



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

# Whistleblowing Policy

## Polisi Chwythu'r Chwiban.

**Whistleblowing Policy**  
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*Os hoffech dderbyn gohebiaeth mewn perthynas â'ch cyflogaeth yn Gymraeg, [cysylltwch â'ch Swyddog AD dynodedig.](#)*

<b>Version</b>	<b>Date</b>	<b>Action</b>
1	31 <sup>st</sup> August 2015	New Document
2	19 April 2018	Review and Amendment
3	1 <sup>st</sup> January 2020	Review and Amendment
4	11 <sup>th</sup> April 2022	Review and Amendment
5		Full Review following Member Feedback and Amendment
6		To be reviewed

## 1. What is Whistleblowing?

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

The aim of this Policy is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

Employees are often the first to realise that there may be something seriously wrong within the Council. 'Whistleblowing' is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency and long-term success. It is not disloyal to colleagues or the Council to speak up. The Council 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. To help achieve these standards it encourages freedom of speech.

## 2. Aim and Purpose of the Policy

The Policy is designed to ensure that concerns can be raised about wrongdoing or malpractice within the Council without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

It is also intended to encourage and enable people to raise serious concerns **within** the Council rather than ignoring a problem or 'blowing the whistle' outside.

This Policy aims to:

- encourage people to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice
- provide avenues for people to raise those concerns and receive feedback on any action taken
- ensure that a response is received relating to concerns and that you are aware of how to pursue them if they are not satisfied.
- reassure people that they will be protected from possible reprisals or victimisation if they have made any disclosure in good faith.

## 3. Scope of this Policy

**This Policy is intended to enable those who become aware of wrongdoing in the Council affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated.**

The Whistle Blowing 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 Dignity at Work procedures.
- If a service user has a concern about services provided to him/her, it should be raised as a complaint to the Council.

- Complaints of misconduct by Councillors are dealt with under a separate procedure (for further information please contact the Council's Monitoring Officer)

#### **4. Who can raise a concern under this Policy?**

The Policy applies to all:

- employees of Neath Port Talbot County Borough Council excluding schools
- employees of contractors working for the Council, for example, agency staff, builders and drivers
- employees of suppliers
- those providing services under a contract or other agreement with the Council in their own premises, for example care homes, and
- voluntary workers working with the Council

#### **5. What should be reported?**

Any serious concerns that you have about service provision or the conduct of officers or members of the Council or others acting on behalf of the Council that:

- make you feel uncomfortable in terms of known standards;
- are not in keeping with the Council's Employee Code of Conduct or any other policy;
- fall below established standards of practice; or
- relate to improper behaviour.

These might relate to:

- conduct which is an offence or a breach of the law (a criminal offence has been committed or failing to comply with any other legal obligation)
- disclosures related to miscarriages of justice
- discrimination in relation to a protected characteristic (Equality Act 2010)
- health and safety risk to the public and/or other employees
- damage to the environment
- unauthorised use of public funds or other assets
- possible fraud, bribery, corruption or malpractice
- neglect or abuse of clients\*, or
- other unethical conduct.

This list is not exhaustive.

\*Please note many employees and workers are governed by their own Codes of Practice, such as within Social Work and Education. These codes put a duty on employees to report instances of neglect or abuse and therefore this policy may not be applicable. Further advice can be sought from Internal Audit.

#### **6. Protecting the Whistleblower**

This policy has been written to take account of the Public Interest Disclosure Act 1998 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 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.

Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Council cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

## **6. Harassment or Victimisation**

The Council is committed to good practice and high standards and to being supportive of Council employees.

The Council 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 will not tolerate any harassment or victimisation of a whistleblower (including informal pressures) and will take appropriate action to protect employees when a concern is raised in good faith and will treat this as a serious disciplinary offence by the perpetrator which will be dealt with under the disciplinary rules and procedure.

## **7. Supporting employees**

Throughout this process:

- employees will be given full support from senior management
- employees concerns will be taken seriously, and
- the Council will do all it can to help the employee throughout the investigation

If appropriate, the Council will consider temporary redeployment for the period of the investigation, however this will be discussed with the whistleblower and relevant managers before any decision is made.

For those who are not Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

## **8. Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if that is your wish. If disciplinary or other proceedings follow the investigation, 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. Colleagues and other employees may also need to be spoken to as part of the process if they are a witness.

## 9. Anonymous Allegations

This Policy encourages you to put your name to your allegation whenever possible. This policy is not ideally suited to concerns raised anonymously.

Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issue raised
- the credibility of the concern, and
- the likelihood of confirming the allegation from other sources

## 10. Untrue Allegations

If you make an allegation in good faith and reasonably believe it to be true, but it is not confirmed by the investigation, your concern will be dealt with in line with this policy. If however, an allegation is made frivolously, maliciously or for personal gain, then appropriate action may be taken that could include disciplinary action procedures being invoked.

## 12. Raising a Concern

### 12.1. Who should you raise your concern with?

This will depend on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing. You may wish to raise a concern with your line manager, however if this is not appropriate, you may also raise your concern direct to the Audit Manager.

The address and contact details for correspondence is [audit@npt.gov.uk](mailto:audit@npt.gov.uk) in your email please leave your contact details and a detailed description of your concerns.

If you are unsure who to contact, the independent charity **Protect** can advise you. They offer a free and confidential helpline on **020 3117 2520**.

### 12.2. How to raise a concern

You may raise your concern by telephone, in person or in writing. The earlier you express your concern, the easier it is to take action. You will need to provide the following information:

- the nature of your concern and why you believe it to be true
- the background and history of the concern (giving relevant dates)

Although you are not expected to prove beyond doubt the truth of your suspicion, you will need to demonstrate to the person contacted that you have a genuine concern

relating to suspected wrongdoing or malpractice within the Council and there are reasonable grounds for your concern.

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

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

### **13. What the Council will do**

The Council will respond to your concerns as quickly as possible. Do not forget that testing your concerns is not the same as either accepting or rejecting them.

The overriding principle for the Council will be the public interest. In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

The investigation may need to be carried out under terms of strict confidentiality, i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. In certain cases however, such as allegations of ill treatment of others, suspension from work may have to be considered immediately. Protection of others is paramount in all cases.

#### **Process for dealing with whistleblowing concerns**

All whistleblowing concerns must be forwarded to the Audit Manager /– check with Anne Marie, if not directly by the whistleblower, then by the recipient.

They will then investigate the complaint, if the complaint relates to a specialist area of Council business the Audit Manager may request that the responsible Head of Service appoint a senior officer within the service area to assist with the investigation and where appropriate, may:

- Refer the matter to the police
- Refer the matter to the external auditor
- Engage in the subject of an independent inquiry

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries 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 (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

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.

Within 10 calendar days of a concern being raised with them, Internal Audit will write to the whistleblower if the identity of the whistleblower is known:

- acknowledging that the concern has been received
- indicating how the Council proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response
- advising whether any initial enquiries have been made
- supplying information on staff support mechanisms, and
- advising whether further investigations will take place and if not, why not.

The amount of contact between the officers considering the issues and the whistleblower, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from the whistleblower.

Where any meeting is arranged, the whistleblower can be accompanied by a trade union or professional association representative or a work colleague.

The Council will take steps to minimise any difficulties which a whistleblower may experience as a result of raising a concern. For instance, if s/he is required to give evidence in criminal or disciplinary proceedings the Council will arrange for him/her to receive advice about the procedure.

The Internal Audit Service will produce a report on the findings of the investigation. The format of the report will not always be the same as each case is unique, but will frequently set out:

- How the investigation arose
- Who the suspects are
- Their position within the Authority and their responsibilities
- How the investigation was undertaken
- The facts and evidence which were identified
- Summary of findings and recommendations, both regarding the fraud, malpractice, corruption or bribery and any additional work required on the system weaknesses identified during the investigation.

All reports issued by Internal Audit in relation to Whistleblowing Investigations will be distributed to the Chief Executive, the relevant Corporate Director and Head of Service, the Monitoring Officer and Audit Wales

The Council accepts that whistleblowers need to be assured that the matter has been properly addressed.

Thus, subject to legal constraints, the Council will inform whistleblowers of the outcome of any investigation.



If at any point during the Whistleblowing Investigation there is evidence which suggests that the threshold has been met for the investigation to be undertaken in line with the Council's Disciplinary Policy and Procedure the Head of Service will be notified and the procedure invoked. In these instances to preserve the integrity of the investigation and to save duplication of effort the Audit Manager will normally be appointed as the investigation officer.

Internal Audit will ensure that the whistleblower is kept up-to-date with the handling of their disclosure, with any support or advice as necessary from HR.

Please refer to flowchart in Appendix B for a summary of the process.

#### **14. The Responsible Officer**

The Chief Finance Officer, Monitoring Officer and Head of People and Organisational Development have responsibility for the maintenance and operation of this Policy.

#### **15. How the Matter can be Taken Further**

This Policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and you feel it is right to take the matter outside the Council, the following are the Council's prescribed contacts:

A 'prescribed body' is one which is identified under PIDA as able to receive concerns about organisations. Most regulators are prescribed bodies.

An employee or worker can raise concerns with a prescribed body, or any other such body, if it is relevant to that body. Such disclosures are protected under PIDA law, where the whistleblower meets the criteria for disclosure. They must also reasonably believe that the matter is substantially true and relevant to the regulator. Examples of prescribed bodies are:

- The Public Services Ombudsman for Wales
- HMRC
- Financial Services Authority
- Health and Safety Executive
- The Information Commissioner
- Regulator of Social Housing
- Care Inspectorate Wales
- Pensions Regulator
- Food Safety Agency
- Audit Wales

**Independent advice** may be sought before raising a concern, by contacting a trade union or professional regulatory body, or referring to guidance issued by them. Free, confidential advice can be obtained from independent whistle-blowing charity Public Concern at Work:

**Protect**  
**The Green House**  
**244-254 Cambridge Heath Rd**  
**London**  
**E2 9DA**

**02031172520**

[Protect - Speak up stop harm - Protect - Speak up stop harm \(protect-advice.org.uk\)](https://protect-advice.org.uk)

[Contact our Advice Line - Protect - Speak up stop harm \(protect-advice.org.uk\)](https://protect-advice.org.uk)

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

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

## **16. Review of the Policy**

This policy will be reviewed every three years by the Head of People and Organisational Development, the Head of Legal and Democratic Services and Audit Manager.

## **17. Record Keeping**

A central record shall be maintained by Internal Audit of all whistle-blowing concerns raised.

Data processed through a scheme that promotes anonymous whistle-blowing should be deleted or archived within two months of conclusion of the investigation unless it has led to disciplinary or legal proceedings.

### The Public Interest Disclosure Act 1998 (as amended 2013)

The Public Interest Disclosure Act 1998 (PIDA) offers protection to workers from any detriment from their employer that arises from the worker making a **'protected disclosure'**.

To qualify as a 'protected disclosure' the disclosure must satisfy a number of requirements under PIDA:

1. The worker must have made a **'qualifying disclosure'**. This is a disclosure of information which, in the reasonable belief of the worker, tends to show one or more of the following:
  - (a) That a criminal offence 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 he is subject
  - (c) That a miscarriage of justice has occurred, is occurring, or is likely to occur
  - (d) That the health and safety of any 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 matter falling within any of the preceding paragraphs has been, or is likely to be deliberately concealed

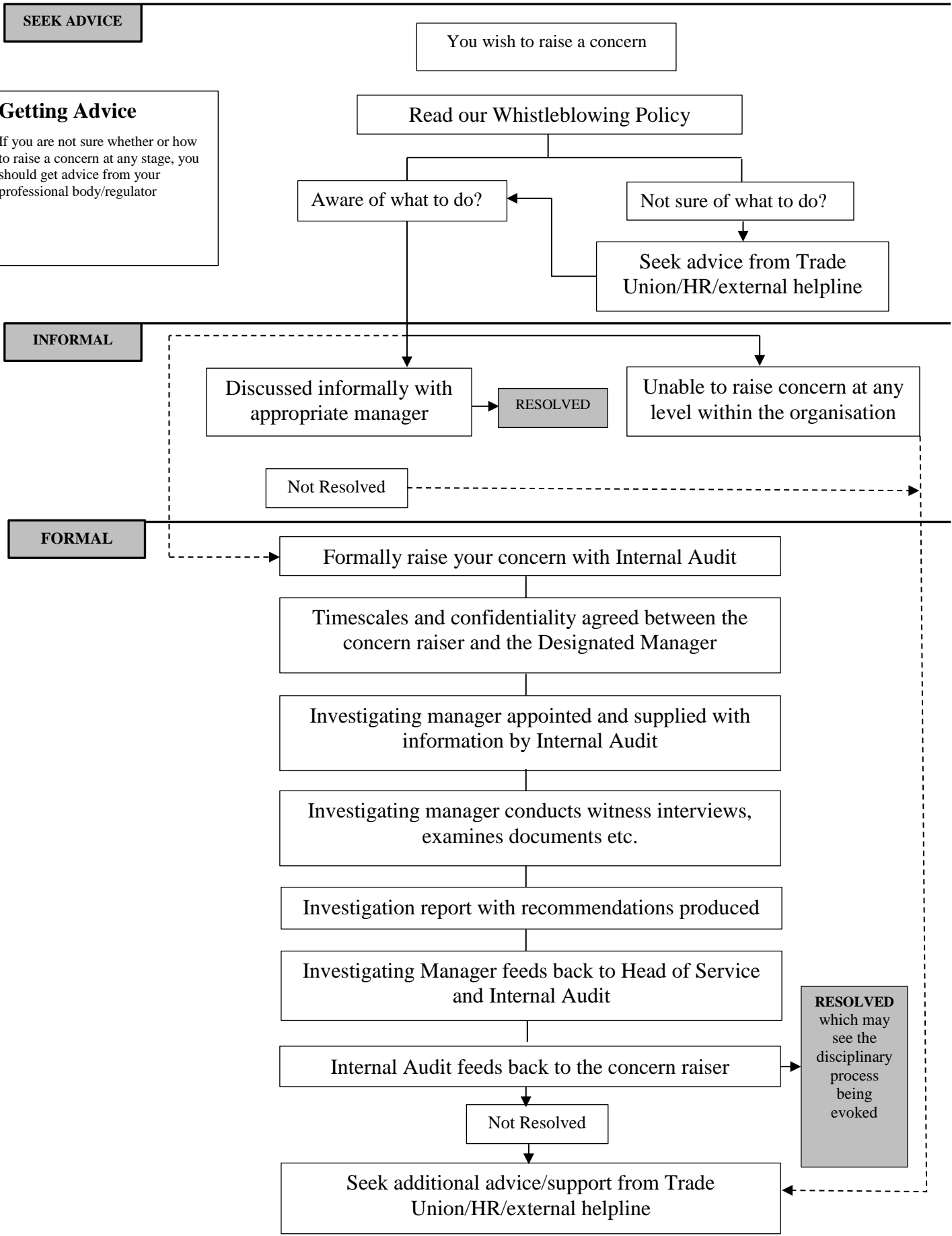
A disclosure of information is not a qualifying disclosure if the person making it commits a criminal offence in doing so.

The qualifying disclosure must be made in **the public interest**.

3. The worker must make the qualifying disclosure to one of a number of **'specified persons'** set out in PIDA, which include:
  - (a) The worker's **employer** or, if they reasonably believe that the failure relates solely or mainly to (i) the conduct of a person other than their employer or (ii) any other matter for which a person other than their employer has legal responsibility, **to that other person**
  - (b) A **'prescribed person'**, which includes CQC. However, the worker must reasonably believe that the information disclosed and any allegation contained in it is substantially true. The worker must also reasonably believe that the

relevant failure being disclosed falls within any description of matters for which CQC is a prescribed person.

Where the above requirements are satisfied, a worker who has made a protected disclosure is protected under PIDA from dismissal or any other detriment arising from making that disclosure. Detriment can include detriment suffered from a previous employer where, for example, the employer refused to give a reference because the worker has made a protected disclosure. A worker who suffers dismissal or detriment may bring a claim for compensation (which is unlimited) in the Employment Tribunal. The term 'worker' includes employees, contractors or self-employed people.



**Getting Advice**

If you are not sure whether or how to raise a concern at any stage, you should get advice from your professional body/regulator