



**CORPORATE PERSONNEL POLICY AND GUIDANCE
PEOPLE AND DEVELOPMENT**

Whistleblowing Policy

Issue 5 February 2018

Whistleblowing Policy

1. Introduction

1.1 Council staff, contractors or partners, members of the public and Councillors can often be the first to spot something that is seriously wrong in connection with the Council and its activities. They might not say anything, however, because:

- they may feel that speaking up would be disloyal to their colleagues or to the Council or
- they may be worried that their suspicions might not be justified or
- they may be worried that they or someone else might be victimised.

1.2 This is why the Council has this Whistleblowing Policy to help the public, contractors or partners, Council colleagues and Councillors to contact us with their concerns. The Council is committed to the highest possible standards of openness, honesty and accountability and therefore wishes to be alerted to any problems at the earliest opportunity. This policy makes it clear that colleagues and others can do so without fear of reprisals. This Whistleblowing policy is intended to encourage and enable concerns to be raised **within** the Council rather than overlooking a problem or 'blowing the whistle' outside. This will enable the Council to take action, as appropriate to:

- pre-empt crime or other wrong doings, where possible;
- where a crime or something suspicious has taken place, to instigate an appropriate investigation;
- bring to account the perpetrators;
- minimise and contain any adverse impact;
- take corrective action to eliminate or significantly reduce the scope for repeat occurrences.

1.3 This policy has been discussed with the relevant stakeholders and has their support.

2. Aims and Scope of this Policy

2.1 This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for you to raise concerns and receive feedback on 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 disadvantage if you have a reasonable belief and that you have made any disclosure in good faith;
- allow you to take the matter further if you are dissatisfied with the Council's response.

2.2 There are existing procedures in place to enable you to lodge a grievance if you are employed by the Council. This Whistleblowing policy is intended to cover major concerns that fall outside the scope of that procedure, for example:

- Corruption;
- Fraud (including unauthorised use of Council money, for example);
- Theft;
- An unlawful act;
- Any danger to health and safety of any individual;
- A person abusing their position in connection with unauthorised activity for personal gain;
- Miscarriage of justice;
- Damage being caused to the environment (by pollution for example);
- Misuse of Council property.

2.3 Any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under either the Confidential Reporting Procedure, or the Anonymous Reporting Procedure.

2.4 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

3. Confidential reporting procedure

3.1 Any suspicion of fraud or other wrongdoing will be treated seriously and will be reviewed in accordance with the Public Interest Disclosure Act 1998 (PIDA) and the Human Rights Act 1998. Council and agency staff should be aware that they have statutory protection against victimisation and dismissal under PIDA, if they speak out genuinely against corruption and malpractice at work. **"Malpractice" includes any kind of improper practice or conduct which falls short of what is reasonably expected whether it relates to a positive act or omission and also includes any form of harassment.** The Council will not tolerate harassment or victimisation.

3.2 It is essential for all concerned that disclosures of wrongdoing or irregularity are dealt with properly, quickly and discreetly. This is in the interests of the Council, its employees, any persons who are the subject of such allegations, as well as the person making the disclosure.

3.3 The Council expects all organisations that deal with us who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

3.4 The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence. **It may be possible to establish the truth about**

allegations from another independent source and the Council will seek to do this where possible.

- 3.5 The Confidential Reporting Procedure applies to members of the public, employees, contractors and partners and Councillors.

4. Anonymous Reporting Procedure

- 4.1 This procedure encourages you to put your name to your allegation whenever possible. Where an individual chooses to report their concerns anonymously, such anonymity will be respected. However, it should be noted that concerns expressed anonymously are much less powerful and will only be considered at the discretion of the Council.
- 4.2 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.
- 4.3 It should be noted that, if the report suggests criminal activity, and the case is to be pursued by police, the identity of the person reporting the details may be important at a later date if criminal proceedings are to be pursued effectively. Identification is preferred and will assist the investigation.
- 4.4 The Anonymous Reporting Procedure applies to members of the public, employees, contractors and partners and Councillors.

5. Untrue allegations

- 5.1 If you make an allegation in good faith and you have a reasonable belief in the truth of the allegation but it is not confirmed by the investigation, no action will be taken against you.
- 5.2 If, however, you make an allegation frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against you if you are a member of Council staff. If you are a Councillor, you may breach the Code of Conduct for Members. If you are a contractor or partner, such allegations may put you in breach of your contractual responsibilities to the Council.
- 5.3 Malicious or vexatious allegations include those which are trivial and do not have substance and are made persistently and annoyingly for the wrong reasons, e.g. simply to make trouble.

6. How to raise a concern

- 6.1 Members of the public, employees and contractors may raise their concerns orally or in writing, by letter or e-mail. Those who wish to make a written report, which is encouraged, are invited to use the following format:
- the background and history of the concern (giving names, relevant dates and places wherever possible);
 - the reason why you are particularly concerned about the situation

- 6.2 If you are an employee of the Council, as a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness or sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Monitoring Officer, Section 151 Officer or Internal Audit. You may invite your trade union or professional association to raise a matter on your behalf.
- 6.3 If you are a member of the public, a contractor or partner or a Councillor, you should raise your concerns with the Monitoring Officer by telephone on 01282 477140, by e-mail to lpatel@burnley.gov.uk or by post to Town Hall, Manchester Road, Burnley, BB11 9SA marking your envelope 'Private and Confidential'.
- 6.4 The earlier you express the concern the easier it is to take definitive action. Although you are not expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 6.5 Advice and guidance on how matters of concern may be pursued can be obtained from:
- Chief Executive Tel Ext: 7101
 - Section 151 Officer – Asad Mushtaq Tel Ext: 7173
 - Monitoring Officer – Lukman Patel Tel Ext: 7140
 - Internal Audit Manager – Ian Evenett Tel Ext: 7175
 - Strategic HR Consultant – Vicky White Tel Ext: 7124

7. What not to do

- 7.1 You must **not** do any of the following:
- contact the suspected perpetrator in an effort to determine facts or demand restitution;
 - if you are an employee of the Council, discuss the case facts, suspicions, or allegations with anyone within or outside the Council (including the Press), unless specifically asked to do so by the Monitoring Officer or one of the other officers referred to at paragraph 6.5 (above);
 - attempt to personally conduct investigations or interviews or question anyone, unless asked to do so by the Monitoring Officer.

8. How the Council will respond

- 8.1 The Council will respond to your concerns, and where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process;
 - be referred to the police;

- be referred to the external auditor;
- form the subject of an independent inquiry;
- be dealt with under the Council's Corporate Complaints Procedure.

8.2 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries 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. Concerns or allegations which fall within the scope of specific procedures will normally be referred for consideration under those procedures.

8.3 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this may be taken before any investigation is conducted.

8.4 Within 10 working days of a concern being raised, the responsible person from the Council will write to you:

- acknowledging that the concern has been received;
- indicating how we propose to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made; and
- telling you whether further investigations will take place and if not, the reason.

8.5 The amount of contact between the Council officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you. If you are a Council employee, when any meeting is arranged, you have the right to be accompanied by a Union or professional association representative, or a friend who is not involved in the area of work to which the concern relates.

8.6 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.

8.7 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation. The Council, where possible and subject to legal constraints, will also keep you informed about how the matter is progressing.

9. How the Matter can be Taken Further

9.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and you feel it is right to take the matter outside the Council, the following are possible contact points:

- your local Councillor (if you live in the area of the Council);

- the Council's external Auditor;
- relevant professional bodies or regulatory organisations;
- your solicitor;
- the police;
- Local Government Ombudsman;
- The Public Concern at Work helpline (see paragraph 10 below).
- The Comptroller and Auditor General (see paragraph 12 below)

9.2 If you do take the matter outside the Council, you need to ensure that you do not disclose confidential or legally restricted information.

10. Confidential advice

10.1 If you are an employee of the Council, you could also make use of a confidential helpline service operated by an independent charity, Public Concern at Work. This organisation has practical experience of 'Whistleblowing' and can explain your protections under the Public Interest Disclosure Act. Its work in this field has been endorsed by the Committee on Standards in Public Life. Its helpline is staffed by qualified lawyers who can give advice, in strict confidence about whether and how to raise or pursue concerns that you may have about malpractice within the organisation.

10.2 The helpline number is **020 7404 6609** or you can visit their website at: www.pcaaw.org.uk

11. The Responsible Officer

11.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy, subject to oversight by the Audit and Standards Committee. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report statistical activity under the policy on an annual basis to the Standards Committee.

12. The Comptroller and Auditor General

12.1 They can be contacted about the proper conduct of public business, value for money, fraud and corruption in relation the Council.

The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London
SW1W 9SP

Tel: 020 7798 7999

Website: www.nao.org.uk/contact-us/whistleblowing-disclosures/

13. Commissioners nominated under section 15(6) of the Local Government Act 1999

13.1 If the Secretary of State has appointed commissioners to the authority then they are prescribed person for disclosure, while they are appointed.

13.2 Contact them about matters relating to the exercise of specified functions of a best value authority as directed by the Secretary of State in relation only to the local authority they are intervening in.

NB. Further guidance for Councillors and employees can also be found in the Council's Anti-Fraud, Bribery and Corruption Policy

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