



THE NEWCASTLE CHARTER

Part 5.3A - POLICY FOR CONFIDENTIAL REPORTING OF CONCERNS ("WHISTLEBLOWING")

Notes:-

This constitutes a local protocol and not part of the statutory code of conduct for members under the Localism Act 2011. It has to be read in conjunction with the statutory code (Part 5.2A)

This is the Council's policy intended to encourage and enable employees to raise concerns **within** the City Council without fear of victimisation, subsequent discrimination or embarrassment.

Statutory Sources

Public Interest Disclosure Act 1998

Authorisation

The original version of this protocol was approved by Personnel Committee on 21 June 1999. This current version was approved by City Council on 10 January 2007.

1 INTRODUCTION

- 1.1 This policy reflects the Council’s commitment to good practices, to valuing staff and seeking continuous improvement in service delivery.
- 1.2 Employees are often the first to realise that there may be something wrong within the City Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the City Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than to report what may just be a suspicion of malpractice.
- 1.3 The City Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with who have concerns about any aspect of the City Council’s work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.4 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The policy is intended to encourage and enable employees to raise concerns **within** the City Council rather than overlooking a problem or ‘blowing the whistle’ outside.
- 1.5 The policy applies to all employees and those contractors working for the City Council on City Council premises, for example, agency staff, builders, drivers. It also covers suppliers and those providing services under a contract with the City Council in their own premises, for example homes. The Council will seek to ensure that as part of its procurement processes this Policy is brought to the attention of such external contractors, suppliers and service providers (described in this policy as “Contractors”).
- 1.6 These procedures are in addition to the City Council’s complaints procedures, grievance procedure, Policy on Fraud and Corruption and other statutory reporting procedures applying to some directorates.
- 1.7 This policy has been discussed with the relevant trade unions and professional organisations and has their support.

2 AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:
 - make you feel confident to raise concerns and to question and act upon concerns about practice;
 - give you avenues to raise your concerns and receive feedback on any action taken;

- guarantees that you receive a response to your concerns and ensures that you are aware of the process to follow if you are not satisfied;
- reassure you that you will be protected from possible reprisals or victimisation.

2.2 There are existing procedures in place if you have a grievance relating to your own employment or consider that you are being harassed due to your race or sex or age, or if you are concerned about health and safety risks, including risks to the public as well as to other employees. Indeed you are under a legal obligation (as notified to you in Corporate and Directorate health and safety policy statements), to report to your supervisor or manager any work situation which you consider to represent:

- A danger to the health and safety of yourself, fellow employees or members of the public; or
- A shortcoming in the Authority's arrangements for health and safety.

2.3 If you are reluctant to raise such health and safety concerns with your supervisor or manager, or if you have raised them and are concerned about the response, then arrangements exist for you to raise the health and safety concerns with the Authority's Health and Safety Section based in the Corporate Services Division and/or with Health and Safety Representatives from the relevant trade union.

This policy is intended to cover concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public funds;
- fraud and corruption;
- sexual or physical abuse of clients;
- any attempt to prevent disclosure of any of the above, or
- other conduct which gives you cause for concern.

2.4 Thus any serious concerns that you have about any aspect of service provision or the conduct of your staff or members of the City Council or others acting on behalf of the City Council can be reported under this policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the City Council subscribes to; or
- is against the City Council's Standing Orders and policies; or

- falls below established standards of practice; or
- amounts to improper conduct.

2.5 This policy supplements and does **not** replace the corporate complaints procedure, or the grievance procedure and other procedures established to deal with aspects of harassment i.e. sexual, racial and age harassment, and with health and safety concerns.

3 SAFEGUARDS

3.1 Harassment or Victimisation

The City Council is committed to good practice and high standards and aims to be supportive of its employees.

The City Council recognises that the decision to report a concern can be a difficult one to make. However uncovering malpractice will be doing a service to the Authority. You will be doing your duty to your employer and those for whom you are providing a service.

The City Council will fulfil its responsibility to ensure that you are **NOT** harassed, victimised or otherwise disadvantaged when you raise a concern. Any allegation concerning an employee who engages in any form of victimisation or harassment against you as a result of your raising a concern will be the subject of a thorough investigation and disciplinary action will be taken if the case is proved.

Allegations by an employee who is the subject of disciplinary investigations or proceedings concerning the conduct of those proceedings can only be raised through the disciplinary appeals procedures.

3.2 Confidentiality

All concerns will be treated in confidence wherever possible and every effort will be made to preserve your anonymity if you so wish. You may need however to come forward as a witness, but if you wish to be supported by a representative of your choice then this would be available to you.

3.3 Anonymous Allegations

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously are much less powerful but they will be considered so far as is possible or practicable by the City Council.

3.4 Untrue Allegations

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If however, you make an allegation maliciously or for personal gain, disciplinary action may be taken against you.

4 HOW TO RAISE A CONCERN

4.1.1 Procedure for City Council Employees

As a first step, you should raise concerns with your immediate manager or their manager. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, for example if you believe that your immediate manager or their managers are involved, you should approach your Director. The manager receiving notification of concerns under this policy will inform the Assistant Director Legal Services that a confidential report has been received and provide a copy. If the concern relates to financial irregularities or failures of financial controls the manager receiving the report must immediately notify the Head of Audit and Strategic Risk.

4.1.2 Concerns may be raised verbally or in writing. If you make a written report please use the attached pro-forma. Reports should be sent to your immediate manager or their superior or to the Director and a copy sent to the Assistant Director Legal Services.

4.1.3 Procedure for Contractors

As a first step, you should normally raise concerns with your manager, who will then inform the lead council officer who is dealing with the particular contract. If you do not have a manager, you should raise your concerns direct with the lead council officer. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that your manager or the lead council officer is involved, you should approach the Assistant Director Legal Services at the City Council direct. Otherwise, the lead council officer receiving notification of concerns under this Policy will inform the Assistant Director Legal Services that a confidential report has been received and provide a copy. If the concern relates to financial irregularities or failures of financial controls the lead council officer receiving the report will also immediately notify the Head of Audit and Strategic Risk.

4.1.4 Concerns may be raised verbally or in writing. If you make a written report you should, if possible, make it using a similar report form to the attached pro-forma. A copy of any report you send to your manager or lead council officer should also be sent to the Council's Assistant Director Legal Services for monitoring purposes.

4.2 The Assistant Director Legal Services is responsible for the maintenance and operation of this policy and will monitor how the complaint is handled and ensure that the requirements of this policy are fulfilled.

4.3 The earlier you express the concern the easier it will be to take action.

4.4 City Council employees can obtain advice and guidance on how matters of concern may be pursued from the Head of HR and Organisational Improvement. City Council employees and Contractors can get confidential, independent advice from the charity Public Concern at Work on 0207 404 6609. Their website is at www.pcaaw.co.uk

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

- 4.5 You can invite your trade union or professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.
- 4.6 Concerns can be raised through your trade union.

5 HOW THE CITY COUNCIL WILL RESPOND

- 5.1 The City Council will respond to your concerns, and it will be necessary to investigate your concerns but this is not the same as either accepting or rejecting them.
- 5.2 Within **3 working days** of a concern being raised, you will be sent a written response:
 - acknowledging that the concern has been received;
 - indicating how we propose to deal with this matter;
 - giving an estimate of how long it will take to provide a final response;
 - telling you whether any enquiries have been made;
 - supply you with information on staff support mechanisms.

The Assistant Director Legal Services will be sent a copy of this response.

- 5.3 Where appropriate, matters raised may:
 - be investigated by management, internal audit, or through the disciplinary process;
 - be referred to the police or other statutory agencies;
 - be referred to the external auditor.
- 5.4 In order to protect individuals and those about whom concerns are raised, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 5.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 5.6 The amount of contact between the individual 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 investigating officers, will seek further information from you.

- 5.7 Where any meeting is arranged, and this can be off-site if you so wish, you can be accompanied by a trade union or professional association representative or a friend.
- 5.8 The City 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 City Council will arrange for you to receive advice about the procedure.
- 5.9 The City 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 outcomes of any investigation.

6 THE RESPONSIBLE OFFICER

- 6.1 The Assistant Director Legal Services (as Monitoring Officer) has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and may report as necessary to the Council, but in such a way that your confidentiality will be preserved.
- 6.2 It is the responsibility of any manager/director who receives a whistleblowing report to:

Copy the original report immediately to the Assistant Director Legal Services. The initial written response to the person raising the concern must also be copied to the Assistant Director Legal Services. In addition any further responses must be copied to the Assistant Director Legal Services who must as soon as possible also be informed of the outcome(s) of any investigation and any actions instigated as a result.

7 HOW THE MATTER CAN BE TAKEN FURTHER

- 7.1 This policy is intended to provide you with an avenue **within** the City Council to raise concerns. The City Council hopes you will be satisfied with any action taken. If you are not satisfied with the outcome of your confidential report you can write to the Chief Executive and ask for the investigation and outcome to be reviewed. If you remain dissatisfied, and you feel it is right to take the matter outside of the City Council, you may wish to take advice from your trade union, your local Citizens Advice Bureau, any of the external agencies listed in paragraph 7.4 below, or your legal advisor on the options that are available to you.
- 7.2 One possibility is that you may wish to rely on your rights under the Public Interest Disclosure Act 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public interest. The provisions are quite complex and include a list of prescribed persons outside of the City Council who can be contacted in certain circumstances. You should seek advice on the effect of the Act from the persons referred to above.
- 7.3 If you do take the matter outside of the City Council, you should ensure that you do not disclose information where you owe a duty of confidentiality to persons other than the Council (e.g. service users) or

where you would commit an offence by making disclosure. In order to ensure that you do not make any such disclosures you may want to check the position with the Assistant Director Legal Services.

7.4 External Contacts

If for any reason you do not wish to use the internal arrangements set out above, or require additional support and advice, a list of external agencies is given below.

(This is not exhaustive. A fuller list is available in The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 – see www.legislation.hmso.gov.uk).

Audit Commission for England and Wales
Tel 020 7828 1212
www.audit-commission.gov.uk
Public interest disclosure line 0303 444 8346

Care Quality Commission
Tel 03000 616161
www.cqc.org.uk

Environment Agency
Tel 03708 506 506
www.environment-agency.gov.uk

Food Standards Agency
Tel 020 7276 8000
www.food.gov.uk

Health and Care Professions Council (HCPC)
Tel: 0845 300 6184
www.hcpc-uk.org

Health and Safety Executive
www.hse.gov.uk

Information Commissioner
Tel 01625 545 745
www.ico.org.uk

The Pensions Regulator
www.thepensionsregulator.gov.uk

Public Concern at Work
Tel 020 7404 6609
www.pcaw.org.uk

If you are a member of a Trade Union you can also contact them for advice and support. The main local contacts for the City Council are: -

Unison	0191 211 6980
GMB	0191 211 6989

NUT	0191 482 7700
NAS/UWT	0191 519 5300
Unite	0191 300 2107

Advice about your rights is also available from: -

Citizens Advice Bureau (Newcastle City)	0844 499 4717
Newcastle Law Centre	0191 230 4777



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REPORT FORM

The City Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with who have concerns about any aspect of the City Council’s work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis. If you wish to make a report please use this pro-forma.

1 Background and history of the concern (giving the relevant dates).

2. The reasons why you are particularly concerned about the situation.

(Please attach additional sheets if necessary)

3. You are encouraged to put your name to this report. Concerns expressed anonymously are much less powerful but they will be considered so far as is possible by the City Council. If you feel able to, please give your name and details below.

Name:

Directorate (if applicable):.....

Address:.....
.....

Contact Telephone Number:..... Date

PLEASE SEND THIS FORM TO YOUR MANAGER, OR ALTERNATIVELY TO THEIR MANAGER OR DIRECTOR AS APPROPRIATE. YOU MUST ALSO SEND A PHOTOCOPY OF THE COMPLETED FORM AT THE SAME TIME TO THE ASSISTANT DIRECTOR LEGAL SERVICES, CIVIC CENTRE, FOR MONITORING PURPOSES.