

5.7 - Whistleblower Policy and Procedure

1. Scope

This policy applies to all employees and officers of the Combined Authority. Other individuals acting as 'workers' within the Combined Authority, such as casual workers and agency workers, are also able to use this policy. It is acknowledged that members of the public may also contact the Combined Authority with their concerns and they will be investigated using this procedure.

This policy and procedure is not intended to form part of the contract of the employment of any individual officer.

2. Aims

The official term for whistleblowing is 'making a disclosure in the public interest'; however it is much more commonly called 'blowing the whistle' or 'whistleblowing'. It means that if you believe there is wrongdoing in your workplace or within the public services provided by the Combined Authority (eg corruption or wrongdoing such as improper, illegal or negligent behaviour) you can report this by following the correct processes, and your employment rights are protected.

The policy aims to:

- Encourage individuals to feel confident in raising concerns and to question, and act, upon concerns.
- Provide various avenues for individuals to raise those concerns and receive a response to them together with feedback on any action taken.
- Reassure officers and others making a whistleblowing report that they will be protected from possible reprisals or victimisation, including dismissal, if they have a reasonable suspicion that wrongdoing is occurring, has occurred or is likely to occur; and make a disclosure about it using this procedure, believing it to be in the public's interest.
- Enable the Combined Authority to identify poor or inadequate practice and take corrective action.

3. Roles and Responsibilities

Within this policy the following roles and responsibilities are adopted:

The Monitoring Officer

Is responsible for:

- The overall whistle blowing process.
- Determining any misuse of the process.
- Liaising with the Independent Person upon the outcome of investigations into whistle blowing complaints.

- Ensuring that the Chief Executive is made aware of whistleblowing complaints where following investigation action is required.
- Reporting annually to Audit and Governance Committee upon the process.

The Customer Feedback Team Leader (Hull City Council)

Is responsible for:

- Managing receipt and progression of a whistleblower referral.
- Notifying the Independent Person of receipt of a whistleblowing allegation.
- Consulting the responsible Director upon the allegation, unless the allegation is about that individual.
- Consulting the Independent Person upon whether the complaint should be progressed to investigation.
- Determining whether a referral falls within the definition of a whistleblowing allegation and whether an investigation is required.
- Allocating the investigation to the appropriate service area to appoint an investigator.
- Where an investigation is undertaken, liaising with the investigating officer(s) to ensure that it is undertaken in a timely manner.
- Reporting to the Monitoring Officer upon the reasons for whistleblowing matters not being progressed to investigation and the Independent Persons advice in relation thereto.
- Liaising with the Monitoring Officer upon whistleblowing matters which are referred for investigation.

Internal Audit and Human Resources

Internal Audit ordinarily conduct investigations and report on findings to the Monitoring Officer. However, where a complaint primarily relates to a staffing management issue, Human Resources can be called upon to organise the appointment of an investigator.

The Chief Executive

Takes responsibility for ensuring that, if a systemic failure or serious operational issue is identified as a result of investigation findings, the recommended service change occurs.

The Independent Person

- Reviews and comments to the Customer Feedback Team Leader upon the approach proposed to be followed in relation to individual whistleblowing referrals.
- Comments to the Monitoring Officer upon the proposed outcome of whistleblowing referrals.

The Audit Committee

Under the Combined Authority's Constitution, the Audit and Governance Committee are responsible for review of the Whistleblower policy and procedure.

Officers

It is the duty of officers to:

- Report any incidents of malpractice, suspected theft, fraud or anything that may bring the Combined Authority into disrepute in accordance with this procedure to the Monitoring Officer.
- Only make a disclosure if they reasonably believe that a disclosure to be in the public interest, having regard to the criteria set out in paragraph 5.2 below.
- Keep their disclosure confidential.

4. Procedure

Introduction

Hull and East Yorkshire Combined Authority takes whistleblowing seriously. The Combined Authority is committed to maintaining an honest, fair and open culture with the highest standards of honesty and accountability. In line with that commitment, we expect officers, members, and others with whom we deal, who have concerns about any aspect of the Combined Authority's work to come forward and voice those concerns without fear of victimisation, subsequent discrimination or disadvantage. Any matter raised will be dealt with promptly and thoroughly investigated by an appropriate person in the Combined Authority. The whistleblowing procedure is described later in this document. The whistleblowing procedure process flow can be found at Appendix 1.

Raising a Concern

Whistleblowing reports can be made in a verbal, written form and can be anonymous. Anyone wishing to raise a concern can do so through the Combined Authority's Monitoring Officer.

A Whistleblower's Report form on which details in connection with the concern can be recorded (Appendix 2) is available on the intranet and via the electronic form on the Combined Authority's website.

To progress an investigation the following information is needed:

- Details of the activity being reported and why it is of concern.
- Details about where the activity is taking place.
- Details about who is involved.
- Details about when the activity took place.
- Details of any evidence, eg receipts or other documents you might hold which evidence your concerns.

Once this information is captured, the form should be submitted to the Monitoring Officer.

Initiating Action

Following receipt of a referral:

- Where the identity of the whistleblower is known, acknowledge receipt in writing to the whistleblower within 3 working days.
- Make initial enquiries to determine the need for investigation.
- Confer with the independent person to inform a decision upon whether an investigation is required.
- Where investigation is required, refer the matter for investigation to the appropriate service area, Internal Audit or the Human Resources service.

The Investigation

The appointed investigator will:

- Agree the timeframe for the investigation with the Customer Feedback Team Leader, depending on the complexity of the case.
- Undertake the investigation within that timescale.
- Involve others as required in the investigation, eg other service areas in the Combined Authority, or other agencies such as the Police.
- Where the whistleblower is known, consider whether contact with the whistleblower is required to clarify the information (see paragraph 4.6).
- Where allegations are made against an individual, ensure that the processes adopted provide the opportunity for that individual to respond to the allegations made against that individual.
- Produce an investigation report.
- Where appropriate, identify lessons learnt for discussion with the Monitoring Officer and the Chief Executive.

Feedback

Feedback to members/officers will be undertaken through the Monitoring Officer and Governance and Audit Committee.

Involvement of the Whistleblower

The information provided on the Whistleblowing Report form, if sufficient, will allow a full investigation to take place. The amount of contact needed between those investigating the concerns and the whistleblower will depend on the nature of the issues raised and whether or not there is sufficient information with which to undertake the investigation. The whistleblower's identity will, so far as it is possible, be kept confidential.

Should further information be required in connection with the concern raised, you have the right, if you are a Combined Authority officer, to be accompanied at meetings/interviews by a trade union representative or work colleague.

Taking the Matter Further

This procedure is intended to satisfy the concerns of whistleblowers, and the Combined Authority hopes that the whistleblower will be satisfied with any action taken. If you are not, or you feel it is right to take the matter outside the Combined Authority, further independent advice is available from Public Concern at Work, Citizens Advice Bureau, Community Legal Advice Centre (CLAC), Trade Unions and The Local Government and Social Care Ombudsman.

Review of Findings

The Chief Executive will liaise with senior officers as appropriate to discuss and agree any required service actions together with timescales. Senior Officers will ensure that their teams learn from feedback, implementing action plans to correct and improve service practice.

5. Protection for Whistleblowing

Who is Protected?

When an officer or worker makes a “qualifying disclosure” to their employer, the only condition of the Act for the qualifying disclosure to be protected is that the disclosure is made in the public interest.

Where the “qualifying disclosure” is made to someone other than the employer, further conditions apply, namely that the whistleblower believes that the information disclosed, and any allegation contained in it, are substantially true and the whistleblower does not make the disclosure for purpose of personal gain.

What is a “Qualifying Disclosure”?

A “qualifying disclosure” is defined as being the disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show:

- That a criminal offence has been committed, is being committed or is likely to be committed.
- That a person has failed, is failing or is likely to fail, to comply with any legal obligation to which he is subject.
- That a miscarriage of justice has occurred, is occurring or is likely to occur.
- That the health or safety of any individual has been, is being or is likely to be, endangered.
- That the environment has been, is being or is likely to be damaged, or;

- That 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.

When is a Whistleblower not Protected?

The protection available to a whistleblower is available where in the reasonable belief of the worker making the disclosure, the disclosure is made in the public interest. From existing case law it is considered that a disclosure will be held not to fall within this where:

- The allegation is known by the whistleblower to be false (unless the allegation was so serious that the whistleblower properly felt obliged to make the disclosure in the public interest in case they are wrong), or;
- The allegation arises from a predominant ulterior motive which, in all the circumstances of the case, makes the belief of the whistleblower that the disclosure is in the public interest unreasonable.

What is in the Public Interest?

The public interest can take many forms for example there is a public interest in transparency and accountability, to promote public understanding and to safeguard democratic processes. There is a public interest in good decision-making by public bodies, in upholding standards of integrity, in ensuring justice and fair treatment for all, in securing the best use of public resources and in ensuring fair commercial competition in a mixed economy. This is not a complete list; the public interest can take many forms.

What are the Protections?

The person will be protected from any reprisals or victimisation or from being dismissed as a result of having made a protected disclosure. The Combined Authority will take responsibility for any detrimental acts of a worker such as harassment or bullying towards another who has blown the whistle.

6. Relationship with the Complaints Procedure

The Whistleblowing Policy does not provide an avenue for further complaint for complainants who have exhausted the Combined Authority's complaints procedure. Officers will seek to identify complaints that fall within the scope of the Whistleblowing Policy and refer those through for management under that policy where appropriate. It is not envisaged that a complaint that has been progressed through the Combined Authority's complaints procedure and in relation to which the complainant remains dissatisfied will fall within the contemplation of this policy.