

<b>FYLDE COUNCIL</b>		
<b>Topic</b>	<b>WHISTLEBLOWING POLICY</b>	

## 1 Introduction

- 1.1 Employees are often the first to realise that there may be 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 or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of reprisals. This policy document makes it clear that you can do so without the fear of victimisation, subsequent discrimination or disadvantage.
- 1.3 This Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem and before raising the matter outside the Council.
- 1.4 These procedures are in addition to the Council's complaints procedures and other reporting procedures that may apply in some departments. Employees are responsible for making service users aware of the existence of these procedures.

## 2 Aims and Scope of the Policy

- 2.1 This Whistleblowing Policy aims to:
- ◆ encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice that are made in the public interest
  - ◆ provide avenues for you to raise concerns and receive feedback on any action taken
  - ◆ allow you to take the matter further if you are dissatisfied with the Council's response; and
  - ◆ reassure you that you will be protected from reprisals or victimisation.
- 2.2 All employees have a moral responsibility to report improper acts and omissions. In some circumstances failure to raise such concerns may amount to a breach of contract or breaking the law.

Under the provisions of The Bribery Act 2010 there is a requirement for employers to adopt measures to prevent bribery on its behalf. This Whistleblowing policy is an essential tool in helping to protect the Authority and you are therefore encouraged to report any genuine concerns.

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2.3 There are existing procedures in place to enable you to lodge a grievance relating to your own employment or a collective grievance held by more than one employee about a particular issue concerning their employment. Some of the more common issues that might give rise to a grievance include:

- ◆ the application of terms and conditions of employment;
- ◆ Health and Safety;
- ◆ relationships at work;
- ◆ working practices not covered by the job description;
- ◆ fair and equitable treatment.

2.4 This Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures. These may include:

- ◆ conduct that may be an offence or break the law;
- ◆ failure to comply with a legal obligation;
- ◆ miscarriage of justice;
- ◆ unauthorised use of public funds;
- ◆ offering, taking or soliciting bribes
- ◆ possible fraud or corruption;
- ◆ misreporting performance data;
- ◆ health and safety risks in the workplace;
- ◆ dumping damaging material in the environment;
- ◆ sexual harassment or physical abuse;
- ◆ gross waste or mismanagement of funds
- ◆ serious misuse of funds
- ◆ abuse of authority
- ◆ unethical conduct; and
- ◆ deliberate covering up of information relating to any of the above

2.5 That concern may be about any aspect of service delivery, or the conduct of employees or members of the Council, or others acting on the Council's behalf. It may be something that:

- ◆ is unlawful; or
- ◆ makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- ◆ is against the Council's Standing Orders, regulations or policies; or
- ◆ falls below established standards or practice; or
- ◆ amounts to improper conduct.

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2.6 The people best placed to raise a concern before any serious damage is done often fear they have the most to lose if they do speak up. The Council is keen to avoid a culture of silence by supporting honesty and encouraging openness. This will ensure the Council is better able to:

- ◆ deter wrongdoing;
- ◆ pick up potential problems early;
- ◆ enable critical information to get to the people who need to know and can address the issue;
- ◆ demonstrate to stakeholders, regulators and the courts that they are accountable and well managed;
- ◆ reduce the risk of anonymous and malicious leaks;
- ◆ minimise costs and compensation from accidents, investigations, litigation and regulatory inspections; and
- ◆ maintain and enhance its reputation.

### 3 Who is covered by the Policy?

3.1 All employees of the Council may use this policy. This includes both permanent and temporary staff, volunteers, job applicants, apprentices, students or trainees and elected members. It covers agency staff and staff seconded to a third party. Any concerns relating to the third party, if relevant to the employee's secondment can also be raised under this policy.

3.2 Contractors working for the Council on Council premises, for example, agency staff, consultants, builders and maintenance staff, may use the policy to make the Council aware of any concerns with regard to any contractual or other arrangements with the Council. It also covers suppliers and those providing services under a contract with the Council in their own premises

### 4 Harassment or Victimisation

4.1 The Council is committed to good practice and high standards and wants to be supportive of employees who make the decision to report a concern. Employees who raise concerns have nothing to fear since they are fulfilling their responsibility to their employer and to those for whom they are providing a service.

4.2 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate

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bullying, harassment or victimisation, including informal pressure, and will take appropriate action to protect you. This could include disciplinary action against the perpetrator, which may lead to dismissal.

4.3 You must report any retaliation, which could include but is not limited to:

- ◆ frequent and undesirable changes in work assigned;
- ◆ unsubstantiated disciplinary action
- ◆ unjust denial of promotion or transfer
- ◆ physical and verbal abuse
- ◆ deliberate exclusion and isolation
- ◆ denial of training
- ◆ closer monitoring
- ◆ demotion
- ◆ suspension
- ◆ victimisation
- ◆ dismissal
- ◆ failure to provide appropriate reference
- ◆ failure to investigate subsequent concern

4.4 This does not mean that if you are already the subject of a disciplinary investigation for alleged malpractice or redundancy procedures, that those procedures will be halted as a result of your whistleblowing.

## 5 Confidentiality

5.1 The best situation if you had a whistleblowing concern would be if you felt it was safe and acceptable to raise the concern openly, where those involved know what the issue is and who has raised it. This openness makes it easier for the Council to assess the issues, to work out how to investigate the matter, to get more information, to understand any hidden agendas, to avoid witch hunts and to minimise the risk of a sense of mistrust developing.

5.2 While openness is the ideal, in practice you may have reason to feel anxious about your identity being revealed, particularly at the outset. Consequently where you raise a concern outside of line management the assumption will be that the contact is made in confidence.

5.3 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, particularly if the

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Police or External Auditors become involved. In order to take effective action, the Council will need proper evidence which may be required to withstand examination in disciplinary proceedings, courts or tribunals.

- 5.4 If it does become necessary to reveal your identity, you will be advised before this action is taken. If there is an unauthorised disclosure of your identity without your prior knowledge, disciplinary action may be taken against the person breaching the confidentiality arrangements.
- 5.5 Even though your name will not be revealed without prior notification, this cannot guarantee that others will not try to deduce the identity of the whistle-blower. In addition, if you have already voiced the concern to colleagues or your manager, others may assume you are the source of any disclosure made higher up in the organisation.

## 6 Anonymous Allegations

- 6.1 This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful. They are difficult to investigate since it is impossible to liaise with the employee to seek clarification or more information, to assure them or to give them feedback.
- 6.2 Anonymous allegation will be considered at the discretion of the Chief Executive. In exercising this discretion, the factors 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.

## 7 Untrue Allegations

- 7.1 If you make an allegation with a genuine concern, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make a frivolous, malicious or vexatious allegation that is for no other purpose than to cause trouble or annoyance or without good reason to discredit the Council, any member or officer, an investigation will take place to determine whether disciplinary action is taken.

## 8 How to Raise a Concern

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- 8.1 As a first step, you should normally raise concerns with your immediate line manager or supervisor. In most cases the matter will be dealt with at that stage. You may wish to consider discussing your concern with a colleague in some circumstances, as it can be easier to raise concerns if there is more than one witness.
- 8.2 If you feel unable to raise the matter with your line manager, or if your line manager does not take appropriate action to resolve the issue, you should approach a more senior manager or your director. However, this depends on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.
- 8.3 For example, if you believe that a senior manager is involved, you should approach the:
- ◆ Chief Executive;
  - ◆ Section 151 Officer;
  - ◆ Monitoring Officer; or
  - ◆ Head of Internal Audit.
- 8.4 Managers have a responsibility to ensure that concerns are taken seriously and must ensure that the action necessary to resolve a concern is taken promptly. Employees should be kept advised of progress. A whistle-blower has the status of a witness not a complainant.
- 8.5 Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reasons why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.
- 8.6 The earlier you express the concern, the easier it is to take action.
- 8.7 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.
- 8.8 Advice and guidance on how matters of concern may be pursued can be obtained from:

A local Trade Union official

Allan Oldfield - Chief Executive on extension 8500

E-mail: [allano@fylde.gov.uk](mailto:allano@fylde.gov.uk)

Paul O'Donoghue – Section 151 Officer on extension 8566

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E-mail: paul.o'donoghue@fylde.gov.uk

Tracy Scholes – Monitoring Officer on extension 8521  
E-mail: tracys@fylde.gov.uk

Savile Sykes – Head of Internal Audit on extension 8413  
E-mail: saviles@fylde.gov.uk

Dean Francis – Senior Auditor on extension 8416  
E-mail: deanf@fylde.gov.uk

Linda Dutton – Head of Human Resources on  
mobile 07584 606831318031 E-mail: linda.dutton @blackpool.gov.uk

8.9 You may invite a companion, who may be from your trade union or professional association, or a friend or a legal representative to raise a matter on your behalf. You may also have such a companion to represent you at any meeting that is held relating to your concern.

8.10 Employees who raise concerns or who are the subject of an investigation can access confidential counselling through the Occupational Health Service.

8.11 In addition the Council has subscribed to the Employee Assistance Programme which is an independent organisation that provides completely confidential help and assistance including counselling for employees and their immediate families for any personal or work related issues. It is available 24 hours a day, 7 days a week, and 365 days a year. They can be contacted on Telephone 0800 030 5182  
Website [www.healthassuredeap.co.uk](http://www.healthassuredeap.co.uk) log in; Fylde Council, Username: Fylde  
Password: Council - Email Counselling Advice - [CounsellingAdvice@healthassured.co.uk](mailto:CounsellingAdvice@healthassured.co.uk)  
Access to Minicom is arranged via scheduling a consultation using the Counselling Advice mailbox.

## 9 How the Council Will Respond

9.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

9.2 The action taken by the Council will depend on the nature of the concern. The Council could decide that the matters raised might:

- ◆ be investigated internally by management and/or internal audit through the disciplinary process

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- ◆ be investigated under another procedure
- ◆ be referred to the Council’s Monitoring Officer
- ◆ be referred to the Police
- ◆ be referred to the external Auditor
- ◆ form the subject of an independent inquiry

9.3 In order to protect individuals and the Council, 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 (for example racial discrimination issues, members conduct, IT security breach), will normally be referred for consideration under relevant procedures.

9.4 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.

9.5 Within fifteen working days of a concern being received, your immediate manager, the Chief Executive or relevant officer, depending upon whom you have approached and the circumstances of the case, will contact you:

- ◆ acknowledging that the concern has been received
- ◆ indicating how it is proposed to deal with the matter if possible at such an early stage
- ◆ giving an estimate of how long it will take to provide a final response if possible at such an early stage
- ◆ telling you whether any initial enquiries have been made, and
- ◆ telling you whether further investigations will take place, and if not, why not.

9.6 The amount of contact between the 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, further information will be sought from you.

9.7 If you would like an update or feedback at any time the Council encourages you to contact the person you approached. While the Council will provide as much feedback as it properly can, due to legal obligations of confidentiality, it may not be able to feely provide feedback on the outcome of any disciplinary action taken. Where this is the case the Council will make clear to the whistle-blower that they were right to raise the concern.

9.8 Any further evidence that the wrongdoing is continuing or that the whistle-blower feels anxious about some perceived or actual reprisal should be reported to your contact.

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- 9.9 When any meeting is arranged, off-site if you so wish, you have the right to be accompanied by your chosen companion. This may be a trade union representative or work colleague but cannot be someone involved in the area of work to which the concern relates.
- 9.10 The Council will do what it lawfully can to minimise any difficulties that 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. The Council cannot provide legal representation for you. Where appropriate, counselling may be provided through Human Resources.
- 9.11 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations. However, this will not include details of any disciplinary action, which will remain confidential to the individual concerned.
- 9.12 The Head of Internal Audit maintains a record of concerns raised with him/her and the outcomes, but not in a form that may endanger your confidentiality, and will report immediately as necessary to the Council's Monitoring Officer.
- 9.13 The Council in its Annual Governance statement will report and specify the numbers and types of concerns raised; any relevant litigation and levels of employee awareness, trust and confidence in the arrangements.

## 10 How the Matter Can Be Taken Further

- 10.1 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 if you feel it is right to take the matter outside the Council, the following are possible contact points:
- ◆ the independent charity Public Concern at Work 020 7404 6609
  - ◆ Information Commissioner 01625 545745
  - ◆ the Police 0845 1 25 35 45
  - ◆ Health & Safety Executive 01772 836200
  - ◆ Local Government Ombudsman 01904 633269
  - ◆ UNISON whistleblowing hotline 0800 597 9750

For full details of the above and other organisations contact information, including email address, telephone numbers and addresses are available on the government website at the following hyperlinks:

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- ✓ General link to government website about Whistleblowing

<https://www.gov.uk/whistleblowing/who-to-tell-what-to-expect>

- ✓ Link to prescribed person list on Government Website

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf)

10.2 Some of these organisations can give you free confidential advice about how to raise a concern about serious malpractice at work. For example, Public Concern at Work will give practical advice to those who have a concern but may be unsure whether to report the matter or remain silent.

10.3 It is stressed that this list is not exhaustive and you are free to contact any organisation that you feel will be able to deal properly with your concerns.

10.4 This may include:

- ◆ your local Councillor
- ◆ your solicitor
- ◆ other relevant professional/regulatory bodies.

10.5 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with your contact point about that.

10.6 It will be safe to raise a concern with any of the above provided that:

- ◆ The disclosure relates to a genuine concern
- ◆ you reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- ◆ you do not make the disclosure for the purposes of personal gain.
- ◆ The disclosure is not being made with malicious intent

10.7 If you make allegations that you have no grounds to believe are true, or maliciously or for personal gain then you could face defamation proceedings or a prosecution for wasting police time. If you decide to address your concerns by going to the press or the media then you may face defamation proceedings if your allegations are unfounded.

## 11 The Law

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11.1 This policy has been written to take account following Acts:

11.2 **Employment Rights Act 1996 Part IV – The Public Interest Disclosure Act 1998**

11.2.1 The Public Interest Disclosure Act 1998 (PIDA) protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act’s provisions. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concerns about, health and safety at work.

11.2.2 PIDA sets out a framework for a worker to make disclosures about the following categories of wrongdoing, provided that they reasonably believe it to be in the public interest to do so:

- ◆ criminal offences
- ◆ failure to comply with legal obligations,
- ◆ miscarriages of justice,
- ◆ dangers to health or safety,
- ◆ dangers to the environment,
- ◆ deliberate concealment of any of the above categories.

11.2.3 This disclosure will be protected if the worker discloses:

- ◆ in course of obtaining legal advice
- ◆ to the employer
- ◆ in certain circumstances to a Minister of the Crown
- ◆ to a ‘prescribed person’ reasonably believing that the information and any allegation contained within it are substantially true. The Secretary of State (in practice the Secretary of State for Business, Energy and Industrial Strategy) prescribes by list both the identity of the prescribed person (usually regulatory body) and its remit
- ◆ to any person or body provided that a number of detailed conditions are satisfied. Those conditions include a requirement that the worker does not make the disclosure for purposes of personal gain and a requirement that it is reasonable to make the disclosure in the circumstances
- ◆ A further section makes provision for a disclosure of an exceptionally serious failure to any person or body

11.2.3 The Act makes it unlawful for an employer to dismiss or subject a worker to a detriment for having made a ‘protected disclosure’ of information. The protection provided by the Act is not subject to any qualifying period of employment and so is referred to as a ‘day one’ right in employment law. By contrast under ordinary unfair dismissal, there is a two year qualifying period.

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### 11.3 Settlement Agreements

11.3.1 In the light of section 43J ERA 1996 (anti-gagging provisions in PIDA) employers drafting settlement agreements should not include a clause which precludes a worker from making a protected disclosure.

### 11.4 Good Faith

11.4.1 Employees are protected if they have an honest and reasonable belief or concern, whether this turns out to be true or not. Disclosures must not be malicious or made in pursuit of a personal grudge.

### 11.5 Fraud

11.5.1 The Fraud Act 2006 defines fraud as:

- ◆ false representation
- ◆ failing to disclose information
- ◆ abuse of position

11.5.2 For practical purposes, fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party.

## 12 Reviewing the Effectiveness of the Policy

12.1 The Director of Resources (as Monitoring Officer) has overall responsibility for the maintenance and operation of this policy. The impact and effect of the policy will be judged regularly against the British Standards Institute (BSI) Whistleblowing Arrangements Code of Practice.

12.2 The Council will arrange for a periodic audits of the effectiveness of this Policy in accordance with the scope set out in recommendation 7 (d) of the whistleblowing Code of Practice and results will be reported to the Audit and Standards Committee.

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