

Whistleblowing Policy



Appendix 3 - Confidential Reporting (Whistleblowing) Policy

1.0 Introduction

- 1.1 Employees are in a good position to be aware of unacceptable behaviour or practice within the Authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. Employees may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concerns rather than report what may just be suspicions of unacceptable behaviour or practice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. To achieve these ends, it encourages freedom of speech. In line with that commitment, it is expected that employees who have serious concerns about any aspects of the Council's work should come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3 This policy document makes it clear to employees that they can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting (Whistleblowing) Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.
- 1.4 This policy applies to all employees. For the purpose of this policy only, the term "employees" also includes contractors and suppliers working for or on behalf of the Council, on Council premises or elsewhere. It does not extend to teachers and certain support staff in locally managed Community, Controlled, Voluntary Aided and Foundation Schools.
- 1.5 If you are a member of the public, you can still contact the Council to report any concerns or disclosures over wrongdoing. This can be done for example by using the corporate complaints process, which can be found on the council website.

2.0 Aims and scope of this policy

2.1 This Policy aims to:-

- encourage employees to feel confident in raising serious concerns and to question and act upon concerns about unacceptable behaviour or practice within the Authority;
- provide avenues for employees to raise those concerns and receive feedback on any action taken;
- ensure that employees receive a response to their concerns and that employees are aware of how to pursue them if they are not satisfied; and

- reassure employees that they will be protected from possible reprisals or victimisation if employees have a reasonable belief that they have made any disclosure in the public interest.
- 2.2 There are existing procedures to lodge a grievance relating to employment matters. The Confidential Reporting (Whistleblowing) Policy is intended to cover major concerns (for example, those that have a “public interest” aspect to them), that fall outside the scope of other policies/procedures. As such it may cover concerns such as:
- conduct which is an offence or a breach of the law;
 - disclosures related to miscarriages of justice;
 - damage to the environment;
 - the unauthorised or inappropriate use of public funds;
 - fraud, corruption and bribery;
 - racial harassment, sexual or physical abuse of clients;
 - vulnerable adult or child safeguarding concerns e.g. harm, neglect or abuse; and
 - Modern Slavery or other unethical conduct.
- 2.3 The term “the public interest” is not defined in whistleblowing legislation. However something which is “in the public interest” may be summarised very simply as something which on balance serves the interests of the public more than it does not serve their interests.
- 2.4 Thus, any serious concerns that employees have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting (Whistleblowing) Policy. This may be about something that:-
- makes employees feel uncomfortable in terms of known standards, experience or the standards they believe the Council subscribes to, or
 - is against the Council's Constitution and policies, or
 - falls below established standards of practice, or
 - amounts to improper conduct.
- 2.5 Any individuals who are raising concerns relating to money laundering offences or Proceeds of Crime Act 2002 are required to report these concerns directly to the Money Laundering Reporting Officer (MLRO) in line with the Anti Money Laundering Policy (AMLPL). The AMLPL can be found on the council’s website and forms part of the wider Anti-Fraud and Corruption Policy.
- MLRO – internal.audit@rochdale.gov.uk

3.0 Safeguards (Harassment and Victimisation)

- 3.1 The Council is committed to good practice and high standards and wants to support employees in achieving good practice and high standards.
- 3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what employees are saying is true, employees should have nothing to fear because they will be doing their duty to their employer and those for whom they are providing a service.
- 3.3 The Council will not tolerate any harassment or victimisation (including informal pressures) of a person expressing a concern and will take appropriate action to protect employees when they raise a whistleblowing concern in the public interest. Any staff found to have mistreated or victimised a person as a result of that person having made a whistleblowing disclosure, will be subject to disciplinary measures.
- 3.4 Any investigation into allegations of potential unacceptable behaviour or practice will not influence or be influenced by any disciplinary or redundancy procedures that already affect employees.
- 3.5 The Public Interest Disclosure Act 1998 (PIDA) is known as the Whistleblowing law and is designed to encourage and enable employees to “speak out” and to report suspected wrongdoing at work. This is commonly known as “blowing the whistle”.
- 3.6 PIDA legislation legally protects employees (including those employed in schools maintained by the Council, temporary workers and agency staff), from any detriment from their employer or colleagues that arises as a result of making a “protected disclosure” (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer.

4.0 Confidentiality

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal the identity of employees if they so wish. At the appropriate time, however, employees may need to come forward as witnesses.
- 4.2 The Council’s Whistleblowing policy seeks to protect the identity of the individual making a disclosure. This means that your name will not be revealed without your consent unless the provisions of 4.3 or 4.4 below apply.

- 4.3 However, in alleged cases of serious wrongdoing, it must be appreciated that the Council cannot guarantee that this will be maintained particularly if external legal action results from the disclosure. In some cases, an employee's concern may require further action and they may have to act as a witness and/or provide evidence, for example serious criminal offences which are referred to the Police.
- 4.4 If your disclosure relates to a child at risk or abuse of a vulnerable adult, then the Council is required to investigate this under separate procedures and this takes priority over any request for anonymity. If you have provided your contact details, the Council will of course advise you of the action being taking.

5.0 Anonymous allegations

- 5.1 This policy encourages employees to put their names to their allegations whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Chief Executive, Monitoring Officer, Head of Human Resources or the Chief Internal Auditor & Compliance Officer.
- 5.3 In exercising this discretion, the factors to be taken into account include:-
- the seriousness of the issues raised;
 - the credibility of the concerns; and
 - the likelihood of confirming the allegations from attributable sources.

6.0 Untrue allegations

- 6.1 If employees make whistleblowing allegations in the public interest but it is not confirmed by the investigation, no action will be taken against them. If, however, employees make allegations frivolously, maliciously or for personal gain, disciplinary or other action may be taken against them.
- 6.2 While encouraging employees to bring forward matters of concern, the Council must guard against claims which are untrue. This is because of the risk of claims made to deliberately damage the reputation of other employees or the Council as a whole and not least because the cost of investigation is high.

6.3 If an employee makes an allegation, but it is not confirmed by the investigation, no action will be considered or taken against them. However, if an employee makes false, malicious or vexatious allegations this will be treated as a serious disciplinary offence and disciplinary action will be taken. The PIDA only offers protection from dismissal or detriment if the worker reasonably believes their disclosure was made in the public interest.

7.0 How to raise a concern

7.1 If employees are unsure or nervous about raising a whistleblowing concern then, as a first step, things can be discussed informally with whoever is most appropriate. This could be with Internal Audit, HR, their line manager, or any of those listed at sections 7.7 or 9.0 below.

7.2 After any informal stage that may or may not take place, employees should normally raise concerns with their immediate manager or their supervisor. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if employees believe that management is involved, they should approach the Chief Executive, Monitoring Officer, Head of Human Resources, or the Chief Internal Auditor & Compliance Officer.

7.3 Concerns may be raised verbally or in writing. Employees who wish to put their complaints in writing should do so using the following format:-

- the background and history of the concerns (giving relevant dates whenever possible)
- the reasons why they are particularly concerned about the situation.

7.4 Details of all concerns received by Managers must be logged and reported to Rochdale Council's Internal Audit Team (internal.audit@rochdale.gov.uk) to allow a central record of whistleblowing cases to be maintained.

7.5 The earlier employees express their concerns, the easier it is to take action.

7.6 Although employees are not expected to prove the truth of allegations, they will need to demonstrate to the person contacted that there are reasonable grounds for their concerns.

7.7 Advice and guidance on how to pursue matters of concern may be obtained from the Chief Executive, Monitoring Officer, Assistant Director (Workforce & Organisational Development) or the Chief Internal Audit & Compliance Officer.

- Chief Executive – chief.executive@rochdale.gov.uk, 01706 924702
- Monitoring Officer – monitoring.officer@rochdale.gov.uk, 01706 924536
- Assistant Director (Workforce, Communications & Policy) – hradvisoryteam@rochdale.gov.uk 01706 926245

- Chief Internal Auditor & Compliance Officer – internal.audit@rochdale.gov.uk, 01706 925497

- 7.8 If employees have a good reason to be unwilling to refer the matter of concern to one of the internal sources above, then section 9.1 contains details of how concerns can be reported elsewhere.
- 7.9 Employees may invite their trade union or professional association representative or workplace colleague to be present during any meetings or interviews in connection with the concerns they have raised
- 7.10 Concerns about a child safeguarding issue e.g. that a child may have suffered harm, neglect or abuse, can be reported to the Children’s Social Care Service on 0300 303 0440; or in an emergency contact the Police direct.
- 7.11 Adult safeguarding concerns can be reported to the Adult Care Service on 0300 303 8886, or in an emergency contact the Police direct.

8.0 How the Council will respond

- 8.1 The Council will respond to the concerns of employees. Employees should remember that testing out their concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:
- be investigated by management, Internal Audit or through the disciplinary process;
 - be referred to the Police; or
 - be referred to the External Auditor.
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries (normally led by Internal Audit) will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (see paragraph 2.2) will normally be referred for consideration under those procedures.

- 8.4 All reasonable efforts will be made to ensure that individuals directly or indirectly involved in any initial enquiries are made aware (as far as the need to maintain confidentiality permits) why those enquiries are taking place. The formal reporting relationship in cases of allegations made is between Internal Audit and Service Directors. As such, once informed by Internal Audit it is then service management's responsibility to ensure that staff within their service are aware and that staff support facilities are provided where necessary.
- 8.5 It is stressed that there is no presumption of guilt of any officers at any stage in the initial enquiries process. Auditors are professionally bound to work independently with integrity and an open mind and are intent in examining processes and activities at this stage rather than officers personally.
- 8.6 The timeframe for completing the initial enquiries cannot be specified easily as each situation is different and, in some cases further issues may arise which require follow up. Internal Audit will seek to ensure that this part of the process is carried out as expediently as possible yet without compromising on the thoroughness of the enquiry.
- 8.7 At the completion of the initial enquiries phase Internal Audit will formally report to the client Service Management (normally the Service Director), who will decide whether to invoke the Council's disciplinary procedures. Where evidence of wrongdoing is identified Internal Audit will make recommendation to that effect.
- 8.8 The Human Resources Service will provide advice and support to managers and staff by advising on support available e.g. the Council's Employee Assistance Programme.
- 8.9 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 8.10 Within ten working days of a concern being received the Chief Executive, Monitoring Officer, Head of Human Resources, Chief Internal Auditor & Compliance Officer or another designated officer will write to the complainant in those instances where the complainant has provided contact details :
- acknowledging that the concern has been received;
 - indicating how it is proposed to deal with the matter;
 - giving an estimate of how long it will take to provide a final response;
 - indicating whether any initial enquiries have been made;
 - supplying information on staff support mechanisms, and
 - indicating whether further investigations will take place and, if not, why not.

- 8.11 The amount of contact between the officer considering the issues and the relevant employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the relevant employee.
- 8.12 Where any meeting is arranged, off-site if the employee so wishes, the employee can be accompanied by a trade union or professional association representative or a workplace colleague.

9.0 How matters of concern can be taken further

9.1 This Policy is intended to provide employees with an avenue to raise concerns within the Authority. However, if employees are reluctant to raise their concern through internal channels, or if they feel that matters of concern previously reported have not been dealt with satisfactorily, then the following are possible contacts if they wish to take matters further:-

- Local Councillors – details of how to contact and surgery hours are on the Council's website www.rochdale.gov.uk.
- Mazars - the Council's external auditors. They are completely independent from the Council and can be contacted on 0161 238 9200 or by writing to them at 1 St. Peter's Square, Manchester, M2 3DE.
- Relevant professional bodies.
- Solicitors.
- Greater Manchester Police – Tel No. 101.

9.2 Protect – this is a whistleblowing charity, which provides free and strictly confidential advice and legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 020 3117 2520 or can be e-mailed at whistle@protect-advice.org.uk. More information is on their website at www.protect-advice.org.uk.

9.3 If employees take matters outside the Authority, it will be necessary to ensure that they do not disclose confidential or legally privileged information. As such, it is advisable that employees take appropriate advice before proceeding.

9.4 If employees make allegations frivolously, maliciously or for personal gain, then disciplinary or other action may be taken against them.

10.0 Schools

10.1 Individuals employed in schools maintained by the Council such as community schools, community special schools, voluntary controlled or maintained nursery schools and pupil referral units, where the Council is the legal employer, will have their own whistleblowing policy and reporting arrangements which reflect the principles and requirements set out in the Council's policy. In most cases, school based staff are encouraged to raise their concerns in accordance with the schools own reporting procedures, rather than directly to the Council.

- 10.2 However, if the employee has a concern which they feel they cannot discuss with the management of the school or have good reason to believe that their complaint or disclosure will not be properly handled, then they may report their concerns directly to the Director of Children's Services using the Schools whistleblowing Policy.
- 10.3 Safeguarding concerns - if the concern raised relates to a child protection issue, these should be reported to the Headteacher in the first instance or if the concern relates to the Headteacher, the concern should be raised with the Chair of the Governing Board.
- 10.4 The whistleblowing policy is not to be used where other more appropriate reporting procedures are available within school, for example, in relation to any grievance relating to employment matters or to make a general complaint in relation to the school.
- 10.5 The Council expects the schools to respond to a disclosure or allegation in the same way as the Council would respond. Internal Audit or the Schools HR Advisory Service (if purchased) can offer advice and support to schools on the approach to be taken to investigate whistleblowing allegations to ensure concerns are properly addressed.
- 10.6 For monitoring purposes the Headteacher or Chair of Governors must report at the earliest opportunity the details of all whistleblowing allegations or suspicions of fraud, theft or corruption made within school. These must be reported to the Council's Head of Internal Audit. Internal Audit will monitor the outcome of all cases, including action taken to reduce the risk of reoccurrence.
- 10.7 Foundation and Voluntary Aided Schools. This policy does not extend to staff employed in these schools as the governing board is the employer and not the Council. It is therefore the governing board who must decide how employees and workers may make a qualifying disclosure under PIDA or raise an allegation of wrongdoing through their own Whistleblowing policy and procedures. Internal Audit or the Schools HR Advisory Service (if purchased) can offer advice and support to schools on the approach to be taken to investigate whistleblowing allegations to ensure concerns are properly addressed.
- 10.8 In respect of Academy Schools, Sixth Form Colleges and Free Schools, these institutions should adopt their own whistleblowing policy and procedures. If the Council receives any disclosures relating to these institutions, we will acknowledge these and seek to advise whistleblowers on an appropriate course of action on matters raised.

11.0 Data Protection and Freedom of Information

- 11.1 The Freedom of Information Act 2000 gives a general right of access to all types of recorded information held by public authorities. As such, the Council often receives requests for information under the Freedom of Information Act.
- 11.2 The Council has a legal obligation to provide the information unless it falls under one of the exemptions of the Act.
- 11.3 The Freedom of Information Act contains exemptions which may be applicable to permit the withholding of information identifying the whistleblower, including:
- Section 40 - Personal Data;
 - Section 41 - Information which, if disclosed, would give rise to an actionable breach of confidence.
- 11.4 Many people making a disclosure to the Council will wish to protect their identity and the Council will always seek to protect the identity of individuals during the course of progressing an investigation. If the Council receives a request for information identifying a whistleblower, the Council will contact the whistleblower to seek their views beforehand and will, wherever possible, seek to comply with those views.
- 11.5 The principle of maintaining confidentiality should also be applied to the identity of any individual who may be the subject of a disclosure.
- 11.6 The Council will ensure that our handling of concerns meets the requirements of the Data Protection Act 2018 and the Freedom of Information Act 2000.

12.0 Training and Awareness

- 12.1 Chief Officers and Heads of Service are responsible for ensuring that their employees are aware of the whistleblowing policy, process and that any training needs are addressed which may arise from the application of the policy. Raising awareness of the Council's Whistleblowing Policy should form part of the induction training for all employees and should be addressed as refresher training for all employees.
- 12.2 Employees have a responsibility to ensure that they are aware of and understand the Council's policy in relation to Whistleblowing.

13.0 Equality and Diversity

- 13.1 Service Directors and employees are responsible for ensuring that they operate this Whistleblowing Policy in line with the Council's Equality and Diversity Policy, in order to provide equality of opportunity for all employees.
- 13.2 The Council is committed to ensuring that no-one is discriminated against, disadvantaged or given preference, through membership of any particular group, particularly based on age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. This policy will be available equally to all employees irrespective of their background or membership of a particular group.
- 13.3 In addition, in line with the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) Part 3, the Council is committed to ensure that employees are not disadvantaged or discriminated against by virtue of their trade union membership in the application of this policy.
- 13.4 The Council will regularly review this policy's impact on any equality and diversity issues, and will identify any inequalities by monitoring and will take appropriate action where necessary.

14.0 Review

- 14.1 Rochdale Council will continue to review its rules and procedures and will make sure that the Confidential Reporting (Whistleblowing) Policy is regularly reviewed to ensure it stays current, appropriate and effective.

15.0 Frequently Asked Questions

- 15.1 Please see some FAQ's below from the Gov.UK website; full details can be found at: [Whistleblowing for employees: What is a whistleblower - GOV.UK](#)

1. What is a whistleblower

You're a whistleblower if you're a worker and you report certain types of wrongdoing. This will usually be something you've seen at work - though not always.

The wrongdoing you disclose must be in the public interest. This means it must affect others, for example the general public.

As a whistleblower you're protected by law - you should not be [treated unfairly or lose your job](#) because you 'blow the whistle'.

You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.

2. Who is protected by law

You're protected if [you're a worker](#), for example you're:

- an employee, such as a police officer, NHS employee, office worker, factory worker
- a trainee, such as a student nurse
- an agency worker
- a member of a [Limited Liability Partnership](#) (LLP)

Get independent advice if you're not sure you're protected, for example from [Citizens' Advice](#).

A confidentiality clause or 'gagging clause' in a settlement agreement is not valid if you're a whistleblower.

3. Complaints that count as whistleblowing

You're protected by law if you report any of the following:

- a criminal offence, for example fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, for example does not have the right insurance
- you believe someone is covering up wrongdoing

4. Complaints that do not count as whistleblowing

Personal grievances (for example bullying, harassment, discrimination) are not covered by whistleblowing law, unless your particular case is in the public interest.

Report these under your [employer's grievance policy](#).

Contact the [Advisory, Conciliation and Arbitration Service \(Acas\)](#) for help and advice on resolving a workplace dispute.

5. Who to tell and what to expect

You can tell your employer - they may have a whistleblowing policy that tells you what to expect if you report your concern to them. You can still report your concern to them if they do not have a policy.

There are other options if you do not want to report your concern to your employer, for example you can [get legal advice](#) from a lawyer, or tell a [prescribed person or body](#).

If you tell a prescribed person or body, it must be one that deals with the issue you're raising, for example a disclosure about wrongdoing in a care home can be made to the Care Quality Commission.

6. Making your claim anonymously or confidentially

You can tell your employer or a prescribed person anonymously but they may not be able to take the claim further if you have not provided all the information they need.

You can give your name but request confidentiality - the person or body you tell should make every effort to protect your identity.

If you report your concern to the media, in most cases you'll lose your whistleblowing law rights.

7. What your employer or a prescribed person will do

Your employer or the prescribed person will listen to your concern and decide if any action is needed. You may be asked for further information.

You must say straight away if you do not want anyone else to know it was you who raised the concern.

You will not have a say in how your concern is dealt with.

Your employer or the prescribed person can keep you informed about the action they've taken, but they cannot give you much detail if they have to keep the confidence of other people.

A prescribed person cannot help you with your relationship with your employer.

8. If you're not satisfied with how your employer dealt with your concern

Tell someone else (for example a more senior member of staff) or a [prescribed person or body](#) if you believe your concern was not taken seriously or the wrongdoing is still going on.

Contact the [Advisory, Conciliation and Arbitration Service \(Acas\)](#), the whistleblowing charity [Protect](#) or your trade union for more guidance.

9. If you're treated unfairly after whistleblowing

You can take a case to an [employment tribunal](#) if you've been treated unfairly because you've blown the whistle.

You can get further information from the [Advisory, Conciliation and Arbitration Service \(Acas\)](#), [Citizens' Advice](#), the whistleblowing charity [Protect](#) or your trade union.

If you reported your concern anonymously, you may find it harder to argue that your unfair treatment was as a result of your whistleblowing.

You must raise any claim of unfair dismissal within 3 months of your employment ending.

You must notify Acas if you want to take your case to an employment tribunal.

10. What is the difference between whistleblowing and making a complaint or a grievance?

In general terms, whistleblowing occurs when an employee raises a concern about danger or illegality that affects others and which has a public interest dimension to it. The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concerns. As a result, the whistleblower should not be expected to prove their case; rather he or she raises the concern so others can address it.

A grievance or private complaint is, by contrast, a dispute about the employee's own employment position and has no additional public interest dimension. When someone complains, they are saying that they have personally been poorly treated. This poor treatment could involve a breach of their individual employment rights or bullying and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint, and, for this reason, is expected to be able to prove their case.

For example – bullying and discrimination issues should be dealt with under the respective policy or under grievance procedure

11. Can concerns be raised confidentially or anonymously?

The Council encourages whistleblowers to identify themselves and raise concerns openly. Openness makes it easier for the Council to assess the issue, work out how to investigate the matter, understand any motive and get more information. The effectiveness of any whistleblowing investigation may be limited where an individual chooses not to be identified.

An individual raises a concern confidentially if he or she gives his or her name on the

condition that it is not revealed without their consent. An individual raises a concern anonymously if he or she does not give his or her name at all. Clearly, if the Council does not know who provided the information, it is not possible to reassure or protect them.

12. Does the Public Interest Disclosure Act (PIDA) require an employer to keep a whistleblower's identity secret?

The simple answer is no - PIDA contains no specific provision on confidentiality. The protections within the Act can be deemed to encourage employees to raise issues openly. A good whistleblowing policy will provide a confidential port of call for a worried employee and employers should respect any promise of confidentiality they make. However in some cases it will be impossible to take action on the concern without the open testimony of a whistleblower. Further it may later become necessary to waiver anonymity because of the course of the investigation for example if the matter has had to be referred to the police.