

Agenda item: 

**Title of meeting:** Governance & Audit & Standards

**Date of meeting:** 14<sup>th</sup> March 2013

**Subject:** Whistleblowing Policy

**Report by:** Michael Lawther, City Solicitor & Strategic Director

**Wards affected:** All

**Key decision:** No

**Full Council decision:** Yes

---

**1. Purpose of report**

1.1 Following a recent Whistleblowing Investigation it has come to light that under both the Data Protection and Freedom of Information Acts the Authority is legally obliged to release certain information if requested to do so. The Whistleblowing Policy has been updated to reflect this.

**2. Recommendations**

2.1 Members approve the updated Whistleblowing Policy.

**3. Background**

3.1 The Public Interest Disclosure Act 1998 gives employees certain rights in relation to Whistleblowing. An employee has the right to make a protected disclosure to prescribed persons where the employee reasonably believes:

- a criminal offence has, is or is going to be committed;
- there is a breach of a legal obligation;
- a miscarriage of justice;
- there is a danger to the health and safety of any individual;
- there will be damage to the environment; or
- there is deliberate concealment of information tending to show any of the above five matters.

3.2 The Act provides that employees shall suffer no detriment in their employment as a result of blowing the whistle, including disciplinary action.

3.3 The Whistleblowing Policy sets out how to report concerns at Portsmouth City Council and how they will be handled.

3.3 The Whistleblowing Policy has been updated to include the Authority’s responsibilities under both the Data Protection and Freedom of Information Acts. These pieces of legislation impose an obligation on PCC to allow access to information held in relation to investigations (subject to legal exemptions) whilst protecting the rights of individuals to whom the data is about.

**4. Reasons for recommendations**

4.1 The Policy attached sets out how Portsmouth City Council will comply with the requirements of the Public Interest Disclosure Act 1998.

4.2 A Whistle blowing Policy exists to inform all staff as to how they should raise concerns at work and the protections the legislation and policy grants them.

**5. Equality impact assessment (EIA)**

5.1 The Whistleblowing Policy is subject to an equalities impact assessment.

**6. Legal Comments**

6.1 The legal comments are included within the body of the report.

**7. Finance Comments**

7.1 The contents of this report does not have any financial implications.

.....  
Signed by: Michael Lawther, City Solicitor & Strategic Director

**Appendices:**

Appendix A – Updated Corporate Whistleblowing Policy (highlighted changes).

**Background list of documents:**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>
Public Interest Disclosure Act 1998	<a href="http://www.legislation.gov.uk/ukpga/1998/23/contents">http://www.legislation.gov.uk/ukpga/1998/23/contents</a>
Freedom of Information Act 2000	<a href="http://www.legislation.gov.uk/ukpga/2000/36/contents">http://www.legislation.gov.uk/ukpga/2000/36/contents</a>
Data Protection Act 1998	<a href="http://www.legislation.gov.uk/ukpga/1998/29/contents">http://www.legislation.gov.uk/ukpga/1998/29/contents</a>

.....  
Signed by:

**Summary:**

- This policy is for all Council staff, including employees, temporary workers, agency staff and people working for contractors and relates to how to raise genuine concerns of illegal, unethical or immoral conduct.

Note: This policy should be read in conjunction with The Anti-Fraud Bribery and Corruption Policy, Raising a Grievance Informally guidance and Employees Code of Conduct.

<b>ID</b>	Whistle Blowing Policy
<b>Last Review Date</b>	March 2013
<b>Next Review Date</b>	March 2014
<b>Approval</b>	Governance and Audit and Standards Committee
<b>Policy Owner</b>	City Solicitor
<b>Policy Author</b>	Deputy Chief Internal Auditor
<b>Advice &amp; Guidance</b>	Please contact Deputy Chief Internal Auditor
<b>Location</b>	
<b>Related Documents</b>	Freedom of Information Act 2000 <a href="http://www.legislation.gov.uk/ukpga/2000/36/contents">http://www.legislation.gov.uk/ukpga/2000/36/contents</a> Data Protection Act 1998 <a href="http://www.legislation.gov.uk/ukpga/1998/29/contents">http://www.legislation.gov.uk/ukpga/1998/29/contents</a>
<b>Applicability</b>	Guidance for all staff, including employees, temporary workers, agency staff and people working for contractors.

## Contents

1. Introduction .....	3
2. Scope of this policy .....	3
3. Assurances to you .....	4
4. How to raise a concern .....	4
5. How we will handle the matter .....	5
6. Independent Advice .....	6
7. External Contacts.....	6
8.Administration .....	6

## 1 Introduction

- 1.1 The Council is committed to achieving the highest possible standards of openness, probity and accountability in all of its practices. This policy is here to help you as an employee, to raise a concern you may have in the right way without fear.
- 1.2 We all have, at one time concerns about what is happening at work. Usually these concerns are easily resolved. However, when the concern is about illegal, unethical or immoral conduct i.e. malpractice, it can be difficult to know what to do. You may feel worried about raising an issue and decide to keep the concern to yourself, perhaps feeling that it is none of your business, only a suspicion or possibly a misunderstanding or interpretation. You may feel that raising the matter may be disloyal to colleagues, managers or the Council itself. Or perhaps you have tried to raise the matter, but found you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.3 The Council would prefer you raise any concern about such malpractice when it is just a concern, rather than wait for proof. This policy aims to help you raise any concern about malpractice in the right way. It explains the routes open to all Council staff, including employees, temporary workers, agency staff and people working for contractors. This policy does not replace the Council's complaints procedure, which is open to all members of the public.

## 2 Scope of this policy

- 2.1 This whistleblowing policy is primarily for a serious concern, which affects the interests of others, such as service users, the public, colleagues or the council itself. Concerns may include but are not excluded to:
  - Breach of the law or committing an offence
  - Unauthorised or misappropriation of public funds
  - Suspected fraudulent activities
  - Approaches of bribery
  - Physical or sexual abuse of clients
- 2.2 If you want to bring a complaint or grievance that is about your employment or the way you have been treated, please use the Grievance Procedure.

**If in doubt – please raise it!**

### 3 Our assurances to you

#### Your safety

- 3.1 We recognise it may be difficult to raise a concern.
- 3.2 If you raise a genuine concern under this policy you will not be at risk of losing your job or suffering any reprisal as a result. Provided that you raise the matter honestly, it does not matter if you are mistaken. Of course we do not extend this assurance to someone who maliciously raises a concern they know is untrue. Any such conduct may be liable to disciplinary action or other appropriate action.
- 3.3 If disciplinary action or redundancy procedures have already been started, raising a concern will not, in itself, halt them.

#### Your confidence

- 3.4 We will not tolerate the harassment or victimisation of anyone raising a genuine concern. However we recognise that there may be some circumstances when you would prefer to speak to someone in confidence under this policy. If this is the case please say so at the outset. If you ask not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be circumstances when we are unable to resolve a concern without revealing your identity (for instance where your personal evidence is essential) and in such cases we will discuss with you whether and how best we can proceed.

#### Anonymity

- 3.5 Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to let you know the outcome. We will not be able to provide you with the same support and assurances if you report a concern anonymously.

### 4 How to raise a concern

- 4.1 Please remember that you do not need to have firm evidence of malpractice before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern. Remember the earlier you raise a concern the easier it is to resolve it. If you wish, you may be accompanied by a union or professional association representative or a friend.

#### Option One

- 4.2 We hope that you will feel able to raise your concern openly with your manager. This may be done orally, or if you prefer, in writing.

## Option Two

- 4.3 If you feel unable to raise the matter with your manager for whatever reason, or if you think the concern has not been properly addressed, please raise it with a senior manager in your area or one of the following officers:

Michael Lawther, City Solicitor (023 9283 4123) email:  
[Michael.Lawther@portsmouthcc.gov.uk](mailto:Michael.Lawther@portsmouthcc.gov.uk)

Jon Bell, Head of HR, Legal & Performance Improvement (023 9268 8782)  
email: [Jon.Bell@portsmouthcc.gov.uk](mailto:Jon.Bell@portsmouthcc.gov.uk)

Lyn Graham, Chief Internal Auditor (023 9283 4668) email:  
[Lyn.Graham@portsmouthcc.gov.uk](mailto:Lyn.Graham@portsmouthcc.gov.uk)

Elizabeth Goodwin, Deputy Chief Internal Auditor (023 9283 4682) email:  
[Elizabeth.Goodwin@portsmouthcc.gov.uk](mailto:Elizabeth.Goodwin@portsmouthcc.gov.uk)

These people have been given special responsibility and training in dealing with whistle blowing concerns.

## 5 How we will handle the matter



- 5.1 Once you have raised your concern we will acknowledge that it has been received and confirm our understanding of the issues raised, to ensure that your concern is fully understood.
- 5.2 Initial enquiries will then be made to decide whether an investigation is appropriate and, if so, what form it should take. All investigations undertaken within the Authority are directed by the ‘Investigations Steering Panel’ whose panel members include, City Solicitor, Section 151 Officer, Human Resources and Internal Audit. If deemed appropriate, the concern raised may be:
- Investigated by Internal Audit or management.
  - Referred to the police
  - Referred to the external auditor
  - The subject of an independent inquiry
  - A combination of the above
- 5.3 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will handle the matter fairly and properly. We will not be able to disclose specific details of how this will be achieved. We will however give you feedback on the outcome of any investigation. Please note, that we will not be able to tell you about disciplinary or legal action, when it infringes a duty of confidence we owe to third parties.
- 5.4 Portsmouth City Council in issuing this policy is mindful of its responsibility under both the Data Protection and Freedom of Information Acts. These pieces of legislation impose an obligation on PCC to allow access to information held in relation to such investigations (subject to legal exemptions) whilst protecting the rights of individuals whom the data is about.
- 5.5 If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within the Grievance Procedure, we will tell you.

## 6 Independent advice

- 6.1 If you are unsure whether to use this policy or you want independent advice at any stage, free advice is available from, Your Trade Union, if applicable

## 7 External contacts

- 7.1 While we hope this policy gives you the reassurance you need to raise a concern internally, we recognise that there may be circumstances where you can properly report matters to outside bodies, such as the External Audit or other appropriate regulator, or in very serious situations, to the police.
- 7.2 If applicable, your union will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

## 8 Administration

- 8.1 If you have any questions about the whistleblowing policy and how it applies, you can contact the Internal Audit or the City Solicitor who will be pleased to answer your questions.
- 8.2 The City Solicitor has overall responsibility for the maintenance and operation of this policy and will report to the Governance and Audit and Standards annually on the application of this policy. The City Solicitor maintains a record of concerns raised and the outcomes (but in a form which does not endanger staff confidentiality).
- 8.3 This policy will be reviewed annually by the Governance and Audit and Standards Committee.

See also: -

- [The Anti Fraud, Bribery and Corruption Policy](#)
- [The Complaints Policy](#)
- [The local Code of Conduct](#)
- [Employees Code of Conduct and Formal Action Policy](#)
- [The Council's Grievance Procedure and Raising a Grievance Informally](#)