will be known as the 'advising manager(s)'. Where the matter cannot be handled under one of the Council's procedures, the advising manager(s) may ask you or another suitable person to investigate the matter further and to present your findings to them.
- 18.7 Unless the matter has been resolved as described in 18.3 you should contact the worker again within ten days of him./her raising the concern, as described in point 6.5. Where the concern is serious (that is, if it is a concern that would constitute one of the situations listed in 1.2) you should confirm the key points of your meeting to the worker in writing.

19. Investigating concerns where there is no relevant Council procedure

- 19.1 The advising manager(s) will outline how the concern should be investigated.
- 19.2 The investigation may involve seeking written statements from the worker and other individuals. Written statements should be signed by those giving them.

- 19.3 It may be appropriate to ask the worker who raised the concern to comment on additional evidence obtained.
- 19.4 You should keep records of what you consider during your investigation. For example, make copies of documents, keep notes of interviews, signed witness statements etc.
- 19.5 At the end of your investigation you should set out your findings in an investigation report and present this to the advising manager(s).

20. Where and when to seek advice

- 20.1 Unless the matter is a straightforward case of misunderstanding or misinterpretation by the employee, you should seek advice from those listed in 6.2 as appropriate to the case.

21. Keeping records

- 21.1 If a worker raises a concern with you should keep the following records:

- The date on which the concern was raised
- The part of the organisation to which the concern relates
- The nature of the concern and its key elements
- Any action taken
- Any feedback that has been provided to the discloser
- Whether or not the discloser has any wishes with regards to confidentiality
- How the matter was resolved

- 21.2 Records should be kept confidentially and in accordance with the Data Protection Act.

- 21.3 Once the matter is closed you should forward a copy of the records electronically to the Head of Human Resources, and should then securely dispose of your copy.

22. Remedial action

- 22.1 The advising manager(s) will identify managers who will be responsible for ensuring that any remedial action deemed necessary is implemented. This may include reporting the matter to an appropriate government department, regulatory agency and/or the police.

Glossary

Advising manager(s)	Senior manager(s) listed in 6.2 from whom the manager receiving the concern seeks advise on how to handle the case
Whistleblowing Helpline	01635 519358 roreilly@westberks.gov.uk Robert O'Reilly Head of Human Resources Council Offices Market Street Newbury. RG14 5LD

Other Relevant Documentation

[Grievance Procedure](#)
[Complaints Policy](#)

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This form is intended for use by any individual working for the Council (including elected members, contractors, agency workers and volunteers) who wishes to raise an issue about serious wrong-doing. You must have a reasonable belief in any allegations that you make, and they must be made in the public interest.

This form should be used to report wrong-doing within the organisation (for example, financial irregularities or health and safety concerns), rather than to raise a personal grievance. (If you want to make an allegation of bullying or harassment, or are complaining that your contract of employment has been breached, separate procedures exist for these types of concerns.)

If you are unsure about whether your complaint is best dealt with under the Council's whistleblowing policy or the grievance procedure, please read the whistleblowing policy, which provides examples of the issues that should be reported using this form. If, having read the whistleblowing policy, you remain unsure about which procedure to use, please consult the Head of HR for further advice.

Once you have submitted this form, the Council's whistleblowing procedure will be invoked. This will result in an investigation, which will not involve anyone (for example, your line manager) you may have implicated below.

In certain circumstances, you can request that your complaint be kept anonymous. Where possible, the Council will respect a request for anonymity, but cannot guarantee that it will be able to do so.

This form should be completed and delivered to your line manager/manager's manager or the Head of HR (see sections 4 and 5 of the whistleblowing procedure) in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line.

Formal public interest disclosure (whistleblowing)

Worker's name

Worker's job title

Employee's service/worker's organisation

Date

Does your public interest disclosure relate to your line manager?

Yes/No

Summary of disclosure

Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.

Individuals involved

Please provide the names and contact details of any people involved in your complaint, including witnesses.

Outcome requested	
Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.	
Declaration	
I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the Council taking disciplinary action against me.	
Form completed by	
Signature	
For completion by the Council	
Date form received by the Council	
Name of recipient and job role	
Signature	

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