

WHISTLEBLOWING POLICY

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INTRODUCTION - What is Whistleblowing?

In this policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council or School.

Monmouthshire County Council and School Governing Bodies expect the highest standards of conduct from all employees, and encourage employees and others with serious concerns about any aspect of the Council / School's work to come forward and voice those concerns in a safe environment. This policy enables employees to raise concerns at an early stage and in the correct way.

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

- The types of issues/disclosures that can be raised
- How the person raising a concern will be protected from victimisation and harassment
- How to raise a concern
- What the Council/School will do

Whistleblowing is defined as:

'The disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employer or his/her fellow employees' (Public Concern at Work Guidelines 1997).

Statutory protection for employees who whistle blow is provided by the Public Interest Disclosure Act 1998 ("PIDA"). The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns around conduct or practice within the Council/ school which is potentially illegal, corrupt, improper, unsafe and unethical or which amounts to malpractice.

AIM AND SCOPE OF POLICY

The Council / School Governing Body is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices and will treat whistleblowing as a serious matter. In line with the Councils/ Governing Body's commitment to openness, probity and accountability, employees are encouraged to raise concerns which will be taken seriously, investigated and appropriate action taken in response.

The policy is designed to ensure that you raise your concerns about wrongdoing or malpractice within the Council/ School without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

The policy aims to:

- Encourage you to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice
- 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
- Provide reassurance that you will be protected from possible reprisals or victimisation if you have made disclosure in good faith and within the meaning of the PIDA.

TYPES OF ISSUES/DISCLOSURES THAT CAN BE RAISED

In legislation, the types of disclosure include the following:

- a) That a crime has been committed, is being committed, or is likely to be committed
- b) That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject,
- c) That a miscarriage of justice has occurred, is occurring, or is likely to occur
- d) That the health & safety of an individual has been, is being, or is likely to be endangered
- e) That the environment has been, is being, or is likely to be damaged
- f) That information tending to show any of (a) to (e) above has been concealed or is likely to be deliberately concealed

In addition to the above, and as further examples, this policy also covers whistleblowing relating to alleged:

- unlawful conduct
- miscarriages of justice in the conduct of statutory or other processes
- failure to comply with a statutory or legal obligation
- potential maladministration, misconduct or malpractice
- health and safety issues including risks to the public as well as risks to pupils and members of staff
- action that has caused or is likely to cause danger to the environment
- abuse of authority
- unauthorised use of public or other funds, fraud or corruption
- breaches of financial regulations or policies
- mistreatment of any person
- action that has caused or is likely to cause physical danger to any person or risk serious damage to school property
- sexual, physical or emotional abuse of members of staff or pupils
- unfair discrimination or favouritism
- behaviour which is discriminatory towards someone with a protected characteristic under the Equality Act 2010.
- racist incidents or acts, or racial harassment and
- attempt to prevent disclosure of any of the issues listed.

RELEVANT LEGISLATION

The Council recognises its responsibilities under the following legislation:

- The Public Interest Disclosure Act 1998
- The Enterprise and Regulatory Reform Act 2013
- Employment Rights Act 1999
- The Equality Act 2010
- The Bribery Act 2010
- The Trade Union and Labour Relations (Consolidation) Act 1992

The policy should be read in conjunction with the Councils:

- Code of Conduct

- Disciplinary Policy
- Equality Policy
- Grievance Policy

If an employee is the subject of disciplinary or redundancy procedures they will not be halted as result of whistleblowing.

POLICY SCOPE

This policy is intended to enable those who become aware of wrongdoing in the Council/School affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated. The Whistleblowing Policy is not intended to replace existing procedures:

- If your concern relates to your own treatment as an employee, you should raise it under the existing grievance or harassment procedures.
- If a client has a concern about services provided to him/her, it should be raised as a complaint to the Council. (Tel: 01633 644 644).
- Complaints of misconduct by County Councillors are dealt with under a separate procedure (for further information please contact the Council’s Monitoring Officer. Tel: 01633 644 644).
- Complaints about school matters are dealt with under a separate procedure called the School’s Complaints Policy and should be addressed to the Chair of Governors.

WHO CAN RAISE A CONCERN UNDER THIS POLICY?

The policy applies to all:

- Employees of Monmouthshire County Council
- Employees of contractors working for the Council/School.
- Those providing services under a contract or other agreement with the Council/School
- Voluntary workers working with the Council/School

SAFEGUARDING WHISTLEBLOWERS – OUR ASSURANCES TO YOU

The Chief Executive is committed to this policy. If you raise a genuine concern under this policy you will not be at risk of losing your job, or suffer any form of retribution, victimisation or detriment as a result. It won’t matter if you are mistaken provided you genuinely believe that you are acting in the public interest. Of course we cannot extend this assurance to an individual who maliciously raises a matter they know to be untrue.

YOUR LEGAL RIGHTS

This policy has been written to take account of the Public Interest Disclosure Act 1998 (PIDA) which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act’s provisions and in the public interest. The Act makes it unlawful for the Council/School Governing Body to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

HARASSMENT AND VICTIMISATION

The Council / School Governing Body is committed to good practice and high standards and to being supportive of you as an employee/worker.

The Council/School Governing Body recognises that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer, your colleagues and those for whom you are providing a service.

The Council/School Governing Body will not tolerate any harassment or victimisation of a whistle-blower (including informal pressures) and will take appropriate action to protect you when you raise a concern in accordance with the PIDA provisions, and will treat such harassment and victimisation as a serious disciplinary offence or in the case of contractors, a breach of contract.

CONFIDENTIALITY

Whilst a qualifying disclosure is expected to have substance, it is not expected that the employee raising the disclosure will need to prove it is true. It is the responsibility of the Designated Officer.

All disclosures will be treated in confidence and every effort will be made not to reveal your identity if that is your wish, unless disclosure is required by law.

In some circumstances, for example in disciplinary processes, 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. If you agree to this, you will be offered advice and support.

The Council / School Governing Body will not place employees under pressure to give their name and will give due consideration to proceeding with investigating the concern on the basis of an anonymous allegation.

ANONYMOUS ALLEGATIONS

This policy encourages you to put your name to your allegation whenever possible - anonymous concerns are much less powerful and it will be much more difficult to provide feedback to you. Nonetheless anonymous concerns will be considered under this whistleblowing policy especially concerns raised relating to the welfare of children or vulnerable adults. In relation to determining whether an anonymous allegation will be taken forward the Council / School Governing Body will take the following factors into account:

- the seriousness of the issue raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources, and obtaining information provided.

The provisions of the Data Protection Act 1998 must be observed during the process, particularly in disclosure, use and processing of personal information.

UNTRUE ALLEGATIONS

If an allegation is made which it is believed to be in the public interest but it is not confirmed by further enquiry or by an investigation, no action will be taken against the person who raised the initial concern. If, however, the enquiry/investigation shows that untrue concerns were malicious and/or vexatious or made frivolously or made for personal gain, then the Council / School Governing Body will consider taking appropriate action which could include disciplinary action.

SUPPORT FOR YOU

The Council/School Governing Body have a duty of care to their employees. Support for the individuals involved in this process is key to fulfilling this duty. Any concern that is raised will be taken seriously.

For those individuals who raise concerns and for those individuals who may have concerns raised about them, the Council/ School Governing Body will do all it can to help you throughout the process. Support will include the offer of access to welfare counselling and medical advice and support. Individuals will be advised to contact their Trade Union representative, or a work place colleague (not involved in the area of work to which the concern relates) for additional support. Individuals will also be offered an additional point of contact for support during the process.

Any meetings that may be required as part of the process can be arranged away from the workplace if necessary and individuals have the right to be accompanied by their trade union representative or work based colleague.

Unless there are legal reasons why this cannot be done, you and the person against whom allegations are made will be kept informed of the progress and outcome of any investigation by the Designated Officer.

HOW TO RAISE A CONCERN

Who to raise the concern with:

CONCERN RELATES TO:	REPORT TO (who becomes the Designated Officer)
General concern / Member of staff/ colleague/Volunteer	Line Manager
For Schools: General concern/ Member of staff/ Volunteer	Head-Teacher
Line Manager	Head of Service / Head teacher
Head of Service / Head teacher	Chief Officer / Chair of Governors
Chief Officer	Chief Executive (Tel: 01633 644 644)
Chair of Governors	Vice Chair of Governors
Chief Executive	Leader of the Council (Tel: 01633 644 644)

Whole Governing Body	Chief Officer, Children & Young People (Tel: 01633 644 644)
Elected Member	Chief Executive (Tel: 01633 644 644)
Malpractice against Child in a School*	Lead Officer for Safeguarding in Education (01633 644 644)
Malpractice against Vulnerable Adult*	Team Manager, Direct Care Services (01633 644 644)

*If the concern is about a child or vulnerable adult rather than malpractice, this should be reported to Children's Services or Adult Services respectively. Tel: 01633 644 644).

PROCEDURE FOR MAKING A WHISTLEBLOWING ALLEGATION

If possible the concern should be put in writing for the avoidance of doubt. It should set out:

- the background and history of the concern;
- give names, dates and places where possible,
- an explanation of the reason for the concerns.

If you feel unable to put the matter in writing you can still raise your concern verbally. Also if you feel that you cannot express your concerns with the Council / School Governing Body, you can also ask your Trade Union representative or work based colleague to raise the matter on your behalf and/or to support you in raising the concern. The above table provides a guide to whom a concern can be raised with - advice and support on this can be sought from People Services HR (01633 644400), the Monmouthshire Legal department (01633 644 644) or your Trade Union representative.

If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process. This must take place even if the statutory authorities take the decision not to pursue a criminal investigation.

Normally, the person who the concern is raised with, or reported to, becomes the Designated Officer. The Designated Officer is responsible for making initial enquiries about the matter and for keeping all parties informed of progress and advising of the outcome. It may be necessary for the Council/ School Governing Body to appoint a person other than the person to whom the allegation or concern was raised with/reported to.

WHAT THE COUNCIL/SCHOOL GOVERNING BODY WILL DO

A key principle for the Council/School Governing Body will be the public interest. In order to be fair to all employees, initial enquiries will be made by the Designated Officer / person appointed to decide whether an investigation is appropriate and if so what form it should take.

The concern raised may require the following:

- enquiry internally in the Council / School
- need to be passed to the Police if it relates to alleged criminal activity

- need to be passed to Audit, if the complaint is about financial management or financial propriety in schools
- need to be referred through established child protection/POVA procedures

At this stage concerns / allegations are neither considered founded or unfounded pending the investigation if deemed necessary.

TIMESCALES

The Designated Officer or person appointed by the Council / School Governing Body to look into whistleblowing allegation will normally provide a written acknowledgement to you **within 5 working days** (except in the case of anonymous allegations):

- acknowledging 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
- advising of the support available whilst matters are looked into
- telling you whether further investigations will take place and if not, why not

The Designated Officer or person appointed will write to you and the individual against whom the concern has been raised to acknowledge receipt and to indicate that the procedures have been commenced.

Depending on the nature of the allegation / concern, provision of a final response may take longer than 5 working days. If this is the case, the Designated Officer or person appointed will notify all individuals in writing providing an indication when the enquiry will be completed.

Where possible, enquiries will be completed within **10-15 working days** from the date of receipt of the initial written response from the Designated Officer/person appointed

If the enquiry extends beyond the timescales above all individuals concerned will be notified in writing by the Designated Officer or person appointed, providing an indication when the enquiry will be completed.

The Designated Officer /person appointed might investigate the concerns raised themselves or the Designated Officer might appoint an independent investigator to do so. As part of this process, the person who investigates the concerns raised will:

- Look into the concern - seeking evidence and interviewing witnesses as necessary.
- Maintain confidentiality wherever possible (but there is not a 100% guarantee that the whistle-blower can remain anonymous).
- If appropriate, refer the matter to Audit, if the complaint is about financial management or financial propriety in schools
- If appropriate, for concerns of criminal behaviour refer the matter to the Police.
- If appropriate, for concerns of child protection or vulnerable adults, refer the matter through the established child protection/POVA procedures.

The amount of contact time between you and the Designated Officer or person appointed to consider and/or investigate the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of your information. It is likely that you will be interviewed to ensure that your disclosure is fully understood.

Any meeting with you can be arranged away from the workplace, if needs be, and a trade union representative or work based colleague may accompany you for support. You need to be assured that your disclosure has been properly addressed. Unless there are legal reasons why this cannot be done, you will be kept informed of the progress and outcome of any investigation.

Following completion of the enquiry/investigation process, the Designated Officer or independent investigator will make a written report normally within **5 working days**. This report will contain findings and make recommendations for the Designated Officer (if an independent investigator has been appointed) or the appropriate committee of the School Governing Body to consider

The report will not contain your name as the whistle-blower, unless you have expressly stated that you wish to be named.

On conclusion of any investigation, you and the person against whom the allegation is made, will be told the outcome of the investigation and what action has been done/proposed. If no action is to be taken, the reason for this will be explained. In addition, matters raised as part of the investigation may:

1. Be referred to the Police
2. Be referred to the External Auditor
3. Form the subject of an independent inquiry
4. Be referred to an alternative policy for example, the Disciplinary Policy or Fairness at Work (Grievance) Policy
5. Some concerns may be resolved as an agreed action without the need for investigation

HOW THE MATTER CAN BE TAKEN FURTHER

This policy is intended to provide you with a route within the Council/School to raise concerns. However, if you do not wish to raise concerns internally or if the concern has not been dealt with satisfactorily, the following are possible contact points. If you take the matter outside the Council/ School, you should ensure that you do not disclose confidential information unless that disclosure is privileged and relevant to the concern raised. Anyone proposing external disclosure should seek independent legal advice or contact the Public Concern at Work organisation.

External Contacts regarding whistleblowing

- GOV.UK website: www.gov.uk/whistleblowing
- ACAS: Call 0300 123
- Citizen's Advice. Website: www.citizensadvice.org.uk
- Public Concern at Work, www.pcaw.org.uk. <https://twitter.com/WhistleUK>.
<https://www.facebook.com/publicconcernatwork>, Tel: 020 7404 6609
- Education Workforce Council www.ewc.wales. Tel: 02920 460099
- Care and Social Services Inspector for Wales www.cssiw.org.uk. Tel: 0300 7900 126
- The Auditor General for Wales: www.wao.gov.uk/whistleblowers-hotline. Tel: 02920 320500
- Children's Commissioner for www.childcomwales.org.uk. Tel: 0808 801 1000
- The Office of the Information Commissioner www.ico.gov.uk. Tel: 02920 678400
- The Police
- Your local councillor or AMs or MPs
- Health & Safety Executive

REVIEW OF THE POLICY

The Council's Monitoring Officer and Head of People and Internal Audit will review this policy annually.

The effectiveness of the policy will be monitored in the following ways:

- The policy will be the responsibility of the Monitoring Officer to annually review ensuring legal compliance and best practice
- The Monitoring Officer will be responsible for reporting on whistleblowing incidents and number of cases will be reported annually by the Monitoring Officer. The report will include a summary of the concerns raised, to which directorate /school they related. The report will not include any employee names.
- Periodic audits of the effectiveness of the whistleblowing arrangements will be undertaken, including
 - Record of the number and types of concerns and the outcome of investigations
 - Feedback from individuals who have used the arrangements including staff awareness, trust and confidence in the arrangements
 - Any complaints of victimisation
 - Any complaints of failures to maintain confidentiality
 - Any relevant litigation
- The outcomes from the monitoring of the policy will be reported to Senior Leadership Team (SLT) and People Board.

VERSION CONTROL

Title	Whistleblowing Policy (including school based employees)
Owner	Monitoring Officer/People Services
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