

APPENDIX 2

DRAFT POLICY

CONFIDENTIAL REPORTING (Whistleblowing) CODE

SECTION 22

22. CONFIDENTIAL REPORTING (“WHISTLEBLOWING”) CODE

22.1 Introduction

- 22.1.1 This is the Council’s Policy intended to encourage and enable employees to raise concerns within the Council without fear of victimisation, subsequent discrimination or embarrassment. It reflects the Council’s commitment to good practices, to valuing staff and setting continuous improvement in service delivery.
- 22.1.2 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 22.1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council’s work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant Council procedures to report issues in an open and transparent way, because that is the type of organisational culture we are trying to foster. It is recognised, however, that some cases will have to proceed on a confidential basis.
- 22.1.4 This document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or “blowing the whistle” outside.
- 22.1.5 The Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing Services under a contract within the Council in their own premises, for example, care homes. The Council will seek to ensure that as part of its procurement processes, this code is brought to the attention of such external contractors, suppliers and services providers (described in this code as “Contractors”).
- 22.1.6 These procedures are in addition to the Council’s complaints procedures and other statutory reporting procedures applying to some Services. If asked, employees should make service users aware of the existence of these procedures.
- 22.1.7 This Code has been discussed with the relevant trade unions and professional organisations and has their support.

22.2 Aims and Scope of the Code

- 22.2.1 This Code aims to:
- (a) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.

- (b) provide avenues for you to raise those concerns and receive feedback on any action taken.
- (c) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- (d) reassure you that you will be protected from possible reprisals or victimisation.

22.2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment or you consider that you are being harassed due to your race, sex or age, or if you are concerned about health and safety risks. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures.

22.2.3 These include:

- (a) conduct which is an offence or a breach of law;
- (b) disclosures related to miscarriages of justice;
- (c) health and safety risks, including risks to the public as well as other employees;
- (d) damage to the environment;
- (e) the unauthorised use of public funds;
- (f) possible fraud and corruption;
- (g) sexual or physical abuse of clients;
- (h) any attempt to prevent disclosure of any of the above;
- (i) other unethical conduct.

22.2.4 Thus, any serious concerns that you have about any aspects of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Code.

22.2.5 This may be about something that:

- (a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
- (b) is against the Council's Constitution and policies;
- (c) falls below established standards of practice;
- (d) amounts to improper conduct.

22.3 **Safeguards**

22.3.1 The Council is committed to good practice and high standards and wants to be supportive of employees.

- 22.3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and the statement is made in good faith, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 22.3.3 The Council will not tolerate any harassment or victimisation, including informal pressures, and will take appropriate action to protect you when you raise a concern in good faith. This action will depend on the type of concern and specific service arrangements. On very rare occasions, you may be asked whether you would be prepared to obtain further information.
- 22.3.4 This would be entirely at your discretion and a full risk assessment would be completed, prior to such a course of action being agreed.
- 22.3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

22.4 **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly. At the appropriate time, however, you may need to come forward as a witness. If you wish to be supported by a representative of your choice, then this would be available to you.

22.5 **Anonymous Allegations**

- 22.5.1 This Code encourages you to put your name to your allegation whenever possible.
- 22.5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 22.5.3 In exercising this discretion, the facts to be taken into account would include:
- (a) the seriousness of the issues raised;
 - (b) the credibility of the concern; and
 - (c) the likelihood of confirming the allegation from attributable sources.

22.6 **Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

22.7 **How to Raise a Concern**

This procedure applies to Council employees and contractors.

- 22.7.1 As a first step, you should normally raise concerns with your immediate line manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that senior management is involved, you should

approach the Chief Executive, the [Head of Legal and Democratic Services] [other] [or, the [insert title]].

22.7.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- (a) the background and history of the concern, giving relevant dates;
- (b) the reason why you are particularly concerned about the situation.

22.7.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

22.7.4 Advice/guidance on how to pursue matters of concern may be obtained from:
[insert where]

22.7.5 Alternatively, you may wish to seek advice from a person independent of the Council. In this case you should contact the Council's External Auditors ([insert company name]). You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two or more of you who have had the same experience or concerns.

22.7.6 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

22.8 **How the Council will Respond**

22.8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

22.8.2 Where appropriate, the matters raised may:

- (a) be investigated by management, internal audit, or through the disciplinary process;
- (b) be referred to the police;
- (c) be referred to the external auditor (Wales Audit Office);
- (d) form the subject of an independent inquiry.

22.8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

22.8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

- 22.8.5 Within 10 working days of a concern being raised, the person with whom you have raised your concerns will write to you:
- (a) acknowledging that the concern has been received;
 - (b) indicating how we propose to deal with the matter;
 - (c) giving an estimate of how long it will take to provide a final response;
 - (d) telling you whether any initial enquiries have been made;
 - (e) supplying you with information on staff support mechanisms; and
 - (f) telling you whether further investigations will take place and if not, why not.
- 22.8.6 The amount of contact between the Officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 22.8.7 However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the confidential reporting process, specific procedures will need to be applied.
- 22.8.8 Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the [Head of Legal and Democratic Services] [other], for a decision to be made as to whether such a course of action is both necessary and proportionate.

Important:

- 22.8.9 Managers must not, under any circumstances, ask an individual to obtain further information covertly, from another person, without following this procedure. Failure to do so may infringe Human Rights and render the Council liable to legal action.
- 22.8.10 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 22.8.11 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 22.8.12 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

22.9 The Responsible Officer

Corporate Directors and their senior staff who receive concerns will copy the initial complaint to the [Head of Legal and Democratic Services] [other], and keep that Officer informed of the progress and outcome of the investigation. The [Head of Legal and Democratic Services] [other] has overall responsibility for the maintenance and operation

of the Code. That Officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

22.10 How the Matter Can be Taken Further

22.10.1 This Code is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- (a) the Council's external auditors (*[[insert company name]]*);
- (b) your local Citizens' Advice Bureau;
- (c) relevant professional bodies or regulatory organisations;
- (d) a relevant voluntary organisation;
- (e) the police.

22.10.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

22.11 Confidential Reporting Code Form

| PRIVATE AND CONFIDENTIAL | |
|---|--|
| CONFIDENTIAL REPORTING CODE | |
| To be completed by person to whom the concern is raised | |
| To be forwarded to [Head of Legal and Democratic Services] [other] | |
| Name of person | |
| Post Held | |
| raising concern (may be anonymous) | |
| Brief outline of nature of concern and dates | |
| Names of others involved | |
| Brief description of outcome, with dates | |
| Signature | |
| (of person to whom complaint is raised) | |
| Please Print Name | |
| Date | |