

Polisi Rhannu Pryderon

Whistleblowing Policy

Gwasanaethau AD Corfforaethol / Corporate HR Services
Medi 2021 / September 2021

www.conwy.gov.uk



Whistleblowing Policy

Approvals	
Approved	Date: January 2014: Version 2
Approved	Date: April 2017: Version 3
Draft	Date: September 2018: Version 4 (not approved)
Draft	Date: September 2019: Version 5
Minor Amendments	May and September 2021
Equality Impact Assessment Completed:	Date:
Version	V0.06

Version Control			
Version No.	Key Changes	Agreed By	Issue Date
2.	<p>Policy updated to address the requirements of ss.17 to 20 of the Enterprise and Regulatory Reform Act 2013 which amended the relevant provisions of the Employment Rights Act 1996 to provide that:</p> <ul style="list-style-type: none"> • a disclosure will not be protected unless it is, in the reasonable belief of the worker making the disclosure, "in the public interest"; • a disclosure no longer has to be made "in good faith" to be protected, but an employment tribunal may reduce a worker's compensation by up to 25% if it appears to the tribunal that a protected disclosure was not made in good faith; • a worker has the right not to be subjected to a detriment by any act or deliberate 	PM Davies	2014

	<p>omission by another worker employed by his or her employer on the ground that he or she has made a protected disclosure; and</p> <ul style="list-style-type: none"> • a worker has the right not to be subjected to a detriment by any act or deliberate omission by an agent of his or her employer acting with the employer's authority. 		
3.	<p>Light touch review in accordance with paragraph 1.3 below as part of the cyclical process for HR policies. There have been no significant changes to legislation on this subject since 2014. Minor updates to reflect the requirements of the Corporate Safeguarding Policy.</p>	P.M. Davies	April 2017
4.	<p>Light touch review to address recommendations of a report by the Internal Audit Service in July 2018. Not agreed by SMT</p>	P.M. Davies & D. Jones	September 2018
5.	<p>Full review.</p>	P.M. Davies & D. Jones	April-September 2019. Approved by the Cabinet on 12 th November 2019
6	<p>Minor amendments made under delegation, Section 10, of the Policy to reflect a change of postholder as Head of Law and Governance and Monitoring Officer.</p>	P.M.Davies	May 2021
7	<p>Minor amendments made under delegation, Section 10 of the Policy to reflect a change of postholder as Strategic Director of Finance and Resources/Section 151 Officer.</p>	P.M.Davies	September 2021

Contents

1. What is Whistleblowing?	5
2. Aims of the Policy	5
3. Scope of the Policy	6
4. Who can raise a concern under the policy?	7
5. Safeguarding – Duty to Report an Adult at Risk or a Child at Risk	7
6. Safeguards: Protecting the Whistleblower	7
7. How to Raise a Concern	9
8. How the Council will respond	10
9. Training	11
10. Review of the Policy	11
Whistleblowing Referral Form	13

1. What is Whistleblowing?

1.1. In this policy “Whistleblowing” means the reporting of suspected misconduct, illegal acts or failure to act within the Council. The aim of this Policy is to encourage employees and others (see paragraph 4) who have serious concerns about any aspect of the Council’s work to come forward and disclose them.

1.2. Employees are often the first to realise that there may be something seriously wrong within the Council. Whistleblowing is viewed by the Council as a positive act that can make a positive contribution to the Council’s commitment to sustaining the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others (see paragraph 4) with serious concerns about any aspect of the Council’s work to come forward and voice those concerns. Whilst this Policy largely focuses on our employees/workers and elected members, members of the public who wish to raise concerns should contact the officers named in paragraphs 7.3 and 7.4 below.

1.3. If you are considering raising a concern you should read this Policy first. It explains:

- The type of issues that can be raised.
- How the person raising a concern will be protected from victimisation and harassment.
- How to raise a concern.
- What the Council will do.

2. Aims of the Policy

2.1. The Policy is designed to ensure that you can raise your concerns about wrongdoing or malpractice within the Council without fear of victimisation, subsequent discrimination, disadvantage or dismissal, if you are an employee or “worker”. “Worker” in this context includes not only those who are directly employed by the Council but also other individuals such as agency workers and casual staff. Anyone who works for the organisation under any type of contract will fall within the scope of the protection.

2.2. It is also intended to encourage and enable you to raise serious concerns within the Council rather than ignoring a problem or “blowing the whistle” outside.

2.3. The Policy aims to:

- Encourage you to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns of practice.
- Provide avenues for you to raise those concerns and receive feedback on any action taken.

- Reassure you that you will be protected from reprisals or victimisation for whistleblowing or making a qualifying disclosure.

3. Scope of the Policy

3.1. This Policy is intended to enable those who, in good faith, believe there may be wrong doing in the Council affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated.

3.2. There are existing procedures in place to enable you to lodge a grievance relating to your own employment contract.

3.3. Separate procedures exist for service users with concerns about services provided to them or other matters:

(<https://www.conwy.gov.uk/en/Council/Forms/Form-Complaint.aspx>),

and for complaints about the conduct and behaviour of councillors

<https://www.conwy.gov.uk/en/Council/Contact-Us/Contact-the-Council/How-to-make-a-complaint.aspx>

3.4. The law provides protection for workers who raise legitimate concerns about specified matters. These are called “qualifying disclosures”. “Qualifying disclosures” are disclosures of information where the employee/worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- A criminal offence
- A breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- An act causing damage to the environment
- Concealment of any of the above

(ACAS: Whistleblowing-Public Interest Disclosure)

4. Who can raise a concern under the policy

The Policy applies to all:

- Employees*.
- Workers i.e. agency staff and casual workers.
- Employees of contractors engaged in work for the Council.
- Employees of suppliers.
- Those providing services under a contract or other agreement with the Council e.g. a consultant or provider of an Occupational Health/Physiotherapy service.
- Employees of other organisations working with CCBC staff in joint teams and other forms of partnership working e.g. health, third sector and youth justice.
- Volunteers.
- Members of the public, who should report concerns directly to the three senior officers named in paragraphs 7.3 and 7.4 below.
- Elected Members.

* This policy applies to all employees of Conwy County Borough Council **other than** those in educational establishments, who have separate Whistleblowing Policy arrangements. If you are employed in, working with, or assisting Conwy County Borough Council schools please refer to your school's arrangements.

5. Safeguarding – Duty to Report an Adult at Risk or a Child at Risk

Safeguarding is about protecting children and adults from abuse or neglect, and educating those around them to recognise the signs and dangers.

Safeguarding is everyone's business. Employees/workers in each department in the Council need to recognise and act when they identify children and adults at risk. It is a legal duty to report an Adult at Risk and a Child at Risk under the Social Services and Wellbeing Act 2014. For further information regarding your responsibilities around Safeguarding, please refer to the Corporate Safeguarding Policy - http://intranet.corp.conwy.gov.uk/upload/public/attachments/689/Corporate_safeguarding_policy_April_2017.pdf or refer to your Designated Safeguarding Lead in your department if appropriate.

6. Safeguards: Protecting the Whistleblower

6.1. Your Legal Rights

This Policy has been written to take account of the Public Interest Disclosure Act 1998 (PIDA) and the requirements of ss.17 to 20 of the Enterprise and Regulatory

Reform Act 2013.

The PIDA makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

Rarely, a case may arise where it is the employee/worker that has participated in the action causing concern. In such a case it is in the employee/worker's interest to come forward as soon as possible. The Council cannot promise not to act against such an employee/worker, but the fact that they came forward may be taken into account.

6.2. Harassment or Victimisation

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 alleged malpractice.

The Public Interest Disclosure Act, 1998 will protect you from any reprisals, so long as you meet the rules set out in the Act. The Enterprise and Regulatory Reform Act 2013 made it a requirement that the employee/worker must have a reasonable belief that the disclosure is in the public interest. In brief, to obtain that protection, employees/workers must act reasonably and responsibly.

You must:

- Believe it to be substantially true
- Not act maliciously or make false allegations and
- Not seek any personal gains

The Council will not tolerate harassment or victimisation of a whistleblower and will take appropriate action to protect you when you raise a concern in good faith and will treat this as a serious disciplinary offence.

6.3. Anonymous Allegations and Confidentiality

You are encouraged to put your name to your allegation. Concerns expressed anonymously are much more difficult to investigate. This Policy is not ideally suited to concerns raised anonymously, (it would be helpful to understand your reason(s) for remaining anonymous, should that be your choice), however, they will be considered at the discretion of the Council.

In exercising that discretion, the factors to be taken into account would include:-

- The seriousness of the issues raised
- The likelihood of being able to confirm the allegation from other sources
- The credibility of the concern.

Every effort will be made not to reveal your identity if that is your wish. If disciplinary

or other proceedings follow the investigation, it may not be possible to take action as a result of your disclosure without your help, so you may be asked to come forward as a witness. If you agree to this you will be offered advice and support from senior management. Your concerns will be taken seriously and the Council will do all it reasonably can to help you throughout the investigation and for a period after its conclusion.

Note

For those who are not Council employees/workers we will endeavor to provide appropriate advice and support where possible.

6.4. Untrue Allegations

If you are an employee of the Council and you make a protected disclosure in good faith, reasonably believing it to be true, but it is not confirmed by the investigation, the Council will recognise your concern and no action will be taken against you. If, however, you make an allegation(s) that is malicious, vexatious, frivolous or for personal gain, disciplinary action may be taken against you. If you are a casual worker your engagement may be terminated, and if an agency worker your agency will be notified and your assignment to the Council may be ended.

7. How to Raise a Concern

7.1. This will depend on the seriousness and sensitivity of the issues involved and who is suspected of wrongdoing.

The officers and postholders specified below are responsible for responses to whistleblowing concerns and the overall effectiveness of the Policy.

7.2. As a first step, you should normally raise concerns with the Director or Head of Service responsible for your service.

7.3. If however you feel that you do not wish to raise your concerns with your Director/Head of Service, then you are encouraged to contact the Council's Monitoring Officer, Head of Law & Governance, Rhun ap Iwan on 01492 576075 or email rhun.apgareth@conwy.gov.uk (or in his absence either of the Deputy Monitoring Officers: Peter Brown peter.brown2@conwy.gov.uk or Ceri Williams ceri.williams@conwy.nwalescls.com)

7.4. If your concern relates to financial irregularities the matter will be reported to the Strategic Director (Finance & Resources)/Section 151 Officer, amanda.hughes2@conwy.gov.uk email and the Head of Audit and Procurement, Mike Halstead email Mike.Halstead@conwy.gov.uk

7.5. Concerns are better raised in writing. You are invited to set out a background and history of the concerns, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation and why you believe them to be true. If you do not feel able to put your concerns in writing, you can telephone or meet the appropriate officer. Alternatively you

can ask your trade union or professional association to raise a matter on your behalf.

7.6. The nearer to the event/incident you express the concern, the easier it is to action.

7.7. 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 genuine grounds for your concern.

8. How the Council will respond

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

8.2. The overriding principle for the Council will be the public interest. In order to be fair to all employees and the Council, including those who may be wrongly or mistakenly accused, initial enquires will be made to decide whether an investigation is appropriate and, if so, what form it should take.

8.3. The investigation may need to be carried out under terms of strictest confidentiality i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. In certain cases, however, such as allegations of ill treatment of others, suspension from work may have to be considered immediately. Protection of others is paramount in all cases.

8.4. Where appropriate the matters raised may:-

- be investigated internally by management, internal audit, or through the disciplinary, capability or grievance processes.
- be referred to the Police
- be referred to the external Auditor
- be referred and put through established child protection/safeguarding procedures.
- form the subject of an independent inquiry

8.5. The senior officers referred to in paragraphs 7.2, 7.3 and 7.4 above will make the decision.

8.6. Some concerns may be resolved by agreed action without the need for investigation.

8.7. Within ten working days of a concern being received, the officer who is dealing with the matter will write to you:-

- acknowledging that your concern has been received
- indicating how they propose to deal with the matter and if no investigation

- is to take place, why not
- giving an estimate of how long it will take to provide a final response
- supplying you with information on employee support mechanisms

8.8. The amount of contact between you and the officer(s) considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of your information. It is likely that you will be interviewed to ensure that your disclosure is fully understood. Any meeting can be arranged away from your workplace, if you wish, and a trade union representative or a friend may accompany you in support.

8.9. The Council will do what it can to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are asked to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive appropriate advice and support.

8.10. You need to be assured that your disclosure has been properly addressed. Unless there are any legal reasons why this cannot be done, the Council will tell you of the outcome of the investigation.

8.11. If you are not satisfied with the Council's response and wish to take the matter further, you are advised to contact the Wales Audit Office at the following address:-

PIDA Officer
The Auditor General for Wales 24, Cathedral Road
Cardiff CF11 9LJ
E-mail : whistleblowing@wao.gov.uk Tel. 01244 525980

If your information is about fraud or corruption and you do not feel able to talk to anyone within Conwy County Borough Council, you may contact the Audit Commission, Tel. 0845 052 2646.

Alternatively you may contact the charity Public Concern at Work, Tel. 020 7404 6609 for advice on any aspect of whistleblowing.

9. Training

An online training module on Whistleblowing is provided by the Council. Members of staff can access the Whistleblowing e-Learning module via our CCBC e-Learning portal, Guidance on how to access can be found on the Intranet under Staff Training.

10. Review of the Policy

This policy will be reviewed jointly with the Trade Unions 4 years after implementation. Minor amendments will be delegated to the Monitoring Officer

and/or Head of Corporate HR e.g. terminology, title descriptions, or legal changes, that have to be implemented.

WHISTLEBLOWING REFERRAL

To be filled in by officer receiving complaint
(normally Head of Service or Strategic Director)

Date of report	
Service	
Name of officer taking complaint	
Name of person making complaint (anonymised if need be but see policy)	
Nature of whistleblowing complaint (include as much detail as possible including dates and times, names, location and witnesses and attach any emails or letters received)	
Was the matter resolved at service level	
If so, what action was taken	
SignedHead of Service Date	
Please scan and send a copy of this completed form to <ol style="list-style-type: none"> 1. The Monitoring Officer (rhun.apgareth@conwy.gov.uk) and 2. The Head of Audit and Procurement (mike.Halstead@conwy.gov.uk) 3. The Strategic Director (Finance & Resources) (amanda.hughes2@conwy.gov.uk) 	