

Peterborough City Council

Whistle Blowing Policy



**Growing the right way for
a bigger, better
Peterborough**



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Purpose

The Council is committed to the highest possible standards of openness, probity and accountability. In line with those commitments members, officers, our Partners and the wider public 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.

Those who work or operate within the organisation may often be the first to realise that there may be something wrong within the Council. However, they may not feel able to express their concerns because they feel that speaking out 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.

The aim of this policy is to encourage individuals to feel confident in raising serious concerns and to question and act upon any concerns about Council practices. This policy makes it clear that those affected can and should voice their concerns on any aspects of the Council's work without fear of victimisation, subsequent discrimination or disadvantage. It is intended to encourage, enable, and require employees to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle outside.

The principles of this policy apply to all Members, officers (whether permanently employed or otherwise) and Partners.

Details of how to report a concern are incorporated into this policy and the operational requirements of this policy are contained in the Whistleblowing Reporting Plan.

Whistleblowing Policy

Scope

This policy applies to all employees, our Partners and those contractors working for the Council on council premises, e.g. agency staff, builders, etc. It also covers suppliers and those providing services under a contract with the council in their own premises, e.g. care home, etc.

This policy is in addition to the council's Complaints Procedure, Grievance Procedure, Dignity at Work Procedure, Members and Officers Code of Conduct and other statutory reporting procedures which may apply within some departments of the council.

The use of this Policy will not directly result in disciplinary sanctions being imposed on employees. However a concern raised through the Policy may lead to the matter being dealt with via the disciplinary or another agreed procedure.

Aims

The Whistleblowing Policy aims to:

- encourage Council employees, our Partners' employees and others and to feel confident in raising serious concerns and to question and act upon any concerns about council practices;
- provide avenues for those individuals to raise these concerns internally and receive feedback on any action taken;
- ensure that all concerns are taken seriously;
- deal consistently with disclosures in a fair, objective and discrete manner.
- ensure that the Council continues to improve its services and operate best practices.
- reassure individuals that they will be protected from victimisation, subsequent discrimination or disadvantage by colleagues for whistleblowing; and
- allow individuals to take the matter further if they are dissatisfied with the Council's response.

There is an existing Grievance Procedure in place to enable Council employees to raise a personal concern relating to their employment, and also a Dignity at Work Policy. This policy is intended to cover major concerns that fall outside the scope of these other procedures.

Major concerns may include:-

- Physical, sexual, or emotional abuse of a child or any other person by another employee or any other person.
- Inappropriate use of grants;
- tampering with tender documents to advantage a particular party;
- Manipulation of accounting records and finances, including fraudulent claims;
- Decision making for personal gain;
- Infringement of service users' personal, human and basic rights e.g. abuse (physical, emotional, sexual), harassment, bullying and prejudice.
- Inappropriate use of council assets by an individual;
- Deceit, within council practices;
- Abuse of position within the Council or its Partners.
- Health and safety of employees or service users.

Concerns which fall within the scope of the whistleblowing procedure may also be about something that:

- is potentially unlawful; or
- is against the council's Standing Order or policies; or
- falls below established standards or practice; or
- amounts to improper conduct.

Before initiating the procedure employees should consider the following:

- that responsibility for expressing concerns about unacceptable practice or behaviour rests with all employees;
- that employees should use supervision sessions, team meetings and other opportunities to raise questions and seek clarification on issues which are of concern; *and*
- that it can be difficult to raise concerns about the practice or behaviour of a colleague, but employees must act to prevent an escalation of the problem and to prevent themselves being potentially implicated.

All Council employees, contractors and those of our Partners have the right to raise concerns, which could be about the actions of other employees, employees of our Partners, private contractors and/or elected members.

Safeguards

For individuals raising the concern

The decision to report malpractice can be a difficult one for an individual, who may possibly fear subsequent victimisation or harassment. No action will be taken against a Council employee who has raised a concern under this policy, even if that concern is seen to be unfounded after investigation. This does not, however, mean that if an employee is already the subject of disciplinary or redundancy procedures, that these procedures will be halted as a result of that employee whistleblowing.

Victimisation or harassment of an employee who has raised a concern, or any other attempt at reprisal either by an employee whose conduct is the subject of investigation or others; will not be tolerated and be considered a disciplinary offence.

In all cases the provisions of the Public Interest Disclosure Act 1998 (PIDA) will be adhered to.

The Enterprise and Regulatory Reform Act 2013 (ERRA) introduced a public interest test requirement for whistleblowing concerns. In order for PIDA to apply, the whistleblower must show that they reasonably believe that their disclosure is in the public interest. ERRA came into force on 25 June 2013 and affects disclosures made after that date.

For those individuals employed by a Partner, the Partner's policies should apply.

Confidentiality and Anonymous Allegations

The council will do its best to protect the whistleblower's identity when they raise a concern and do not want their name to be disclosed. However, it must be understood that should the concern raised need to be addressed through another procedure, e.g. disciplinary procedure, the individual may be asked to provide a signed statement as part of the evidence, thus revealing their identity. The council will make every effort to ensure that an employee's disclosure is corroborated with *prima facie* evidence thus reducing the need for the employee to produce their testimony. If the situation arises where we are unable to resolve the concern without revealing the identity (for instance because the evidence is needed in court), the council will discuss the issues with the individual concerned to decide how to proceed.

Anonymous Allegations

Individuals are encouraged to put their name to an allegation however the council accepts that individuals have the right to remain anonymous. The Council will consider any anonymous allegation received and will evaluate it accordingly. However any allegation, including those received anonymously, which relate to the wellbeing and/or welfare of a child or children or vulnerable adult will be investigated.

Concerns expressed anonymously are much less powerful and are not so likely to be effective, but they will be considered at the discretion of the council. In exercising this discretion, the following factors will be taken into account:

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

Untrue Allegations/Defamation

Whistleblowers making untrue allegations may expose themselves to actions for libel or slander which together make up the civil wrong of defamation. This is a complex area of law. In essence a person puts themselves at risk of being sued for damages if, without justification, they publish or communicate a false statement about someone which may injure his or her reputation in the eyes of ordinary members of society.

However, a whistle-blower will not generally be liable provided that they had a legal moral or social duty or felt that it was in the public interest in making the statement. A Council employee or Member is legally protected by PIDA if they make a qualifying disclosure to the Council or other certain bodies

If an allegation is made that is frivolous, malicious or made for personal gain, action may be taken against the Council officer in accordance with the disciplinary policy.

Malicious/Vexatious Allegations

If an allegation is made or a concern is raised and the whistle-blower believes it to have been in the public interest, no action will be taken against the individual raising the concern. However, where a Council employee makes malicious, or vexatious allegations, or disclosures made for personal gain, these will be considered as disciplinary offences and are likely to result in disciplinary action being taken against the employee raising the vexatious concern. Where the individual is employed by a Partner, the Partner's policies will apply.

Unfounded Allegations

Following investigation, allegations may be confirmed as unfounded. The individual, who raised the concern, will be notified of this decision and informed that the council deems the matter to be concluded and that it should not be raised again unless new evidence becomes available.

In respect of an unfounded allegation relating to a council employee, all documents accumulated through the investigation process will be held separately from any employee's personnel file, and destroyed in accordance with the council's Retention Policy. Except in the circumstances of the retention of necessary documents in respect of Child Protection issues, in which case they will be held on file as required by the relevant legislation, without precluding an individual employee's statutory rights. Where the individual is employed by a Partner, the Partner's policies will apply.

Live investigation files and evidence will be securely retained by the Compliance Team in line with the appropriate retention periods. For example, the Criminal Procedures Investigation Act 1996 sets out the duty to retain material and the length of retention time according to the circumstances of the case. Non-criminal investigation documents will be subject to the council's Retention Policy.

Closed investigation files and evidence will be securely retained by the Compliance Team in line with the appropriate retention periods (as above).

Documents will be held and used in accordance with TUPE regulations.

Support to Employees

It is recognised that raising concerns can be difficult and stressful. Advice and support is available via an individual's line manager, Departmental Human Resources (HR) Business Partner or Trade Union representative. It must be recognised that employees who are subject to investigation following concerns being raised will also be entitled to support from the same sources, although not from the same individuals. Where the individual is employed by a Partner, the Partner's policies will apply.

Individuals may also wish to discuss their concerns with a specialist organisation before making a disclosure within the workplace. Public Concern at Work (PCAW) is a registered charity offering advice to assist employees raising concerns about poor practice at work. They can be contacted at www.pcaw.co.uk.

Vested Interest

Any person or person's relative/friend who is the subject of complaint will not be involved in the handling of the complaint.

Appendix 1 Whistle Blowing Reporting Plan

Reporting concerns

As a first step, an officer or partner should normally raise concerns with their immediate manager or their manager's superior. A member should raise concerns with the Council's Monitoring Officer. However, this depends on the seriousness and sensitivity of the issues and who is involved. Concerns can also be reported to any officer listed below:

- Chief Executive
- Director of Governance
- Executive Director Strategic Resources
- Executive Director Children's Services
- Chief Internal Auditor
- Head of Human Resources

The Director of Governance is the Council's Monitoring Officer. The Monitoring Officer is a statutory whistleblower and is under a duty to present a report to Council if it appears to them that an action or proposal is, or is likely to be unlawful or which is likely to amount to maladministration.

The Executive Director Strategic Resources is responsible for the Council's financial affairs and is under a similar duty to whistle blow in relation to unlawful expenditure and/or illegal accounting practices.

The Executive Director Children's Services is responsible for the Council's provision of services to children, young people and their families.

Concerns should be raised in writing. Individuals should set out the background and history of their concerns, giving relevant names, dates and places where possible, and the reasons why they are particularly concerned about the situation. If an individual is unable to put their concern in writing, they can telephone or meet the appropriate officer to whom they decide to report the concern. **It is important that the employee makes it clear that they are raising the issues *via* the whistleblowing procedure.**

Although an employee is not expected to prove the truth of an allegation, they will need to demonstrate that there are sufficient grounds for the concern and that it is in the public interest.

In some instances it may be appropriate for an individual to ask their trade union to raise a matter on their behalf or to ask a colleague or trade union representative to accompany them when they commence the procedure.

The Audit Commission are a prescribed person under PIDA and provide a confidential public interest disclosure line for employees of councils where those employees are unable or do not wish to report the matter internally. The Audit Commission offer a whistleblowing hotline which can be contacted on 0303 444 8346.

How Peterborough City Council will respond

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to the External Auditor;
- form the subject of an independent inquiry.

(All issues will be referred to the Director of Governance for record keeping purposes).

In order to protect individuals and the Council, initial enquiries, (usually involving a meeting with the individual raising the concern), 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 the public interest.

Some concerns may be resolved simply, by agreed action or an explanation regarding the concern, without the need for further investigation.

Within ten working days of a concern being received, the person receiving the concern will write to the employees acknowledging that the concern has been received and;

- indicate how they propose to deal with the matter;
- advise whether any initial enquiries have been made;
- advise whether further investigations will take place, and if not why not;

- where possible give an estimation of how long it will take to provide a final response;

It may be necessary for the person receiving the concern to meet with the individual who is reporting the concern on more than one occasion depending on the nature of the concerns raised. Where any meeting is arranged, the person reporting the concern, if they wish, may be accompanied by a colleague or recognised Trade Union Representative. When appropriate, meetings will be arranged away from the workplace.

Further information

For further information and advice on Whistleblowing and how to raise a concern, please contact the Director of Governance.