

SECTION 23

23. CONFIDENTIAL REPORTING (“WHISTLEBLOWING POLICY”) CODE

23.1 Introduction

The Vale of Glamorgan Council is committed to providing a high quality service to the public and to meet this commitment we are dependent on the quality of staff and management throughout the Council.

The law requires that certain types of information must be available to members, auditors, government departments, service users and members of the public. The purpose of these procedures is to make employees of the Council aware of their responsibility to the public and to protect individuals who may need to disclose information concerning any ‘malpractice’ within the Council, including any confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employee or a fellow employee.

Employees very often are the first to realise that there may be something seriously wrong within the Council; although they may be reluctant to let others know about their concerns for fear that they may be regarded as disloyal to their colleagues or to their employers. Employees in speaking up may also fear harassment or victimisation, and may consider it easier to ignore their concerns rather than report these.

It is appreciated that to come forward and speak up can be difficult. This policy recognises that some cases will have to proceed on a confidential basis allowing employees to raise concerns without fear of repercussions.

The policy and procedures apply to **employees** of the Vale of Glamorgan Council (excluding those employed at a school by a School Governing Body where separate arrangements will apply), temporary employees, trainees and independent contractors. The policy also applies to those engaged through an external agency.

Employees are encouraged to consider obtaining the advice and support of their trade union when considering how to deal with their concerns.

23.2 Standards in Council Procedures

As a Local Government employee and through agreed procedures, it is expected that you will:

- give the highest possible standard of service to the public.
- where it is part of your duties, provide impartial and appropriate advice to other employees and Councillors.
- have an awareness of the types of information within the Council, which are ‘open’ and which are not, and act accordingly.

- not use any information obtained in the course of your employment for personal gain or benefit, or pass on any information to others who may use it in such a way.

23.3 **Additional Standards**

Even where safeguards are already in place, poor practice can still exist. As a safeguard for the Council and in keeping with our legal duties and obligations³⁷, this policy sets out a framework within which staff can make a “protected disclosure” without fear that they will be subjected to victimisation or dismissal (and selection for redundancy) provided that the disclosure is made in accordance with the Public Interest Disclosure Act 1998 (“The Act”) and (amendments in accordance with the Enterprise Regulatory Reform Act 2013).

It is important for staff to be aware that they can only make a protected disclosure in certain circumstances.

A “protected disclosure” must be of a certain type of information known as a “qualifying disclosure” and the disclosure must be made in a way which is described in the Act.

A qualifying or protected disclosure is a disclosure of information made in the public interest which in the reasonable belief of the member of staff making the disclosure tends to show one or more of the following:-

- illegal practices (for example, a criminal offence).
- a failure to comply with a legal obligation.
- the health and safety of an individual, whether this is a member of the public or staff being endangered.
- damage to the environment.
- miscarriage of justice.
- deliberate concealment of any of the above.

We want this policy to promote an open culture where staff have a moral obligation, a right and a duty to raise concerns on bad practice. We want managers to ensure that staff can easily express concerns in the knowledge that their concerns will be dealt with fairly and thoroughly without the risk of recrimination.

³⁷ The Public Interest Disclosure Act 1998 and amendments in accordance with the Enterprise and Regulatory Reform Act 2013

23.4 **Key Responsibilities**

The Operational Manager Customer Relations is responsible for the registration and maintaining a central record of all Whistleblowing concerns and to monitor the progress and outcome of each investigation undertaken.

Directors are responsible for the receipt and populating the Whistleblowing central register and for the effective operation of the policy within their own Directorate in particular ensure that: –

- each employee is aware of the policy and how to use it.
- Managers are effectively trained in the use of the policy.
- whistleblowing concerns are appropriately recorded and managed.

The Head of Human Resources will be responsible for updating the policy as appropriate.

In all the above administrative procedures all concerns will be afforded confidentiality to meet the Council's obligations under the policy.

23.5 **Responsible Officer**

The Council's Governance and Audit Committee acting through the Monitoring Officer will retain overall responsibility for the maintenance and operation of the policy.

The Monitoring Officer will be responsible to maintain a record of concerns raised and the outcomes and will report to the Council's Governance and Audit Committee in a confidential format.

23.6 **Guidelines for Staff**

'Blowing the Whistle' is often difficult and can cause ill-feeling. However, if problems are not resolved they can get worse. Everyone has a responsibility to consider raising their concerns, no matter what their position, where they reasonably believe that an unacceptable practice is taking place, a disclosure must be made in the public interest the employee believing that the information is substantially true.

Ideally concerns about bad practice should be dealt with before they reach the whistleblowing stage. Questions about concerns should be raised during supervision or in staff meetings, so that practices can be modified.

If you have concerns you should consider whether:

- it is a criminal offence or a breach of any statutory requirement or legal obligation.
- there is improper or unauthorised use of public or other funds.
- it is an abuse of authority.

- it is in breach of government guidelines.
- it is against departmental/Council policy.
- it is against professional Codes of Practice.
- you reasonably believe that the information is true and that you are not acting out of personal gain.

This policy is intended to cover concerns that fall outside the scope of other existing procedures and policies of the Council.

Where you have a concern which is personal and relates only to yourself rather than wrongdoing of a more general nature this will be treated as a grievance and the Grievance Policy will apply. In circumstances where unwanted conduct or unnecessary behaviour is displayed to exert power, fear or anxiety on yourself or a work colleague(s) the Council's Anti Harassment/Bullying Policy can be used.

There is of course, a need to ensure that any investigation process is not misused and therefore any abuse such as raising unfounded malicious allegations will in itself be treated as a serious disciplinary matter.

23.7 **Raising your Concerns**

As soon as you reasonably believe that your concerns should be disclosed in the public interest you should at the earliest possible stage report your concerns.

Staff should consider the following:-

- as a first step you should normally raise your concerns with your immediate Line Manager with the appropriate authority and experience.
- depending upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, or if you believe that the immediate Line Manager may be implicated in anyway, you should raise your concerns with the next immediate Line Manager who is not implicated, or if this is considered inappropriate or impossible, bring the matter to the attention of your employing Chief Officer and/or your employee representative.
- you should not attempt to investigate suspected malpractice yourself.
- you should deal with the matter promptly, if you feel your concerns are warranted, involving your recognised trade union as necessary.
- you make an immediate note of your concerns (making a note of all relevant details such as 'what was said' in a telephone discussion or other conversations), the date, time and the names of any parties involved particularly details of any witnesses.
- If you wish to report a concern you should complete the Confidential Whistleblowing report form (below) and hand/send it to your line manager.

of Glamorgan Council, Civic Offices, Holton Road, Barry CF63 4RU.

- The Section 151 Officer/Head of Finance, the Head of Human Resources or the Head of Legal and Democratic Services.
 - The Managing Director, the Leader or Deputy Leader of the Council.
- **In relation to the Protection of Vulnerable Adults (POVA)** – if you witness abuse, or just suspect that abuse is taking place, act without delay and call Contact One Vale on 01446 700111 or the Adult Protection Team on 01446 704812 or 709860. Outside normal office hours contact the Emergency Duty Team (Tel 02920788570).*
- **In relation to the Protection of Children Act (POCA)** – if you witness or have concerns about a child’s safety, welfare or suspect abuse may be taking place, act without delay and call the Duty Manager (Intake and Family Support) on 01446 725202 during normal office hours. Outside office hours contact the Emergency Duty Team (Tel 02920 788570).*

Alternatively, you can call the Police on 02920 222111 and ask for your local Police Station.

23.8 **Protection for the ‘Whistleblower’**

The Council hopes that staff feel able to voice their concerns openly. This policy encourages you to put your name to your concern whenever possible. **Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.** In exercising this discretion, the facts 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 the available source. If you have good reason to feel anxious about revealing your identity at the outset when reporting your concern we will make every effort to ensure that your name will not be revealed without your consent unless required by law. In exceptional circumstances a disclosure may be made anonymously by writing “In confidence” to the Council’s Head of Audit.

If you want to raise your concerns confidentially, we will make every effort to ensure that your name will not be revealed without your consent, unless it is required by law. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly.

However there may be occasions when it may become necessary to disclose your personal details. This could be for a variety of reasons depending upon the nature of the concerns raised. For example, it could be to ensure fairness for all involved.

The Council will seek to withhold personal details being released; it cannot guarantee that others will not try to deduce (correctly or otherwise) your identity. This may be the case where the employee has already voiced their concerns to

colleagues or manager. In addition, at the appropriate time you may need to come forward as a witness.

Where disclosure of your identity becomes an issue, the Council will consider very carefully whether it is necessary to do so. If it is necessary for your identity to be disclosed we will discuss this with you, explaining the reasons why your identity needs to be disclosed. We will also discuss and provide any reasonable support to try to alleviate concerns that you may have regarding the need to make the disclosure.

In order to protect individuals and the Council, whilst an employee is not expected to prove the truth of any allegation, the Council will make initial enquiries to decide whether there are sufficient grounds for the Council to act. The Council will take into account the seriousness of the issues raised; the credibility of the concern; and the likelihood of confirming the allegation from the sources of information available in deciding whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which are within the scope of other procedures (for example child protection or discrimination issues) will normally be referred for consideration under those procedures.

The Act provides you with a safeguard which ensures that when making a “protected disclosure” you have the right not to be victimised, dismissed, or selected for redundancy because of having made a protected disclosure. The Council will work with you and if necessary will explore appropriate policies and procedures to achieve this obligation including consideration of the following:-

- anyone who victimises an employee as a result of their raising a concern under this policy will be dealt with under the Council’s disciplinary procedure.
- If an employee, who raises the concern is already the subject of disciplinary or redundancy procedures, then that action will be reviewed to see if there is any link between the ‘whistleblowing’ and the decision in the disciplinary or redundancy procedures.

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 advise you about the procedure.

- if an allegation is made in the reasonable belief that the disclosure is in the public interest , but is not confirmed by a subsequent investigation, the matter will be closed and no further action taken. If, however, the investigation shows that untrue allegations were malicious and/or vexatious, then disciplinary action may be taken.

23.9 **Guidelines for Managers**

An employee must not be afraid to raise concerns they may have relating to bad practice within the Council and must not suffer any disadvantage as a result of voicing a reasonably held suspicion. Senior Managers are expected to deal swiftly and thoroughly with such concerns. In following up such concerns, clearly defined procedures will be adopted. When receiving a complaint or concern in relation to bad practice the following steps should be taken:-

- the matter should be dealt with promptly.
- advice should be given to the employee, if appropriate that their concerns and any follow-up reports will be treated in the strictest confidence.
- all staff concerns should be treated seriously and sensitively.
- the employee should be questioned sufficiently so that you can be assured that there is a genuine cause for concern.
- Managers should make a note all relevant details, obtaining as much information as possible, and if the individual has made his or her own notes, obtain a copy of these.
- Managers should complete the Confidential Whistleblowing report form as set out in Section 6 above prior to passing on the form in confidence to the relevant Chief Officer/Service manager for input onto the central Whistleblowing register.
- advise an employee that, if necessary, further information may be sought from them.
- note any documentary evidence which may exist to support the allegations made.
- ensure that the evidence is cogent, adequately supported and secure ensuring that you do not interfere with evidence.
- evaluate the allegation objectively to confirm whether any suspicions seem justified.
- be objective when assessing the issue, consider the facts as they appear, based on the information available to you.
- consider that some concerns may be resolved by agreed action without the need for further investigation.
- if you remain in any doubt you should raise the issue with your line manager to identify the next steps.
- take all immediate action necessary to ensure that no individual is at risk of harm or injury.

- verify with your Senior Manager the next steps to be taken if the issue is outside your direct remit/responsibility.
- take all necessary action to protect the ‘whistleblower’, any witnesses to the concerns raised and ensuring that any evidence available is not tampered with.
- take all reasonable steps to prevent co-workers and/or an agent of the Council, acting on the Council’s authority, from subjecting the ‘whistleblower’ to a detriment. It is important to record the details of steps taken. You need to remember that employees who victimise whistleblowers can be made personally liable for their own conduct and the Council could be held vicariously liable if it has not taken all reasonable steps to prevent the act of victimisation.
- ensure that the employee’s identity must not be disclosed unless disclosure is necessary in furtherance of natural or prescribed justice.
- ensure that Council policies/procedures are followed as appropriate, and have an awareness of all related policies including:
 - o The Anti-Fraud and Bribery Policy.
 - o The Code of Conduct for Qualifying Employees of the Council.
 - o Code of Conduct related to personal professional qualifications.
 - o Standing Orders and Financial Procedures.
 - o Equal Opportunities.

(Note the above list is not exhaustive and further information on policies and procedures are available from your Personnel Officer, the Council’s Monitoring Officer/Head of Legal and Democratic Services, the Section 151 Officer/Head of Finance, or on the Council’s StaffNet).

- report to senior staff for guidance on handling enquiries, press coverage and other management action required to support individuals affected by the event.
- ensure that a full record is made of all actions taken.

23.10 **How the Council Will Respond**

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. The action taken by the Council will depend upon the nature of the concerns raised. The concerns raised may:

- be investigated internally by the appropriate Manager.

- be referred to the Police if there is evidence of a criminal offence.
- be referred to the Wales Audit Office.
- form the subject of an independent (internal or external) inquiry.
- * In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquires 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 is 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.
- * It should be noted that some concerns may be resolved by agreed action without the need for further investigation.
- * The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive appropriate information about the outcome of any investigations.

23.11 **Training and Communication**

Directors and Heads of Service must ensure that –

- all relevant Directorate/Departmental policies and procedures take account of the Whistleblowing Policy.
- the Whistleblowing Policy and the supporting attachments are to be made accessible to all employees/workers including employees, independent contractors and agency workers.

All staff must attend appropriate induction, recruitment and selection and undertake appropriate refresher training on the Whistleblowing Policy.

23.12 **Some Final Notes**

This policy is intended to provide you with an avenue within the Council to raise your concerns. You are encouraged to raise serious matters of concern through the internal procedures set out in this policy.

Where you are unable to raise your concerns within your workplace, it may be appropriate for you to raise your concerns with a 'prescribed person' instead of the Council/School as your employer.

Your disclosure will be protected provided you:-

- have acted in the reasonable belief that your concerns should be disclosed is in the public interest.

- believe that the information and any allegation it contains, is true as far as you know; and have reason to believe that the matter is the prescribed person's responsibility.

Attached at Appendix 1 to this policy is a list of external organisations with responsibilities within Wales which may help you to identify the appropriate 'prescribed person', depending upon the nature of the organisation and the concerns raised, their responsibilities and how to contact them if you need to make an external disclosure.

You should be aware that the Auditor General for Wales or their appointed auditors will deal with matters about public services in Wales including value for money, fraud and corruption which provide public services'. At Appendix 2 is a copy of the Wales Audit Office Whistleblowing leaflet“.

Any concerns about 'the proper conduct of a public business, value for money, fraud and corruption in relation to the provision of public services' can be made to the Auditor General for Wales on telephone number 01244 525980 which has been dedicated for this purpose, via email whistleblowing@wao.gov.uk or by writing to:

*PIDA Officer
The Auditor General for Wales.
24 Cathedral Road
Cardiff
CF11 9LJ*

However, neither the Auditor General for Wales nor their appointed auditors have the power to decide whether a disclosure is protected, or to get involved in employment relations matters and they cannot provide legal advice. The Auditor General for Wales and their appointed auditors have no power to discipline any individuals, or to bring criminal prosecutions after completing any investigations.

Disciplinary action can only be taken by the Council/school or relevant professional organisations. Allegations of criminal behaviour are referred to the police for investigation, if deemed appropriate by the police, resulting in any such prosecutions being determined by the Courts.

If it is not possible to make your disclosure internally you may you should consider whether it is appropriate to report your concerns to others including your MP, Assembly Member, or to the Local Government Ombudsman. This step should be taken only where opportunities to raise matters internally have been fully exhausted.

23.13 **Protection**

You are obliged and encouraged to raise serious matters of concern through this policy. You are also entitled to be protected in law from any adverse actions being taken against you as a result of a disclosure made in accordance with this procedure. The Council is committed to open and transparent governance and ensuring that all employees are treated fairly when they have legitimate concerns to raise.

23.14 **Free and Confidential Advice**

For free, confidential and independent legal advice on what information is 'protected' under the Public Interest Disclosure Act (PIDA) 1998 and how best to raise concerns contact:

Public Concern at Work (an independent charity) on 020 7404 6609 or visit their website www.pcaw.org.uk or a Union legal advice line (if you are a member of a union).

Original Council Minute 1314 26/4/00

Updated by Cabinet 24/03/14

Appendix 1

<http://staffnet.valeofglamorgan.gov.uk/Documents/Directorates/Resources/HR/Blowing-the-Whistle-to-a-Prescribed-Person.pdf>

List of Prescribed persons (as amended) added 14/03/14

Appendix 2

<http://staffnet.valeofglamorgan.gov.uk/Documents/Directorates/Resources/HR/Wales-Audit-Office-Leaflet---Concerned-About-Wrongdoing-in-Work.pdf>

Wales Audit Office Whistleblowing leaflet