

Stirling Council

Whistleblowing Policy

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APPENDIX 1: Whistleblowing Procedure

WHISTLEBLOWING POLICY

Stirling Council is committed to the highest possible standards of behaviour, practice and ethics in public life. 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. We recognise that certain cases will have to proceed on a confidential basis. This Policy makes it clear that 'workers' can do so without fear of reprisals and is intended to encourage and enable 'workers' to raise serious concerns internally, within the Council, rather than ignoring or overlooking a problem.

1. **What is Whistleblowing?**

'Whistleblowing', in this Policy, means the reporting of suspected wrongdoing, malpractice, illegality or risk in the workplace. The Policy applies to reporting by Council employees and by others who work for the Council but are not employees.

This Policy aims to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It sits alongside other arrangements for ensuring probity within the Council, in particular the Counter Fraud Strategy.

Employees are often the first to realise when something seriously wrong may be happening within the Council. However, they may not report their concerns because they feel that speaking-up would be disloyal to their colleagues or to the Council, or because they fear harassment or victimisation. In these circumstances, it may feel easier to ignore or overlook the concern than to report it.

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

- the types of issues that can be raised;
- how the person raising a concern will be protected;
- how to raise a concern; and
- what the Council will do.

If you are unsure whether to use this Policy or want independent advice at any stage, you can contact the independent charity [Protect](#) on **020 3117 2520** or via **their website** (<https://protect-advice.org.uk/>), or the [ACAS helpline](#) on **0300 123 1100**. Their advisers can give you free confidential advice on how to raise a concern about serious malpractice at work. If you are a member of a trade union, you may also wish to contact them for advice.

2. **What is the aim of the Policy and when does it apply?**

2.1 **Aims of the Policy**

This Policy is designed to ensure that you can raise genuine public interest concerns about wrongdoing or malpractice internally, within the Council, without fear of victimisation, discrimination, disadvantage or dismissal.

It is also intended to encourage you to raise serious concerns **within** the Council rather than overlooking or ignoring a problem.

The Policy aims to:

- encourage you to act when you become aware of a serious public interest concern by making an internal disclosure under this Policy;
- support you to feel confident in raising those concerns at the earliest opportunity;
- provide avenues for you to raise those concerns and receive feedback on any action taken;
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- reassure you that you will be protected from possible reprisals or victimisation if you have made any disclosure in good faith (i.e. where you believe the disclosure to be in the public interest and your belief was objectively reasonable at the time of disclosure); and
- clarify the conditions in which it may be appropriate to make a disclosure to bodies outside of the Council.

The Whistleblowing Policy is not intended to replace either:

- the Grievance Procedure; or
- the Complaints Handling Procedures.

2.2 **Who can raise a concern under this Policy?**

Anyone who is 'a worker' of Stirling Council can raise a concern under this Policy. For the purposes of whistleblowing 'a worker' has a wide definition and includes full time, part time, temporary and casual employees and extends to former employees. You do not require to have a specific length of service in order to make a protected disclosure.

The term 'worker' also includes (but is not limited to) agency workers, contractors and those who are undergoing training or work experience as part of a training course. Volunteers and self-employed individuals are typically excluded from the wider definition of 'a worker' for whistleblowing purposes, however, are not excluded from raising any concerns they may have and should do so as set out in this Policy.

Elected Members are not within the scope of the Policy.

2.3 What does the Policy cover?

A whistleblowing concern is where 'a worker' discloses information about suspected malpractice, risk, abuse or wrong-doing. The Public Interest Disclosure Act 1998 sets out the following categories under which 'a worker' can report a matter on a confidential basis:

- a criminal offence has been committed, is being committed, or is likely to be committed;
- a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject;
- a miscarriage of justice has occurred, is occurring, or is likely to occur;
- the health or safety of any individual (including clients) has been, is being, or is likely to be endangered;
- the environment has been, is being, or is likely to be damaged; and
- deliberate concealment of information relating to any of the above

3. Protecting the Whistleblower

3.1 Your legal rights

This Policy has been written to take account of the [Public Interest Disclosure Act 1998](#), which protects 'workers' who make disclosures about certain matters of concern which are in the public interest. The 'worker' making any such disclosure is expected to have an objectively reasonable belief at the time of the disclosure that the disclosure is in the public interest.

The legislation protects employees from being subjected to any detriment by their employer or colleagues on the grounds that they have made a 'protected disclosure'. This includes protection from harassment, victimisation or dismissal by their employer.

As a Whistleblower, you are protected if you:

- reasonably believe the information disclosed tends to show that one of the disclosure categories listed at section 2.3 is happening or is likely to happen;
- make the disclosure in the public interest;
- reasonably believe the information is true; and
- believe in good faith that the whistleblowing concern is being made to the right person.

3.2 Support to you

Throughout this process:

- you will be given full support from your line manager and the Corporate Management Team, as appropriate; and
- your concerns will be taken seriously.

The Corporate Management Team will also consider the impact on any teams who may be directly affected by a whistleblowing allegation or investigation and will endeavour to provide appropriate advice and support.

4. Safeguards

4.1 Harassment or Victimisation

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, or suspected of, the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect 'workers' when they raise a concern in good faith. This does not, however, mean that if an employee is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of their 'whistleblowing'.

4.2 Confidentiality

All concerns will be treated in confidence and the Council will do its best, subject to any over-riding legal obligations, to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation that is sufficiently serious to warrant, for example, disciplinary action or police involvement, then 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. However, subject to the foregoing, your name will not be released as a possible witness until the reasons for its disclosure at this stage have been fully discussed with you. You will also be given as much support as possible throughout these processes.

4.3 Anonymous Allegations

This Policy encourages you to put your name to the concerns you are raising. If you do not tell us who you are, it will be much more difficult for us to protect your position or to give you feedback.

Even if you wish to remain anonymous, it would be helpful if you provided a mobile phone number or email address through which contact can be made.

Concerns expressed anonymously may be more difficult to investigate, harder to substantiate and dialogue with the individual who has made the disclosure may not be possible. Given these inherent difficulties, the Council will exercise discretion in deciding whether or not to investigate anonymous allegations. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegations from other sources.

4.4 Untrue Allegations

While encouraging employees to bring forward matters of concern, the Council must guard against claims which are untrue or vexatious. This is because of the risk of claims made to deliberately damage the reputation of other employees or

the Council as a whole.

If you make an allegation in good faith, reasonably believing it to be true, but it is not confirmed by the investigation, the Council will recognise your concern and you have nothing to fear. However, if you make an allegation frivolously, maliciously or for personal gain, appropriate action (including disciplinary action) may be taken.

5. The Responsible Officer

While the Council's Monitoring Officer has overall responsibility for the maintenance and operation of this Policy, responsibility for investigating referrals or concerns may sit with other teams or officers appointed by the Monitoring Officer.

6. How the matter can be taken further

This Policy is intended to provide you with an avenue to raise concerns within the Council. Stirling Council hopes you will be satisfied with any action taken. If you are not satisfied and you feel it is right to take the matter outside the Council, you may wish to seek further advice from [Protect](#) or the relevant regulatory bodies listed [here](#).

If you raise concerns **outside of** the Council you should ensure that it is to one of these listed bodies. . A public disclosure to anyone else could take you outside the protection of the Public Interest Disclosure Act and of this Policy.

You should not disclose information that is confidential to the Council or to anyone else, such as a client or contractor of the Council, except to those included in the list of prescribed contacts.

This Policy does not prevent you from taking your own legal advice.

7. Recording and monitoring

The Monitoring Officer will maintain a corporate register of all concerns that are brought to their attention through whistleblowing. Any Council officer who receives such a disclosure will bring this to the attention of the Monitoring Officer without delay and will provide such detail as may be required by the Monitoring Officer for the purpose of maintaining the register. Similarly, all officers appointed to investigate must ensure the Monitoring Officer is provided with sufficient details for the register.

The Monitoring Officer will review the corporate register and produce an annual report for the Council's Audit Committee (or equivalent body). The report will include a summary of the concerns raised, to which Service they related and any lessons learned. The report will not include any employee names or other confidential information. The aim of this is to ensure:

- that the Council and / or the relevant Service learns from mistakes and does not repeat them, and
- that there is consistency of approach across the Council.

The corporate register, together with the annual reports, will be available for inspection by internal and external audit.

8. Training and awareness

Chief Operating Officers, Chief Officers and Senior Managers are responsible for ensuring that 'workers' within their area of responsibility are aware of this Policy and its contents and that any training needs that may arise from the application of the Policy are addressed. Raising awareness of the Policy should form part of the induction training for all employees and should be addressed as part of any refresher training.

Employees have a responsibility to ensure that they are aware of and understand the Council's Policy in relation to whistleblowing.

9. Review

The Monitoring Officer, in consultation with the Audit Service Manager, is responsible for reviewing and updating this Policy no less than every 3 years and earlier if there are relevant legislative changes that impact upon its operation.

WHISTLEBLOWING PROCEDURE

1. Raising a concern

1.1 Who should you raise your concern with?

This will depend on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing. As a first step, you should normally raise concerns with your immediate manager or their line manager. Where this is not appropriate, or you do not feel comfortable doing so, you should report the matter to

- the Chief Officer - Governance in their role as Monitoring Officer; or
- the Audit Service Manager.

The Chief Officer – Governance can be contacted on 01786 233108 and the Audit Service Manager can be contacted on 01786 233383. In addition, concerns can be raised by emailing: whistleblowing@stirling.gov.uk. This email address is monitored only by the Chief Officer – Governance and the Audit Service Manager.

You may also wish to seek assistance and advice from your Trade Union Branch Secretary or other representative.

If your concern relates to potential fraud, corruption (including bribery), theft, misuse of Council funds or assets, you should contact the Council's Audit Service Manager, use the confidential Fraud Hotline (01786 233910), or email reportfraud@stirling.gov.uk. In addition, an on-line fraud referral form is available [here](#).

If you are unsure who to contact you may want to call the independent charity **Protect (020 3117 2520)**, the **ACAS helpline (0300 123 1100)** or your **trade union** for advice.

1.2 How to raise a concern

You may raise your concern by telephone, in person, or by email (whistleblowing@stirling.gov.uk). The earlier you express your concern, the easier it is to take action. You will need to provide the following information:

- the nature of your concern and why you believe it to be true; and
- the background and history of the concern (giving names, dates and places where possible).

You will also need to demonstrate to the person contacted that you have a genuine concern relating to suspected wrongdoing or malpractice within the Council and that there are reasonable grounds for your concern. This will allow a decision to be made as to whether your disclosure can and should be investigated.

You may invite your trade union or a colleague to be present for support during any meetings or interviews in connection with the concerns you have raised.

2. What the Council will do

All disclosures, however made, will be passed to the Council's Monitoring Officer. The Monitoring Officer will formally acknowledge your concerns within ten working days, and will consider whether an investigation should be commenced. Where a disclosure concerns the conduct of the Monitoring Officer, it should be passed to the Audit Service Manager, who will share this with the Chief Executive.

The overriding principle for the Council will be the public interest. In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and if so, what form it should take. Concerns or allegations that fall within the scope of other existing procedures will normally be referred for consideration under those procedures.

The action taken will depend on the nature of the concern. It may not be necessary to carry out a formal investigation in every case and some concerns may be resolved with you directly without the need for investigation or it may be that an investigation can be completed without the person or persons under investigation being aware of the process.

Where appropriate, the matters raised may:

- be investigated by a Chief Operating Officer, Chief Officer, Senior Manager, Service Manager, by the Audit Service Manager, or through the disciplinary / grievance process;
- be referred to the police;
- be referred to a relevant reporting agency;
- be referred to the Council's appointed external auditor;
- be referred and put through established child / adult protection procedures; or
- form the subject of an independent inquiry.

The Monitoring Officer may also, where they consider it appropriate, inform the Leader of the Council and the Convener of the Audit Committee that the matter has been raised

The Monitoring Officer will write to you within ten working days of receiving your disclosure:

- acknowledging that the concern has been received;
- confirming whether your disclosure meets the criteria of a protected disclosure (see section 2.3 of the Policy);
- indicating how the Council proposes to deal with the matter;
- supplying you with information on support mechanisms; and
- advising you whether further investigations will take place and if not, why not.

The amount of contact between you and the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of your information. If necessary, further information will be sought from you. You may also be interviewed to ensure that your disclosure is fully understood.

Any meeting can be arranged away from your workplace if you wish and a union representative or a colleague may accompany you in support.

Appendix 1

The Council will try to minimise any difficulties that you may experience as a result of raising a concern. For example, if you are asked to give evidence on behalf of the Council in criminal or disciplinary proceedings the Council will arrange for you to receive appropriate advice and support.

The Council understands that you need to be reassured that your disclosure has been properly addressed. Unless there are legal reasons why this cannot be done, you will receive information about the outcome of any investigation. It should be noted that it may not be possible to give the details of the precise actions taken during the investigation if this would involve disclosing the personal data of an individual as we must ensure that we comply with the Data Protection Act 2018.