

Whistleblowing Policy

ARMAGH CITY BANBRIDGE CRAIGAVON BOROUGH COUNCIL

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AMENDMENT RECORD SHEET

Remove and destroy old pages. Insert new pages as indicated.

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CONTENTS

1. Introduction.....	2
2. What the Policy Covers	2
3. Reporting Concerns.....	5
4. Council Response Plan	6
5. How the Matter Can be Taken Further	8
6. Support and Advice	8
Appendix 1 Route Map.....	8
Appendix 2 Policy Screening.....	9
Appendix 3 Rural Needs Impact Assessment	15

1. Introduction

- 1.1 Armagh City, Banbridge and Craigavon Borough Council is committed to the highest possible standards of openness, probity and accountability and will not tolerate malpractice or wrongdoing. In line with that commitment, the Council encourages employees with serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of reprisals. This policy document makes it clear that you can do so without the fear of victimisation, subsequent discrimination or disadvantage.
- 1.2 The Public Interest Disclosure (NI) Order 1998 (PIDO) came into operation in Northern Ireland in October 1999. The Order offers a framework of protection against victimisation or dismissal for workers within an organisation who 'blow the whistle' on criminal behaviour or wrongdoing. In accordance with the PIDO, whistle-blowers must not suffer any detrimental treatment as a result of raising a concern.
- 1.3 The Charity, Public Concern at Work (PCAW) has defined whistleblowing as "a worker raising a concern about wrongdoing, risk or malpractice with someone in authority internally or externally". Whistleblowing is therefore essential to:
- Safeguard the integrity of the organisation;
 - Safeguard employees;
 - Safeguard the wider public; and
 - Prevent damage.
- 1.4 This policy is intended to cover concerns which fall outside the scope of other procedures included in or covered by other policies – **see Appendix 1** which shows the relationship between these policies. If your concern is about a possible fraud, you may also wish to refer to our Fraud Policy & Fraud Response Plan. A Whistleblowing concern differs from a grievance, which is a personal complaint regarding an employee's own employment situation. This Whistleblowing Policy is primarily for concerns where the interests of others or the Council itself is at risk.
- 1.5 The legislation does not extend protection to members of the public who raise concerns, although the concerns that they raise may still be investigated through the Council's Corporate Complaints procedure or if the concern relates to danger, wrongdoing or illegality that affects others the concern may be investigated under the whistleblowing policy.

2. What the Policy Covers

- 2.1 A whistleblowing concern is where a member of staff raises an issue or discloses information about suspected danger, wrongdoing or illegality within their own organisation. This is officially known as "making a disclosure in the public interest". The individual whistleblower is usually not personally affected by the danger, wrongdoing or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of the investigation into their concern - they are simply trying to alert others. A simple way to establish whether an individual raising a concern is a 'whistleblower' or a 'complainant' is to consider the nature of the concern:

- Does the concern refer to 'others' e.g. the organisation, other staff clients, the wider public? -

Whistleblower

- Does the concern refer to the individual ('self') e.g. a personal grievance about terms of employment, pay, unfair treatment? -

Complainant

The individual whistleblower is usually not personally affected by the danger, wrongdoing or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of the investigation into their concern – they are simply trying to alert others.

2.2 As a result of legislation passed under the Employment Act (Northern Ireland) 2016 there has been an amendment to whistleblowing legislation which came into force at the start of October 2017. The main change is removal of the requirement for a disclosure to be made in good faith. Rather a disclosure must now be made in the public interest i.e. it must affect others such as the general public. What the public interest means will have to be judged on a case by case basis by an employment tribunal.

2.3 You can raise concerns about any issue relating to suspected malpractice, risk, abuse or wrongdoing. You need only have a reasonable belief that the issue has occurred, is occurring or is likely to occur in the future. It is best to raise the concern as early as possible, even if it is only a suspicion, to allow the matter to be looked into promptly. The following list illustrates the types of issues that may be raised:

- The abuse of children and/or vulnerable adults (physical or psychological);
- Health and Safety risks, either to the public or other employees;
- Any unlawful act (e.g. theft);
- The unauthorised use of public funds;
- A breach of the Employee Code of Conduct;
- Failing to safeguard personal and/or sensitive information (data protection);
- Damage to the environment;
- Fraud and corruption;
- Abuse of power;
- Poor value for money;
- Other unethical conduct; and
- Any deliberate concealment of information tending to show any of the above.

2.4 The Council encourages staff to raise concerns internally to provide an opportunity to have such matters investigated and addressed as appropriate. Reasonable belief that wrongdoing has taken place is sufficient for raising a concern.

2.5 In the UK, the Bribery Act creates a corporate offence of failing to prevent bribery. In order to defend a charge of failing to prevent bribery an organisation must be able to demonstrate that it had adequate procedures in place. The provision of effective whistleblowing facilities is widely considered to be a key element of adequate procedures for most organisations.

2.6 This policy aims to:

- Encourage staff to raise concerns within Council as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected;
- Make staff feel confident to raise concerns within the Council rather than overlooking a problem or blowing the whistle to the media or other public bodies;
- Give staff avenues to raise concerns and receive feedback on any action taken;
- Inform staff on how to take the matter further if they are dissatisfied with the response; and
- Reassure staff that they will be protected from reprisal or victimisation for whistleblowing if they believe that it is in the public interest.

Openness/Confidentiality and Anonymity

2.7 A concern can be raised openly, confidentially or anonymously. In most cases, the best way to raise a concern is to do so openly. Openness makes it easier to address the issue, work out how to investigate the matter, understand the reasons for concern and get more information. This policy encourages employees to put your name to your allegation. Whilst it is possible to raise such matters anonymously, staff should not feel inhibited in identifying themselves. If staff request that their identity should not be disclosed, the Council will not disclose it without consent unless required by law. If the situation arises where a concern cannot be investigated or resolved without revealing the employee's identity, or if there is a legal imperative to disclose the identity, the Council will discuss this with the employee and decide how the issue will be progressed.

2.8 Where confidentiality is not possible or cannot be maintained, we will not tolerate detriment or harassment. We will take action to protect staff when they raise a concern and will treat any detriment or harassment as a serious disciplinary offence to be treated under the Council's Disciplinary Policy and Procedure.

2.9 Concerns expressed anonymously are more difficult to investigate and harder to substantiate and further liaison with the whistleblower is not possible. Anyone thinking of making a disclosure should bear in mind that anonymity does not stop others from speculating about who raised the concern and it will not be possible to provide details of the outcome of any investigation into an anonymous disclosure. A number of disadvantages to raising concerns anonymously, include:

- Detailed investigations may be more difficult, or even impossible, to progress if an employee chooses to remain anonymous and cannot be contacted for further information.

- The information and documentation provided may not easily be understood and may need clarification or further explanation.
- There is a chance that the documents provided might reveal your identity.
- It may not be possible to remain anonymous throughout an in-depth investigation.
- It may be difficult to demonstrate to a tribunal that any detriment suffered is as a result of raising a concern.

2.10 Given these inherent difficulties, the Council will exercise discretion in deciding whether or not to investigate anonymous allegations. The factors to be taken into account include:

- The seriousness of the issue(s) raised;
- The credibility of the allegations;
- The likelihood of confirming the allegation from attributable sources; and
- Whether the allegations have been investigated before.

False and malicious allegations

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

2.12 If an employee makes an allegation, but it is not confirmed by the investigation no action will be considered or taken against them. It will always be assumed that concerns have been raised in good faith unless there is evidence to the contrary. However if an allegation is made for an ulterior and undesirable purpose, it will be deemed not to have been made in the public interest. Therefore if the investigation concludes that a whistleblower makes false, malicious or vexatious allegations this will be treated as a serious disciplinary offence and disciplinary action will be taken under the Council's Disciplinary Policy.

3. Raising Concerns

How to raise a concern

3.1 Once an employee has decided to raise a concern, then wherever possible, it should be expressed either verbally or in writing. This should set out the background and history of the concern giving names, dates and places where possible, and the reason why the individual is particularly concerned about the situation.

Option 1 – Manager

3.2 You should initially raise your concerns with your line manager and this can be done either verbally or in writing. Concerns are better raised in writing. You should set out the history of the concern, giving names, dates and places where possible, and the reasons why you are particularly concerned about the situation. The Manager should then contact the Head of Department: Performance & Audit or the Head of Department: Human Resources.

Option 2 – Senior, Designated Officers

3.3 If, for whatever reason, you feel that raising it with your line manager is not appropriate please raise the matter with the Internal Audit Manager, the Head of Department: Performance & Audit or the Head of Department: Human Resources.

3.4 If the above channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you can raise your concern directly with the Chief Executive or Chair of the Performance & Audit Committee.

Option 3 – Raise your concerns with a Regulator

3.5 It is recognised that there may be circumstances where you may wish to raise a concern to an outside body such as a regulator. You can seek independent advice from an experienced organisation before blowing the whistle. PCAW is an independent, charitable organisation that runs a free, confidential advice line. They can advise you on how to safely and effectively raise a concern and can be contacted on 020 7404 6609 or www.pcaw.co.uk. You may also take the matter outside the Council by contacting:

- The Northern Ireland Audit Office
- The Commissioner of Complaints
- Police Service Northern Ireland
- Your Solicitor

4. Council Response Plan

4.1 When a formal concern has been raised, there will be a prompt, swift, proportionate, investigation to establish the facts. The Council will (so long as you have not submitted your concern anonymously) write to you detailing:-

- How the Council proposes to deal with the matter; and the policy under which it will be investigated;
- Whether the Council considers it to be a protected disclosure;
- Contact details for the officer handling the investigation;
- Arrangements for confidentiality;
- An estimate of how long it will take to provide a response on the outcome;
- Any initial enquiries which may have been made;
- If no action is planned, why not.

4.2 If you have any personal interest in the matter, please tell us at the outset. If your concerns fall more properly within the Grievance Procedure you will be advised by Human Resources. While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as possible. Please note, however, that we may not be able to tell you the precise action we take where this would infringe a duty of confidence owned by us to someone else.

Initial Enquiries

4.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other existing policies/procedures will normally be referred for consideration under those policies/procedures (refer to Appendix 1). It may not be necessary to carry out a formal investigation in every case, for example:

- Explaining the context of an issue to the person raising the concern may be enough to alleviate their concerns;
- Minor concerns may be dealt with straight away by line management;
- A review by Internal Audit as part of planned audit work might be sufficient to address the issue.

4.4 The action taken by Council will depend on the nature of the concern. The matters raised may be:

- Investigated internally;
- Referred to the police or other statutory agencies; or
- Referred to the Local Government Auditor (Northern Ireland Audit Office).

4.5 The course of action will normally be agreed by the Fraud Investigation Team (FIT) in consultation with senior departmental management as appropriate. The FIT will normally comprise the Head of Finance, Head of Human Resources, Head of Performance & Audit and the IA Manager or a member of the IA team and appropriate representation from the relevant department. Expert advice may be sought as necessary.

Monitoring of Whistleblowing Complaints

4.6 Where a concern involves a serious issue or incident or where there is a disagreement about the seriousness of the concern Council has a formal mechanism for logging it, processing it and monitoring how it is being handled. IA will maintain a log and this will provide a clear trail for future reference and avoidance of dispute, and also helps to identify trends, common issues and patterns to enhance organisational learning.

Detailed Investigation

4.7 The amount of contact between the whistleblower and the investigating officer considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the investigating officer will seek further information from the whistleblower. Where any meeting is arranged, this can be off-site if you wish and you can be accompanied by a trade union or fellow employee.

4.8 The Council accepts that the whistleblower needs to be assured that the matter has been properly addressed. Subject to legal constraints, Council will inform the whistleblower of the outcomes of any investigation indicating:

- The Council's findings in relation to the investigation; and
- The action the Council proposes to take.

5. How the Matter Can be Taken Further

5.1 While we cannot always guarantee the outcome that you may be seeking as a result of raising the matter with us, we will try to deal with your concern fairly and in an appropriate way. By using this policy, you can help us to achieve this. The Council hopes that individuals will be satisfied with any action taken. If they are not, and they feel it is right to take the matter outside the Council, the following are possible contact points:

- The Commissioner of Complaints;
- The Northern Ireland Audit Office (NIAO);
- Relevant professional bodies or regulatory organisations;
- Trade Union;
- Your solicitor; or
- The Police Service Northern Ireland

5.2 One possibility is that you may wish to rely on your rights under the Public Interest Disclosure (NI) Order 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public interest. The provisions are quite complex and include a list of prescribed people outside of the Council who can be contacted in certain circumstances. You should seek advice from your solicitor, your local Citizens Advice Bureau or the Ombudsman or Public Concern at Work (PCAW).

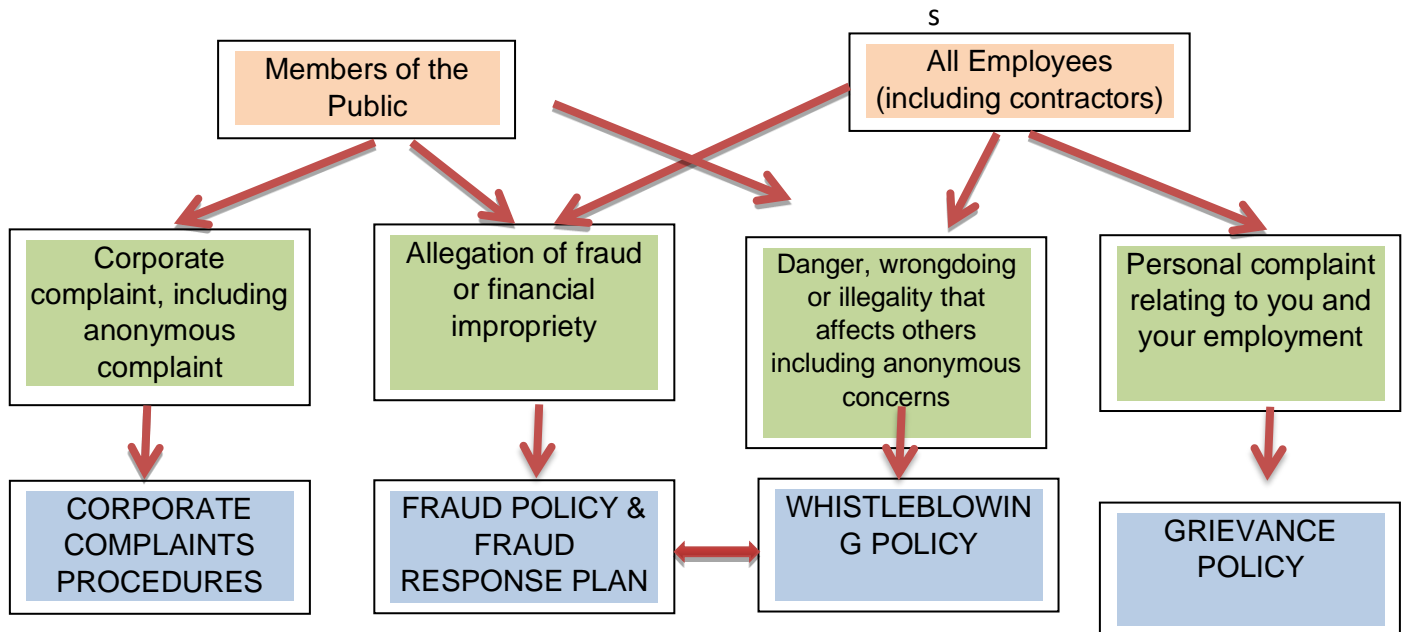
5.3 If you take the matter outside Council, you should make sure that you do not disclose confidential information or that disclosure would be privileged.

6. Support and Advice

6.1 Advice and guidance on how matters of concern may be pursued can be obtained from Human Resources. You can get confidential, independent advice from the charity Public Concern at Work on 020 7404 6609. You can also email them for advice at the following address: whistle@pcaw.org.uk.

Appendix 1 –Routemap

The diagram below provides an overview of the relationship between corporate complaints, fraud and whistleblowing policies/procedure and the grievance policy. Note that only employees and workers are protected by whistleblowing legislation.



Policy Screening Form

Policy Scoping

Policy Title: Whistleblowing Policy

Brief Description of Policy (please attach copy if available). Please state if it is a new, existing or amended policy.

Workers in NI now enjoy the protection of the Public Interest Disclosure (NI) Order 1998. The policy describes the protection that individuals who make certain disclosures in the public interest now have. The policy seeks to promote better accountability and more efficient regulatory oversight.

Intended aims/outcomes. What is the policy trying to achieve?

Compliance with up to date legislation.

Policy Framework

Has the policy been developed in response to statutory requirements, legal advice or on the basis of any other professional advice? Does this affect the discretion available to Council to amend the policy?

Following the Mid Staffordshire NHS Foundation Trust Public Inquiry the resulting Francis Report recommended adopting constructive attitudes toward whistle-blowers and as a result there has been a change in regard to Whistleblowing legislation in Northern Ireland to bring it into line with the rest of the UK. As a result of the legislation passed under the Employment Act (Northern Ireland) 2016, amendment to Whistleblowing legislation came into force at the start of October 2017.

Are there any Section 75 categories which might be expected to benefit from the policy? If so, please outline.

This policy will affect all stakeholders equally regardless of what equality group they fall within

Who initiated or wrote the policy (if Council decision, please state). Who is responsible for implementing the policy?

Who initiated or wrote policy?

Internal Audit

Who is responsible for implementation?

Chief Executive and Executive Management Team.

Are there any factors which might contribute to or detract from the implementation of the policy (e.g. financial, legislative, other)?

None foreseen.

Main stakeholders in relation to the policy

Please list main stakeholders affected by the policy (e.g. staff, service users, other statutory bodies, community or voluntary sector, private sector)

All Council Staff.

Are there any other policies with a bearing on this policy? If so, please identify them and how they impact on this policy.

Code of Conduct for employees
Disciplinary Policy
Fraud Policy

Available Evidence

Council should ensure that its screening decisions are informed by relevant data. What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

Section 75 category	Evidence
Religious belief	N/A
Political opinion	N/A
Racial group	N/A
Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A

Needs, experiences and priorities

Taking into account the information gathered above, what are the different needs, experiences and priorities of each of the following categories in relation to this particular policy/decision?

Section 75 category	Needs, experiences and priorities
Religious belief	N/A
Political opinion	N/A
Racial group	N/A
Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A

Screening Questions

1. What is the likely impact on equality of opportunity for those affected by this policy for each of the Section 75 categories?

Category	Policy Impact	Level of impact (Major/minor/none)
Religious belief	None	
Political opinion	None	

Racial group	None	
Age	None	
Marital status	None	
Sexual orientation	None	
Men and women generally	None	
Disability	None	
Dependents	None	

2. Are there opportunities to better promote equality of opportunity for people within the Section 75 categories?

Category	If yes, provide details	If no, provide reasons
Religious belief	None	N/A
Political opinion	None	N/A
Racial group	None	N/A
Age	None	N/A
Marital status	None	N/A
Sexual orientation	None	N/A
Men and women generally	None	N/A
Disability	None	N/A
Dependents	None	N/A

3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion, or racial group?

Category	Details of Policy Impact	Level of impact (major/minor/none)
Religious belief	None	None
Political opinion	None	None
Racial group	None	None

4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

Category	If yes, provide details	If no, provide reasons
Religious belief	None	N/A
Political opinion	None	N/A
Racial group	None	N/A

Multiple Identity

Generally speaking, people fall into more than one Section 75 category (for example: disabled minority ethnic people; disabled women; young Protestant men; young lesbian, gay and bisexual people). Provide details of data on the impact of the policy on people with multiple identities. Specify relevant s75 categories concerned.

This policy will affect all stakeholders equally regardless of what equality category they fall within.

Disability Discrimination (NI) Order 2006

Is there an opportunity for the policy to promote positive attitudes towards disabled people?

N/A

Is there an opportunity for the policy to encourage participation by disabled people in public life?

N/A

Screening Decision

A: NO IMPACT IDENTIFIED ON ANY CATEGORY – EQIA UNNECESSARY

Please identify reasons for this below

This is a technical policy with no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

B: MINOR IMPACT IDENTIFIED – EQIA NOT CONSIDERED NECESSARY AS IMPACT CAN BE ELIMINATED OR MITIGATED

Where the impact is likely to be minor, you should consider if the policy can be mitigated or an alternative policy introduced. If so, EQIA may not be considered necessary. You must indicate the reasons for this decision below, together with details of measures to mitigate the adverse impact or the alternative policy proposed.

C: MAJOR IMPACT IDENTIFIED – EQIA REQUIRED

If the decision is to conduct an equality impact assessment, please provide details of the reasons.

Timetabling and Prioritising

If the policy has been screened in for equality impact assessment, please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3 with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

Priority criterion	Rating (1-3)
Effect on equality of opportunity and good relations	
Social need	
Effect on people's daily lives	

The total rating score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the council in timetabling its EQIAs.

Is the policy affected by timetables established by other relevant public authorities? If yes, please give details.

Monitoring

Effective monitoring will help the authority identify any future adverse impact arising from the policy. It is recommended that where a policy has been amended or an alternative policy introduced to mitigate adverse impact, monitoring be undertaken on a broader basis to identify any impact (positive or adverse).

Further information on monitoring is available in the Equality Commission's guidance on monitoring

Identify how the impact of the policy is to be monitored

Internal Audit will review the Gifts & Hospitality register on an annual basis. Directors will be required to update their Assurance Certificates on a quarterly basis regarding the provision/acceptance of gifts and hospitality.

Approval and Authorisation

A copy of the screening form for each policy screened should be signed off by the senior manager responsible for that policy. The screening recommendation should be reported to the relevant Committee/Council when the policy is submitted for approval.

Screened by	Position/Job title	Date
Michael Watson	Head of Audit - Craigavon	January 2019
Approved by	Position/Job Title	Date
Roger Wilson	Chief Executive	2019

Please forward a copy of the completed form with policy attached to mary.hanna@armaghbanbridgecraigavon.gov.uk who will ensure that screening forms and policies are available on the Council website.

This officer is also responsible for issuing reports on a quarterly basis on those policies "screened out for EQIA". This allows stakeholders who disagree with this recommendation to submit their views. In the event of any stakeholder disagreeing with the decision to screen out any policy, the screening exercise will be reviewed.