

**Bath & North East
Somerset Council**

Whistleblowing Policy 2019



Whistleblowing Policy 2019

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If you require clarification on any aspect of the Whistleblowing Policy or require this document in a different format, please contact the Internal Audit function of the Council.

Telephone: 01225 477000 (switchboard) or 477316

E-Mail: Audit_West@bathnes.gov.uk

The Council's Corporate Audit Committee has recorded in its Terms of Reference that it will review periodically the Council's key financial governance procedures, i.e. Financial Regulations, Contract Standing Orders, Anti-Fraud & Corruption Strategy and recommend any necessary amendments.

The logo for Audit West, featuring the words "Audit West" in a stylized orange font, with a horizontal line above and below the text.

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1. Introduction

What is Whistleblowing?

Someone blows the whistle when they tell someone in authority about a dangerous, illegal or unethical activity that they are aware of through their work. This can include health and safety risks, environmental issues, fraud, poor standards of care and other problems.

Why is Whistleblowing important?

This Council is committed to the highest possible standards of service and being open, fair and honest. It recognises that all staff, Members and others associated with the Council are often the first to realise that there may be something seriously wrong. Whistleblowing, enabled by this policy, provides a structured way for this important information to come to light.

Why does the Council need a Whistleblowing policy?

Under the requirements of the Public Interest Disclosure Act 1998, it will:

- a) Encourage employees, Members and others who have serious concerns about any aspect of the Council's work to voice them;
- b) Recognise that certain cases have to proceed on a confidential basis;
- c) Enable participation without fear of reprisals;
- d) Enable employees, Members and others to raise serious concerns within the Council rather than overlook a problem.
- e) Allow for the general public to report wrong doing

2. Scope of Policy

Who does the Whistleblowing policy apply to?

The Policy applies to any individual undertaking Council specific activity, i.e.

- All employees whether full or part time, permanent or temporary
- Elected Members
- All staff working in maintained schools (Local Education Authority)
- All contractors, agencies and partners working within the Council

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What is covered by the Whistleblowing policy?

The Policy:

- provides avenues for the raising of concerns;
- provides procedures for how action taken will be reported back to the whistle blower;
- allows for the matter to be taken further if there is dissatisfaction with the Council's decision;
- underpins the Anti-Fraud and Corruption Strategy and will aim to reassure anyone whistleblowing that they will be protected from reprisals or victimisation for acting in good faith.

The Policy **does not** replace:

- the Council's complaints procedure;
- the Council's grievance procedure;
- the Employees' Code of Conduct;
- specific Council procedures (e.g. those specific to Adult and Children Services);
- Managerial responsibilities.

3. Reporting a Concern

When should I raise a concern?

If you find out about, or have suspicion of, any activity that could be detrimental to the Council. These activities may include:

- conduct which is an offence or a breach of law;
- disclosures relating to miscarriages of justice;
- health & safety risks to public or employees;
- damage to the environment;
- unauthorised use of public funds;
- possible fraud and corruption;
- breaches of the Council's policies, rules and regulations including Financial Regulations, Contract Standing Orders;
- falling below established professional standards or practices;
- improper or unethical conduct; or
- the abuse or neglect of service users. (This list is not exhaustive).

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How do I go about raising a concern?

The easiest way of reporting is to use the online facility providing as much information as possible. The link can be found here [Whistle Blowing Report Form](#). You can provide the details anonymously if you want to, but we encourage people to leave their details so we can ask, where appropriate, for more information to help in any investigation.

If you decide to report the allegation to a Prescribed Persons instead of the Council, the table below records the most relevant 'Prescribed Persons' related to the work of a Unitary Council.

| <u>Work Area of Unitary Council</u> | <u>Prescribed Person</u> |
|-------------------------------------|--|
| General responsibilities | Council's External Auditor |
| Social Care | Care Quality Commission |
| Social Services & Child Welfare | Her Majesty's Chief Inspector of Education, Children's Services and Skills ('the Chief Inspector') |

The Government issues an up-to-date list of Prescribed Persons and they can be found here: www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies as specified Prescribed Persons Order 2014).

The decision on who to contact does depend on the seriousness and sensitivity of the issue(s) and who is thought to be involved in the issue(s) to be reported.

If the allegation relates to a contractor or partner organisation, the council will refer allegations direct to the contractor/ partner for them to consider the issues being raised because the council only has jurisdiction for council staff.

If the allegation of misconduct or complaint relates to a Member it must be submitted through to the Monitoring Officer Maria Lucas Councillor.Complaints@bathnes.gov.uk who will make the decision if it should be referred for investigation or other action.

Where a complaint is referred for investigation, an Investigating Officer will be appointed to provide a report, which may then be presented to the Standards Committee at a Hearing. If their decision is that there is a case to answer and that the Code had been breached, then they will decide on an appropriate sanction. The full procedure is set out in the Arrangement for Dealing with Complaints about the Code of Conduct for Members.

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If the matter is more serious or it is not appropriate to raise with Line Management then any of the following can be contacted :-

- a) Senior Management: i.e. an independent Director to the Service area or the Chief Executive – Will_Godfey@bathnes.gov.uk
- b) Concerns around Fraud and Misuse of Council Resources;
E-mail: jeff_wring@bathnes.gov.uk
- c) Concerns around the treatment and safety of staff and partners;
E-mail: Cherry_Bennett@bathnes.gov.uk
- d) Concerns around the application of legislation and lawful practice;
E-mail: maria_lucas@bathnes.gov.uk

Where there are local specific procedures relating to the raising of concerns (e.g. Adult & Children Health and Social Care) then these procedures will apply.

Outside agencies and partners should raise concerns with the appropriate Senior Manager or Director. Where this is not appropriate they should contact the Council Solicitor or the Chief Executive.

Who will be told about my concern?

There are also certain officers with delegated responsibilities who will need to be contacted on certain matters. However they will not be advised of your identity without your approval. They are:

- a) Council Solicitor:

In respect of actual/potential unlawful conduct, maladministration, breach of the Bath & North East Somerset Local Code of Conduct for Members or breach of law:

- b) Chief Internal Auditor:

In respect of any actual/potential financial irregularity, misuse of council resources or breach of council rules and regulations.

- c) Head of Human Resources and Org. Development:

In respect of any matters relating to treatment and safety of staff/partners.

How should I raise my concern?

Concerns should be raised as soon as possible, when you have a reasonable suspicion even if the allegation is in the past.

Concerns are better raised using the online reporting tool; the link can be

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found here [Whistle Blowing Report Form](#).

It will allow you to incorporate relevant information about specific incidents. The background and history of the concern including names, dates and places where possible and the reason why you are particularly concerned about certain situations should also be provided. If you are unable to express your concerns using the tool, then you should contact the appropriate officer / person by telephone or arrange to meet them.

It might be appropriate to discuss with a colleague first and you may find it easier to raise the issue if there are two or more of you who have had the same experience or concerns.

What if I don't want to reveal my identity?

The Council and / or the Prescribed Person (Prescribed Persons Order 2014) will respect the confidentiality of anyone raising a concern and will do everything in its power to protect the identity of that individual whether they are an employee, Member or an external source.

However, as a result of an investigation process a statement may be requested to contribute to the evidence collected. In all such cases the provision of a statement will be discussed with you.

Can I raise my concern anonymously?

Yes. However the Council would encourage you to put your name to an allegation. Formal statements do help to build a case and add credibility to allegations.

The key factors to be taken into account when investigating allegations are:

- Seriousness of the issues raised;
- Credibility of the concern and
- Likelihood of confirming the allegation from attributable sources.

Will I be protected from possible 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 malpractice. The Council will not tolerate harassment or victimisation and will take action to protect anyone raising a concern in good faith.

If an employee is the subject of disciplinary or redundancy procedures when they raise their concerns, then those procedures will not automatically be affected. The information provided would be assessed in the light of the new circumstances and a decision taken as to how, if at all, those proceedings should be affected.

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Will I be subject to any sanctions if the allegation is not proven?

When an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against the person voicing the concern.

If, however, an employee or Member makes a malicious or vexatious allegation, disciplinary action may be taken. The conduct of the Member may be the subject of consideration by the Standards Committee under the provisions of the Bath & North East Somerset Code of Conduct for Elected Members & Co-opted Members which forms part of the Council's Constitution. The conduct of employees may be subject to the Council's Disciplinary Process.

Do I have to provide proof of the allegation?

Although you are not expected to provide evidence of an allegation, you will need to demonstrate to the appropriate officer contacted that there are sufficient grounds for raising the concern.

4. What happens next

How will the Council respond to my concern?

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

- a) Resolved without the need for investigation;
- b) Investigated internally;
- c) Referred to the Police;
- d) Referred to the External Auditor; or
- e) Form the subject of an independent inquiry.

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 under the scope of specific procedures (e.g. Adult & Children Health and Social Care), will be referred for consideration under those procedures.

As soon as possible after a concern has been raised (normally within 10 working days) the Council will write to the individual concerned to acknowledge the issue that has been raised and to indicate the future course of any action.

Will I be involved with the investigation?

The amount of contact between the individual raising the concern and the officers considering the issue will depend on the nature of the matters raised.

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The individual may be approached to provide further information.

If a meeting is arranged then the individual concerned has the right to be accompanied by an appropriate person of their choice, for example a work colleague or Trade Union representative or Group Leader if you are a Member.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern, for instance, if you are required to give evidence in any form of proceeding, then the Council will arrange for you to receive advice and help with preparation of statements.

Will I be informed of the outcome of the investigation?

The person raising a concern will need to be assured that the issue has been appropriately addressed. Therefore the Council, subject to legal constraints, will inform them in writing about the outcomes of any investigations.

5. Further information

For further guidance on public interest disclosure:-

<https://www.gov.uk/whistleblowing/who-to-tell-what-to-expect>

An independent charity, PROTECT, formally Public Concern at Work, can offer independent and confidential advice and they can be contacted on ☎020 3117 2520 or <https://protect-advice.org.uk/advice-line-2/>