



Whistleblowing Policy

November 2013

Introduction

Cornwall Council is committed to the highest possible standard of operation, probity and accountability and recognises that its workers are often the first to realise that there may be something 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 and they may also fear harassment or victimisation.

The Public Interest Disclosure Act 1998 protects workers who raise concerns from victimisation or harassment. In accordance with that Act and its commitment to the highest standards of service delivery, the Council encourages its workers with serious concerns about any aspect of the Council's work to come forward and voice those concerns, in confidence, within the Council rather than overlooking a problem or blowing the whistle outside.

The Council will take all reasonable steps to protect the identity of workers who raise concerns.

"Whistleblowing" is the term used when someone who works for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public, a vulnerable adult, child, young person or the organisation's own reputation. When someone blows the whistle it is to raise a concern about a danger or illegality that affects others. The Public Interest Disclosure Act 1998 provides protection for workers who disclose information which might otherwise be regarded as confidential.

All workers have a responsibility for the safety of children and vulnerable adults and to this end should report any concerns through the means identified in this Policy.

Aims and Scope of the Policy

The aim of this policy is to improve our service delivery to the community by providing employees, and other workers, with a procedure for reporting genuine concerns about unlawful conduct, malpractice or wrongdoing at work, without any fear of comeback. The policy is designed to encourage and enable employees to raise concerns as soon as the issue arises, rather than staying silent and waiting until something more serious happens. The Council will take your concerns seriously and ensure that any matter raised will be dealt with promptly and fairly.

This policy applies to all employees and other workers including casual staff, agency workers, contractors and consultants whilst engaged on Council business and to Members.

Concerns that should be raised via this Whistleblowing Policy may be in relation to the actions / behaviours that are perceived as being in the public interest and are:

- Unlawful / illegal;
- in breach of the Council's procedures or regulations;
- falling below established standard or practice; or
- amounting to improper conduct

For example (this list is not exhaustive):

- malpractice or ill treatment of a client/customer
- abuse or neglect of children, young people, vulnerable adults or any other service user, for example, failure to take reasonable steps to ensure their safety and well-being or by using abusive language, shouting or deliberately with-holding food, drink or medication
- grooming a child, young person or vulnerable adult (in an effort to promote an unacceptable relationship)
- a criminal offence has been committed, is being committed or is likely to be committed
- pecuniary or business interests that conflict with employees roles and responsibilities
- suspected fraud, bribery or corruption
- a failure to comply with legislation or carry out a legal obligation
- damage to the environment
- endangering of an individual's health and safety
- a breach of Financial Regulations, Contract Procedure Rules, or any other part of the Council's Constitution or other regulations, procedures or any code of conduct
- concealment of any of the above

A public interest disclosure is a disclosure by a worker concerning a wrongdoing on the part of his or her employer. Protected disclosures include information about: an alleged criminal offence; a failure to comply with a legal obligation; a miscarriage of justice; a breach of health and safety such that an individual has been, is, or is likely to be endangered; damage to the environment; or information that one of the above has been or is likely to be deliberately concealed.

From 25 June 2013, a disclosure is not protected unless the employee reasonably believes that the disclosure is made in the public interest.

Links with other policies

In certain circumstances, there may be links with other policies such as the Safeguarding Policies, Employee Code of Conduct, the Disciplinary and Capability Procedure, the Domestic Abuse and Sexual Violence Policy, the Professional Abuse Policy/Allegations of Employee Safeguarding issues within Children Schools and Families and Adult Care, Health and Wellbeing, Member Code of Conduct, Protocol on Member/Officer Relations.

What is the difference between a grievance and whistleblowing?

This procedure is for 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.

Whistleblowing is the term used when a worker raises a concern about a possible fraud, crime, danger or other serious risk that could threaten a vulnerable adult, child, young person, service user, colleague or the organisation's own reputation. The person blowing the whistle is usually not directly or personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern - they are simply trying to alert others. For this reason, the whistleblower is not expected to prove the malpractice. He or she is the messenger raising a concern so that others can address it.

By comparison, a grievance will usually concern an employee personally. For example, the individual may have a complaint about: his or her pay or working hours, the amount of work that he or she is expected to do or their working conditions. The person raising the grievance therefore, has a vested interest in the outcome and, for this reason, is expected to be able to evidence their case.

Confidentiality (where the employee's name is known but will not be disclosed without their consent, unless required by law)

All concerns will be treated in confidence i.e. the Council would expect to protect the identity of the person raising a concern.

At the appropriate time, however, the person raising the concern may need to come forward as a witness in order that the issue can be thoroughly investigated. The employee may be represented by a recognised trade union representative or work colleague and other forms of internal or external support will be offered, where requested.

Anonymous allegations (where the employee does not identify him or herself at any stage to anyone)

This policy encourages employees who raise concerns not to remain anonymous as, by doing so, allegations are difficult to investigate. The Council will exercise its discretion in deciding whether to investigate an anonymous allegation and will take into account the seriousness of the issues raised and the likelihood of being able to confirm the allegation from attributable sources. Remember, if you don't tell us who you are it will be much more difficult for us to protect your position or to give you feedback.

How to raise a concern

If something is concerning you, please tell us straight away. We prefer that you raise the matter promptly rather than to stay silent or wait until

something more serious happens. If you are aware that a child or vulnerable adult has been abused or is at risk of abuse you must report it.

Failure to report abuse could ultimately leave the Authority open to non-compliance of our legal duty to refer appropriate matters to the Independent Safeguarding Authority. Contact information is detailed below under "Raising a concern about children or vulnerable adults".

We will take your concerns seriously and will ensure that any matter raised will be dealt with promptly, confidentially, and will be thoroughly investigated by an appropriate senior person. Remember, you are potentially acting as a witness, not as a complainant.

If an investigation is appropriate, it will be completed by an independent experienced senior manager and/or a senior member of the Internal Audit team.

Due care and consideration will be given, depending on all the circumstances, to appoint the most appropriate investigator for the case. If you would feel more comfortable speaking to a particular person please mention this when you make contact with us.

Steps to raise a concern:

As a first step you should normally raise concerns with your line manager or their manager. However, we recognise that on occasions this may not be appropriate, in which case there are the following other options to raising a concern:

- Telephone the HR Helpdesk 01872 323500 (open from 08:30 – 17:30 Monday to Friday).
- Telephone the Chief Internal Auditor (Assistant Head of Finance Audit, Insurance and Risk Management) Tel: or 01872 32(2314) or 01872 32(2230).
- Contact any other senior manager of the Council.
- Alternatively, you can raise a concern in writing by emailing whistleblowing@cornwall.gov.uk This should identify the nature of the concerns and the grounds upon which these are based. Information on the background, history, names, dates and places should be provided if possible.

You must make it clear that your declaration is being made as a 'Whistleblow' and as such will be treated in accordance with this policy.

If a reported concern is in relation to suspected fraud, corruption or irregularity the recipient of the whistleblow must inform the Chief Internal Auditor immediately.

Internal Audit will notify the Monitoring Officer (Head of Legal, Democratic and Procurement Services) in writing as soon as a concern has been received as it is his role to ensure that the Council acts lawfully at all times.

Raising a concern about children or vulnerable adults

If you have any safeguarding concerns about children or vulnerable adults you should contact the Safeguarding Advocate assigned to your directorate without delay. The contact details can be found on the Council's intranet.

Alternatively you may refer the concern direct to the appropriate centre:
Children: 0300 1231 116 – Multi Agency Referral Unit
Adults: 0300 1234 131

Whilst concerns about children or vulnerable adults can be raised via this policy, cases will be responded to and dealt with using separate safeguarding procedures.

Any safeguarding concerns relating to suspicions of financial abuse/irregularity must also be referred directly to the Chief Internal Auditor.

How the Council will respond

All concerns raised will be treated confidentially by those involved in the reporting process.

Action taken by the Council will be dependent on the nature of the concern raised and may:

- be resolved by agreed action without the need for investigation
- be investigated by management or Internal Audit
- be referred to the Police
- form the subject of an independent inquiry
- be referred to the external auditor

Employees will receive an initial response to any concerns raised within 14 calendar days. Due to the nature of the concerns covered by this procedure it may not be possible for the Council to indicate how it proposes to deal with the matters and the timescales involved. However, the Council undertakes to inform employees, who wish to know, of the progress and outcome where this will not compromise the process. The aim is to reassure employees that the matter has been properly addressed.

The amount of contact between the individual raising the concern and the person(s) investigating the matter will be dependent upon the issue raised, the potential difficulties involved and the clarity of the information provided.

Upon completion of an investigation, Internal Audit will seek assurance that management controls will be introduced such that similar cases do not occur. Internal Audit reserves the right to take whatever action necessary to satisfy itself that those management controls have been properly implemented.

Support from “Public Concern at Work”

Public Concern at Work is an independent charity which specialises in providing individuals, employers and schools, free, confidential and practical advice about raising concerns at work. They can help you identify how to raise the concern while minimising any risk to you and maximising the opportunity for any wrongdoing to be addressed.

An adviser will talk through with you how to safely and effectively raise a concern or help you if you are unsure whether to raise a concern or not. Their key advice is to remember that you are a witness not a complainant. Their number is 020 7404 6609 www.pcaw.co.uk

Trade Union support

If you are a member of a trade union, you may also wish to contact your local office for advice and support in relation to raising concerns.

How will you be protected?

The Council recognises 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 malpractice. No worker will be victimised for raising a matter under this policy. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because he/she has raised a legitimate concern.

The Council will treat any harassment or victimisation as a serious disciplinary offence to be dealt with under the Disciplinary & Capability Procedure.

Untrue Allegations

If you raise a concern, but it is not confirmed by the investigation, no action will be taken against you. If you knowingly make malicious or vexatious allegations, disciplinary action may be taken against you.

Raising your concern outside of the Council

This policy is intended to provide you with an avenue to raise concerns **within** the Council. The Council hopes you will be able to follow the internal whistleblowing policy first of all, but if this is not possible, and you feel that it is right to take the matter outside the Council, the following are possible contact points:

- Audit Commission: Tel 0303 444 8300 www.audit-commission.gov.uk
- Public Disclosure hotline 0845 0522 646
- Care Quality Commission 0300 0616 161: www.cqc.org.uk
- Environment Agency: www.environment-agency.gov.uk
- Food Standards Agency: Tel 020 7276 8000 www.food.gov.uk

- The Health and Care Professions Council: Tel (0)20 7840 9814
Freephone (in the UK): 0800 328 4218 ftp@hcpc-uk.org
- Health and Safety Executive Tel 08701 54500 www.hse.gov.uk
- Ofsted Tel 0300 123 4666 www.ofsted.gov.uk
- The Police

Employees who do take a concern outside of the Council should ensure that they do not disclose confidential information.

Links with other policies

This policy also links to (and should be read in conjunction with) the following policies:

- Employee Code of Conduct
- Members Code of Conduct
- Safeguarding Children, young people and vulnerable adults Policy
- Anti Fraud, Bribery and Corruption Policy
- Code of Corporate Governance
- The Constitution
- Disciplinary & Capability Procedure

Consultation

This policy was developed in consultation with the recognised trade unions, Legal Services, Children, Schools and Families, Adult Care and Support, Internal Audit and People & Organisational Development. This policy has been approved by the Corporate Leadership Team.

Monitoring arrangements

The Council's Monitoring Officer is the Head of Legal, Democratic and Procurement Services. The Monitoring Officer must be notified by Internal Audit, as soon as a concern or complaint has been received. The Monitoring Officer will report to the Council as necessary. The Head of People and Organisational Development has overall responsibility for the maintenance and operation of the Whistleblowing Policy. As the nominated recipient of any notifications under this policy, Internal Audit will maintain a record of all concerns raised and the outcomes. Anonymised data may be shared on request with the Cornwall and Isles of Scilly Safeguarding Children Board/Safeguarding Adults Board.

Alternative Formats

We want to ensure that your needs are met.

If you would like this information on audio tape, Braille, large print, any other format or interpreted in a language other than English, please contact:

**Cornwall Council
County Hall
Treyew Road
Truro TR1 3AY**

Telephone: **0300 1234 100**

Email: enquiries@cornwall.gov.uk
www.cornwall.gov.uk