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**Report to COUNCIL**

## **Review of Whistleblowing Policy**

**Portfolio Holder:**

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### **Reason for Decision**

This review of the council's Whistleblowing Policy was commissioned to ensure our policy is robust and that complaints are managed, processed and actioned by the council appropriately.

### **Executive Summary**

The format and layout of the policy have been significantly changed to make it more accessible. The table below outlines the key content of each of the sections. The italics denote where, in addition, changes have been made or additional information included. The policy in its entirety can be found at Appendix 1 of this report.

Introduction	<p>Outlines the council's commitment to the highest standards of honesty, openness, probity and accountability.</p> <p>Introduces the Whistleblowing Policy as the mechanism by which employees can report disclosures of wrongdoing for the council to investigate and act upon, if required.</p> <p><i>Confirms that the council encourages employees to report concerns in order that the organisation can ensure high standards.</i></p>
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<p>Policy Scope</p>	<p>Details that the policy applies to all employees of Oldham Council, employees of contractors working for the council, employees of suppliers, voluntary workers and people who in the course of their work come into contact with employees of the council.</p>
<p>Principles</p>	<p>Outlines the provisions of the policy; what the council wants employees to do if they have concerns that wrong doing is being perpetrated by others at the council (including the encouragement to report to the police, if they wish), clarifies employees' rights in terms of the protection afforded by the Public Disclosure Act 1998 and sets out how the council will handle and respond to complaints made under the policy.</p>
<p>Definition of Whistleblowing</p>	<p>Clarifies that whistleblowing is the confidential disclosure by an individual of concerns (as defined by the policy) relating to a perceived wrongdoing involving any aspect of the council's work or those who work for the council.</p> <p>States that the disclosure of the alleged wrongdoing must be in the public interest in the context of the Public Disclosure Act 1998 and the Employment Rights Act 1996.</p> <p>Confirms that if an employee has a complaint relating to their own employment, this should be raised under the council's Grievance Policy.</p>
<p>Public Interest Disclosure Act 1998</p>	<p>Outlines the provision of the Public Disclosure Act 1998 (PIDA) and the legal protections it provides to employees who report a concern which is in the public interest (also known as a qualifying disclosure).</p>
<p>Safeguarding Employees When Raising a Disclosure</p>	<p><i>Confirms that the council will seek to treat whistleblowing allegations as confidential (subject to legal parameters) in order to protect employees, where</i></p>

	<p><i>possible. States that if an allegation relates to a child or vulnerable adult, prioritisation is given to a prompt and through investigation over anonymity of the whistleblower.</i></p> <p><i>States that anonymous complaints can be submitted and will be investigated fully, however, the council encourages employees to put their name to whistleblow complaints.</i></p> <p><i>This section also outlines the council's zero tolerance to any harassment or victimisation of employees who make a whistleblowing disclosure.</i></p> <p><i>In addition, this section confirms that the council will consider any deliberately false or malicious whistleblowing allegations made as a serious offence where disciplinary action will be taken.</i></p>
<p><b>How Employees Can Raise a Whistleblowing Disclosure</b></p>	<p><i>Provides a clear process by which an employee can report a concern or allegation.</i></p> <p><i>The points of contact for reporting are:</i></p> <ul style="list-style-type: none"> <li><i>• The Audit and Counter Fraud Team (via email, telephone or through the submission of the whistleblowing form);</i></li> <li><i>• The Chief Executive or;</i></li> <li><i>• The Monitoring Officer (Director of Legal Services)</i></li> </ul> <p><i>The process for submission, investigation and resolution is also outlined pictorially in Appendix 2 of the policy to aid clarity for employees.</i></p>
<p><b>How the Council Will Respond to Whistleblowing</b></p>	<p><i>Confirms that the council will always respond to a whistleblowing allegation to acknowledge receipt (this acknowledgement will be within 48 hours of receipt in cases which relate to a potential safeguarding matter where there may be an immediate risk).</i></p> <p><i>States that a further acknowledgement will be sent to all whistleblowers within 10 working days to indicate how the council</i></p>

	<p><i>proposes to deal with the matter, whether the disclosure meets the definition under the Public Disclosure Act 1998, contact details for the investigating officer and an estimate of how long it may take to provide a response on the outcome.</i></p> <p><i>This acknowledgement may state that no action is planned, together with summary reasons as to why this decision has been made.</i></p> <p><i>In addition, this section outlines the steps which the council may choose to take in order to ensure that the investigation is conducted in a thorough, fair and appropriate manner.</i></p>
Outcomes of Whistleblowing	<p>Outlines the council's position with regard to sharing outcomes of any whistleblowing investigations. Confirms that information shared will be in accordance with the data protection requirements of the General Data Protection Regulations (2018).</p>
Data Protection and Freedom of Information	<p>Confirms how the council will manage all information pertinent to whistleblowing cases; subject to the requirements of the General Data Protection Requirements (2018) and the council's Privacy Notice.</p>
Monitoring Whistleblowing Disclosures	<p>Confirms that the Monitoring Officer (Director of Legal Services) has overall responsibility for the maintenance and operation of the Whistleblowing Policy.</p> <p><i>States that the Audit and Counter Fraud Team will keep and maintain a central record of all whistleblowing complaints made which will be summarised (together with learning points and actions) in a quarterly report for SMT consideration / review.</i></p>
Training and Awareness	<p>States that Chief Officers and Heads of Service are responsible for ensuring that their employees are aware of the Whistleblowing Policy and that any training needs in relation to it are</p>

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	<p>addressed promptly.</p> <p><i>In order to ensure all new employees to the council are aware of the policy, it is included in the Corporate Induction.</i></p>
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**Recommendations**

Council is asked to consider the Whistleblowing Policy and give final approval for its adoption by the Authority.

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## Review of Whistleblowing Policy

### 1 Background

- 1.1 The Whistleblowing Policy provides the means for these disclosures to be reported, investigated and actioned. In addition, the policy outlines the statutory protection afforded by the Public Disclosure Act 1998 to employees who make a complaint which meets the 'public interest test.' This provides them with protection from any detriment in the workplace, including harassment, victimisation or dismissal.
- 1.2 The purpose of this review of the policy was to:
- Improve policy accessibility for employees to promote a culture of openness and transparency where employees feel able to report concerns;
  - Provide employee assurance that the council will investigate and act upon matters appropriately and on a timely basis;
  - Provide clear contact points for employees to submit a whistleblowing complaint to;
  - Provide clarity as to what constitutes a whistleblowing complaint as defined in the context of the Public Disclosure Act (1998) and the Employment Rights Act 1996;
  - Provide examples of complaints which may constitute a whistle blow for employee reference;
  - Include clarity in terms of what information will / can be shared with the complainant; and;
  - Provide a clear process (with timeframes) by which the council will investigate whistle blow complaints.

### 2 Current Position

- 2.1 Extensive consultation has been conducted across the organisation including with the Trade Unions, Legal Services, Audit and Counter Fraud Services, and the Customer Complaints Service

### 3 Options/Alternatives

- 3.1 The revisions to the policy are comply with legislation and reflect best practice. Alternative options with reference to content, main headings and structure have been considered and incorporated where appropriate and necessary. The policy is now regarded as being sufficiently comprehensive to comply with legislation and the council's obligations as an employer, but also suitably accessible to be fit for purpose.

### 4 Preferred Option

- 4.1 To implement the revised Whistleblowing Policy to ensure legal and HR best practice is maintained.

### 5 Consultation

- 5.1 The policy revisions have been developed by a joint working group with input from Legal Services, Audit and Counter Fraud and the Customer Complaints Service; ensuring legal and best practice compliance.
- 5.2 Trade union colleagues have been consulted at various stages of the development and their views have influenced and shaped the final document. In addition, senior officers have been consulted and have approved the version now submitted to Full Council.
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## 6 **Financial Implications**

- 6.1 There are no known specific financial implications associated with this report.  
(Nicola Harrop)

## 7 **Legal Services Comments**

- 7.1 Legal Services have provided input to the development of the revised policy and consider that the revised policy provides a robust and legally compliant process.  
(Colin Brittain)

## 8. **Co-operative Agenda**

- 8.1 The principles of transparency, accountability, fairness and equality underpin the Whistleblowing Policy, which ensures that council employees are safely able to raise legitimate concerns and serious allegations of wrongdoing which are in the public interest. It is these same principles upon which the council's co-operative agenda is built.

## 9 **Human Resources Comments**

- 9.1 The Whistleblowing Policy outlines the process and procedure for employees of the council, including temporary and agency workers, to raise their concerns if they have reason to believe that wrongdoing is being perpetrated by others at the council. This review has improved the accessibility of the policy and has included further clarity in terms of process, timeframes, key responsibilities and outcomes which reflects HR best practice and legislative requirements. (Martyn Bramwell)

## 10 **Risk Assessments**

- 10.1 The current Officer Whistleblowing Policy has not been updated for a significant period of time. An updated policy is considered appropriate to the council's terms and conditions and thus reduce its risk around compliance to current employment legislation. (Mark Stenson)

## 11 **IT Implications**

- 11.1 None

## 12 **Property Implications**

- 12.1 None

## 13 **Procurement Implications**

- 13.1 None

## 14 **Environmental and Health & Safety Implications**

- 14.1 Any work to improve the accessibility of the council's Whistleblowing Policy serves to allow better channels for employees to raise concerns in relation to potential breaches of health and safety legislation. This, in turn, allows the council to address any issues and mitigates against risk around health and safety. (Laura Smith)

## 15 **Equality, community cohesion and crime implications**

- 15.1 The Whistleblowing Policy applies to all employees equally and provides clarity as to expectations of all, regardless of equality group.
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16      **Equality Impact Assessment Completed?**

16.1    No – see 15

17      **Key Decision**

17.1    No

18      **Key Decision Reference**

18.1    N/A

19      **Background Papers**

19.1    N/A

20      **Appendices**

20.1    Whistleblowing Policy (Appendix 1)



# **Whistleblowing Policy**

**May 2020**

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## Whistleblowing Policy

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## Whistleblowing Policy

### 1. Introduction to the Whistleblowing Policy

- 1.1 Oldham Council is committed to the highest standards of honesty, openness, probity and accountability and will not tolerate malpractice or wrongdoing.
- 1.2 The Council's Whistleblowing Policy is a critical element of our governance arrangements and is designed to allow those employed by the Council to come forward and report disclosures and serious allegations of wrongdoing, involving the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities. As such, the Council encourages all employees to report any concerns which they believe should be investigated.
- 1.3 The Council is also committed to a policy, which seeks to protect those individuals who report certain disclosures, regarding any instance of malpractice or wrongdoing and to investigate them in the public interest.
- 1.4 Whistleblowing is generally the term used when someone who is employed in an organisation reports a concern about suspected wrongdoing, malpractice or illegality, which may include:
- criminal offences/unlawful behaviour by an individual or a collective body;
  - failure to comply with a legal duty;
  - miscarriages of justice;
  - corrupt or fraudulent behaviour;
  - abuse of authority;
  - serious breaches of Council rules including the Financial Procedure Rules / Regulations;
  - discrimination on the grounds of sex, race or disability;
  - sexual, physical, verbal or financial abuse of clients, employees or the public
  - forced labour or human trafficking of clients or the public;
  - harassment or victimisation
  - the health and safety of any individual has been, or is likely to be, endangered by unsafe working practices;
  - the environment has been, is being or is likely to be, damaged (as a result of the Council's actions or inactions); and
  - information about any of the above has been, is being, or is likely to be, deliberately concealed.
- 1.5 The above list is not exhaustive and further examples of disclosures which may be reported can be found as **Appendix 1**.

### 2. Policy Scope

- 2.1 This policy applies to all employees of Oldham Council, employees of contractors working for the Council (e.g. agency workers, builders and drivers), employees of suppliers, voluntary workers working with the Council and people who in the course of their work come into contact with employees of the Council.
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- 2.2 This policy is non-contractual and, in line with all non-contractual policies, Oldham Council may review, amend or withdraw this Policy from time to time in line with changes to employment legislation or organisational needs.
  - 2.3 This policy has been developed in consultation with the Trades Unions who can provide additional support to staff.

### 3. Principles

- 3.1 The Whistleblowing Policy seeks to outline the process and procedure for employees of Oldham Council, including temporary and agency staff, to raise their concerns if they have reason to believe that wrong doing is being perpetrated by others at the Council. It explains what the Council wants employees to do if they have concerns, clarifies their rights and responsibilities, identifies the steps which employees can take and puts this into the context of the **Public Disclosure Act 1998** and the **Employment Rights Act 1996**.
- 3.2 The Policy seeks to set out how the Council will handle and respond to serious allegations of perceived wrongdoing.
- 3.3 Although this policy provides details on how issues should be raised with the Council, the Council would encourage employees to report an issue to the police ,in conjunction with the whistleblowing process, where it is believed that criminal activity is involved.
- 3.3 Whistleblowing is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency and long-term success.
- 3.4 The Council encourages and enables employees to raise their concerns at an early stage and to do so in the right way. It is not disloyal to colleagues or to the Council to make a disclosure. It is essential issues are addressed expeditiously so employees should 'blow the whistle' as early as possible to prevent any real damage being done
- 3.5 Concerns will be treated seriously, dealt with sensitively and with due confidentiality.
- 3.6 Employees will be given full support from Senior Management and the HR Advisory Service. Employees will not be expected to prove the wrongdoing but will need to demonstrate that there are sufficient grounds for concern.

### 4 Definition of Whistleblowing

- 4.1 Whistleblowing is the confidential disclosure by an individual of concerns (as defined by this policy) relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for the Council. The whistleblowing process assists individuals, who believe they have discovered malpractice, impropriety or wrongdoing, to raise a concern, in order that this can be addressed.
  - 4.2 Whistleblowing includes any occasion when an employee is concerned that their colleagues or the Council are acting unlawfully or dangerously and / or where there are concerns that colleagues or councillors are breaching operational or financial rules. It can involve sharing potentially vital information about health and safety risks, environmental factors, possible fraud, harm of children or vulnerable adults, covering up for someone and other serious activities. For further information on issues for which we encourage disclosure under this policy, see **Appendix 1**.
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- 4.3 The wrongdoing disclosed must be in the public interest, as defined in the context of **Public Disclosure Act 1998** and the **Employment Rights Act 1996**. Therefore, the alleged wrongdoing must affect others, e.g. the general public.
- 4.4 Conversely, if an employee has an individual complaint relating to their employment, for example, their contract of employment, pay or conditions, this should be raised under the **Council's Grievance Policy**.

## 5. Public Interest Disclosure Act 1998

- 5.1 The alleged wrongdoing disclosed must be in the public interest. The **Public Interest Disclosure Act 1998 (PIDA)** is often referred to as the Whistleblowing law and is designed to encourage and enable employees to "speak out" and to report suspected wrongdoing at work; commonly known as "blowing the whistle".
- 5.2 PIDA legislation legally protects employees (including those employed in schools maintained by the Council, temporary workers and agency staff), from any detriment from their employer or colleagues that arises as a result of making a "protected disclosure" (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer.
- 5.3 A qualifying disclosure means a disclosure of information made to the Council or other prescribed person, which in the reasonable belief of the worker making the disclosure, is made in the public interest.
- 5.4 PIDA 1998 and the Employment Rights Act (ERA) 1996 clearly define what types of disclosures qualify employees for protection against dismissal and detrimental treatment by their employer. These are known as "protected disclosures" and are covered by the following Section of the above laws;
- a) that a criminal offence has been committed, is being committed or is likely to be committed - **Section 43B(1)(a), ERA 1996**;
  - b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject - **Section 43B(1)(b), ERA 1996**;
  - c) that a miscarriage of justice has occurred, is occurring or is likely to occur - **Section 43B(1)(c), ERA 1996**;
  - d) that the health or safety of any individual has been, is being or is likely to be endangered - **Section 43B(1)(d), ERA 1996**;
  - e) that the environment has been, is being or is likely to be damaged - **Section 43B(1)(e), ERA 1996**; or
  - f) that 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 - **Section 43B(1)(f), ERA 1996**.
- 5.6 A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.
- 5.7 Employees are protected when they make a disclosure. In making a protected disclosure the employee must:
- reasonably believe that the disclosure they are making is in the public interest;
  - reasonably believe that the information detailed and any allegation in it are substantially true; and
  - the matter disclosed must fall within the matters prescribed for that regulator.
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- 5.8 The earlier an employee expresses a concern, the easier it will be to act. Employees should raise a concern as soon they have a reasonable suspicion and are not expected to investigate the concern themselves to prove their suspicions are well-founded.
- 5.9 A disclosure will also be protected if the information disclosed is of a nature that shows that any of the above is likely to be deliberately concealed

## 6. Safeguarding Employees When Raising a Disclosure

- 6.1 This policy has been written to take account of the PIDA, which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions.
- 6.2 The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised, as a direct consequence of them making an appropriate lawful disclosure in accordance with the Act.
- 6.3 A disclosure will also be protected if the information disclosed is of a nature that shows that any of the above is likely to be deliberately concealed.
- 6.4 Allegations should be investigated in the appropriate spirit to ensure the correct outcome. This requires the application of the following principles and safeguards, which are discussed in **Sections 6.5, 6.6 and 6.7:**
- ensuring confidentiality and, where possible, anonymity to the whistleblower;
  - zero tolerance to harassment or victimisation; and
  - guarding against malicious and false allegations.

### 6.5 Confidentiality and Anonymity

- 6.5.1 The Council will seek to treat a whistleblowing allegation as confidentially as possible, subject to legal parameters.
- 6.5.2 However, in cases of alleged serious wrongdoing, it must be appreciated that the Council cannot guarantee that this will be maintained particularly if external legal action results from the disclosure. In some cases, an employee's concern may require further action and they may have to act as a witness and/or provide evidence, for example serious criminal offences which are referred to the Police.
- 6.5.3 If a disclosure relates to a child at risk or abuse of a vulnerable adult then the Council is required to investigate this under separate procedures and this takes priority over any request for anonymity.
- 6.5.4 Whilst the Council encourages employees to put their name to any whistleblowing allegation, as concerns expressed anonymously are much less powerful, they will be still be considered, based on the following:
- the seriousness of the issues raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from other, attributable, sources.
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6.5.5 Employees cannot be told the outcome of any investigation of a concern which was brought forward anonymously.

## 6.6 Harassment or Victimisation

6.6.1 The Council will not tolerate harassment or victimisation by those involved with the matters of concern or from others. It will take action to protect employees when they raise a concern in the public interest. The Council takes its responsibilities in this seriously as it is accountable as the employer for any detriment caused.

6.6.2 Due regard and sensitivity will be exercised by all involved in the process to ensure that employees do not suffer detrimental treatment as a result of raising a referral.

## 6.7 False and Malicious Allegations

6.7.1 While encouraging employees to bring forward matters of concern, the Council must guard against claims which are untrue. This is because of the risk of claims made to deliberately damage the reputation of other employees or the Council, as a corporate body, and not least because the cost of investigation is high.

6.7.2 If an employee makes an allegation, but it is not confirmed by the investigation, no action will be considered or taken against them. However, if an employee makes false, malicious or vexatious allegations this will be treated as a serious disciplinary offence and disciplinary action will be taken. The PIDA only offers protection from dismissal or detriment if the worker reasonably believes their disclosure was made in the public interest.

6.7.3 The Whistleblowing Policy is designed to promote and encourage reporting genuine concerns. The policy is not designed to allow:

- individuals who have acted inappropriately to escape punishment by highlighting any malpractices they were involved in;
- employment protection in relation to a redundancy situation or pre-existing disciplinary issues as a result of reporting a wrongdoing; and
- an individual to raise a concern for some private motive and not to prevent or correct the wrongdoing.

## 7. How Employees Can Raise a Whistleblowing Disclosure

7.1 Once an employee has decided to raise a concern, then wherever possible, it should be expressed either verbally or in writing. This should set out the background and history of the concern, giving names, dates and places where possible, and the reason why the individual is particularly concerned about the situation.

7.2 The route to raising a concern depends on the seriousness and sensitivity of the issues and who is thought to be involved. It is the intention of Oldham Council that any employee with a concern about any aspect of the Council's operations or its conduct, feels able to first raise those concerns with the Audit and Counter Fraud Team (**Section 7.3**) or with one or more of the officers listed in **Section 7.4**.

7.3 Those who have a whistleblowing concern relating to the Council can use our whistleblowing reporting procedures. An employee who wishes to report a concern or

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suspected serious wrongdoing (a disclosure) should contact the Audit and Counter Fraud Team at Oldham Council in one of the following ways:

- E-mail: [investigations@oldham.gov.uk](mailto:investigations@oldham.gov.uk).
- Telephone: [Whistleblowing Hotline - 0161 770 4897](tel:01617704897)
- Online Whistleblowing reporting form: [Appendix 3 \(hard copy version\)](#)
- In writing to the following address:

**Confidential**  
**Oldham Council**  
**Level 14, Civic Centre**  
**West Street**  
**Oldham, OL1 1UH**

7.4 Alternatively, employees can report matters of concern to:

Oldham Council Officer	Contact Number
Chief Executive	0161 770 3542
Monitoring Officer (Director of Legal Services)	0161 770 4822

7.5 The final route is to request that a Trade Union or a Professional Association raises the matter through the council's whistleblowing procedure on the employee's behalf.

7.6 If an employee does not feel able to put the concern in writing, they can request to meet a member of the Audit and Counter Fraud Team who will listen carefully to the concerns raised and deal appropriately and confidentially with the matters raised.

7.7 Although individuals raising concerns are not expected to have supporting evidence to prove the truth of an allegation before reporting, he or she must reasonably believe that the information is substantially true to enable the matter to be taken forward. The Council expects that any person reporting a disclosure should provide as much information as possible to inform the investigation, including:

- who the allegations are against;
- full details on the nature of the alleged wrongdoing;
- any evidence they have in support of the allegation;
- name and contact details (unless they wish to remain anonymous, where possible).

7.8 Once a call is made to the Council's Whistleblowing Hotline, the Audit and Counter Fraud Team will gather as much information as possible about the concerns raised. If contact details are provided, they may get in touch to seek further information.

7.9 Once a disclosure has been reported, the process is summarised in **Appendix 2**.

7.10 The Audit and Counter Fraud Team will maintain a central record of whistleblowing cases.

## **8. How the Council will respond to Whistleblowing**

8.1 The Council will always respond to you to acknowledge receipt of a disclosure.

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- 8.2 If the concern is a safeguarding matter, where there may be an immediate risk to vulnerable people, the Council will formally respond to you to acknowledge receipt of the disclosure within 48 hours. Where concerns are a safeguarding nature, they will be progressed in line with the safeguarding procedures for Children and Vulnerable Adults.
- 8.3 A further acknowledgement will be sent within 10 working days to indicate:
- how the Council proposes to deal with the matter; and the policy under which it will be investigated;
  - whether the Council considers it to be a protected disclosure;
  - contact details for the officer handling the investigation;
  - arrangements for confidentiality;
  - an estimate of how long it will take to provide a response on the outcome
  - any initial enquiries which may have been made; and
  - if no action is planned, why not.
- 8.4 On receipt of a whistleblowing allegation, the Council will make an assessment as to whether the matter meets the criteria of a protected disclosure (see **4.3**) and manage the matter as regulations require.
- 8.5 All proposed actions by the Audit and Counter Fraud team will be in consultation with the relevant service manager, where appropriate.
- 8.6 All allegations will be handled confidentially and discreetly by those managers who are directly involved in the investigating process. The ongoing point of contact for the whistleblower will be given in the acknowledgement letter.
- 8.7 If necessary, further information will be sought from the whistleblower. This will depend on the nature of the matters raised, the potential difficulties involved in conducting an investigation and the clarity of the information provided.
- 8.8 At any meeting arranged to discuss an employee's concerns the employee has the right, if they so wish, to be accompanied by their Trade Union representative or a friend who is not involved in the area to which the concern relates.
- 8.9 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;
  - be referred to the External Auditor; and
  - form the subject of an independent inquiry.
  - The Council may take one or more of the actions listed above depending on the circumstances of the case.
- 8.10 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. Most matters will, initially, be investigated internally. Concerns or allegations which fall within the scope of specific separate procedures (for example, child protection or discrimination issues) will normally be dealt with through those routes.
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- 8.11 The Council will do what it reasonably can do, to minimise any difficulties that an employee may experience as a result of raising a concern. For example, if an employee is required to give evidence in criminal or disciplinary proceedings, the Council will provide support about the procedures in terms of what will happen and what will be expected. The Audit and Counter Fraud team will provide initial support and reassurance to those who make a whistleblowing allegation and may signpost them to further appropriate sources of support.
- 8.12 Some concerns may be resolved by immediate action without the need for an investigation.
- 8.13 The amount of contact between the Officer(s) considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the amount and clarity of the information the employee provided. If necessary, further information will be sought. **Appendix 1** sets out the key service managers that may be called upon to support the investigation into different types of Whistleblowing allegations.
- 8.14 If an employee, who raises a whistleblow is already the subject of disciplinary, capability, absence management or redundancy procedures, those procedures will not automatically be halted as a result of an employee whistle-blowing except where it is identified that it would be in the interests of natural justice. The Council will appoint independent officers to manage each of the processes as appropriate. There may be instances where information is required to be shared between such officers in order for appropriate actions to be taken and, in this case, officers from HR Advisory will be involved to ensure that due regard is made of confidentiality and data protection.

## 9. Outcomes of Whistleblowing

- 9.1 The Council will, subject to legal constraints, seek to advise the whistleblower on the outcomes of the investigation in order to assure them that that the matter has been properly addressed. Some concerns raised may be resolved by agreed action, once the whistleblowers concerns have been explained, without the need for investigation.
- 9.2 Confidential investigation reports / briefing notes are required for all cases. These will usually be issued by the Investigating Officer to the Head of the department involved and to the Monitoring Officer. Audit and Counter Fraud will also require confirmation of the outcome of the work and any system risk issues which arise from it. Internal Audit may carry out follow up work as a result of any identified areas of risk.
- 9.3 The Council accepts that employees need to be assured that the matter has been properly addressed so, subject to legal constraints, the employee may receive a summary of the outcome of the investigation. This information will be provided in accordance with data protection requirements outlined in the General Data Protection Regulations (2018). **See Section 10.**
- 9.4 The Council hopes its investigations, and any actions arising from them, will resolve the employee's concern. If not, and the employee feels it is right to take the matter outside the Council, the employee should report this to the Council's Head of
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Corporate Governance to ensure correct procedures are followed and that confidential information is not disclosed.

## **10. Data Protection and Freedom of Information**

- 10.1 The Freedom of Information Act 2000 gives a general right of access to all types of recorded information held by public authorities. As such the Council often receives requests for information under the Freedom of Information Act.
- 10.2 The Council has a legal obligation to provide the information unless it falls under one of the exemptions of the Act.
- 10.3 The Freedom of Information Act contains exemptions which may be applicable to permit the withholding of information identifying the whistleblower, including:
- Section 40 Personal Data; and
  - Section 41 Information which, if disclosed, would give rise to an actionable breach of confidence.
- 10.4 Many people making a disclosure to the Council will wish to protect their identity and the Council will seek to protect the identity of individuals, where possible, during the course of progressing an investigation. If the Council receives a request for information that identifies a whistleblower, the Council will contact the whistleblower to seek their views beforehand and will, wherever possible, seek to comply with those views.
- 10.5 The principle of maintaining confidentiality should also be applied to the identity of any individual who may be the subject of a disclosure.
- 10.6 The Council will ensure that our handling of concerns meets the requirements of the Data Protection Act 2018 and the Freedom of Information Act 2000. A Privacy Notice for the Whistleblowing Policy is available on the Council's website.

## **11. Monitoring Whistleblowing Disclosures**

- 11.1 The Monitoring Officer (the Director of Legal Services) has overall responsibility for the maintenance and operation of this policy. The Monitoring Officer will maintain a record of concerns raised and their respective outcomes (but in a form which does not compromise employee confidentiality).
- 11.2 Details of all concerns raised, and subsequent information will be retained for 5 years. The purpose of this is to ensure that a central record is kept which can be cross referenced with other complaints in order to monitor any patterns of concern and to assist the Monitoring Officer to monitor the effectiveness of this policy.
- 11.3 The Audit and Counter Fraud Team will log and allocate each case a reference number whether or not Internal Audit are involved in the investigation work. The outcome of the investigation should be notified to Audit and Counter Fraud by the Investigating officer.
- 11.4 The Audit and Counter Fraud team will prepare a regular management action report based on the outcomes of the investigation of whistleblowing referrals, which will be considered by the Senior Management Team on a quarterly basis. Where specific
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actions are required, a report will be issued to service managers. Management reports will outline the Council's response as well as any learning and necessary actions to be taken.

- 11.5 The records held by Audit and Counter Fraud will be used to analyse the impact and effectiveness of the arrangements in place in statistical terms and records held in HR sections may be subject to review. The detailed case records form part of the process of reporting back to Members on the effectiveness and outcomes of the Policy and form the record of actions taken in the case of any matters raised under the Public Interest Disclosure Act. This information will be referred to for monitoring purposes and periodic assurance reports provided to the Audit Committee by the Head of Internal Audit as part of this process.
- 11.6 The Monitoring Officer retains responsibility for monitoring the effectiveness of the Council's Whistleblowing policy and process.

## 12. Training and Awareness

- 12.1 Chief Officers and Heads of Service are responsible for ensuring that their employees are aware of the Whistleblowing Policy and process and that any training needs are addressed which may arise from the application of the policy. Raising awareness of the Council's Whistleblowing Policy should form part of the induction training for all employees and should be addressed as refresher training for all employees.
- 12.2 Employees have a responsibility to ensure that they are aware of and understand the Council's policy in relation to Whistleblowing.

Version	Author	Changes	Approval Forum	Date approved
1.0	ELC	<ul style="list-style-type: none"> <li>• Change of format</li> </ul>	n/a	Reviewed July 2017
2.0	ELC/JW	<ul style="list-style-type: none"> <li>• Change of format.</li> <li>• Addition of new content:               <ul style="list-style-type: none"> <li>○ Examples of Protected Disclosures.</li> <li>○ Data Protection and Freedom of Information.</li> <li>○ Training and Awareness.</li> <li>○ Appendices.</li> <li>○ Inclusion of flowchart</li> </ul> </li> </ul>		

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## Appendix 1

### Examples of Disclosures which could be raised through the Whistleblowing Policy

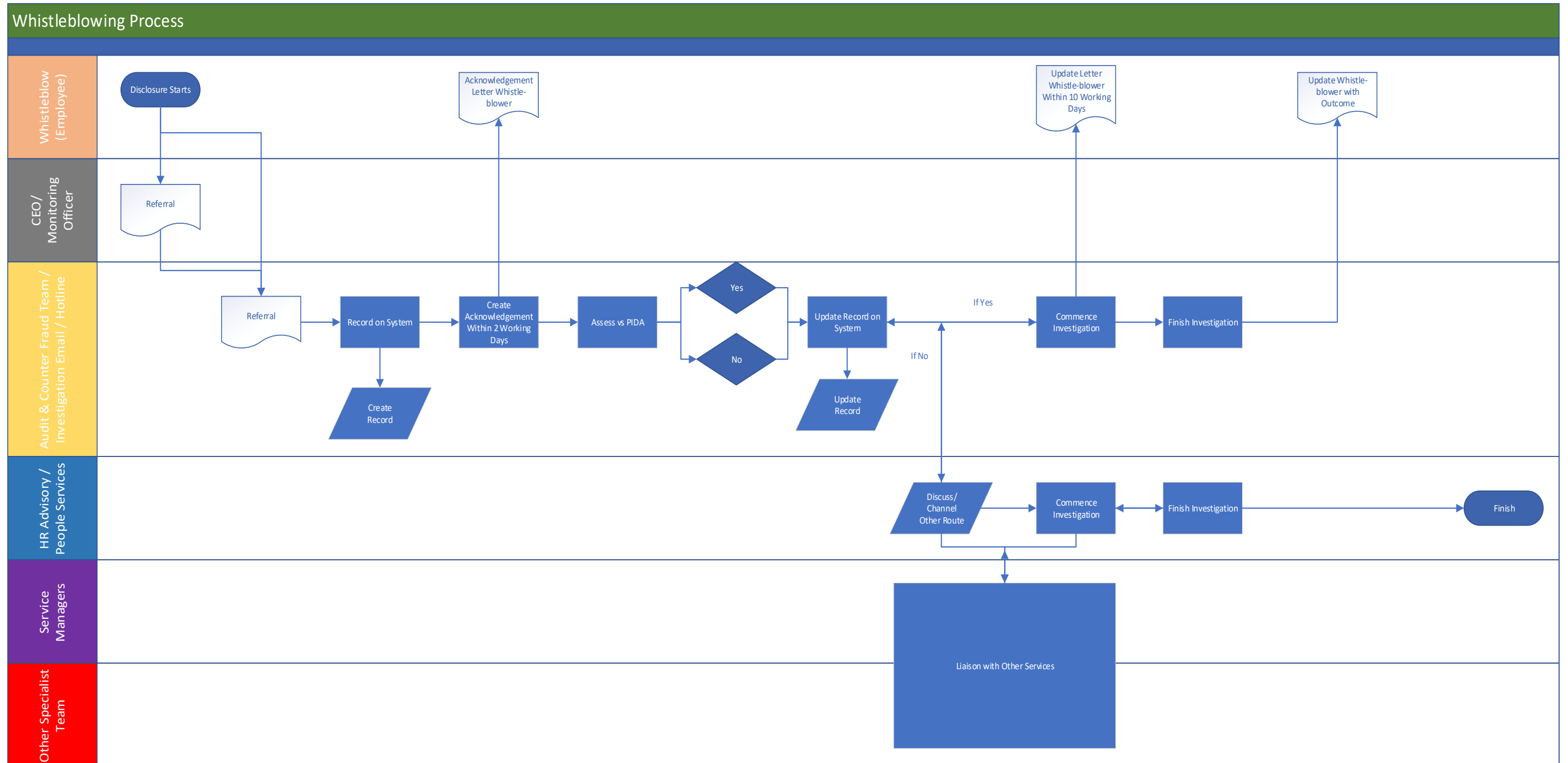
In addition to Legal Services, the Finance Department and the HR Advisory Service, the investigation may require support from service managers (and/or their colleagues) as set out below:

<b>Nature of Whistleblowing Allegation</b>	<b>Additional Support Required</b>
Financial irregularities.	Service Managers
The unauthorised use of public funds (e.g. expenditure for improper purchase).	Service Managers
Maladministration (e.g. not adhering to procedures, negligence)	Service Managers
Payments being made in exchange for awarding contracts.	Service Managers, Head of Procurement
Any unlawful act (e.g. theft).	Service Managers
Fraud and corruption (e.g. to give or receive any gift/reward as a bribe)	Service Managers
Misuse of Public Money	Service Managers
A breach, or potential breach of Health and Safety legislation	Service Managers
Damage to the environment (e.g. pollution)	Service Managers
Harassment of a service user, customer or other individual	Service Managers
The abuse of children and / or vulnerable adults (physical or psychological)	Children's Services
Domestic servitude, human trafficking, slavery	Adults Social Care/ MASH Team
Failing to safeguard personal and / or sensitive information (Data Protection)	Information Management
Abuse of position of authority.	Director of Service
Deliberate concealment of information tending to show any of the above.	Director of Service/ Service Manager

The list above is not exhaustive but is intended to provide an indication of the types of concerns which should be raised.

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Whistleblowing Procedure: Process Map



## Whistleblowing Reporting Form

What is Whistleblowing?

Specific examples of issues covered by the Whistleblowing Policy include:

- any unlawful act
- health and safety issues
- damage to the environment
- unauthorised use of public funds
- fraud and corruption of any description
- inappropriate or improper conduct (including bullying or harassment)
- serious failure to comply with appropriate professional standards
- breach of the council's Constitution or other policy or code of practice
- offering, taking or soliciting bribes
- misreporting performance data
- neglect of people in care

Reporting your concerns

All reported concerns will be fully investigated by one of the council's specialist teams.

When reporting concerns, please provide as much information as possible as this will help us to conduct a thorough investigation. All information provided will be treated in the strictest of confidence. You may remain anonymous when reporting concerns, but the chances of a successful outcome are increased if we are able to contact you to clarify details and ask additional questions.

Customers, suppliers and members of the public are requested to report their concerns to:

- E-mail: [investigations@oldham.gov.uk](mailto:investigations@oldham.gov.uk)
- Telephone: **0161 770 4897**

Oldham Council  
Internal Audit  
Civic Centre  
West Street  
Oldham  
OL1 1UT

If you notice any behaviour in the workplace that could threaten customers, colleagues, the public or the organisation's own reputation, please let us know about your concern.

**This form is a copy of the Whistleblowing Referral Form available on the Council's website.**

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**What type of activity does your concern involve?**

Type of Activity	Please tick
Any unlawful act	
Health and Safety issues	
Damage to the environment	
Unauthorised use of public funds	
Fraud and Corruption of any description	
Inappropriate or improper conduct	
Serious failure to comply with appropriate professional standards	
Breach of the Council's Constitution or other policy or code of practice	
Offering, taking or soliciting bribes	
Misreporting performance data	
Neglect of people in care	

**Who is the allegation against?**

**What do you believe they are doing?**

Please provide as much detail as possible about the activity that is causing your concerns.

**Where and when did this happen?**

Please provide as much detail as possible about the activity that is causing your concerns.

**What evidence can you give to support this?**

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Please provide as much detail as possible about the activity that is causing your concerns.

Please upload any evidence you may have to [investigations@oldham.gov.uk](mailto:investigations@oldham.gov.uk)

**Have you reported this previously?**

**Yes/No**

**When did you previously report this?**

**Who did you previously report this to?**

**Do you wish to remain anonymous?**

**Yes/No**

If no, please provide details below:

Name

Address

Preferred Contact Phone or Email

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Phone

Email

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