

Whistleblowing Policy

Approved Date	19 March 2015
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Related Legislation/Applicable Section of Legislation	Public Interest Disclosure (Prescribed Pensions) (Amendment) Order (Northern Ireland) 2014 Public Interest Disclosure Act 1998
Related Policies, Procedures, Guidelines, Standards, Frameworks	Fraud Policy Employee Code of Conduct
Replaces	
Policy Lead (Name/Position/Contact details)	Sandra Cole Director of Finance and Governance
Sponsor Directorate	Finance and Governance
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1. **Scope of Whistleblowing Policy**

1.1 This Policy applies to all Mid and East Antrim Borough Council employees (permanent, temporary and voluntary).

1.2 **Note for Elected Members**

If an Elected Member has concerns regarding malpractice, he/she is advised to refer to the Northern Ireland Code of Conduct for Councillors or seek the advice of the Chief Executive.

2. **Introduction**

2.1 This Policy was established to enable all staff to communicate concern / disclosure to the appropriate level when there is a reasonable belief that there is malpractice.

Examples of concern could include:

- Misappropriation of funds;
- Offering to make a bribe or to request or accept a bribe;
- Failure to comply with Health and Safety legislation;
- Misuse of Council property;
- Criminal activity; or
- Serious contravention of the Council's codes of conduct / practice and regulations.

2.2 Due care and attention has been paid to the Public Interest Disclosure (Prescribed Persons) Order (Amendment) Order (Northern Ireland) 2014 when documenting this policy.

2.3 A copy of the Public Interest Disclosure (Prescribed Persons) Order (Amendment) Order (Northern Ireland) 2014 is held by each Director and is also available to all staff.

2.4 Alternatively, this document can be accessed on the Council's ICT Network.

2.5 The disclosure arrangements are particularly important because experience has shown that often other members of staff are aware of wrongdoing long before it is identified by management or audit, but have personal concerns about drawing attention to such matters.

2.6 It is, of course, a legitimate concern of employees and ratepayers that Council funding is used only for proper purposes, and further that high standards are set generally with regard to legal compliance.

3. Aims of the Whistleblowing Policy

- To encourage employees to feel confident in raising serious concerns and to question and act upon their concerns;
- To provide ways for employees to raise those concerns and get feedback on action taken as a result;
- To ensure that employees get a response to their concerns and to ensure that they are aware of how to pursue them if they are not satisfied with any actions; and
- To reassure employees that if they raise any concerns in good faith and reasonably believe them to be true, where possible, they will be protected from possible reprisals or victimisation.

3.1 This Policy is not intended to be used where other more appropriate procedures are available, for example, in the case of grievances or allegation of bullying and harassment.

3.2 It is expected that employees will use the Whistleblowing Policy rather than airing their issues outside of the Council.

3.3 The Public Interest Disclosure Act (1998) has rules for making a protected disclosure:

- You must disclose the information in good faith;
- You must believe it to be substantially true;
- You must not act maliciously or make false allegations; and
- You must not seek any personal gain.

4. Links to the Corporate Plan

4.1 The Policy links to the core values as outlined in Council's Corporate Plan 2015-2019.

Respect

Establishing a culture of openness, trust and value.

Integrity

To support the spirit which enables honesty, accountability and trust throughout.

5. Responsibility

5.1 All employees, including permanent, temporary and volunteers, have a right to report improper actions and omissions. Employees who act in good faith and in compliance with the law are protected, where possible, from interference or retaliation for reporting improper actions and co-operating with subsequent investigations or proceedings.

5.2 Failure of an employee to comply with the requirements of this policy may be considered a disciplinary matter and may be dealt with under Council's Disciplinary Procedures.

5.3 In some specific circumstances you may be breaking the law if you DO NOT raise your concerns with management or an appropriate body.

6. Method of Raising Complaints of Malpractice

6.1 Various channels exist through which formal expressions of concern can normally be raised.

6.2 All concerns must be accompanied by supporting evidence.

6.3 If you have concerns regarding another member of your team then you are required to report this to your supervisor, who in turn is required to report this to their appropriate Director.

6.4 If you have concerns regarding your line manager or a member of the Senior Management Team then you are required to report this to the Chief Executive.

6.5 If you have concerns regarding the Chief Executive then you are required to contact the Chairman of the Audit and Scrutiny Committee, the Independent Member of the Audit and Scrutiny Committee or the relevant external party. Internal and external contacts are discussed in Section Fifteen.

7. Process

7.1 The person to whom an allegation has been made should record its receipt and what subsequent action was taken.

7.2 Any allegation made under this procedure will normally be the subject of a preliminary investigation, either by the person to whom the allegation is made, or by a person(s) appointed by him/her. In all cases, any preliminary or subsequent investigations will be carried out by an appropriately trained Officer (Designated Person).

7.3 Where no investigation is carried out and the allegation is effectively dismissed at the outset, the person making the allegation shall be informed and given the opportunity to remake the allegation to some other person or authority within the Council.

7.4 The Designated Person will examine the presented information and determine:

- If it is appropriate to deal with the matter under this procedure; and if so,
- Whether or not there is sufficient evidence to establish a case.

- 7.5 The person or persons against whom a disclosure has been submitted will be informed about the situation and if appropriate, will be given an opportunity to respond at the relevant stage.
- 7.6 If on the other hand, the Designated Person determines that proceedings be terminated, on the grounds that the issue is not appropriate for this procedure, or that there is not sufficient evidence to establish a case, then the individual who has submitted the disclosure will be informed of this in writing within 10 working days. Reasons pertaining to this should be clearly stated.

8. Guarantee of Protection

- 8.1 Any person making an allegation of malpractice shall receive a guarantee that the allegation will be regarded as confidential to the recipient until a formal investigation is launched.
- 8.2 Thereafter the identity of the person making the allegation may be kept confidential, if requested, unless this is incompatible with a fair investigation or if there is an over-riding reason for disclosure.
- 8.3 Provided the allegation has been made lawfully, without malice and in the public interest, the employment position of the person will not be disadvantaged for reason of making the allegation and he/she will be protected against victimisation.
- 8.4 Members of staff/volunteers may also be afforded legal protection under the terms of the Public Interest Disclosure Act.
- 8.5 For a disclosure to be protected under the Public Interest Disclosure Act an employee must follow the procedures laid down in the legislation, make the disclosure in good faith and to an appropriate authority. For example, disclosures can be made to the contacts that are defined within Council's Whistleblowing Policy, Audit, PSNI, HSENI, etc. Disclosures made to the media may not fall under the protection of the Public Interest Disclosure Act.
- 8.6 In order to protect all individuals, where possible, (including those accused of malpractice) brief initial enquiries will be made to clarify the details of the matters, decide whether an investigation is appropriate and, if so, what form it should take.
- 8.7 If the disclosure reveals an activity, which may have criminal implications or connotations, then it is unlikely that confidentiality could be preserved in a complete investigation. In such circumstances, this may result in the Council relinquishing its claim to confidentiality.

9. Safeguards

- 9.1 The Council will seek to preserve or defend any member of staff who submits a disclosure under this Policy from disciplinary action, provided any such disclosure is made in good faith and in the reasonable belief that there is malpractice, even if after investigation it becomes apparent that the disclosure is without foundation.

10. Harassment or Victimisation

- 10.1 It is recognised that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. If you make an allegation in good faith you should have nothing to fear as you will be doing your duty to your employer, your colleagues and those to whom you provide a service.
- 10.2 **Harassment or victimisation** of individuals, who have raised concerns, including informal pressures, **will not be tolerated** and will be treated as a serious disciplinary offence which will be dealt with under the disciplinary procedure.
- 10.3 Any investigation into allegations of malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already be in progress. Neither does it mean that any disciplinary or redundancy procedures, to which an individual is already subjected, will be halted as a result of raising concerns.

11. Allegations

- 11.1 This Policy advises you to put your allegations in writing and put your name to it. Concerns expressed anonymously are much less persuasive. If you do not reveal your identity it will be more difficult to protect your position or give you feedback. However, each and every situation will be assessed on its respective merits.

12. False Allegations

- 12.1 If an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against you. If however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action will be considered against you. This action will be appropriate to the circumstances surrounding the disclosure and each case will be treated on merit.

13. Confidentiality

- 13.1 All disclosures will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated however that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.
- 13.2 All employees should also be aware that any criminal prosecutions or civil actions arising from the disclosure will, in all probability, result in a loss of anonymity for the person making the disclosure.

14. Anonymous Complaints

- 14.1 This Policy encourages individuals to put their name to any disclosures they make.
- 14.2 There is an expectation that any disclosures made by individuals be authorised with a bona fide signature. However, any concerns which may be submitted anonymously will be considered at the discretion of the organisation.
- 14.3 Anonymous complaints may be investigated or acted upon, but regard shall be taken to the seriousness of the issues raised, the credibility of the complaint, the prospects of being able to investigate the matter and fairness to any individual mentioned in the complaint.

15. Internal and External Contacts

15.1 Internal Contacts

Key Contact	Name	Tel Number
Mid and East Antrim Borough Council Chief Executive	Anne Donaghy	0300 1245000
Mid and East Antrim Borough Council Chair of Audit and Scrutiny Committee	Contact details can be obtained by contacting Member Services on 0300 1245000	
Mid and East Antrim Borough Council Independent Member of Audit and Scrutiny Committee	Contact details can be obtained by contacting Member Services on 0300 1245000	

15.2 External Contacts

There may be occasions when it is more appropriate for the member of staff to raise the concern with someone outside the Council.

As part of Governance arrangements there are internal and external auditors who can be contacted as follows:

Key Contact	Name	Tel Number
Internal Audit - ASM Chartered Accountants	Brian Clerkin	028 9024 9222
External Audit - NI Audit Office, Local Government Auditor	Louise Mason	028 90251000
Northern Ireland Ombudsman	Marie Anderson	028 90233821
PSNI		0845 6008000

16. Timescales

16.1 Due to the varied nature of these investigations, which may involve internal investigators and / or the Police, it is not possible to lay down precise timescales. The staff member investigating the alleged complaint of malpractice should ensure that investigations are undertaken as quickly as possible without affecting the quality and depth of the investigations.

16.2 The member of staff investigating the alleged complaint should, as soon as possible, send a written acknowledgement of the concern to the complainant and report back to them in writing, the outcome of the investigation and on the action that is proposed. If the investigation is prolonged, the member of staff investigating should keep the complainant informed in writing as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant should be in writing.

17. Monitoring and Review

17.1 This Policy will be reviewed by the Council's Senior Management Team in 12 months' time. Interim reviews may also be prompted by feedback, challenge or a change in legislation. Any need for change will be reported to the Senior Management Team and Audit and Scrutiny Committee for approval.