

**WHISTLEBLOWING POLICY AND PROCEDURE**

**Section 1**

The Public Interest Disclosure Act 1998 protects workers who 'blow the whistle' about wrongdoing. It mainly takes the form of amendments to the Employment Rights Act 1996 and, broadly speaking, applies where a worker has a reasonable belief that their disclosure tends to show one or more of the following offences or breaches:

- ❖ A criminal offence;
- ❖ The breach in legal obligation;
- ❖ A miscarriage of justice;
- ❖ A danger to the health and safety of any individual;
- ❖ Damage to the environment;
- ❖ The unauthorised use of public funds;
- ❖ Sexual or physical abuse
- ❖ Other unethical conduct
- ❖ Deliberate covering up of information tending to show any of the above.

The Authority is committed to the highest possible standards of openness, probity and accountability.

In line with that commitment the Authority expects employees and others that it deals with, who have any serious concerns about any aspect of the Authority's business, to come forward and voice those concerns.

The Authority has approved a Whistleblowing Policy intended to encourage and enable employees and others to raise serious concerns with the Authority rather than overlooking a problem or "blowing the whistle" outside.

**Section 2**

**WhistleBlowing Policy**

1. Employees are often the first to realise that there may be something seriously wrong within the Authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Authority. 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.
2. The Authority 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 Authority's business, to come forward and voice those concerns.
3. This policy makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This policy is

intended to encourage and enable employees to raise serious concerns within the Authority rather than overlooking a problem or “blowing the whistle” outside.

4. The policy applies to all employees and those contractors working for the Authority. It also covers suppliers and those providing service under a contract with the Authority in their own premises.
5. These procedures are in addition to the Authority’s complaints procedures and other statutory reporting procedures that may apply.

This policy aims to :

- Encourage you to feel confident in raising concerns and to question and act upon concerns about practice
- Provide avenues for you to raise those concerns and receive feedback on any action taken
- Ensure that you receive a response to your concerns and that you are aware of any action taken
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- Reassure you that you will be protected from possible reprisals of victimisation if you have a reasonable belief that you have made a disclosure in good faith.

There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. This policy is intended to cover major concerns that fall outside the scope of other procedures.

Therefore any serious concerns that you have about any aspect of service provision or the conduct of Members or officers of the Authority, or others acting on behalf of the Authority, can be reported under the Whistleblowing Policy, this may be something that:

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Authority subscribes to; or
- Is against the Authority’s Procedural Rules and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct

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

The Authority recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, 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.

The Authority 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 would include taking action against anyone who harassed or victimised you.

Any investigation into allegations of potential malpractice will not influence, or be influenced, by any disciplinary or redundancy procedures that already affect you.

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. The identity of the complainant will not be revealed to the person(s) complained about unless this is incompatible with a proper investigation. At the appropriate time, however, you may need to come forward as a witness.

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Authority.

In exercising this discretion the factors to be taken into account would include

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

If the Authority decides to pursue an anonymous complaint it will be the subject of action as identified in Section 5.

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.

### **Section 3**

## **WHISTLEBLOWING PROCEDURE**

### **How to raise a Concern**

Anyone, including Councillors, employees, service users and members of the public are encouraged to raise complaints or matters of genuine concern with the Authority. There are already in existence a number of channels available to raise such concerns. Where an appropriate avenue exists to deal with that concern, people are urged to use it. The whistleblowing policy is intended to supplement, rather than replace the existing procedures wherever practicable.

Anyone with a complaint against the Authority and its services is encouraged to contact the manager directly responsible for that service. In most cases where there is concern this avenue will be the first point of reference.

#### The Authority's Comments and Complaints Procedure

The Authority has a corporate comments and complaints procedure by which it invites any person to raise a complaint they may have about its services. Information about this procedure is available from the Corporate Services Section.

#### The Authority's Grievance Procedure

This deals with complaints relating to an individual employee's conditions of employment. The whistleblowing policy is not intended to replace the grievance procedure and should not be used to deal with matters which relate to an individual's contract of employment. If a concern is raised through the whistleblowing policy which would be more properly dealt with through the grievance procedure, it will be referred to the Assistant Corporate Services Manager.

#### Anti-fraud Procedures

The Authority's Financial Procedural Rules provide that any suspected fraud, corruption or other financial irregularity should be reported to the Director who will report them to the Treasurer of the Authority. The Treasurer will conduct an investigation and make recommendations for appropriate action. Further information about this procedure can be obtained from the Corporate Services Manager.

### **Section 4**

#### **In the First Place**

People are primarily encouraged to use any of the mechanisms for raising concerns as set out above. For Councillors, public and staff it is likely that the majority of concerns will be dealt with by bringing the matter to the attention of management. Such references are positively welcomed by the Authority and once the issue is brought to light the manager will treat the complaint seriously, investigate it promptly and inform the complainant of the outcome.

The investigating officer will be expected to interview both the individual raising the complaint and the person complained against, as well as other individuals as appropriate. If no further action is proposed, the complainant will be given an explanation. If further action is proposed under a separate Authority procedure (such as the disciplinary procedure) the complainant will also be informed.

However the important thing is that they raise their concern and therefore staff can raise concerns with any member of the Management Team within the Authority with whom they feel comfortable.

A member of staff may be accompanied by a friend when meeting management to raise concerns. Managers will adopt a flexible and open approach so that those having to raise concerns feel confident that they may raise them.

Circumstances may arise where none of the channels above are reasonably available. It may be that the whistleblower fears repercussions for example, or senior member of staff or Councillors may be implicated. Alternatively, the whistleblower may have used those channels but still feel there is real cause for concern. In such circumstances the whistleblower may refer their concern to the Director directly.

The Director will then ensure that the matter is dealt with by him/her personal or by a whistleblowing officer nominated by them and operating under supervision.

If a concern is raised by a member of staff they should normally raise the concerns with their immediate line manager. This depends, however, on the seriousness and sensitivity of the issue involved and who is suspected of the malpractice. For example:

- ❖ If you believe Management or a Member of the Authority is involved you should approach either The Clerk /Treasurer/Solicitor to the Authority, depending on the nature of the concern.

## **Section 5**

### **Responding to a Concern**

The appointed whistleblowing officer will first receive and record the complaint in a register kept especially for that purpose. An initial assessment will then be made to decide what sort of investigation ought to take place.

In most serious cases, it may be that a Police enquiry will ensue or an independent investigation may be called for. In some cases the issue will be referred for a management investigation, possibly by the Director or another officer nominated to act on his/her behalf. In other cases however, it may be not be appropriate to conduct any further enquiry at all.

The steps to be followed are :

1. The concern will be logged on the appropriate file once received
2. Unless the issue is raised anonymously the whistleblowing officer will generally interview the whistleblower as part of the initial assessment.

3. If the whistleblower requests that his or her identity remains confidential then all possible steps will be taken to respect that wish.
4. If an investigation is to ensue then the whistleblower will be informed of the fact and given an estimate of the time by when the investigation will be completed.
5. Normally the investigation will be conducted within 28 days.
6. The whistleblower will be informed of the outcome and this will be noted in the register.

## **Section 6**

### **General Safeguards**

#### Victimisation

The Authority recognises that the decision to blow the whistle can be a difficult one to make, not least because there is a fear of reprisal from those who may be perpetrating malpractice or others. The Authority will not tolerate victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate disciplinary action.

#### Confidentiality and Anonymity

The Authority will, wherever possible, protect the identity of the whistleblower who raises a concern and does not want his/her name to be disclosed. However this may not always be possible in all circumstances as the very fact of the investigation may serve to reveal the source of information and the statement of the whistleblower may be needed as part of evidence against the perpetrator.

#### False and Vexatious Complaints

Just as the Authority will seek to protect those who raise concerns in good faith, so it will seek to protect those against whom claims are made which turn out to be unfounded. A concern which is made in good faith and sincerely expressed may transpire to have no basis in reality.

In addition it is possible that vexatious or malicious claims may be made. The Authority will take disciplinary action against any employee who makes a vexatious claim.

In either case, where it turns out that the claim or concern was without foundation, the Authority will use its best endeavours to ensure that any negative impact on the person complained of is minimised. However, the Authority acknowledges that it may not be able to prevent all such impact in every case.

## **Section 7**

### **Alternative methods of complaint**

As well as initial complaints and whistleblowing procedures set out in this policy, any member of the public who wishes to make a complaint about the Authority may contact one of the following organisations :

- ❖ Local Government Ombudsman – who receives and investigates complaints of maladministration against the Authority. She can be contacted at Beverley House, 17 Shipton Road, York, YO30 5FZ
  
- ❖ The District Auditor – who investigates complaints of financial irregularity or unlawful expenditure leading to financial loss by the Authority. To contact the District Auditor write to Audit Commission c/o St Helens MBC, Town Hall, Victoria Square, St Helens.
  
- ❖ The Standards board for England – which considers allegations of breach of Member Code of Conduct. The Standards Board will only consider complaints relating to Members of the Authority (not employees). To contact the Standards Board for England write to 1<sup>st</sup> Floor, Cottons Centre, Cottons Lane, London, SE1 2QG

Further information about this whistleblowing policy can be obtained from the Assistant Corporate Service Manager 0151 255 2539