



# WHISTLEBLOWING POLICY

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| Date by which School have adopted procedure: |  |
| Signature of Chair of Governors              |  |

# Part 6E of Cumbria County Council Constitution

## Whistleblowing Policy

### 1 Introduction

- 1.1 The Council is committed to the highest standards of honesty, integrity and accountability in carrying out its functions.
- 1.2 The Council recognises, however, that wrong doing, though rare, may occur and that the vigilance of employees, other staff and contractors is vital to maintain high standards of conduct.
- 1.3 The Council expects employees and other workers to report suspected wrong doing, as we believe that the best deterrent is for everyone to know that wrong doing will be reported, will be thoroughly and swiftly investigated and that wrong doers will be held accountable for their conduct.
- 1.4 This Policy is intended to make a clear statement that any wrong doing by Cumbria County Council members; employees or third parties associated with the Council that is reported to the Council will be thoroughly investigated and appropriate action taken when wrong doing is found to have occurred.
- 1.5 This Policy sets out how concerns about wrong doing can be reported and what the Council will do.

### 2 Application of this Policy

- 2.1 This Policy applies to Council employees and other workers, including freelance staff, temporary and agency staff, consultants, contractors (and their staff), volunteers and employees in organisations which work in partnership with the Council.
- 2.2 In this Policy the term “employee” refers to employees of the Council and other workers to whom the Policy applies.
- 2.3 Elected Members are also encouraged to use the Whistleblowing Policy to report concerns and except where the Policy refers to rights applying only to employed persons, the term “employee” in this Policy also refers to elected Members.

### **3. Application of this Policy to Schools**

- 3.1 It is expected that governing bodies of all community and voluntary controlled schools would adopt this Policy and the procedures contained in it. Foundation and voluntary aided schools are encouraged to do the same.
- 3.2 Where this Policy has been adopted by a school, references to “the Council” should be read to mean the school and references to “the Corporate Director” should be read to mean the Head Teacher of the school.
- 3.3 Schools are encouraged to provide an alternative person, such as the Chair of Governors, to whom concerns may be reported if the employee believes the Head Teacher is involved in the wrong doing or has failed to take appropriate action when the matter has been raised previously.
- 3.4 Employees may seek advice from the Council’s Monitoring Officer if they feel unable to report their concerns to the Head Teacher or Chair of Governors.
- 3.5 It is expected that community and voluntary controlled schools which adopt this Policy will notify the Council’s Monitoring Officer in accordance with sections 11.1 and 11.17 of this Policy. All schools are encouraged to maintain their own records of the report, investigation and outcome.

### **4 Scope of this Policy**

- 4.1 This Policy provides all employees with:
  - (a) avenues to raise concerns; and
  - (b) reassurance that they will be protected from victimisation and dismissal as a result of reporting their concerns.
- 4.2 The list below provides examples of the types of wrong doing that can legitimately be reported under the Whistleblowing Policy:
  - (a) Any unlawful conduct, whether criminal or a breach of civil law, failure to comply with a legal obligation, or where a miscarriage of justice has occurred or is likely to occur
  - (b) Maladministration as defined by the Local Government Ombudsman
  - (c) Breach of any statutory Code of Practice
  - (d) Breach of, or failure to implement or comply with, any policy or procedure rules determined by the Council, Cabinet or a Committee of the Council;
  - (e) Misuse of assets including stores, equipment, vehicles, buildings computer hardware and software;
  - (f) Failure to observe health and safety legislation or endangering the health and safety of any individual;

- (g) Failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income, to the Council or would otherwise seriously prejudice the Council;
- (h) Causing damage to the environment;
- (i) Corrupt practices, abuse of power, or the use of the Council's powers for any unauthorised or ulterior purpose;
- (j) Deliberate falsification of data or information;
- (k) Any other cases of malpractice, negligent, unprofessional or unethical conduct;
- (l) The deliberate concealment of any information in relation to any of the above.

## **5 Relationship with other policies**

- 5.1 The Whistleblowing Policy is intended for employees to raise concerns that it is in the public interest to report and where the interests of others or of the Council are at risk.
- 5.2 The Council has in place policies and procedures for employees to raise issues relating to their own personal circumstances or treatment at work. In those cases employees should use the Grievance Procedure or other appropriate Human Resources Procedure
- 5.3 The Council has in place policies and procedures for reporting suspected fraud, money laundering, bribery and other financial crime and employees should report those concerns under the relevant policy.
- 5.4 The Whistleblowing Policy is intended to be used in circumstances where the person reporting the matter feels that, for any reason, existing policies and procedures are inappropriate.

## **6 Safeguards for employees reporting concerns**

- 6.1 In many cases, it is an employee who will be the first to become aware of any wrong doing within the Council. If an employee becomes aware of any wrong doing, the Council therefore expects employees to report their suspicions.
- 6.2 The Council recognises that individuals may sometimes be reluctant to express their concerns, because they fear that this would be disloyal to managers, colleagues and others in the Council or because they fear reprisals, such as harassment or victimisation.

- 6.3 The Council will not tolerate any attempt on the part of any employee or Member to take reprisals against any person who has reported a concern. The Council will treat any such harassment or victimisation as a serious matter which, in the case of a person employed by the Council may be a disciplinary matter and in the case of a Member may be a breach of the Code of Conduct.
- 6.4 Whistleblowers may also have additional legal protection if they make certain disclosures of information in the public interest and are then victimised in their employment. Those who victimise a whistleblower can be held personally liable for their conduct. In addition, the Council could be held liable if it has not taken all reasonable steps to prevent such victimisation occurring.
- 6.5 If an employee or Member who has made a genuine complaint feels they have been victimised as a result of raising a concern they may raise the matter with the Council's Monitoring Officer. If the complaint relates to the Monitoring Officer they should raise it with the Chief Executive.
- 6.6 The Council will ensure that the necessary resources are put into investigating any reports it receives.

## **7 How to report a concern**

- 7.1 An employee who wishes to report a concern under the Whistleblowing Policy should contact their Corporate Director in the majority of cases. It will be the responsibility of the Corporate Director to initially investigate the complaint in accordance with this Policy.
- 7.2 It is recognised that at times an employee may feel unable to report their concerns to their Corporate Director, for example if the employee believes their Corporate Director is involved in the wrong doing or has failed to take appropriate action when the matter has been raised previously.
- 7.3 In these circumstances, the employee should report their concerns to the Monitoring Officer who will investigate the complaint in accordance with this Policy.
- 7.4 Elected Members should report concerns to the Monitoring Officer.
- 7.5 Where concerns have been reported to the Monitoring Officer, he/she will apply the Policy in place of the Corporate Director or in the case of a school, the Head Teacher.
- 7.6 A concern should be reported in writing (including by email), or followed up in writing as soon as possible after the initial verbal report.

- 7.7 Any evidence relating to the concern should be recorded, preserved and secured, and supplied to the Corporate Director at the time that concerns are reported, or as soon as possible afterwards.

## **8 Anonymous reports**

- 8.1 Anonymous allegations are those which are unsigned and unidentifiable. All reports will be investigated, but employees should be aware that anonymous allegations are more difficult to act upon and so may not be effective in remedying the wrong doing alleged.

- 8.2 In considering what action to take in response to an anonymous allegation, the person to whom the report is made will consider:

- (a) The seriousness of the allegation;
- (b) The credibility of the allegation;
- (c) The likelihood of obtaining information from other sources to confirm the allegation.

- 8.3 The confidentiality of people who report concerns will be protected where it is possible to do so. Please refer to Section 12 of this Policy for more information about reporting concerns and confidentiality.

## **9 How the council will respond to a report of concerns**

- 9.1 If urgent action is required to safeguard individuals or property or to preserve evidence the Corporate Director will immediately take such action as is required.

- 9.2 All officers involved in investigating a report of concerns will take action without delay and in accordance with any timescales set out in this Policy.

- 9.3 Once a report of concerns has been received, it will be the duty of the Corporate Director to pursue the matter if he/she believes it may be true.

- 9.4 It will not be possible for an employee to prevent a matter from being investigated by subsequently withdrawing their concerns.

## **10 Lead managers**

- 10.1 The Corporate Director is the Lead Manager for reports of concerns about wrong doing in their directorate and is responsible for overseeing the effectiveness of the Whistleblowing Policy in their Directorate.
- 10.2 A Corporate Director may if appropriate assign the role of Lead Manager in respect of a particular report of concerns to a senior manager in their Directorate.

## **11 Procedural steps following a report of concerns**

- 11.1 The Lead Manager must register the report with the Monitoring Officer within 5 working days of receipt by the Corporate Director. The details to be provided are:
  - (a) Date report of concern received
  - (b) Name of person reporting concerns
  - (c) Details of the concerns reported
  - (d) Proposed action and by whom.
- 11.2 In order to protect both individuals and the Council the Lead Manager will (unless in their judgement it is inappropriate to do so) make initial enquiries to decide whether an investigation is appropriate and if so what form it should take.
- 11.3 This Policy acknowledges that in some circumstances, the Lead Manager may be able to resolve the reported concerns informally, without the need for a detailed investigation.
- 11.4 The Lead Manager will normally refer concerns which fall within the remit of specific procedures (such as child or adult safeguarding, disciplinary matters or employee grievances) for investigation under those procedures. The Lead Manager will need to make a judgement about whether the concern reported should be dealt with under other procedures or under the Whistleblowing Policy. In making this decision, the Lead Manager may wish to consult with the Monitoring Officer and/or with the officer responsible for the operation of the procedures they think might be more appropriate to follow.
- 11.5 In exceptional circumstances the Lead Manager may decide not to investigate a complaint further. The Lead Manager may make such a decision if the facts on which the complaint is based have already been investigated and dealt with under the Whistleblowing Policy or other policies and procedures. If, following consultation with the Monitoring Officer and their Corporate Director, a Lead Manager determines that a complaint should not be further investigated, they will write to the complainant giving their reasons.

- 11.6 The Lead Manager is responsible for commissioning an appropriate senior manager or external investigator as Investigating Officer. If the allegation involves or may involve wrong doing by an employee, the Investigating Officer must be senior to the person under investigation.
- 11.7 The Lead Manager will identify an individual who will be available to provide support and advice to the person who reported concerns during the investigation and afterwards.
- 11.8 The Lead Manager will also identify a contact person for any employee who is under investigation under the Whistleblowing Policy.
- 11.9 Within 10 working days of receiving the complaint the Lead Manager will write to the person who reported concerns:
- (a) Acknowledging that the report of concerns has been received
  - (b) Indicating how the Lead Manager proposes to deal with the matter
  - (c) An estimate of how long it will take to provide a final response
  - (d) Stating what action has been taken and what action will be taken and by whom, including the name of the Investigating Officer appointed.
  - (e) Explaining the reason if the Lead Manager has decided not to investigate further.
- 11.10 The Investigating Officer will conduct an investigation to establish the facts of the reported wrong-doing and will make a written report, appending witness statements and other evidence to the Lead Manager.
- 11.11 All employees are required to co-operate with any investigation carried out under this Policy. Any employee who attends a meeting in connection with an investigation of alleged wrong doing is entitled to be accompanied by a trade union representative or a colleague who is not involved in the area of work to which the investigation relates.
- 11.12 The Investigating Officer will keep the person who reported a concern informed of progress with the investigation. If the person has any concerns about the investigation they may raise these with the Lead Manager or if the concerns are about the Lead Manager, with the Monitoring Officer.
- 11.13 If the investigation is taking longer than estimated, the Investigating Officer will provide a written update to the employee and to the Lead manager at least every month.
- 11.14 Once he/she has received the report of the Investigating Officer, the Lead Manager will take any necessary action. If the investigation reveals circumstances in which disciplinary action against an employee, or action to enforce a contractual obligation, is appropriate, the Lead Manager will be responsible for ensuring that the necessary steps are taken.



- 11.15 In some circumstances, the Lead Manager may consider it appropriate to report a matter to the Police or other regulatory authority. This decision should be taken in consultation with the Monitoring Officer (Assistant Director, Corporate Governance) or the Section 151 Officer (Assistant Director, Finance).
- 11.16 If an allegation is found to be groundless the Council will take reasonable steps to remedy any adverse consequences arising from the investigation.
- 11.17 In all circumstances the Lead Manager must update the register at the conclusion of the process by notifying the Monitoring Officer of:
- (a) Any resolution of the complaint without the need for investigation
  - (b) any referral for investigation under another policy
  - (c) or, any decision not to investigate a complaint.
  - (d) Where investigated, the date of completion of the investigation.
  - (e) The findings of the investigation;
  - (f) Action taken by the Lead Manager.
- 11.18 All information relating to the report of concerns and its investigation must be retained by the Corporate Director in accordance with the Council's document retention policy.

## **12 Confidentiality**

- 12.1 The Council will be sensitive both to persons reporting concerns and to persons under investigation following a report under this Policy.
- 12.2 Investigations will be carried out as confidentially as possible. There will, however, be circumstances where information relating to a report of concerns will have to be disclosed by the Council, for example if there is a legal obligation to disclose the information or if the wrong doing is serious and is to be reported to the Police or External Auditor.
- 12.3 The Investigating Officer will not disclose the identity of the person who reported concerns unless they agree or it is necessary for the purpose of the investigation or for reasons described in 12.1.
- 12.4 The Investigating Officer will advise the person who reported concerns if it becomes necessary to disclose their identity against their wishes. The person will have the opportunity to raise the issue with the Lead Manager who will without delay review the necessity of the disclosure before the investigation continues.

## **13 How concerns can be taken further**

- 13.1 If an employee is not satisfied with how the Council has addressed issues they have reported under this Policy, they may contact:
- (a) The Chair of the Audit and Assurance Committee
  - (b) The External Auditor, Grant Thornton on 0141 223 0891
  - (c) The relevant professional body or regulatory body, for example, The Health and Safety Executive, Care Quality Commission, Ofsted. The details of relevant bodies are available on the Government Website Direct.Gov
- 13.2 An employee who discloses confidential information, or concerns relating to the Council, its business or other employees, outside the procedures set out in this policy may, if the law does not permit such disclosure, lose their entitlement to the protection against adverse consequences available to them under this policy or under the law. Employees are therefore advised always to follow the procedures under this Policy if they have concerns about wrong doing in the Council. This does not affect the legal right of employees to disclose concerns to outside bodies where this is legally prescribed.

## **14 Independent advice to Employees**

- 14.1 Free confidential advice about wrong doing at work can be sought from the independent charity Public Concern at Work on 020 7404 6609 or from an employee's Trade Union.

## **15 Contractors and Partners**

- 15.1 The Council will include a clause into contracts with suppliers to the Council highlighting that this Policy applies to their staff while working on Council business. It will place a requirement on contractors to publicise the Whistleblowing Policy to their staff involved in the contract with the Council.
- 15.2 The Council will include a clause in agreements with partner organisations where the Council is acting as accountable body applying this policy to the partnership arrangements.
- 15.3 The Council will encourage the directors of its controlled companies to adopt this Policy for themselves and their subsidiaries.

## **16 The responsible Officer**

16.1 The Responsible Officer for the operation of the Whistleblowing Policy corporately is the Monitoring Officer, who will ensure that the effectiveness of the Policy is monitored, reviewed and updated at appropriate intervals.

## **17 Failure to report concerns**

17.1 Where an employee fails to report concerns, they themselves may become implicated in the wrong doing and the Council will therefore also treat failure to report concerns as a serious matter which may, in the case of a person employed by the Council amount to a disciplinary matter and in the case of elected members to a breach of the Code of Conduct.

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