

# Joint whistleblowing policy

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## What is whistleblowing?

1. Public Concern at Work ([www.pcaw.org.uk](http://www.pcaw.org.uk)) (a charity that provides independent advice and information on whistleblowing) gives the following explanation:

‘When someone blows the whistle they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle is usually not directly, 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 should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.’

2. The Public Interest Disclosure Act 1998 (PIDA) gives whistleblowers a certain amount of legal protection provided their disclosure meets the definition of a “protected disclosure”. This is set out in more detail in this policy.

## Purpose of the whistleblowing policy

3. A whistleblowing policy is an essential part of a good governance framework. In carrying out their functions and responsibilities, the councils wish to promote a culture of openness and fairness and expect all those who work for and with them to adopt the highest standards of propriety and accountability.
4. However, the councils face the risk that something may go wrong and they welcome the opportunity to address those risks as early as possible. Whenever a situation arises, the first people to know of the risk can often be those who work in or for a council. Whilst they are the people best placed to raise the concern before damage is done, they often fear they have the most to lose if they speak out.
5. To this end, the councils commit to the highest possible standards of openness, honesty and accountability in their activities. They expect a high standard of conduct and integrity from those that work with and for the councils.
6. The councils will take seriously and investigate reports of improper activities. This whistleblowing policy aims to ensure that when people raise concerns in the right way, the councils will address them and protect the person raising the concern.
7. The councils aim to mitigate the risk of inappropriate behaviour by those undertaking work on behalf of the councils. To mitigate the risks of inappropriate behaviour the councils will refer to this policy in their contracts with suppliers and their contracts procedure rules and procurement guide.
8. This is a joint policy adopted by South Oxfordshire and Vale of White Horse district councils. The policy aims to provide guidance on how to raise concerns within the councils.

## Links to strategic objectives

9. This policy underpins all of the councils' strategies, initiatives and work plans.

## Who this policy applies to

10. This policy will help employees (including temporary and agency staff) and, casual workers.
11. The above have responsibility for drawing attention to any suspected malpractice or irregularity and that it is dealt with promptly. In terms of financial irregularities, this responsibility is clarified in the paragraph below.
12. In accordance with the councils' Financial Procedure Rules within their Constitutions, a "relevant person (as defined in paragraph 29) shall notify the chief finance officer or assurance manager immediately of any financial or accounting irregularity, or suspected irregularity, or of any circumstances which may suggest the possibility of such loss or irregularity, including those affecting cash, stores, property, remuneration or allowances".

### Note:

To make a report of fraud or corruption, also refer to the councils' anti fraud and corruption policy and the associated response plan for guidance.

13. Whilst protection is afforded to employees under this policy, anyone else can refer to the section [What this policy does not cover](#) to establish what action to take.

## What this policy covers

This policy aims to address serious concerns about inappropriate behaviour that is not covered by other procedures. Whistleblowing is where an employee has a concern about a danger or illegality that has a **public interest** aspect to it, usually because it threatens others. Concerns may be about the following, which are defined as "qualifying disclosures" and therefore qualify for protection under this policy:

- any criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health and safety;
- damage to the environment;
- the deliberate concealment of information relating to any of the above matters.

Other concerns can and should be raised but they may not qualify for protection under this policy.

## WHAT THIS POLICY DOES NOT COVER

14. This policy does not deal with matters that other procedures cover. The following offers some guidance.

- Use the corporate complaints procedure for complaints from members of the public about the councils' services.
- Use the councillors' code of conduct for complaints about the behaviour of councillors or co-optees.
- Report allegations of abuse against a child, young person or vulnerable adult to the councils' designated employee for safeguarding in accordance with the councils' joint safeguarding children and vulnerable adults policy.
- Use the grievance policy for grievances or a private complaint if a dispute is about a member of staff's employment position and has no public interest dimension.

15. Bring to a manager's attention any deficiency in the provision of service.

16. Where issues involve other policies or maybe a formal grievance, the councils will consider the facts, assess the risks and decide how it will best deal with the matter. The councils will make their reasons known.

17. Contractors and those doing business with the council should seek to resolve the matter with the relevant client officer or explore resolution via contractual remedies.

## **Protection for whistleblowers**

18. In accordance with the Public Interest Disclosure Act 1998 (often referred to as the whistleblowing act), the councils will protect as best they can an employee who discloses information (rather than merely threatening to) from personal claims, victimisation, harassment or bullying as a result of his or her disclosure and will not initiate any disciplinary action against them so long as the disclosure was:

- made in the public interest;
- made to the appropriate person;
- reasonably believed to be substantially true; and
- not made for personal gain.

19. The councils will not tolerate threats of victimisation to whistleblowers, which include deterring them from raising concerns or suppressing concerns they have raised. Any employee taking reprisal or similar action against a whistleblower because he or she has made a disclosure under this policy will be subject to disciplinary action by the council.

20. Similarly, any councillors or co-optees taking such action will be reported to the monitoring officer as a code of conduct complaint.

21. Depending upon the situation, the councils will treat matters of concern raised with as much confidentiality as possible. The councils will not reveal names or positions without permission, unless required to by law, or an enquiry results in a criminal investigation in which the whistleblower might be required as a witness. However, an employee's identity might become known when the councils start

making enquiries. The councils will explain this at the time of raising a concern, so the employee can decide whether to proceed. The councils will also keep the employee informed if the situation significantly changes.

22. Someone may accompany an employee in accordance with the terms of the councils' disciplinary policy when giving evidence during disciplinary hearings.
23. Any disciplinary or redundancy procedures that already affect an employee will not influence any investigation into allegations of potential malpractice if properly made.
24. The protection outlined above will not apply and an employee may be subject to disciplinary action if they act in a malicious or improper way (for example by leaking information to the press before the council has had a chance to investigate).

### **Anonymous allegations**

25. The councils encourage people to give their name when making an allegation. The councils will do all they can to protect the employee. Concerns raised anonymously tend to be far less effective and if, for example, the councils do not have enough information, they may not be able to investigate the matter at all.
26. Also, from a practical point of view, the councils cannot provide protection to a person whose identity they do not know. It then becomes more difficult to judge whether the individual raised the concern in the public interest or maliciously.
27. If the individual does not wish to give their name, the councils will make a judgement on whether or not to consider the matter depending on:
  - the seriousness of the issue;
  - whether the concern is believable;
  - whether it can sufficiently investigate the case based on the information provided.

### **Untrue allegations**

28. If an individual makes an allegation which they believe is true, but it is not confirmed by investigation, the councils will not take any action against the individual.
29. However, if the individual makes a deliberately false or malicious allegation that they know is untrue, the councils will take appropriate disciplinary or legal action against them. The Public Interest Disclosure Act 1998 does not protect people making allegations of this nature.

### **How to raise a concern**

30. An individual must not attempt to investigate any concern, but should raise their concern using one of the avenues set out in this policy.

31. The section [making contact](#) provides more information.
32. An individual should raise the concern promptly, preferably in writing, giving as much information as possible, such as relevant background information, names, dates, places and the reason for the concern. However, anyone can raise a concern by telephone or by meeting an appropriate employee. The earlier someone raises a concern, the easier it will be to take effective action.
33. Although an individual does not need to prove beyond doubt that an allegation is true, the councils expect them to demonstrate that reasonable grounds exist for voicing their concern.
34. The councils will ask an individual to declare any interest they may have in any allegations they make under this policy.
35. In matters concerning the health, safety and welfare of those on council premises an individual and the elected safety representative, who become aware of a hazard (actual or potential) or dangerous occurrence, should immediately notify the councils' health and safety officer. This should be done before contacting anybody else to ensure that the councils can take immediate action if necessary to deal with the hazard.
36. If an individual feels they can't tell their employer, they should contact a *prescribed person or body* as set out on the Government's website at: [www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing) Before doing this they should seek legal advice to ensure that they will not lose protection under this policy. To gain protection an individual can only tell the prescribed person or body if:
  - they think those they report to will cover up the matter;
  - they think they would be treated unfairly if they complained;
  - they have reported the matter and it hasn't been addressed.

## EMPLOYEES

37. In the first instance, an employee should raise a concern with their immediate manager. If not the manager, they should raise the concern with their head of service. The document 'Guidance for employees – how to react to concerns of inappropriate behaviour' in [appendix 1](#), gives information on how to do this. If the allegation relates to the suspected abuse of a child, young person or vulnerable adult, this should be reported to the councils' designated employee for safeguarding in accordance with the councils' *joint safeguarding children and vulnerable adults policy*.
38. Guidance for managers on how to deal with a concern is contained in the document 'Guidance for managers – how to react to concerns of inappropriate behaviour' in [appendix 2](#).
39. If an employee considers it inappropriate to raise a concern with their manager or head of service they should contact one of the following:
  - the chief executive;

- the head of legal and democratic services (as the monitoring officer);
- the assurance manager.

40. If a concern involves one of the employees listed above, or if it is believed these employee(s) may be biased, the matter should be referred directly to the chief executive.

41. If a concern involves the chief executive, the matter should be referred to the monitoring officer.

#### COUNCILLORS, CO-OPTES AND MEMBERS OF THE PUBLIC

42. The section [what this policy does not cover](#) sets out ways of raising concerns, or contact can be made with one of the people listed in paragraph 39.

#### MAKING CONTACT

43. Individuals can contact the monitoring officer, who is responsible for the councils whistleblowing policy, in any of the following ways:

- By writing to the head of legal and democratic services (as the monitoring officer) at:  
South Oxfordshire/Vale of White Horse District Council, 135 Eastern Avenue, Milton Park, Milton, OX14 4SB  
*Please write 'For the personal attention of the monitoring officer' on the envelope*
- By telephone: 01235 422422 (via the councils' switchboard) or direct on 01235 422520
- By email: [monitoringofficer@southandvale.gov.uk](mailto:monitoringofficer@southandvale.gov.uk)
- A benefit cheat can be reported by:
  - Calling the Councils' confidential 24-hour benefit fraud hotline 01235 422511 . This number is manned during council office hours and is linked to an answer phone at all other times. All information is treated in confidence.
  - Calling the shared fraud hotline 0800 3286340. This freephone number is run by the Department for Works and Pensions on behalf of local authorities. For people who are hard of hearing, there is a textphone number 0800 3286341.
  - Emailing information to the Councils' benefit fraud team on [fraud@southandvale.gov.uk](mailto:fraud@southandvale.gov.uk)
  - The councils have further information on benefit fraud on their websites: [www.southoxon.gov.uk/](http://www.southoxon.gov.uk/) [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk).
  - The councils treats all information in confidence.

#### Withdrawing the complaint

44. An individual may make a request to withdraw any allegations made under the whistleblowing policy but should bear in mind that the councils are not obliged to

stop the process. To do this, an individual will need to confirm to the monitoring officer in writing that they wish to stop the process and state their reasons for doing so.

## Help for the whistleblower

45. Trade union representatives can give support and advice or act on an individual's behalf if this would help. This could be useful, particularly if the individual wishes to remain anonymous, to the extent that is possible.
46. The councils will encourage the trades unions to support any member of staff who raises a concern with them.
47. Public Concern at Work-PCAW ([www.pcaw.org.uk](http://www.pcaw.org.uk)) can offer free, confidential advice to people concerned about crime, danger or wrongdoing at work. Anyone can contact them in the following ways:

Public Concern at Work, CAN Mezzanine, 7-14 Great Dover Street, London, SE1 4YR

Telephone: 020 7404 6609

Fax: 020 74038823

Email: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

## The recipient's role in acting on a whistleblowing report

48. On receiving an allegation, the recipient (it is generally assumed that this would be a line manager or the head of service within the councils) should:
  - only listen to and note the concerns of the individual but must not attempt to carry out any investigation as this may damage any future enquiry if evidence is not in a legally admissible form;
  - make this policy available to the person making the report;
  - follow the guidance in [appendix 2](#) to this policy.
49. Having received the allegation, the recipient should contact the monitoring officer.

## How the councils will respond

50. In order to protect individuals and the council the monitoring officer, who has the authority to act independently, will deal with initial enquiries. The purpose of the initial enquiry is to confirm or repudiate the suspicions that have arisen so that, if necessary, the councils should instigate a further investigation.
51. If the concern raised involves the monitoring officer, the chief executive will initially deal with the allegation and will nominate a responsible employee to



conduct initial enquiries with the same authority that the monitoring officer would have.

52. During the initial enquiry, the monitoring officer will:

- determine the factors that gave rise to the suspicion;
- examine factors to determine whether any irregularity has occurred (i.e. any incident or action that is not part of normal operation of the system or the expected course of events); and
- where necessary, carry out discreet enquiries with staff and/or review documents.

53. The monitoring officer will consult with the chief executive, the section 151 (chief finance) officer and the assurance manager. They will agree whether an investigation is appropriate and, if so, whether the responsibility will pass to the section 151 (chief finance) officer and what form that responsibility should take. The matter could involve:

- investigation by management, internal audit, or through the disciplinary process;
- referral to the police;
- referral to the external auditor;
- an independent inquiry.

54. In dealing with any allegations, the monitoring officer, section 151 (chief finance) officer or the chief executive will ensure that those officers who would usually respond to allegations of malpractice, will not be involved in any enquiries or investigations, if they are implicated in the allegation.

55. The councils will normally refer concerns or allegations that fall within the scope of other policies and procedures for consideration under those procedures and will advise the whistleblower accordingly.

56. The monitoring officer, or section 151 (chief finance) officer (if responsibility for the case has passed to them), can decide to take no further action if a complaint appears to be trivial or malicious.

57. Within 10 working days of a concern being received, the councils will write to the whistleblower to:

- acknowledge receipt of the concern;
- explain how that council proposes to deal with the matter;
- indicate whether any initial enquiries have been made;
- state whether further investigations will take place and if not, why not.

58. The amount of contact between the people dealing with the allegation and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. The monitoring officer, or section 151 (chief finance) officer (if responsibility for the case has passed to them), will make the council's final decision upon the level of contact or

involvement with the whistleblower. They may inform the whistleblower that there is no further need for their involvement.

59. Any meetings arranged will normally take place at the council's offices but the council can agree to have the meeting elsewhere.
60. The councils will take steps to reduce any difficulties that an individual may experience after raising a concern. For instance, if the individuals need to give evidence in criminal or disciplinary proceedings, the councils will provide support and advice on the procedures.
61. The councils accept that in the working environment members of staff need assurance that the councils have properly addressed the matter raised. Thus, subject to legal constraints, the councils will provide information about the outcome of any investigation.
62. If responsibility for the case has passed to the section 151 (chief finance) officer, they will advise the monitoring officer of the outcome of the case to enable the monitoring officer to fulfil their reporting responsibilities under this policy.
63. The monitoring officer will report as necessary all concerns raised and the outcomes (in an anonymous format) to the Joint Audit and Governance Committee.

## **Taking further action**

64. This policy aims to provide an avenue to raise concerns within the councils.
65. If an individual decides to take the matter outside a council, they must ensure that they do not disclose information about a third party e.g. a company or a private individual, which may be confidential.
66. Before taking matters to an external body, the councils advise individuals to seek independent legal advice.
67. The following are possible contact points:
  - the local Citizens Advice Bureau;
  - relevant professional bodies or regulatory organisations;
  - the Environment Agency;
  - the police (if it is potentially a criminal matter);
  - the Health and Safety Executive;
  - a relevant voluntary organisation;
  - a trades union;
  - the Local Government Ombudsman;
  - Equality and Human Rights commission;
  - Public Concern at Work.

68. If, having raised a concern directly with the council, an individual is dissatisfied with the outcome they can also contact any of the above organisations.

### **Person responsible for this policy**

69. The monitoring officer has overall responsibility for the maintenance and operation of this policy, and will liaise as necessary with the chief executive, the section 151 (chief finance) officer and assurance manager.

### **VERSIONS OF POLICY**

This policy revokes previous versions of the whistleblowing policy.

This policy was originally approved by South Oxfordshire District Council's Cabinet on 8 February 2010 and Vale of White Horse District Council's Cabinet member on 16 March 2010.

Updated November 2011 (version 2), February 2014 (version 3) and August 2016 (version 4) by the head of legal and democratic services under her delegation to make minor amendments."

Policy review date: December 2019

**Alternative formats of this publication are available on request. These include large print, Braille, audio, email, easy read and alternative languages.**

**Please contact democratic services on ☐ 01235 422520**

## Appendix 1

### Guidance for employees

#### HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action taken when first suspecting inappropriate behaviour may be crucial. This guidance explains what to do and what not to do on suspicion of inappropriate behaviour.

Inappropriate behaviour is described in the councils' whistleblowing policy as:

- any criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health and safety;
- damage to the environment;
- the deliberate concealment of information relating to any of the above matters.

Note: suspicion related to abuse of a child, young person or vulnerable adult, should be reported to the council's designated employee for safeguarding in accordance with the councils' joint safeguarding children and vulnerable adults policy.

#### ACTING UPON SUSPICIONS – THE DO'S AND DON'TS

If suspecting inappropriate behaviour affecting the council, there are a few simple rules to follow to help the council with subsequent enquiries:

##### Do

- ✓ make an immediate note of concerns and note as many relevant details as possible, ideally:
  - the background details and nature of the suspicions (including relevant names, dates and locations);
  - details of the job and responsibilities of the individuals involved;
  - action taken to date (if any) before raising the concern.
- ✓ communicate suspicions to someone with the appropriate authority and experience in accordance with the councils' whistleblowing policy;
- ✓ deal with the matter promptly if the concerns are warranted;

Any delay may result in accidents, cause a council to suffer loss or make further enquiries more difficult.

##### Don't

- × do nothing;
- × be afraid to raise concerns;

An individual will not suffer any recrimination from the councils as a result of voicing reasonably held concerns. The councils will treat the matter

sensitively and confidentially if it is able to, and will take reasonable steps to protect the individual.

- × approach or accuse any individuals directly;
- × try to investigate the matter;

There are special rules about gathering evidence. Any attempt to gather evidence by people who are unfamiliar with these rules may weaken or destroy any future prosecution.

- × convey suspicions to anyone other than those indicated in the councils' whistleblowing policy.

The Public Interest Disclosure Act 1998 will protect individuals from any reprisals as long as the rules set out in the Act are met.

The rules are that the individual:

- discloses the information in the public interest;
- reasonably believes it to be substantially true;
- must not seek any personal gain.

70. Public Concern at Work -PCAW ([www.pcaw.org.uk](http://www.pcaw.org.uk)) can offer free, confidential advice to people concerned about crime, danger or wrongdoing at work.

# Appendix 2

## Guidance for managers

### HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action taken when first identifying, or becoming aware of suspected inappropriate behaviour, may be crucial in determining the success of any subsequent investigation.

Inappropriate behaviour is described in the councils' whistleblowing policy as:

- any criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health and safety;
- damage to the environment;
- the deliberate concealment of information relating to any of the above matters.

Note: suspicion related to abuse of a child, young person or vulnerable adult, should be reported to the council's designated employee for safeguarding in accordance with the councils' joint safeguarding children and vulnerable adults policy.

Managers should familiarise themselves with the councils' anti-fraud and corruption policy and its whistleblowing policy to equip themselves to deal with allegations if they arise.

### ACTING UPON SUSPICIONS – THE DO'S AND DON'TS

The following simple rules should help to ensure that matters are properly handled:

#### Do

- ✓ be responsive to employees' concerns;

encourage employees to voice any reasonably held concerns or suspicions. As a manager, treat them seriously, confidentially and sensitively. Reassure the individual that they will not suffer because of concerns raised in the public interest.

- ✓ note all relevant details;

Details should ideally include:

- the background details and nature of the suspicions (including relevant names, dates and locations)
- details of the job and responsibilities of the individuals involved
- the reasons why the person is raising the concerns
- action (if any) taken to date before this concern was raised

Get as much information as possible from the employee reporting the suspicion and encourage them to record this in writing. If the employee has made any notes, obtain a copy of them.

In addition, note any documentary evidence that may exist to support the allegations, but do not interfere with this evidence in any way.

- ✓ contact the monitoring officer to discuss the report received;
- ✓ if in doubt, report suspicions anyway;

If deciding that no further action is necessary, record the decision and inform the monitoring officer of the original notification details and the reasons why no further action is considered necessary. In recommending that no further action is necessary, be objective when evaluating the issue. Consider the facts as they appear based on the information to hand. The monitoring officer will then help to determine if further action is necessary.

- ✓ deal with the matter promptly, particularly if the concerns are considered warranted, and bearing in mind the 10 day deadline that the councils have set to respond to the whistleblower;

Any delay may cause a council to suffer financial or reputational loss, or make enquiries more difficult.

### **Don't**

- × ridicule or belittle any suspicions raised by employees;

The councils cannot operate an effective anti-fraud and corruption culture or whistleblowing policy if employees are reluctant to pass on their concerns to management out of fear of ridicule or recrimination.

Give all employees' concerns a fair hearing and reassure employees that they will not suffer recrimination by raising any reasonably held suspicion in the public interest.

- × approach the suspect or accuse any individuals directly;
- × communicate suspicions to anyone other than those indicated in the councils' whistleblowing policy;
- × try to investigate the matter;

Remember that investigations by employees who are unfamiliar with the requirements of evidence are highly likely to jeopardise a successful outcome. They may also alert the suspect and result in the destruction of evidence.

Remember that the primary responsibility is to report the issue and all associated facts to the appropriate employee, wherever possible.