FLINTSHIRE COUNTY COUNCIL

(Excluding staff employed by School Governing Bodies)

Whistleblowing Policy

December 2019

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Policy Owners	Internal Audit Manager and Senior Manager, Human Resources & Organisational Development
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Approved by Audit Committee *(Version 1.9)*	February 2019
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Approved by Council *(Version 2)*	December 2019

1. Introduction

1.1 Flintshire County Council (the Council) encourages a free and open culture in dealings between its managers, employees and all people with whom it engages in business and legal relations. In particular, the Council recognises that effective and honest communication is essential if concerns about breaches or failures are to be effectively dealt with and the organisation's success ensured.

1.2 The Council aims to create an environment where an individual (employees or member) or a third party (supplier / contractor/volunteers) feels able to share their concerns internally in confidence and does not suffer any detriment or victimisation as a result of making a protected disclosure.

1.3 Flintshire County Council are committed to this policy and to maintaining high ethical standards. If you raise a genuine concern under this policy, your concern will be taken seriously and you will not be at risk of losing your job or suffering any form of retribution as a result, even if the concern proves to be unfounded.

2. The Council's Commitment

- Individuals who reasonably believe that the disclosure they are making is true will not face sanctions.
- Anybody attempting to deter individuals from raising concerns or victimising them for doing so may be subject to disciplinary action.
- At the same time someone who maliciously raises a matter they know is untrue may also be subject to disciplinary action (where applicable).

3. Aims of the Policy

3.1 This policy sets out how to make a disclosure under the Public Interest Disclosure Act 1998. This policy is designed to provide guidance to all those who work with or within the Council, who may from time to time feel that they need to raise certain issues relating to the organisation with someone in confidence.

3.2 This Policy ensures that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.

3.3 Procedures for raising concerns internally (within the Council), members and externally are given. When raising concerns internally we would encourage you to follow procedures 1 and 2 but if you feel you cannot do

so, please follow the procedure 3 rather than doing nothing. For members and concerns raised externally procedure 3 should be followed.

3.4 This policy should be read in conjunction with the Council's Anti-Fraud and Corruption Strategy and the Fraud and Irregularity Response Plan which can be found on the Council's website and Infonet.

4. Definitions

4.1 Whistleblowing is the raising of concern, either within the workplace or externally, about a danger, risk, malpractice, wrongdoing or unethical practices which affects others. It is primarily for concerns where the interests of others or the organisation itself are at risk.

4.2 **Fraud:** for the purpose of this policy fraud refers to where an individual has undertaken, or intends to undertake, actions in order to obtain gain for him/herself or another, or cause loss to another, or expose another to risk of loss. The term 'fraud' encompasses:

- Fraud by false representation;
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

Descriptions of the above can be found within the Fraud Act 2006.

4.3 **Corruption:** for the purpose of this policy corruption refers to an individual who has given or obtained advantage through means which are illegitimate, immoral, and/or inconsistent with their duty to the Authority or the rights of others. Examples include accepting bribes or incentives during procurement processes and/or seeking to influence others.

4.4 **Malpractice**: for the purpose of this policy malpractice refers to actions which may be:

- illegal, improper, negligent or unethical;
- in breach of a professional code and ethics;
- possible maladministration, fraud or misuse of public funds; or
- acts which are otherwise inconsistent with the Officers Code of Conduct and Members Code of Conduct.

4.5 **Irregularity:** Any administrative or financial mismanagement that comes about either by act or omission.

4.6 This policy does not include grievances about your personal position. If you have a complaint that relates to personal disputes or your own terms and conditions of employment, this should be raised initially with your line manager and if the issue is not resolved by your line manager, the Grievance Policy should be followed.

5. Scope of the Policy

5.1 This policy applies to all workers (including centrally employed teachers) of Flintshire County Council (As defined by the Employment Rights Act) and is commended to School Governing Bodies and other associated employers as best practice e.g. NEWydd, Aura. The policy also applies to Members and Third Party individuals who work with the Council.

5.2 Workers are defined as employees, agency workers, people that are training with Flintshire County Council but are not employed and self-employed workers.

5.3 Members must, under the Model Code of Conduct (Wales) Order 2008, report through the Council's confidential reporting procedure, any conduct by another member or anyone who works for, or on behalf of, the Council which they believe involves or is likely to involve criminal behaviour.

5.4 **Members should follow Procedure 3 of the Reporting Procedure detailed in Section 8 of this policy.**

5.5 Third party individuals are defined as partners, consultants, suppliers, contractors, volunteers and employees of Council suppliers and contractors (who are employed to deliver a service / goods to the Council).

5.6 The Public Interest Disclosure Act 1998 applies to all workers within the Council. The Council is also committed to ensuring that any third party or contractor who raises a concern under this Policy will not be harassed or victimised as a result.

5.7 **Third party individuals should follow Procedure 3 of the Reporting Procedure detailed in Section 8 of this policy**.

5.8 Additionally if concerns raised relate to modern slavery and trafficking or any safeguarding issues Social Services should be contacted on 01352 701053 (Children) or 01352 702540 (Adults).

5.9 This procedure applies to, but is not limited to, allegations about any of the following:

- Conduct which is an offence or breach of the law;
- Alleged miscarriage of justice;
- Serious Health and Safety risks;
- The unauthorised use of public funds;
- Possible fraud, corruption or malpractice;

- Sexual, physical or verbal abuse, or bullying or intimidation of employees, customers or service users. This includes concerns relating to modern day slavery and human trafficking;
- Abuse of authority;
- Other unethical conduct e.g. Criminal activity within supply chains, employment practices within the Council or of suppliers / contractors of the Council.

6. Independent Advice

6.1 If you are unsure whether to use this policy or you want independent advice at any stage you should contact:

- The HR Department.
- Your Trade Union representative.
- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

7. Confidentiality

7.1 We recognise that you may want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent apart from exceptional cases. For example, this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. In such as case the matter will be discussed with you in the first instance. It is also possible that the investigation itself may serve to reveal the source of information, although this will be avoided where possible.

7.2 This policy encourages you to put your name to your allegation, as concerns expressed anonymously are often much more difficult to investigate. However, we would prefer that you raised serious concerns anonymously than not at all. Anonymous allegations will be considered at the discretion of the Council.

8. Reporting Procedure

8.1 As an employee of the Council, when raising a concern you follow the reporting **PROCEDURES** described in **8.3** below and as detailed in Appendix D.

8.2 For Members and third party individuals (and their employees) you go directly to **PROCEDURE 3** of the reporting procedure and contact any one of those listed in the first instance. (As stated previously Members must, under the Model Code of Conduct (Wales) Order 2008, report through the Council's confidential reporting procedure, any conduct by another member or anyone who works for, or on behalf of, the Council which they believe involves or likely to involve criminal behaviour).

8.3 Reporting Procedures:

Procedure 1 Raise the issue first with your line manager in order for practices to be modified before they reach the point where problems are created or harm is caused. These issues will initially be dealt with informally where possible. This may be done orally or in writing.

Procedure 2 If you feel unable to raise the matter with your line manager, for whatever reason, please raise the matter with the next immediate line manager whom you trust, or with someone outside line management within the Portfolio. Please say if you want to raise the matter in confidence so that they can make appropriate arrangements.

Procedure 3 If these 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, or you are a Member or third party please contact one of the following:

- the Internal Audit Manager;
- the Senior Manager, Human Resources & Organisational Development ;
- the Chief Officer (Governance) and Council's Monitoring Officer; and
- a Member of the Council, who will refer to the appropriate officer.

9. The Council's Response

9.1 The Council will assess the concern once it is raised, which may involve an internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact them and whether further assistance may be needed. If you request it, we will write to you summarising your concern and how we propose to handle it. Some concerns may be resolved by agreed action without the need for investigation.

9.2 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 we properly can within an agreed timescale. The length of time will depend on the nature of the concern. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe upon a duty of confidence owed by us to someone else or being in breach of any statutory requirement.

9.3 The Council will ensure that an Officer with knowledge and experience of this procedure will be given the responsibility for obtaining initial information from the referrer. A trained and suitable Officer will also conduct any initial meetings that are required.

9.4 At an appropriate stage in any investigation due consideration will need to be given to informing the subject of the concerns raised. It will be necessary to do this to comply with the Council's duties under the Human Rights legislation. However, all efforts will be made to ensure that the source of the concerns remains confidential where possible. The source of the concern will not be disclosed without their consent apart from exceptional cases. For example, this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. In such as case the matter will be discussed with you in the first instance.

10. Appeals

10.1 If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this Policy.

10.2 Whilst we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly. By using this policy you will help us to achieve this.

11. Alternative Reporting Procedure

11.1 If all reporting channels have been followed or you do not feel you can raise your concerns within the Council, you can contact a relevant prescribed body. Examples of prescribed bodies which are relevant to the Council are shown at Appendix C.

11.2 You can also raise your concerns with other external persons such as a Minister of the Crown and the Press or Media.

12. Legal Protection

12.1 Providing that you reasonably believe the disclosure you are making is in the public interest and you follow the procedures outlined in this policy then whistleblowing legislation protects you from detriment.

12.2 As an employee, you have a right not to be demoted, suspended, unfairly dismissed or victimised and you will be protected from suffering a detriment, bullying or harassment. Disclosures will be protected if the employee or worker discloses:

- in the course of obtaining legal advice
- to the employer
- to any Member of Parliament (a prescribed person)
- in certain circumstances to a Minister of the Crown
- to a prescribed body (see Appendix B for list of prescribed bodies)
- to another non prescribed person or body e.g. the press or media

12.3 As a Member you have a right not to be unfairly treated or victimised and you will be protected from suffering a detriment, bullying or harassment. Disclosure will be protected if the Member discloses.

- in the course of obtaining legal advice
- to the employer
- to any Member of Parliament (a prescribed person)
- in certain circumstances to a Minister of the Crown
- to a prescribed body (see Appendix B for list of prescribed bodies)
- to another non prescribed person or body e.g. the press or media

12.4 If you are a third party individual raising concerns with the Council you will not suffer any detriment providing you reasonably believe the disclosure is being made in the public interest.

12.5 It should be noted that if disclosures are made to a non-prescribed external body then a number of detailed conditions need to be met. These include a requirement that you do not make the disclosure for personal gain and that it is reasonable to make the disclosure in the circumstances.

12.6 Where a concern is raised directly with the Council by an employee of a third party or contractor, the employee should not suffer any detriment from the employing third party or contractor.

13 Responsibilities

13.1 Role of the Employee

- Employees are expected to raise concerns they become aware of.
- Employees must reasonably believe the disclosure of information is in the public interest.

- Employees must **not** act maliciously or make false allegations.
- Employees must **not** seek any personal gain.

13.2 Role of the Member

- Members are expected to raise concerns they become aware of.
- Members must reasonably believe the disclosure of information is in the public interest.
- Members must **not** act maliciously or make false allegations.
- Members must **not** seek any personal gain.

13.3 Role of a Third Party Individual (Partner, Consultant, Supplier, Contractor, volunteers and employees of Council Suppliers and Contractors)

- The Third Party is expected to raise concerns they become aware of.
- The Third Party must reasonably believe the disclosure of information is in the public interest.
- The Third Party must **not** act maliciously or make false allegations.
- The Third Party must **not** seek any personal gain.

13.4 Role of the Manager

- To deal with and respond to any complaints raised under this policy if within their area of control.
- If necessary to escalate the concern to one of the contacts listed under procedure 3.
- To ensure employees are protected from suffering a detriment as a result of raising an issue under this policy.

13.4 Monitoring and Evaluation

- The policy will be reviewed regularly to ensure compliance with changes in employment legislation or recommended best practice. Any future amendments to the policy will be considered by the Audit Committee.
- A central log of concerns reported under this Policy will be kept by Internal Audit.
- An annual summary of the number and outcomes of whistleblowing cases will also be reported to the Audit Committee, whilst respecting confidentiality.

13.5 Training and Development

Training will be provided to ensure that those with management responsibility for employees are clear about the policy and the procedures contained within it.

14 Other Related Policies

14.1 The Council's Anti-Fraud and Corruption Strategy and the Fraud Response Plan can be found on the Council's website and the Infonet.

Appendix A

Examples of concerns which could be raised

This policy will apply in cases where employees reasonably believe that the disclosure they are making is in the public interest. Examples of this are:

- a criminal offence has been committed, is being committed or is likely to be committed.
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject to.
- a miscarriage of justice has occurred, is occurring or is likely to occur.
- the health and safety of any individual has been, is being or is likely to be endangered.
- the environment has been, is being or is likely to be damaged.
- information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- the unauthorised use of public funds.
- possible fraud and corruption e.g. Recent data hacking incidents to obtain payment card information.
- other unethical conduct e.g. not acting with honesty, fairness, equality, dignity and diversity.
- where a criminal act takes place dealing within computers, network or over the internet (Cyber Crime).
- computers are used to manipulate programmes or data dishonestly (e.g. by altering, substituting or destroying records or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud (Computer Fraud).
- where unlawful and or unethical employment practices exists such as the unethical treatment of workers by a supplier or contractor of the Council as a result of undue cost and time pressures.
- undue cost and time pressures are not applied to any of our suppliers if this is likely to result in unethical treatment of workers.
- concerns relating to procurement can also be raised directly with Value Wales (supplier feedback service) online on the following websites listed in **Appendix B**

Concerns may relate to modern slavery and trafficking issues. If this is the case, any concerns should be reported on the numbers listed in **Appendix B**

Appendix B

Initial Contacts for Reporting a Concern

Internal Audit Manager Flintshire County Council, County Hall Mold, CH7 6NA Lisa.brownbill@flintshire.gov.uk Tel: 01352 702231	**Council's Monitoring Officer** Flintshire County Council, County Hall Mold, CH7 6NA Gareth.legal@flintshire.gov.uk
Senior Manager, Human Resources & Organisational Development Flintshire County Council, County Hall Mold, CH7 6NA Sharon.carney@flintshire.gov.uk	

Modern Day Slavery & Human Trafficking Children - 01352 701053 Adults 01352 702540 Safeguarding Senior Safeguarding Manager-01352 702503	Value You Wales (Procurement) https://gov.wales/topics/improvingservices/bettervfm/supplier-feedback-service/?lang=en https://gov.wales/topics/improvingservices/bettervfm/supplier-feedback-service/?skip=1&lang=cy (Welsh version)

Appendix C

Alternative Relevant Organisations

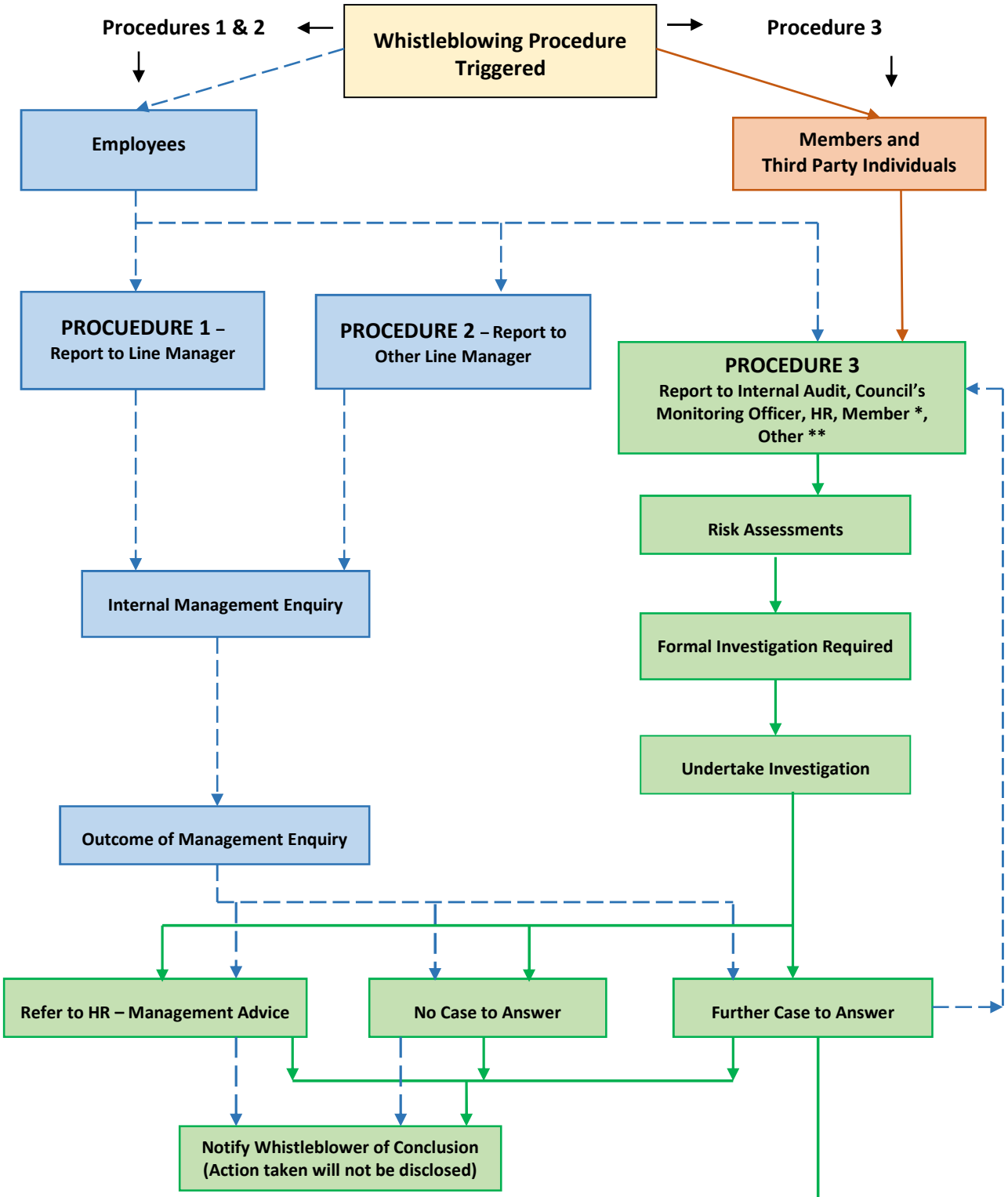
Relevant organisations (prescribed regulators) you can contact to make a protected disclosure.

Auditor General Wales 24 Cathedral Road Cardiff, CF11 9LJ Tel: 01244 525980 whistleblowing@wao.gov.uk	Your Local Council Member http://committeemeetings.flintshire.gov.uk/mgMemberIndex.aspx?bcr=1
Information Commissioner Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Tel: 01625 545745 mail@ico.gsi.gov.uk	Health & Safety Executive Rose Court 2 Southwark Bridge London SE1 9HS Tel: 0300 0031647 www.hse.gov.uk (online form)
The Environmental Agency Horizon House Deanery Road Bristol BS1 5AH Tel: 03708 506506	The Director of the Serious Fraud Office 2-4 Cockspur Street London SW1Y 5BS Tel: 020 7239 7272 confidential@sfo.gsi.gov.uk
Any Members of Parliament	
David Hanson 01352 763159 David.hanson.mp@parliament.uk	Mark Tami 01244 819854 tamim@parliament.uk
Any Assembly Member for Alyn & Deeside or Delyn	
Jack Sargeant 0300 200 6565 Jack.sargeant@assembly.wales Mandy Jones 0300 200 7387 mandy.jones@assembly.wales Michelle Jones Michelle.Brown@assembly.wales	Hannah Blythyn 0300 200 7132 Hannah.Blythyn@assembly.wales Mark Isherwood 0300 200 7217 Mark.Isherwood@assembly.wales Llyr Gruffydd 01824 703 593 Llyr.Gruffydd@assembly.wales

There are many other prescribed regulators who can be contacted to raise a concern, they can be found at http://www.direct.gov.uk/.

Appendix D

Flow Chart – Whistleblowing Procedures



Key:

* Member - Unless the allegation involves a member.

** Other – e.g. Standards Committee, Ombudsmen, Safeguarding