

Douglas



Douglas Borough Council

WHISTLEBLOWING POLICY (Confidential Reporting)

UNDER REVIEW

1. Introduction – What is whistleblowing?

Within this policy 'whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council. The provisions in the Employment Act 2006 protect workers who 'blow the whistle' about wrongdoing.

The aim of the policy is to encourage employees whether full time, part-time, temporary, casual or agency workers who have serious concerns about any aspect of the Council's work to come forward and voice those concerns through appropriate channels. It is recognised that in certain cases, they may have to proceed on a confidential basis.

The Policy is intended to encourage and enable individuals to raise serious concerns within the Council rather than ignoring the problem, or 'blowing the whistle' outside of the Council. It sets out the principles that enable employees to raise concerns about a danger, risk, malpractice or wrongdoing that affects others, without the fear of adverse consequences or reprisal. Making a disclosure under this Policy will enable the Council to address any risks as early as possible.

2. Purpose of the Policy

Douglas Borough Council is committed to the highest standards of integrity, openness, probity and accountability. Employees are often the first to realise that there is 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, victimisation or reprisal.

The Council recognises and appreciates that staff who raise concerns regarding malpractice or wrongdoing are an asset to the Council and are not a threat. This Policy aims to reassure staff that they can raise genuine concerns without fear of victimisation, subsequent discrimination or disadvantage.

The aim of the policy is to:

- Outline the procedure for employees, who have reasonable suspicions, to raise concerns at an early stage
- Ensure employees are given feedback where possible
- Reassure employees they will be protected from victimisation or reprisals if they raise any concerns
- Enable employees to take the matter further if they are unhappy with the Council's response

The Council wants staff to use this procedure and to be confident that, if any member of staff is genuinely concerned about a matter raised, those concerns will be handled with sensitivity and professionalism.

This policy is intended to cover any major concerns employees may have that fall outside the scope of existing internal policies and should not be used for employees wishing to make a complaint about their own employment within the Council which should be raised through the Grievance Procedure.

Nothing within this policy document overrides the statutory right of any employee (refer to Section 10 – Statutory Obligations below)

This policy is intended to cover concerns that fall outside of other procedures including:

- A criminal offence
- A failure to carry out a legal obligation including health and safety
- Sexual, physical or verbal abuse of Council clients, employees or public
- Fraud, bribery or corruption
- Undue favour shown, either on a contractual matter, or to a job applicant
- Bad working practices and services that fall seriously below approved standards
- Breach of the Code of Conduct for Staff

- Breach of the Council's Financial Regulations
- Unauthorised use of public funds
- Unethical or improper conduct
- Endangering an individual's health and safety
- Damage to the environment (e.g., land, buildings, waste, air, etc)
- Failure to follow the Council's policies and procedures
- Concealment of any of the above

N.B. this list is not an exhaustive list

3. Employee's Responsibilities

- 3.1 Employees should initially raise concerns with their Chief Officer. The decision will depend on the seriousness of the concern, the sensitivity of the issue raised and who is suspected of being involved in the malpractice. If the employee is unable to raise the concern with the Chief Officer, they should contact the Chief Executive.
- 3.2 This Policy will enable employees to raise concerns that they reasonably believe are in the public interest. Disclosures relating only to the individual concerned without any wider impact are unlikely to meet public interest.
- 3.3 If an employee is not satisfied that their concerns have been taken seriously, they should write to the Chief Executive and request that the investigation is reviewed.
- 3.4 Employees do not have to provide evidence of the allegation but will be expected to demonstrate that there are reasonable grounds for raising concern.
- 3.5 If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against that employee. If however a malicious or vexatious allegation is made then appropriate action will be taken.

4. Manager's Responsibilities

- 4.1 Chief Officers are responsible for the application of this policy in their Service / Section.
- 4.2 All concerns raised will be treated confidentially by those involved in the reporting process.
- 4.3 Chief Officers will ensure necessary steps are taken to minimise any difficulties an employee may experience as a result of raising a concern.
- 4.4 Line Managers will ensure that team members are aware of this policy.

5. Trade Union Representative's Role

- 5.1 It is the role of Union Representatives to support and advise members.
- 5.2 It is also part of their role to raise issues with managers with a view to resolving them informally so as to avoid escalation into a more serious matter.
- 5.3 If a satisfactory outcome is not achieved the Union Representative may commence the formal dispute resolution process. *This covers and provides an alternative route if the person (the whistle blower) is not satisfied with the actions taken.*

6. Victimisation

The Council will protect any member of staff who makes a good faith disclosure from any form of victimisation and reprisal. Disciplinary action will be taken against any employee who engages in any form of harassment or victimisation against an employee who has raised a concern.

Employees who are concerned about reprisals can seek information and advice on anonymity from HR or their Union.

7. Anonymous Allegations

This policy strongly encourages employees who raise concerns not to remain anonymous, by ensuring they will be protected from victimisation. However, where an employee wishes to remain anonymous, the Council will attempt to protect their identity. This may not always be possible as employees who report concerns may be required to give evidence as a witness, in situations where disciplinary or criminal action is taken.

The Council will use its discretion in maintaining the anonymity of the individual concerned. The following will need to be taken into consideration:

- the seriousness of the issue(s) raised
- the possibility of obtaining information from an alternative source which would confirm the allegation

Although there is provision under the legislation concerns raised anonymously are much more difficult to investigate as it is impossible to seek clarification or additional information. It may therefore not be possible to progress a concern that has been raised anonymously. Anonymous allegations may be followed up via a routine audit.

8. Untrue Allegations

The Council will protect individuals from false and malicious allegations. Allegations will be investigated before determining what action, if any, should be taken. Where it is established that an employee has made an allegation that is known to be false, malicious or for personal gain, they will be subject to disciplinary action under the Council's Disciplinary policy.

Where allegations made in good faith are found to be untrue, no action will be taken against the employee raising the concern.

9. Public Interest Disclosure (Prescribed Persons) Order 2007

For any disclosure to qualify for statutory protection, it must be made to those persons or bodies prescribed in either the Act or included on the list in the Public Interest Disclosure (Prescribed Persons) Order 2007, as appropriate.

The Department of Economic Development have produced a guidance booklet on the statutory right entitled 'A Brief Guide to Whistleblowing' which can be downloaded from:

- <https://www.gov.im/lib/docs/fsc/dedwhistleblowingaguide1.pdf>

All procedures arising from this policy will be subject to the provision of the Data Protection Act 2002.

10. Statutory Obligations

This Whistleblowing Policy does not affect your statutory rights.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, the Council recognises the lawful rights of employees to make disclosures to prescribed persons (such as the Health & Safety Inspectorate, or relevant professional bodies, or regulatory organisations) or, where justified, elsewhere.

The provision of Part IV of the Employment Act 2006 affords statutory protection to a worker who makes a protected disclosure. This protection takes effect from 30th September 2007.

11. Review of Policy

- To be reviewed bi-annually after initial implementation date.
- Unions will be consulted in good time about any proposed changes.

PROCESS

1. How to Raise Your Concerns

Wherever possible, employees should:

- raise concerns in writing identifying the nature of the concern and the grounds on which it is based;
- provide the names of the individuals involved;
- provide background information including the history, dates and places where the malpractice occurred or is likely to occur.

If an employee does not feel able to raise the concern in writing they may telephone the appropriate Chief Officer or arrange to meet the Chief Officer face to face.

It will be more difficult to investigate an anonymous disclosure as concerns expressed anonymously are much less persuasive but will be considered at the discretion of the Council. In exercising this discretion the following will be taken into consideration:

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

If the concern involves the Chief Officer, the matter should be reported to the Chief Executive, who will appoint an appropriate person who will carry out the duties of the Designated Officer.

If, in exceptional circumstances, the concern involves the Chief Executive this should be reported to the Leader of the Council who will decide how the investigation will proceed. As in other cases, this may include an external investigation. The Human Resources Section will support and facilitate, where appropriate.

2. Response

Employees will receive an initial response to any concerns raised within ten working days and a confidential interview will be arranged between the employee and the Designated Officer to discuss the matter. All concerns will then be reported to the Chief Executive who will be responsible for the commission of any further investigation.

All future internal proceedings will be of a confidential nature.

Due to the nature of the concerns covered by this policy it may not always be possible for the Council to indicate how it proposes to deal with the matters raised and the timescales involved. Whilst an employee may not be given a copy of the full investigation report the Council will, subject to any legal or other constraints, undertake to inform employees of the progress and outcome where this will not compromise the process, so that they can be satisfied that the matter is being fully properly addressed.

3. Interview

At the interview meeting arranged to investigate a concern the employee will have the right to be accompanied by their trade union representative or workplace colleague, who is not involved in the area of work to which the concern relates.

During the interview the employee:

- will be reassured about protection from possible reprisals or victimisation;
- will be asked if their identity can be disclosed during the investigation;
- will be asked whether or not they wish to make a formal statement;
- will be informed that a brief summary of the interview will be recorded and that they will be provided with a copy for their record.

If an employee is not satisfied that their concerns have been taken seriously, they should write to the Chief Executive and request that the investigation is reviewed.

4. Individual Protection

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. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any substantive investigation is conducted. The overriding principle is the public interest.

5. Action

Action taken by the Council will be dependent on the nature of the concern raised and may:

- be resolved by agreed action without the need for investigation
- be investigated by management or Internal Audit
- at the discretion of the Council, be subject of an independent inquiry; or be referred to the Police.

RELATED PROCEDURES

The Council has existing procedures in place for employees to raise a variety of concerns:

- Financial Irregularities, including fraud and corruption – Financial Regulations Guidelines and Procedures
- Council's Services – external Corporate Complaints Procedure
- Employment Related Issues – e.g., Grievance & Disciplinary Policies

This Policy exists in addition to the above procedures and is intended to have a wider application covering other forms of malpractice that are not covered in the above policies.

EXTERNAL CONTACTS

The Manx Industrial Relations Service, an independent and impartial service, available to any individual or organisation free of charge can be contacted:

- by telephone (01624) 672942
- by email at iro@ir.gov.im

An independent UK charitable body, 'Public Concern at Work' that may not be familiar with the Isle of Man legislation or the local government system, operates a helpline and can give free, independent confidential advice, and can be contacted:

- by telephone (0207) 4046609
- by email at helpline@pcaw.co.uk

WHISTLEBLOWING PROCESS

