SECTION 22

22. Whistleblowing Policy - Staff

22.1 Frequently Asked Questions

What is Whistleblowing?

Whistleblowing is when an employee, contractor or supplier shares a serious concern about malpractice, inappropriate behaviour or illegal activity with the Council.

Why does this policy exist?

The policy gives people a safe way to speak out if they have serious concerns. It helps to protect the Council's standards and to ensure that inappropriate actions are prevented.

What can I raise a concern about?

A concern can be raised about anything of public interest, such as:

- fraud or misuse of public funds
- abuse or neglect towards customers or clients
- corruption or abuse of authority
- risk to health and safety
- concealment of important information or malpractice
- Sexual Harassment

Who can Whistleblow?

This can be done by any employee, contractor, supplier, volunteer or consultant working for the Council.

Will my name be kept confidential?

Yes, where possible. Your name will not be disclosed without your consent unless there is a legal need to do so (e.g. in a court case).

What if I don’t want to give my name?

You can make an anonymous disclosure, but it can be harder to investigate the matter if you can't be contacted for further details.

Will I be protected from retaliation or persecution?

Yes. The law (the Public Interest Disclosure Act 1998) protects you from any form of punishment, harassment or unfair treatment if you raise a legitimate concern.

Who should I contact to share a concern?

There are several different avenues for sharing your concerns, see clause 22.6 in this document for more information.

What will happen after I raise a concern?

The Council will confirm receipt of your concern, take steps to respond to the disclosure including initiating formal investigations and inform you of the outcome where possible. The nature of any investigation will vary depending on the disclosure.

I do not work for the council; can I raise a concern?

This policy is relevant to Council employees. Nevertheless, the Council acknowledges that people who do not work for the local authority may wish to raise a concern. A guidance note can be found at the end of the policy, which explains how individuals who are not Council employees can raise a concern and who they should contact.

22.2 Where can I get support?

Support is available through your Trade Union or through the Protect (www.protect-advice.org.uk) charity, which offers confidential advice to whistleblowers.

Policy Statement

22.2.1 Cyngor Gwynedd is committed to providing high quality services to the people of Gwynedd and relies on the quality of staff and management throughout the authority to do this. In the event of malpractice or a serious crime, it is vital that these activities are brought to light and resolved as soon as possible in order to protect the Council's high standards and maintain public confidence. The Council therefore promotes the highest possible standards of openness, honesty and accountability.

22.2.2 The Disclosure Policy has been designed to open up a safe and reliable way for employees to raise concerns, without fear that someone will retaliate, discriminate against them or put them at a disadvantage as a result. Cyngor Gwynedd will not tolerate harassment or persecution of an individual who raises a genuine concern.

22.2.3 The policy encourages employees to act responsibly in order to protect the Council's reputation and maintain public confidence. Individuals are expected to come forward and mention serious concerns they have about malpractice.

22.2.4 The policy is intended to encourage and enable employees to share serious concerns within the Council rather than opting to try to resolve things externally.

22.2.5 Cyngor Gwynedd will respond quickly and thoroughly to concerns raised under this policy, and act responsibly and positively to ensure that malpractice does not continue.

22.2.6 This policy has been developed together with the leaflet which provides information and advice to employees, as well as guidance for managers on how to respond to concerns mentioned. Copies of these documents can be obtained from the Corporate Services Department.

22.3 Persons to whom the Policy Applies

22.3.1 This policy applies to all Council staff and contractors who carry out work for the Council on Council property such as agency employees or builders; suppliers and those who provide services under contract with the Council in premises such as care homes.

22.4 Objectives

22.4.1 The policy seeks to

- encourage employees who are concerned about malpractice to feel confident enough to come forward and share their concerns
- ensure that employees understand what their responsibility is when it comes to reporting malpractice
- create reliable ways for them to report concerns and to receive full information on what happened next
- ensure that employees who share a concern are informed of the outcome of the issue, and also that they know how to take the matter further if they are not satisfied with the Council's response
- provide assurances that employees who mention a legitimate concern will be protected from any potential retaliation or persecution.

22.4.2 In order to do this the Council will:

- Promote this policy and the relevant guidelines for employees and managers as widely as possible to ensure that people are aware of its existence, scope and objectives.
- Include the Disclosure Policy as an essential part of the induction process for new employees.
- Promote the principles of openness and accountability in the workplace.
- Provide training to line managers on how to deal with concerns shared under this policy, support people involved in disclosure cases and the Public Interest Disclosure Act 1998 and the legal background of 'disclosure'.
- Ensure that all complaints are treated seriously and sensitively and are thoroughly investigated.
- Take steps to protect individuals who share concerns under this policy from any retaliation or persecution.
- Try to resolve the issue in the first place within the Council.

22.5 Scope

22.5.1 The policy is primarily intended for concerns relating to situations where the interest of others or the interest of the Council itself is at risk. Employees should use this policy if they reasonably suspect that a malpractice or crime has taken place, is about to occur or may be about to occur.

22.5.2 For the purposes of this policy, 'qualified disclosure' means any information disclosed by an employee which he or she honestly and reasonably believes to indicate malpractice or misconduct of the kind listed in section. 22.4.2 'Secure disclosure' means a disclosure made in accordance with the legal requirements in the Public Interest Disclosure Act 1998, so that the individual has the statutory protections.

22.5.3 Complaints can be about something that is thought to be in the public interest including something

- that is illegal, fraudulent or corrupt;

- which amounts to maladministration as defined by the Local Government Ombudsman. Maladministration encompasses, for example, unjustified delay, failure to follow the authority's rules or the law, prejudice, using inappropriate considerations, providing inaccurate information and several similar matters which cause injustice.
- that is contrary to, or is not in accordance with, the Council's Standing Orders, Financial Regulations or policies, codes of practice or legal obligations;
- which does not meet the established standards of practice;
- which is in breach of any statutory code of practice;
- Sexual Harassment
- which amounts to inappropriate behaviour;
- which amounts to sexual, physical, or emotional abuse of clients;
- which endangers the health and safety of an individual;
- which causes, or is likely to cause, harm to the environment;
- which is a miscarriage of justice;
- which is an abuse of power or the use of the Council's power and authority for some unauthorised purpose;
- which fails to rectify or take reasonable steps to report an issue which is likely to result in a large avoidable cost or loss of consequence to the Council or which would otherwise jeopardise the Council, or;
- which is an attempt to hide any of the above examples.

The list is not exhaustive; it is intended to give an indication of the type of behaviour that could be considered a crime or a malpractice.

22.5.4 This policy cannot be used in relation to potential breaches of employment agreements, e.g. personal complaints or to challenge decisions, practices or policies with which individuals may disagree. The Disclosure Policy should therefore be regarded as being completely separate from processes that enable a member of staff to lodge a complaint in relation to their own employment.

22.6 How to Share Concerns

22.6.1 Sharing a Concern

22.6.1.1 Anyone who wants to whistleblow has a number of safe options to do so. The option that feels most appropriate should be chosen according to the nature of the concern and the circumstances.

Several avenues exist for sharing a concern. The different avenues are listed below:

- Line manager – for the line manager to refer the matter further (see below). All line managers need to be aware of the arrangements, so that they are at least in a position to be able to refer the matter to an appropriate officer.
- Head of Department / Corporate Directors / Chief Executive / Monitoring Officer. The exact avenue will depend on the nature of the concern.
- The Council's Whistleblowing Officers; namely the Council's Head of Corporate Services and Monitoring Officer. The Whistleblowing Officers are also responsible for organising a Response Group for any disclosure (see below).

- Any concern relating to the protection of children or adults will be referred immediately under the Council's safeguarding arrangements. Confidentiality should not prevent the sharing of information when there is a crime, risk of harm, or serious misconduct, and all practitioners are expected to act promptly to ensure safety.
- Any concerns about financial maladministration will be shared with the Internal Audit Service.
- If staff do not wish to use one of the above options directly, any concerns may be directed to an email address; canurgloch@gwynedd.llyw.cymru
- Whatever the method of sharing information, the information will be referred directly to the Response Group (see 22.6.2 below).
- Concerns can be shared in writing or verbally. If it is done verbally, the Executive Officer (namely the officer to whom the concern was originally addressed) will need to record as much detail as possible.
- While employees who share a concern will not be expected to provide evidence to show that the allegation is true, they will be expected to demonstrate to the Executive Officer that there are sufficient grounds to the allegation.
- Employees can seek confidential advice from a Trade Union on how to share a concern under this policy and can invite a representative to raise the issue on their behalf.
- The Council recognises that giving only one avenue for sharing concerns would not be suitable for all situations; that's why it gives people more than one option for sharing information. You will not be at a disadvantage for choosing one of the above options over others, as long as you have acted with sincerity.

22.6.2 Whistleblowing Response Group

22.6.2.1 The Whistleblowing Response Group will act as a central forum to assess all concerns raised through the avenues referred to above, and then to determine the most appropriate way to deal with any concern or disclosure made under the Whistleblowing Policy. The role of the Response Group is to ensure that all disclosures are considered fairly, objectively and in accordance with the relevant legislation, before considering what action should be taken in order to respond.

22.6.2.2 The Council's Whistleblowing Officers, namely the Head of Corporate Services and the Monitoring Officer, are responsible for organising a Response Group for any disclosure that is made. If you therefore receive a relevant disclosure, the Officers who will arrange a meeting of the Group should be informed.

The Group will be responsible for:

- Reviewing the details of the initial disclosure;
- Deciding whether the matter falls within the scope of the Policy, or whether one of the Council's other policies should be used to address the concern;
- Deciding whether to carry out an initial assessment or a formal investigation;

- Allocating investigative responsibility to the relevant department or appropriate officer, keeping in mind the need to prioritise Whistleblowing issues;
- Ensuring that appropriate arrangements are in place to protect those who have raised the concern from any retaliation or disadvantage.
- Ensuring that contact arrangements are agreed with those who have raised the concern, and that this is implemented in accordance with the understanding.
- Confirming a designated point of contact for the individual who has made a disclosure.

22.6.2.3 The Group will consist of some or all of the following officers, depending on the exact nature of the concern.

- Chief Executive;
- Monitoring Officer;
- Corporate Directors;
- Relevant Head of Department;
- A representative from the Human Resources Advisory Service;
- A representative from the Legal Service;
- A representative from the Internal Audit Service.

22.6.2.4 No member of the Group will participate if they are directly involved in the matter in question

22.7 How the Council will Respond

22.7.1 When a disclosure of concern is received, the Council will acknowledge receipt of the disclosure within 10 working days. This response will include:

- confirmation that the disclosure has been received; and
- a brief description of the next steps in the assessment or investigation process.

22.7.2 If additional information is needed to clarify the disclosure or to assist with the initial assessment, the relevant officer will contact the person who raised the concern as soon as reasonably possible.

22.7.3 The way in which the Council will operate depends on the nature of the concern. Where appropriate, the issues raised may be:-

- investigated internally by managers, internal auditors or through another policy or procedure held by the Council
- referred to statutory processes such as child protection arrangements
- referred to the police;
- referred to external enforcement agencies such as the HSE
- referred to the external auditor;
- go to an independent investigation.

22.7.4 In order to protect individuals and those who are accused of potential wrongdoing or malpractice, initial enquiries are made to determine whether it is appropriate to conduct an investigation, and if so, how to investigate.

22.7.5 Some concerns can be resolved by agreeing what action to take without the need for an investigation. If urgent action needs to be taken, this will be done before any investigation is carried out.

22.7.6 We will undertake to complete an initial assessment (i.e., an assessment by the Response Group) of the concern within 10 working days of receipt (where practicable), in order to determine:

- whether a formal investigation is required,
- which procedure is applicable, and
- who will be responsible for the investigation

22.7.7 Those who raised the concern will be informed when this assessment has been completed and what next steps will be taken recognising that the information that can be shared depends on the context and legal requirements. If possible, we will always commit to updating the person making the disclosure (subject to the limitations of the law).

22.7.8 If a meeting has been arranged, the employee raising the concern will have the right to bring a union representative with them, or a colleague who is not related to the field of work to which the concern relates. Albeit, it is not always possible to arrange a meeting, and the response and action can vary depending on the limitations of the law.

22.7.9 The Council will endeavour to provide regular progress updates to those who have raised the concern, in line with confidentiality requirements and data protection laws. However it cannot be guaranteed that progress can be provided on all occasions. Updates will usually be provided:

- when the investigation has formally commenced,
- when an important step has been completed (e.g. interviews or evidence gathering), and
- at the end of the investigation, when a decision or outcome has been made.

22.7.10 When the investigation is complete, the person who raised the concern will receive a final notice stating that the process has ended and, where appropriate, a general summary of the outcome (subject to the limitations of the law).

22.7.11 The Council will process any personal data collected during this process in accordance with the Data Protection Act 2018 and GDPR.

22.8 Preventing Retaliation, Persecution or Harassment

22.8.1 It's understandable that whistleblowers sometimes worry about potential impacts. Our aim is to encourage the open sharing of information and will support staff who raise genuine concerns under this policy, even if they turn out to be wrong.

22.8.2 Employees who share legitimate concerns about instances of malpractice are protected from prosecution and dismissal under the Public Interest Disclosure Act 1998. The Council will not tolerate any attempt on the part of an employee, councillor, contractor or supplier to penalise or create a disadvantage for an individual who has

shared a concern under this policy. Such an attempt will be treated as a serious disciplinary offence.

22.8.3 Every whistleblower has the right to contact the Whistleblowing Officers or the designated Contact Point directly if they receive any negative reaction, adverse treatment, or any form of detriment as a result of their disclosure. Any such concerns must be considered confidential and in full fairness, without any prejudice to the individual raising the matter.

22.8.4 A confidential support and counselling helpline is available for whistleblowers who raise concerns under this policy. Their contact details are provided at the end of this policy.

22.9 Confidentiality

22.9.1 The Council encourages all employees who share a concern under this policy to put their name on the complaint as anonymous allegations are much weaker and can hinder the outcome of an investigation.

22.9.2 If a situation arises where it is not possible to resolve the matter without disclosing the name of the employee who shared the concern, e.g. if they are required to give evidence in court, the appropriate officers will discuss with the employee whether or not to proceed with the case and how that could be done.

22.9.3 We do not encourage staff to make disclosures anonymously, although we will make every effort to investigate anonymous disclosures. You should be aware that a proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also harder to establish whether any allegations are credible.

22.9.4 Confidentiality should not prevent the sharing of information where there is a known or probable risk to safety, crime, serious misconduct, or where there is a statutory requirement to do so. In such circumstances, practitioners are expected to share information appropriately and respond promptly in order to protect individuals and the public.

22.9.5 Practitioners, including employees, professionals and independent contractors, must be aware that they cannot be anonymous when making a referral to social services, except where that would mean they themselves will be at risk. In this case their concern for themselves should be discussed with social services.

22.9.6 Whistleblowers who are concerned about potential retaliation if their identity is revealed should come forward to the Whistleblowing Officers or your designated point of contact by the Response Group and appropriate measures can then be taken to maintain confidentiality. If in doubt, you can seek advice from Protect, the independent whistleblowing charity, which offers a confidential helpline. Their contact details are at the end of this policy.

22.10 False and Malicious Claims

22.10.1 If an employee shares a legitimate concern but the investigation does not confirm it, no action will be taken against them. However, if an employee intentionally makes

false or malicious claims under this policy, the conduct will be considered as a serious disciplinary offence.

22.11 How to Take the Matter Further

22.11.1 If the employee who shared the concern is still dissatisfied after completing the internal process or does not feel it is appropriate to raise the matter within the Council, the employee can make an external disclosure in a safe and legal way.

22.11.2 The Council will respect the right of any employee to make an external disclosure and ensure that the act of doing so, if done in accordance with the Public Interest Disclosure Act 1998, does not result in any retaliation, harassment or disadvantage to the individual concerned.

22.12 External Disclosure

22.12.1 Any concerns are expected to be shared within the Council in the first instance. But there may be cases where an employee feels they cannot discuss the issue internally or where they do not feel it is appropriate to do so. In such cases, provided that the employee is acting sincerely and can demonstrate that there are reasonable and sufficient grounds for their concerns, they can raise the matter externally by contacting the following bodies:

- Protect – www.protect-advice.org.uk
- Local Government Ombudsman
- Trade Union
- Professional bodies or relevant management organisations
- The Police

22.12.2 An employee who decides to raise a concern externally should ensure that they do not disclose confidential information to someone who is not entitled to it.

22.13 Responsible Officer

22.13.1 The overall responsibility for maintaining and implementing this policy and providing assurance as to its implementation rests with the Chief Executive.

22.13.2 The Whistleblowing Officers have a day-to-day operational responsibility for this policy and any questions about this policy should be directed to them in the first instance. Whistleblowing Officers must ensure that regular and appropriate training is provided to all other managers and staff who may deal with concerns or investigations under this policy.

Relevant Legislation

- Public Interest Disclosure 1998
- Enterprise and Regulatory Reform Act 2013
- Employment Rights Act 1996
- The Data Protection Act 2018
- Health and Safety at Work Act 1974
- ACAS Code of Practise

Counselling / Support

To refer yourself for counselling:

Telephone number: 01286 679 329

E-mail: iechydgalwedigaethol@gwynedd.llyw.cymru

In an emergency where staff require urgent support/advice outside Council hours, MEDRA can be contacted directly on 0800 132 737 and a member of the team will be able to assist or refer you to appropriate agencies.

Whistleblowing Process

Disclosure on:

- fraud or misuse of public funds
- abuse or neglect towards customers or clients
- corruption or abuse of authority
- risk to health and safety
- concealment of important information or malpractice
- sexual harassment

Safeguarding concern?

Head of Department/Corporate Director/ Chief Executive/Monitoring Officer

Line manager/or senior manager

Head of Corporate Services/Head of Legal Services

Fraud Concern?

Process for safeguarding children/adults

e-mail: canugloch@gwynedd.llyw.cymru

Procedure for dealing with fraud

Whistleblowing Response Group

Called by: The Head of Support Services/Monitoring Officer
Membership: Depending on the nature of the disclosure

Confirm that there is a child/adult safeguarding process/investigation – normal procedure

Confirm following the procedure for dealing

Disclosure does not fall under the Whistleblowing Policy– confirm the situation with those who shared the concern.

Disclosure falls under the Whistleblowing Policy – The nature of the investigation depends on the disclosure

Designated point of contact to support the whistleblower – confirm an investigation and update progress if appropriate.

Undertake investigation – report findings depending on what is possible for the person who raised the disclosure

Record outcome centrally - lessons to be learnt