

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **AUDIT COMMITTEE**
DATE: **WEDNESDAY, 26 MARCH 2014**
REPORT BY: **HEAD OF FINANCE**
SUBJECT: **WHISTLEBLOWING POLICY**

1.00 PURPOSE OF REPORT

1.01 To outline to Members the updated Whistleblowing Policy

2.00 BACKGROUND

2.01 Flintshire County Council has had a whistleblowing policy since 2002, and it was last updated and approved by the Audit Committee in 2010. There is a need to review the policy periodically to ensure that it reflects any changes in working practice, legislation and other regulation.

2.02 The document has been reviewed and updated by Internal Audit in conjunction with the Legal and HR departments.

3.00 CONSIDERATIONS

3.01 The Enterprise and Regulatory Reform Act (June 2013) introduced changes to whistleblowing arrangements. The changes have been incorporated in this revised policy. The main changes which came into effect are

- For employees to have protection under the act they need to reasonably believe that they are making disclosures in the public interest. The previous requirement for disclosures to be protected was for them to be made in good faith.
- Greater protection for workers who blow the whistle, particularly where they may suffer from detriment in the workplace.

3.02 The whistleblowing policy enables employees to raise any concerns that they may have and gives assurances about confidentiality and protection. It gives the procedure to be followed and how the Council will respond, along with examples of the types of concerns that can be raised.

3.03 The policy forms part of the Council's constitution. Following approval by the Audit Committee it will be presented to the Constitution Committee.

Following approval it will be re-launched on the Council's Infonet.

4.00 RECOMMENDATIONS

4.01 The Committee is requested to consider and approve the updated policy.

5.00 FINANCIAL IMPLICATIONS

5.01 None as a direct result of this report.

6.00 ANTI POVERTY IMPACT

6.01 None as a direct result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a direct result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a direct result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a direct result of this report.

10.00 CONSULTATION REQUIRED

10.01 Legal and HR departments

11.00 CONSULTATION UNDERTAKEN

11.01 Legal and HR departments

12.00 APPENDICES

12.01 Whistleblowing Policy

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

None.

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APPENDIX 1

**FLINTSHIRE
COUNTY COUNCIL**

**(Excluding staff employed by School Governing
Bodies)**

Whistleblowing Policy

Policy owner for review	Internal Audit Manager & Head of Human Resources and Organisational Development
Date implemented	April 2007
Date last reviewed	October 2010
Date of last amendment	March 2014
Date of next review	

Introduction

Flintshire County Council encourages a free and open culture in dealings between its managers, employees and all people with whom it engages in business and legal relations. In particular, FCC recognises that effective and honest communication is essential if concerns about breaches or failures are to be effectively dealt with and the organisation's success ensured.

FCC aim to create an environment where employees feel able to share their concerns internally in confidence. Employees do not suffer any detriment or victimisation as a result of making a protected disclosure

Aims of the Policy

This policy sets out how to make a disclosure under the Public Interest Disclosure Act 1998. This policy is designed to provide guidance to all those who work with or within Flintshire County Council who may from time to time feel that they need to raise certain issues relating to the organisation with someone in confidence.

This Policy ensures that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.

Scope

This policy applies to all employees of and workers for Flintshire County Council with the exception of teachers and those employed by School Governing Bodies. This policy is commended to schools as good practice.

Definition

Whistleblowing encourages and enables employees to raise serious concerns that are in the public interest **within** the Council rather than overlooking a problem or 'blowing the whistle' outside

Policy

Any issues about malpractice should be raised at an early stage initially with Line Managers, in order for practices to be modified before they reach the point where problems are created or harm is caused. These issues will initially be dealt with informally where possible.

Employees who reasonably believe that the disclosure they are making is in the public interest will be protected from suffering a detriment, bullying or harassment.

This assurance will not be extended to someone who maliciously raises a matter they know is untrue and there are clear procedures in place for dealing with deliberately made false claims.

Confidentiality

We recognise that you may want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent (apart from exceptional cases) for example this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing.

However, this policy encourages you to put your name to your allegation, as concerns expressed anonymously are often much more difficult to investigate. Anonymous allegations will be considered wherever possible at the discretion of the Council.

Third Parties/Contractors

Although the provisions of the Public Interest Disclosure Act 1998 only applies to employees, the Council is committed to ensuring that any third party or contractor who raises a concern under this Policy will not be harassed or victimised as a result. Third parties/contractors should follow Step 3 of the procedure set out below.

Personal Issues

If you have a complaint that relates to personal disputes or your own terms and conditions of employment, this should be raised initially with your line manager and if the issue is not resolved informally with your line manager, the Grievance Policy should be followed.

Protection

Providing that you reasonably believe the disclosure you are making is in the public interest and you follow the procedures outlined in this policy then whistleblowing legislation protects you from detriment. Some examples are; you have a right not to be demoted, suspended, unfairly dismissed or victimised.

Independent Advice and External Contacts

While we hope this policy gives you the reassurance you need to raise such matters internally, we would rather you raised a matter with the appropriate regulator than not at all. Provided you have evidence to back up your concern you can also contact:

- Your Trade Union

- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.
- The Auditor General Wales can also receive whistleblowing disclosures directly from employees

Auditor General Wales 24 Cathedral Road Cardiff, CF11 9LJ Tel: 029 2032 0500	Health & Safety Executive Information Centre Broad Lane Sheffield S3 7HQ
Information Commissioner Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Tel: 01625 545700	The Director of the Serious Fraud Office Elm House 10 – 16 Elm Street London WC1X 0BJ
The Environmental Agency Rio House Waterside Drive, Aztec Way Almondsbury Bristol BS12 4UD Tel: 0800 807060	

Monitoring and Evaluation

The policy will be reviewed to ensure compliance with changes in employment legislation or recommended best practice. Any future amendments to the policy may be authorised by the Head of Human Resources and Organisational Development.

Training and Development

Training will be provided to ensure that those with management responsibility for employees are clear about the policy and the procedures contained within it.

In addition to the support provided by your line manager, advice may be sought from a number of other sources such as the Human Resources Department or your Trade Union representative.

Procedure

When raising a concern about malpractice at work, you can: -

1. Raise the issue first with your line manager; this may be done orally or in writing.
2. If you feel unable to raise the matter with your line manager, for whatever reason, please raise the matter with the next immediate line manager whom

you trust, or with someone outside line management within the Directorate. Please say if you want to raise the matter in confidence so that they can make appropriate arrangements.

3. If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact one of the following
 - the Internal Audit Manager
 - the Monitoring Officer
 - the Head of Human Resources and Organisational Development, or
 - the Head of Finance

The Council's Response

The Council will assess the concern once it is raised, which may involve an internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact them and whether further assistance may be needed. If you request it, we will write to you summarising your concern and how we propose to handle it. Some concerns may be resolved by agreed action without the need for investigation.

While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can within an agreed timescale. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe upon a duty of confidence owed by us to someone else or being in breach of any statutory requirement.

The Authority will ensure that an Officer with knowledge and experience of this procedure will be given the responsibility for obtaining initial information from the referrer. A trained and suitable Officer will also conduct any initial meetings that are required.

At an appropriate stage in any investigation due consideration will need to be given to informing the subject of the concerns raised. It will be necessary to do this to comply with the Council's duties under the Human Rights legislation. However, all efforts will be made to ensure that the source of the concerns remains confidential where possible. The source of the concern will not be disclosed without their consent (apart from exceptional cases) for example this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. A central log of concerns reported under this Policy will be kept by Internal Audit.

Appeals

If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this Policy.

Whilst we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly. By using this policy

you will help us to achieve this.

Role of the Manager

- To deal with and respond to any complaints raised under this policy
- To ensure employees are protected from suffering a detriment as a result of raising an issue under this policy.

Role of the Employee

- Employees must reasonably believe the disclosure of information is in the public interest.
- Employees must **not** act maliciously or make false allegations.
- Employees must **not** seek any personal gain.

Appendices

Appendix 1 – Examples of concerns which could be raised.

Appendix 1 Examples of Concerns which could be raised

This policy will apply in cases where employees reasonably believe that the disclosure they are making is in the public interest. Examples of this are :-

- a criminal offence has been committed, is being committed or is likely to be committed
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject
- a miscarriage of justice has occurred, is occurring or is likely to occur
- the health and safety of any individual has been, is being or is likely to be endangered
- the environment has been, is being or is likely to be damaged
- information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- The unauthorised use of public funds.
- Possible fraud and corruption.
- Other unethical conduct.
- Actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong.