

## Appendix 2 – Code of Conduct: Whistleblowing Policy Revisions

### 1. Introduction

- 1.1 Whistleblowing occurs when a person raises a concern about dangerous, illegal activity or any wrong-doing within their organisation. 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 many more.
- 1.2 Oldham Council is committed to openness, probity and accountability. It expects employees and others with serious concerns about the council's work to come forward and voice them.
- 1.3 This policy encourages and enables employees to raise serious concerns inside the council rather than ignore the concerns or disclose them outside. It is essential these factors are addressed immediately, so employees should 'blow the whistle' as early as possible to prevent any real damage being done.
- 1.4 This policy includes any occasion when an employee is concerned that their:
- colleagues or the council are acting unlawfully
  - colleagues or councillors are breaching the council's Codes of Conduct and its other operational or financial rules.
- 1.5 Throughout this process, employees will be given full support from Senior Management, concerns will be taken seriously and the council will do all it can to help employees throughout the investigation. This policy is also approved locally by the trades unions where additional support is available.
- 1.6 This policy provides guidance on how issues should be raised with the council. This does not preclude any employee from reporting an issue with the police in conjunction with the whistleblowing process where it is believed that criminal activity is involved.
- 1.7 Other procedures exist to register a grievance about an employee's own employment. If an employee has an individual complaint relating to their employment, for example, their contract of employment, pay, conditions, this should be raised under the Council's Grievance Policy.
- 1.8 The policy respects confidentiality and helps employees to raise concerns without fear of reprisal.
- 1.9 This document details:
- How employees can raise a concern
  - How employees are safeguarded when raising a concern
  - How the council will respond
  - What employees can do if the council response does not resolve their concern

## **2. Employees Covered by this Policy**

### **2.1** This Policy applies to all:

- employees of Oldham Council
- employees of contractors working for the council, for example, agency staff, builders and drivers
- 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.
- people who in the course of their work come into contact with employees of council

## **3. Policy Statement**

**3.1** Employees are often the first to realise that there may be something seriously wrong within the council. 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. It is not disloyal to colleagues or to the council to make a disclosure.

**3.2** The council is committed to achieving the highest standards of service delivery. To help achieve these standards, the council encourages freedom of speech.

## **4. Aims of the Policy**

**4.1** The aim of this Policy is to encourage employees and others who have serious concerns about any aspect of the council's work to come forward and voice those concerns at the earliest opportunity.

## **5. Procedure**

### **5.1** **How Employees can Raise a Concern**

5.1.1 The first step depends on the seriousness and sensitivity of the issues involved and who is thought to be involved. Whenever possible, employees should normally raise concerns with their immediate manager or superior. If an employee believes that management is involved, they should approach the Audit and Counter Fraud Team. They can be contacted on 0161 770 4897 or by email at [investigations@oldham.gov.uk](mailto:investigations@oldham.gov.uk).

5.1.2 Employees will not be expected to prove the wrongdoing, but will need to demonstrate to the person contacted that there are sufficient grounds for concern.

5.1.3 Concerns should be raised in writing. See Whistleblowing Form at the

end of this policy.

5.1.4 If an employee does not feel able to put the concern in writing, they can telephone or meet a member of the Internal Audit and Counter Fraud Team (or one of the Appropriate Officers( see 5.1.5 below). They are used to working in complete confidence and are trained to listen carefully.

**5.1.5** Alternatively, advice and guidance on how matters of concern may be pursued can be obtained from the Appropriate Officer. Within the council these are;

Director of Legal Services (Monitoring Officer)	0161 770 4822
Head of Corporate Governance	0161 770 4783
Director of People	0161 770 4695
Director of Finance	0161 770 4902
Chief Executive	0161 770 3542

5.1.6 The final route is to invite a trade union or a professional association to raise the matter through the council's Whistleblowing procedure on the employee's behalf.

## **5.2 How Employees are Safeguarded when Raising a Concern**

5.2.1 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.

5.2.2 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.

5.2.3 The Public Interest Disclosure Act 1998 and Employment Rights Act 1996 clearly define what types of disclosure qualify employees for protection against dismissal and detrimental treatment by your employer. These are known as 'protected disclosures.'  
The following qualify as a protected disclosure:

- Criminal offences (section 43B(1)(a), ERA 1996).
- Breach of any legal obligation (section 43B(1)(b), ERA 1996).

- Miscarriages of justice (section 43B(1)(c), ERA 1996).
- Danger to the health and safety of any individual (section 43B(1)(d), ERA 1996).
- Damage to the environment (section 43B(1)(e), ERA 1996).
- The deliberate concealing of information about any of the above (section 43B(1)(f), ERA 1996).

5.2.4 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.

#### 5.2.5 **Harassment or Victimisation**

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 responsible as the employer for any detriment caused.

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 complaint.

5.2.6 If employees are already the subject of disciplinary or redundancy procedures, those procedures will not be halted as a result of an employee whistle-blowing.

#### 5.2.7 **Anonymous Allegations**

This policy as a whole encourages employees to put their name to the allegation.

Although concerns expressed anonymously are much less powerful they will be considered taking into account:

- **the seriousness of the issues raised;**
- **the credibility of the concern; and**
- the likelihood of confirming the allegation from other, attributable, sources.

Employees will be unable to be told the outcome of any investigation of a concern which was brought forward anonymously.

#### 5.2.8 **Confidentiality**

The council will do its best to protect employee identity when they raise a concern and do not want their name to be disclosed.

It is important to note that the investigation process may ultimately need to reveal the employee as the source of information. On some

occasions a statement by the employee may be required as part of the evidence.

### **5.2.9 Untrue Allegations**

If an employee makes an allegation in the public interest and reasonably believed it to be true, but it is not confirmed by the investigation, no action will be taken against the employee.

If, however, an employee makes malicious or frivolous allegations, or repeated allegations which have no foundation, disciplinary action will be taken against the employee.

## **5.3 How the Council will Respond**

5.3.1 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;
- form the subject of an independent inquiry.

5.3.2 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 current procedures (for example, child protection or discrimination issues) will normally be dealt with through those routes.

5.3.3 Within ten working days of a concern being received, the council will write to the employee:

- 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;
- informing the employee as to whether any initial enquiries have been made; and
- informing the employee as to whether further investigations will take place and, if not, why not.

5.3.4 Some concerns may be resolved by immediate action without the need for an investigation.

5.3.5 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.

5.3.6 When any meeting is arranged with the employee as a whistle blower, they have the right to be accompanied by a Trades Union or

professional association representative, or a colleague who is not involved in the area of work to which the concern relates.

- 5.3.7 The council will act as necessary to minimise any difficulties which employees may experience as a result of raising a concern. For instance if, later, employees are required to give evidence in criminal or disciplinary proceedings, the council will advise the employee directly as to the procedure.
- 5.3.8 The council accepts that employees need to be assured that the matter has been properly addressed so, subject to legal constraints, the employee will receive information about the outcomes of any investigations.

#### **5.4 What Employees Can Do if the Council Response Does Not Resolve their Concern**

- 5.4.1 This policy is intended to provide employees with an avenue to raise concerns and to have them resolved inside the council. The council hopes its investigations, and the action arising from them, will resolve their concern. If not, and the employee feels it is right to take the matter outside the council. In such circumstances, employees should seek advice from the council's Monitoring Officer to ensure correct procedures are followed and that confidential information is not disclosed.

#### **6. The Monitoring Officer**

- 6.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. S/he maintains a record of concerns raised and the outcomes (but in a form which does not endanger employee confidentiality).
- 6.2 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 Head of Corporate Governance in monitoring the effectiveness of this policy.

\*Revisions highlighted in red