

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2016/17

COMMITTEE:

AUDIT COMMITTEE

31st October 2016

Item No. 7
Whistleblowing Policy & Procedure

REPORT OF:-

GROUP DIRECTOR, CORPORATE & FRONTLINE SERVICES

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1. PURPOSE OF THE REPORT

This report provides Members with an overview of the Council's Whistleblowing arrangements.

2. RECOMMENDATIONS

It is recommended that Members:

- 2.1 Review the adequacy of the mechanisms in place should workers wish to report serious concerns about any aspect of the Council's work under the Council's Whistleblowing arrangements.

3. BACKGROUND

- 3.1 Members of staff 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 and they may also fear harassment or victimisation. In these circumstances, it may appear to be easier to ignore the concern rather than report it.
- 3.2 For the purpose of the Whistleblowing Policy & Procedure (included as Appendix A), 'workers' refer to all those that deliver services on behalf of the Council and also those organisations that provide services to the Council i.e. Employees, Contractors and Suppliers.
- 3.3 The Council is committed to achieving the highest possible standards of service. In line with that commitment, workers with serious concerns about any aspect of the Council's work are encouraged to come forward and voice those

concerns. The Council encourages workers to participate without fear of reprisals.

- 3.4 If workers bring information about a wrongdoing to the attention of the Council, they are protected in certain circumstances under the Public Interest Disclosure Act 1998. This is commonly referred to as 'blowing the whistle'. The law that protects whistle-blowers is for the public interest, so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'.
- 3.5 The Whistleblowing Policy & Procedure has been produced to encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem. The Policy & Procedure makes it clear to all that if they believe that a worker of the Council could be undertaking anything considered to be a serious wrongdoing then the Council wants to know about it.
- 3.6 Serious wrongdoings may be:
 - An unlawful, corrupt or irregular use of public money or resources;
 - Any conduct that poses a serious risk to public health, safety, the environment or the maintenance of the law;
 - Any criminal offence; and
 - Gross negligence or mismanagement by public officials.
- 3.7 The Council's Whistleblowing Policy & Procedure provides clear and detailed information in respect of raising concerns.

Raising an Issue

- 3.8 Initially workers should raise their concern with their immediate Line Manager / Head of Service / key contact within the Council, who will be able to determine whether they can deal with the concern or if it requires escalation. This can depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the matter.
- 3.9 In some instances the direct contacts may be the individuals where concerns relate, in which case, concerns can be raised in writing via the [Get Involved](#) section of the Council's Website. Individuals should include as much information as possible such as relevant dates, incidents and witnesses. If individuals wish to leave contact details then this is encouraged as quite often the ability to fully investigate necessitates contact to be made by an investigating officer should they have supplementary questions.
- 3.10 The Whistleblowing Policy & Procedure provides guidance in respect of anonymity and keeping the identity of a Whistleblower confidential.
- 3.11 If workers would prefer not to raise their concern in writing, then the officers listed below should be contacted:
 - i) In respect of any matters involving actual or potential unlawful conduct, maladministration or contravention of the law:

Paul Lucas - Director of Legal and Democratic Services

- ii) In respect of any potential irregularity affecting any financial or other resources of the Council:
Christopher Lee - Group Director for Corporate & Frontline Services
Or
Marc Crumbie - Operational Audit Manager
- iii) In respect of any other service related issue or an employment matter:
Tony Wilkins - Director of Human Resources
Or
Richard Evans – Head of Human Resources

If workers are unclear as to the appropriate person to approach, they should contact the Director of Human Resources in the first instance who will give advice and guidance in respect of how to (potentially) blow the whistle.

4. SUMMARY

- 4.1 The Council encourages serious concerns about any aspect of the Council's work to be raised. Individuals should include as much information as possible such as relevant dates, incidents and witnesses.
- 4.2 The Council encourages Whistleblowers to leave contact details as quite often the ability to fully investigate necessitates contact to be made by an investigating officer should they have further questions. The contact details will not be disclosed to anyone other than the investigating officer.
- 4.3 For workers of the Council, the Whistleblowing Policy & Procedures which are present on 'Inform' provide guidance in respect of anonymity and keeping the identity of a Whistleblower confidential.

LOCAL GOVERNMENT ACT, 1972
as amended by
THE ACCESS TO INFORMATION ACT, 1985
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
LIST OF BACKGROUND PAPERS
AUDIT COMMITTEE
31st October 2016

Report of the Group Director, Corporate & Frontline Services

Author: Marc Crumbie (Operational Audit Manager).

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Whistle blowing Policy & Procedure

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1. INTRODUCTION

- 1.1 Workers 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 appear to be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 For the purpose of this Policy & Procedure, 'workers' refers to all those that deliver services on behalf of the Council and also those organisations that provide services to the Council – i.e. Employees, Contractors and Suppliers.
- 1.3 The Council is committed to achieving the highest possible standards of service. In line with that commitment, workers with serious concerns about any aspect of the Council's work are encouraged to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis and the Council encourages workers to participate without fear of reprisals.
- 1.4 If workers bring information about a wrongdoing to the attention of the Council, they are protected in certain circumstances under the Public Interest Disclosure Act 1998. This is commonly referred to as 'blowing the whistle'. The law that protects whistle-blowers is for the public interest, so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'
- 1.5 Under the Public Interest Disclosure Act 1998, it is unlawful for an employer to take action against a worker or treat them unfairly for having made a 'protected disclosure' of information. If a whistle-blower is deemed to be treated in this way, the legal remedies under the Human Rights Act may be available to them.
- 1.6 Detailed information on what is classed as a protected disclosure is contained in section 3 of this document.
- 1.7 This Whistleblowing Policy & Procedure has been produced to encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem.
- 1.8 The Director of Human Resources has overall responsibility for the maintenance and operation of this policy. The Council will maintain a record of cases, and their outcomes for reporting purposes.

2. AIMS AND SCOPE OF THIS POLICY & PROCEDURE

- 2.1 This policy sets out the procedure for workers to 'blow the whistle'. It explains how a worker can take matters further if they are dissatisfied with the Council's response and also reassures workers that they will be protected from reprisals or victimisation for Whistleblowing.

- 2.2 This Whistleblowing Policy & Procedure is intended to cover serious wrongdoings, such as:
- unlawful, corrupt or irregular use of public money or resources,
 - conduct that poses a serious risk to public health, safety, the environment or the maintenance of the law,
 - any criminal offence,
 - gross negligence or mismanagement by public officials.
- 2.3 If the matter does not fit into one of the above categories, then employees will be aware that there is an existing procedure in place to enable a grievance to be lodged relating to their own employment.

3. PROTECTED DISCLOSURE & CONFIDENTIALITY

- 3.1 The purpose of Protected Disclosures is to encourage people to report serious wrongdoing in their workplace by providing protection for employees who want to 'blow the whistle'.

Whistleblowing and providing your details:

- 3.2 The best way to raise a concern via the Council's Whistleblowing arrangements is to provide as much information as possible, including contact details that may be used when fully investigating the matter – there may be follow-up questions that an investigating officer may have for example.
- 3.3 A worker can raise a concern confidentially and give their personal details, on the condition that it is not revealed without their consent. The Council will always endeavour to ensure the confidentiality of a worker however; in rare circumstances this cannot be guaranteed, in which case the worker will be notified. 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 who may be responsible for malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern.
- 3.4 Any cases of harassment will be dealt with in accordance with the Council's 'dignity at work' procedure for employees. However, it does not mean that if a worker is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of their Whistleblowing.
- 3.5 To make a protected disclosure, the whistleblower must be identified as a 'worker' of the Council. A 'worker' includes current and former employees, volunteers, contractors and suppliers.
- 3.6 The disclosure will be protected if:
- the information is about serious wrong doing in or by the workplace,
 - the whistleblower reasonably believes the information is true or likely to be true,
 - the whistleblower wants the serious wrongdoing to be investigated

- 3.7 The disclosure will not be protected if
- the whistleblower knows the allegations are not true,
 - the whistleblower acts in 'bad faith',
 - the information disclosed is protected by legal professional privilege.

Whistleblowers who wish to remain anonymous

- 3.8 A worker can raise a concern anonymously with a preference not to give their personal details. Anonymous information will still be assessed and is just as important to the Council, however workers should be made aware that the ability to carry out a full and thorough investigation may be limited if the worker cannot be contacted to be asked any follow up questions.
- 3.9 When assessing an anonymous concern, the Council will consider the seriousness and credibility of the concern raised and also the likelihood of substantiating the allegation based upon the information provided.

4. PROCEDURE FOR BLOWING THE WHISTLE

- 4.1 Initially, workers should raise their concern with their immediate line manager / Head of Service / key contact within the Council, who will be able to determine whether they can deal with the concern or if it requires escalation.
- 4.2 This can depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the matter.
- 4.3 Managers who receive a concern from an individual must treat that information as potentially serious and report it to their relevant Head of Service.
- 4.4 The matter raised must be kept in confidence and not disclosed to any other party unless instructed to do so.
- 4.5 In some instances the direct contacts may be the individuals where concerns relate. In which case, the officers listed below should be contacted:
- i) In respect of any matters involving actual or potential unlawful conduct, maladministration or contravention of the law:
Paul Lucas - Director of Legal and Democratic Services
Email: paul.j.lucas@rctcbc.gov.uk
 - ii) In respect of any potential irregularity affecting any financial or other resources of the Council:
Christopher Lee - Group Director for Corporate & Frontline Services
Email: christopher.d.lee@rctcbc.gov.uk
- Or
Marc Crumbie - Operational Audit Manager
Email: marc.crumbie@rctcbc.gov.uk
- iii) In respect of any other service related issue or an employment matter:

Tony Wilkins - Director of Human Resources
Email: tony.wilkins@rctcbc.gov.uk

Or
Richard Evans – Head of Human Resources
Email: richard.j.evans@rctcbc.gov.uk

- 4.6 If workers are unclear as to the appropriate person to approach, they should contact the Director of Human Resources in the first instance who will give advice and guidance in respect of how to (potentially) blow the whistle.
- 4.7 The Council encourages concerns to be raised in writing via the 'Report it' section of the Council's Website. Individuals should include as much information as possible such as relevant dates, incidents and witnesses. If access to the Internet is not possible then letters can be sent to the Officers noted above. If employees do not feel able to put their concerns in writing, via the "Report It" mechanism or in a letter, then they can telephone any of the Officers as stated above or contact their Local Councillor. Employees may invite their trade union to raise the matter on their behalf.
- 4.8 The earlier an individual expresses a concern, the easier it is to take appropriate action. Although workers are not expected to prove the truth of an allegation, they will need to demonstrate that they reasonably believe the information is true or likely to be true, in respect of their concern.
- 4.9 In order to ensure the integrity of any potential investigation, initial enquiries will be made to decide whether an investigation is appropriate.
- 4.10 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. Following the reporting of a concern which is not anonymous, the investigating officer will inform the 'whistleblower' that their concern is being investigated and explain the process that will be followed.
- 4.11 If a fact finding meeting is required, the 'whistleblower' will have the right to be accompanied by a Trade Union representative or work colleague (if they are an employee). It will be up to the 'whistleblower' to make the necessary arrangements.
- 4.12 The Council will take steps to minimise any difficulties that the 'whistleblower' may experience as a result of raising a concern. For instance, if the 'whistleblower' is required to give evidence in criminal or disciplinary proceedings, the Council will advise on the procedure. The Council accepts that the 'whistleblower' needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the 'whistleblower' will receive information about the progress of the investigation if specifically required and/or requested to do so. This will be provided in writing by the investigating officer.

5. RESPONSE OF THE COUNCIL

5.1 The action taken by the Council will depend on the nature of the concern. Outcomes could include:

- Refer the matter to the Police,
- Refer the matter to the External Auditor (Wales Audit Office),
- Request that the matter be the subject of an independent inquiry.

6. FURTHER ACTION OUTSIDE THE POLICY

6.1 This policy is intended to provide workers with an avenue to raise concerns within the Council. Should a worker remain unsatisfied following this, and if they feel it is right to pursue the matter externally, then the following contact points are available:

- i) Council Members (if staff live within the Council boundaries),
- ii) The External Auditor (Wales Audit Office). The Wales Audit Office can be contacted on telephone number 01443 680349,
- iii) relevant professional bodies or regulatory organisations e.g. Inland Revenue or Health & Safety Executive,
- iv) Police,
- v) Public Concern at Work
- vi) ACAS.

6.2 If a worker decides to take the matter outside the Council, then they will need to ensure that they do not disclose any confidential information, unless they have evidence to corroborate their allegation.

Appendix A – THE WORKERS ‘DOES’ AND DON’TS’

If you suspect potential:

- fraud, corruption and/or a criminal act,
- a failure to comply with a legal obligation,
- a miscarriage of justice,
- danger to health & safety,
- damage to the environment
- any attempt to cover up these acts in any area of Council activity.

<u>DO</u>	<u>DON'T</u>
<p>1. Make an immediate note of your concerns. Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.</p> <p>2. Deal with the matter promptly. Any delay may cause the Council to suffer further financial loss.</p> <p>3. Blow the Whistle</p> <ul style="list-style-type: none"> • Report your suspicions to the appropriate person. • You can do this using the ‘Report It’ feature on the Council’s Intranet / Internet website. <p>Alternatively,</p> <ul style="list-style-type: none"> • Convey your concern to your Line Manager / Head of Service / key contact within the Council (if you are a Supplier or Contractor) • By letter or telephone to the appropriate Officer listed under Section 4 of the Whistleblowing Policy & Procedure. <p>4. Remember that if you are an employee, the Council will protect you from harassment and potential victimisation from within.</p>	<p>1. Do nothing.</p> <p>2. Be afraid of raising your concerns.</p> <ul style="list-style-type: none"> • You will not suffer any recrimination as a result of voicing a reasonably held suspicion. The Council will treat any matter you raise sensitively and in confidence. <p>3. Approach or accuse any individuals directly.</p> <p>4. Try to investigate the matter yourself.</p> <ul style="list-style-type: none"> • There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case. <p>5. Convey your suspicions to anyone other than those with the proper authority.</p>

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