

Whistleblowing Policy Statement

- 1.1 The aim of the Whistleblowing Policy and the accompanying Toolkit is to uphold the highest standards of conduct and ethics in all areas of the Council's work.
- 1.2 In line with this commitment, anyone with serious concerns of wrongdoing or danger is encouraged to come forward and voice those concerns.
- 1.3 Everyone has the right to raise concerns in the knowledge that they will be taken seriously and so we always work with the Whistleblowing Principles set out below. These will help us reach the goal of having a positive, open, safe and supportive whistleblowing culture.
- 1.4 Employees should feel they are able to raise genuine concerns without fear of reprisals or other adverse treatment, even if they turn out to be mistaken.
- 1.5 The Monitoring Officer (the Council's Service Director, Legal and Assurance) has overall responsibility for whistleblowing and undertakes periodic reviews to reflect organisational changes, best practice, operational experience and/or legislative updates.
- 1.6 The Whistleblowing Policy does not form part of anyone's contract of employment and is not intended to replace any other statutory reporting procedures operated by the Council.
- 1.7 Matters of concern relating to your own employment situation which would normally be dealt with under, for example, the Grievance Procedure, should continue to be reported and handled under that procedure rather than through the Whistleblowing Policy.
- 1.8 We want to understand if there are particular issues or patterns across the Council, with the overall purpose of continuously improving the way services are provided and concerns are handled. For this reason, we will keep records of whistleblowing activity. In addition to any records kept about specific issues raised, their investigation and outcome, working with our independent whistleblowing provider (currently Safecall) we may keep generalised records of certain matters (i.e. records without names that refer only to general descriptions of the issues, the service area and the nature of the disclosure) in order to allow patterns or trends to be identified.

Whistleblowing Principles

- 2.1 All disclosures will be handled openly and transparently, whilst also recognising and respecting that everyone has the right to confidentiality and for their personal data to be appropriately protected.
- 2.2 We encourage early resolution where appropriate, but where this is not possible, we will aim to conclude matters within 3-6 months. Where matters do not conclude within 3 months, regular updates about extended timescales and progress will be provided.
- 2.3 We treat all concerns seriously and will conduct thorough and proportionate assessments and/or investigations.
- 2.4 We will respect the confidentiality of any person who raises a concern (as far as the law allows), unless with the agreement of the reporting person.
- 2.5 We offer support and protection to all those who legitimately raise a concern or who are directly involved in a concern that has been raised.
- 2.6 Those investigating concerns will be impartial, independent and accountable. They must not be involved in investigations where they have a conflict of interest or may reasonably be perceived to have a conflict of interest.
- 2.7 The people who conduct investigations will have appropriate skills, experience, and knowledge.
- 2.8 We will meet timescales whenever possible.
- 2.9 The outcomes of investigations will set out what actions will be taken, or have been taken, to put things right or improve practice.
- 2.10 Following an investigation, we will ensure that any lessons learned are shared locally and more widely across the organisation as appropriate.
- 2.11 We will identify trends and highlight problems, with the overall purpose of continuously improving the way services are provided and concerns are handled.

Scope

- 3.1 This Policy applies to all to all workers within the meaning of the Public Interest Disclosure Act 1998 and the Employment Rights Act 1996, including employees and workers, persons contracted to personally provide services to the Council, persons undergoing training or work experience as part of a training course, and agency workers (referred to as "colleagues").
- 3.2 This Policy also applies to elected members should they wish to raise a Whistleblowing disclosure. If a disclosure is received about an elected member, it would ordinarily be passed to the Ethical Standards Commissioner to consider and investigate as appropriate.
- 3.3 This Policy is supported by the Whistleblowing Toolkit which contains further information on how Disclosures will be handled and investigated. The Toolkit is a practical document

and is designed to help all those engaging with this Policy. It is therefore something that might be changed or added to from time to time, to take account of practical experience.

3.4 This Policy has been shared with Trade Union colleagues.

Definitions

- 4.1 “Whistleblower” – An individual who provides information about their concerns of wrongdoing or danger to the whistleblowing service provider, a manager in the Council, or to a prescribed person (see more information on prescribed persons at section 12).
- 4.2 “Disclosure” – The information provided, verbally or in writing, by a Whistleblower about their concerns of wrongdoing or danger.
- 4.3 “GRBV Committee” – The Council’s Governance, Risk and Best Value Committee.
- 4.4 “500 Disclosure” – A Disclosure specifically relating to the conduct of the Council’s Monitoring Officer, the Chief Executive, an Executive Director, Service Directors or the Chief Officer of the Health and Social Care Partnership.
- 4.5 “Whistleblowing Policy” – The Council’s whistleblowing policy, under which Disclosures may be made.
- 4.6 “Whistleblowing Toolkit” – The document detailing further guidance in support of the Whistleblowing Policy.
- 4.7 “Monitoring Officer’s Team” – The team of Council Governance staff who manage day to day operation of the whistleblowing service, liaising with and supporting the whistleblowing Service Provider on behalf of the Council’s Monitoring Officer.
- 4.8 “Investigation Team” – The team of Council staff within the Legal and Assurance Division who will carry out investigations.
- 4.9 “Service Provider” – the independent, external whistleblowing service provider which operates the confidential hotline service, oversees Council investigations into Disclosures, carries out investigations and reports to Committee. This is presently Safecall.
- 4.10 “Secure Portal” – The online reporting mechanism operated by Safecall, via which Disclosures (including anonymous Disclosures) may be made. This is in addition to Disclosures made via telephone, in writing or in person.
- 4.11 “Speak Up Supporters” - dedicated Council employees who will provide information and signposting for individuals who may wish to make a disclosure.

How to Whistleblow

- 5.1 We hope that in many cases you will feel able to raise any concerns directly with your line manager (or another manager within the Council) or, where appropriate, with Human Resources, contact details can be found on the Whistleblowing page on the Orb. You may raise a matter with them in person or do so in writing. They may be able to agree a way of

resolving your concerns quickly and effectively (see the early resolution protocol in the Whistleblowing Toolkit).

- 5.2 You can also raise concerns with the Council's Monitoring Officer's Team, orally or in writing. Contact details can be found on the Whistleblowing page on the Orb.
- 5.3 You can also contact the external 'Whistleblowing Hotline' 24/7. This is maintained by Safecall, which is a separate and independent organisation. Safecall can be contacted via 0800 587 8770; cec@safecall.co.uk; www.safecall.co.uk/city-of-edinburgh-council
- 5.4 All Disclosures received will be assessed amongst the Council's Investigation Team, the Monitoring Officer's Team and/or Service Provider (Safecall) or other relevant party for further action.
- 5.5 It is very important that we have a clear picture of what happened, when it happened and who was involved. Simple first steps like a timeline and a "who's who?" are very useful. Trying to get as full an understanding as we reasonably can is a vital part of the process and allows us to determine what should happen next.
- 5.6 If you are unsure about how to approach this situation you may seek advice from the Monitoring Officer's team (whistleblowing@edinburgh.gov.uk), the whistleblowing Service Provider, one of the Speak Up Supporters or a Manager within the Council.

What is Whistleblowing?

- 6.1 Concerns regarding the following can be raised under this Policy:
 - 6.1.1 criminal activity;
 - 6.1.2 a failure to comply with any legal obligation;
 - 6.1.3 miscarriages of justice;
 - 6.1.4 danger to health and safety;
 - 6.1.5 damage to the environment; and
 - 6.1.6 deliberate concealment of any of the above matters.
- 6.2 The above is not an exhaustive list and anyone with serious concerns of wrongdoing or danger is encouraged to come forward and voice those concerns and such matters may also be investigated under this Policy. Serious concerns of wrongdoing or danger may also include any aspect of Council business or the conduct of officers or members of the Council or others acting on behalf of the Council under this Policy, especially where this affects other people.
- 6.3 Concerns can be raised in relation to matters that have taken place, continue to take place or are likely to take place in the future.
- 6.4 Concerns that do not relate to any matter detailed at 6.1.1 and 6.1.6 may be investigated under this policy if:-

- 6.4.1 The concern has not already been investigated under a different procedure; and/or
 - 6.4.2 There is no other procedure more appropriately suited to investigate the concern (in which case the individual will be notified as to which procedure to utilise); and/or
 - 6.4.3 The Service Provider determines that there are other compelling reasons to do so.
- 6.5 Any information identified via another Council process as a whistleblowing matter will be shared with the Monitoring Officer and the Monitoring Officer's Team and Investigation Team and, if necessary, the Service Provider (Safecall) to ensure it is dealt with in accordance with this Policy.

Other Types of Concern

- 7.1 Personal employment issues such as bullying, harassment or discrimination, should normally be raised via HR using the relevant Council procedures, e.g., the Grievance Procedure, rather than under this Policy.
- 7.2 Mechanisms for raising other concerns include the Council's complaints process, the fraud reporting portal on the Council's website, direct reports to Internal Audit (InternalAudit@edinburgh.gov.uk) and via direct reports to Human Resources.

Colleague Obligations

- 8.1 You should report any serious concerns of wrongdoing or danger in accordance with section 5.
- 8.2 You should do so where you have a reasonable belief that a matter of serious concern of wrongdoing or danger has occurred, is taking place or is likely to take place.
- 8.3 You are responsible for acting professionally if you have a concern about the work of your colleagues, including an expectation on you not to make an untrue or exaggerated allegation but to report serious concerns of wrongdoing or danger.

Confidentiality and Anonymity

9.1 Confidentiality

- 9.1.1 Any Disclosure you make will be treated sensitively and we are very aware of the importance of confidentiality. There may, however, be times when not all matters can be kept confidential. For example, there may be a court order that means that we have to disclose information, or a criminal or public safety issue may be raised that necessitates disclosure of your details to be able to address an immediate concern. These and other obligations mean that sometimes a difficult balance must be struck on confidentiality. We will try and ensure that you are kept informed of these issues.

- 9.1.2 Any personal information disclosed or recovered as part of a Whistleblowing investigation will be treated in accordance with General Data Protection Regulation principles and other relevant legislation.
- 9.1.3 Our aim is to have a good working environment for all. Transparency and openness are an important part of this, but we must be mindful of confidentiality obligations. This means that while processes are ongoing, and at the end of the process, we might not be able to tell you everything that is happening or has happened. It might be that there is another process (such as a disciplinary investigation) and we may not tell you if that is happening or the outcome, as it would be unfair to the person going through that process. We appreciate that this can be frustrating. If we can reasonably tell you more, we will, but you should be aware that there are several factors that might mean that we cannot do that (such as confidentiality and data protection issues). This does not mean that the issues you have raised have not been looked at thoroughly. Oversight by the Monitoring Officer, the Service Provider and Elected Members ensures the integrity of the overall process.

9.2 **Anonymity and Protections**

- 9.2.1 We hope that colleagues will feel able to voice whistleblowing concerns openly under this policy. However, if you want to raise your concern confidentially, we will make every effort to keep your identity secret. If it is necessary for anyone investigating your concern to know your identity, we will discuss this with you.
- 9.2.2 There are different circumstances in which you can provide information to us:
- (1) You can speak with us on an open basis. This means that you are happy for anything you tell us to be “on the record” and attributed to you; or
 - (2) You can speak with us on a fully anonymous basis, where not even the Service Provider knows your details; or
 - (3) You can tell the Service Provider who you are, but they will withhold your name and any other identifying details from the Council – this is called semi anonymous.

If you proceed anonymously, fully, or semi, please be aware this may limit what we can do to respond to your concern and the weight that can be given to what we are told by you.

- 9.2.3 There are also some possible limitations on anonymity, even if you select to be anonymous. For example, a court could order disclosure of information you tell us about yourself. If your disclosure raises a criminal issue or public safety concern, we may need to tell the relevant authorities.

Right not to suffer detriment

9.2.4 A Whistleblower has a legal right under section 47B of the Employment Rights Act 1996 not to be subjected to any detriment by their employer done on the ground that they have made a protected disclosure. We are determined to protect Whistleblowers from any detrimental or harmful treatment. It is vital for a healthy culture that colleagues feel comfortable about raising concerns. If you feel you have suffered harm as a result of whistleblowing or if you are concerned about reprisals or other issues, please report that immediately to the Monitoring Officer or the Service Provider.

9.3 Media and Social Media

9.3.1 This Policy has been developed to enable you to express concerns on the basis that it is in the public interest to make such matters known to the Service Provider or a Manager within the Council. In most cases you should not find it necessary to alert anyone externally.

9.3.2 The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. We strongly encourage you to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect (<https://protect-advice.org.uk/>), operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern (see also 12.2).

9.3.3 Disclosure to the media is only appropriate and protected in very particular circumstances. If you believe that you should go to the media, you should take advice before doing so. You could take your own legal advice or talk to your Trade Union. Again, Protect would be a useful organisation to seek information from in this regard.

Assessments and Investigations

Assessment

10.1 All Disclosures will be assessed on receipt. For all Disclosures, the Service Provider will make an initial determination as to whether the Disclosure should be classified as 'External' or 'Internal'. External classification will be used when the Disclosure presented appears, on the face of it, one of significant concern that will require direct investigation by them or an external expert. Internal classification will be used when it appears, on the face of it, that the Disclosure is of less significant concern and is appropriate for investigation or an alternative early resolution process primarily by the Council, either by the Investigation Team or an appropriate manager.

Early resolution

10.2 Where possible and appropriate the Monitoring Officer's Team and/or Investigations Team may work with the relevant service to seek to resolve concerns raised by way of early resolution. The early resolution process is intended for simple and straightforward

concerns that can be responded to within 15 working days, or fewer, and which will involve little or no investigation. Most cases will, however, need investigation.

Investigation

- 10.3 **External Investigation:** The investigation will be conducted entirely externally from the Council by the Service Provider, an external independent law firm or other outside expert.
- 10.4 **Internal Investigation:** The investigation will be undertaken by the Investigation Team or other Council officer with subject matter expertise, to be scrutinised by the Service Provider on conclusion of the investigation. On rare occasions, it may be appropriate to appoint an independent law firm or other outside expert to undertake an investigation that has been categorised as internal. For more serious Internal Investigations, the Service Provider will provide greater oversight in the capacity as a 'critical friend'. 'Critical friend' oversight will include monitoring by the Service Provider from the outset and during the investigation, as well as scrutiny on conclusion of the investigation.
- 10.5 For all investigations, the Service Provider will liaise with the Monitoring Officer's team as appropriate.
- 10.6 If the Disclosure is a 500 Disclosure (see definitions), there is a particular process, and this is set out in the Whistleblowing Toolkit. The first step is to contact the Service Provider.
- 10.7 Where a Disclosure is received that involves or includes matter(s) relating to child or adult protection, prior to any investigation commencing, the Monitoring Officer's Team will urgently seek to obtain any applicable information and documentation from any relevant child or adult protection service. This includes but is not limited to: Social Care Direct, Police Scotland and the Council's Criminal Justice Services or the Chief Social Work Officer. Any information received may be used to assist in determining next steps in relation to an investigation.
- 10.8 The Service Provider may at any time make a recommendation to the Monitoring Officer and the Chief Executive of the Council as to how a Disclosure should be investigated (e.g., by the Police or a third-party regulator).
- 10.9 The Service Provider may also determine that issues raised fall under the scope of other specific Council policies and procedures (such as child protection matters, social services matters and discriminatory conduct) or other professional codes and should be investigated under these.
- 10.10 The Monitoring Officer's Team or Service Provider may also direct you to other Council policies and procedures through which the issue you have raised would be more appropriately addressed.
- 10.11 The Service Provider and the Investigation Team will liaise (as appropriate and at their discretion) with the Monitoring Officer and their team, the Chief Executive, the Executive Director(s) of relevant service area(s), line managers and employees at the Council to the extent necessary to allow them to investigate and report on whistleblowing Disclosures.
- 10.12 Where any immediate steps are required to be taken in relation to a Disclosure (e.g. it relates to public safety or child or adult protection), then the Monitoring Officer's Team

will keep a record of the actions taken in this regard and share them with the Service Provider. The actions taken will be reported to GRBV Committee in the first quarterly meeting following disclosure.

Investigations Process

- 10.13 Whoever is investigating the Disclosure will carry out the investigation and compile a report. Investigators appointed will have the appropriate skills and experience to carry out the investigation and produce a report with appropriate due care and diligence, in an even handed and balanced manner.
- 10.14 You and any appointed trade union representative will be informed of the progress of an investigation and the outcome of it and any actions to be taken during or as a result of it. You should note that depending upon the nature of the Disclosure, it may not be possible to share much, if any, information. This may particularly be the case where a Disclosure investigation uncovers other matters which also require investigation. However, please be assured that even though you may not be able to see this information, your Disclosure will have been looked at thoroughly and independently, with oversight from both the Service Provider and the Governance, Risk and Best Value Committee. If you have not received an update on any process or have any other concerns, you can contact whistleblowing@edinburgh.gov.uk or the Service Provider.

Witnesses and Evidence

- 10.15 You may be asked to attend meetings to provide further information. In this case you will be given advice about the procedure. You may also be accompanied by a trade union representative or colleague at any meetings, as long as they have no involvement in the whistleblowing matter or related matters, or their involvement would represent a conflict of interest.
- 10.16 During an investigation those investigating the Disclosure may need to interview individuals identified as potential witnesses. This might include the Whistleblower, Council colleagues, service users, contractors and partners.
- 10.17 All individuals called upon to participate as a witness in an investigation are required to co-operate fully with an investigator, irrespective of whether that is the Service Provider, the Investigation Team, a Council manager, the Monitoring Officer (and/or their team), Internal Audit or an external body e.g. a regulatory body, external audit, Police Scotland.
- 10.18 If an investigator requires to meet with a colleague (either physically or virtually), to interview them during an investigation, the employee should be given reasonable notice and a mutually convenient time and location agreed, taking into consideration any trade union representation availability.
- 10.19 Witnesses and anyone who supports a witness during an interview must observe the confidentiality requirements of this policy and not divulge or discuss any information relating to the investigation with anyone other than each other. The Council has a duty to protect colleagues who are involved in the whistleblowing process so compliance with confidentiality requirements is essential.

- 10.20 The Monitoring Officer’s Team, the Investigation Team and the Human Resources Team will meet regularly, with the Service Provider when required, to discuss patterns and concerns and agree how these should be dealt with.
- 10.21 The investigator must collate all available evidence to thoroughly establish the facts of a case. The investigator should be mindful of evidence which may not be immediately obvious following a review of documentary evidence, including matters such as unconscious bias, such that they holistically ensure the Council are appropriately appraised of any concerns arising in relation to equality and diversity obligations under the Equality Act 2010. Evidence gathering may also involve one or more of the following (which is non-exhaustive): gathering statements from those who were witness to the allegations (including circumstantial evidence), collating documentary evidence such as meeting notes, accident/ incident reporting, reviewing CCTV footage and checking available electronic records. The purpose of evidence gathering is to ultimately provide a factual summary of the issues at hand and the evidence gathered while drawing attention to key points and conclusions in relation to what actually occurred (or on the balance of probability of what is considered to have occurred).

Timescales

- 10.22 We shall make all reasonable efforts to undertake investigations in compliance with the following timescales:

Investigation Type	Timescale
Internal	0 - 6 months
External	Efforts will be made to conclude timeously; however, Disclosures of this nature may take longer than 6 months
500 Disclosure	0- 6 months

- 10.23 The timescales provided are indicative and not guaranteed. Some Disclosures are very complex and may take considerably longer to investigate thoroughly, particularly where, for example, witnesses are not available due to sickness or other absence. Insofar as practicable, you will be kept up to date with progress and amended timescales. All efforts will be made to ensure that the investigation is concluded as soon as possible.

Protection and Support

- 11.1 It is understandable that Whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support colleagues who raise genuine concerns under this policy, even if they turn out to be mistaken.

- 11.2 It is also understandable that those who are the subject of scrutiny as the result of a whistleblowing complaint being made against them are sometimes worried about repercussions. We want to support all colleagues affected by whistleblowing, and the examples of the supports set out at 11.5 may also be helpful to those subject to scrutiny.
- 11.3 Whistleblowers must not suffer any detrimental treatment as a result of raising a genuine concern. Detrimental treatment includes dismissal, disciplinary action, threats, or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment you should inform the Monitoring Officer immediately. If the matter is not remedied, you should raise it formally using our Grievance Procedure. The Monitoring Officer's Team and HR will check in with Whistleblowers periodically over the 12-month period following a disclosure to ask them whether they consider that they have suffered detrimental treatment as a result of raising a concern. Whistleblowers who have been subjected to any detrimental treatment as a result of raising a concern should be reassured that they will be fully supported. Other procedures may be instigated (see 11.4 below) and whistleblowers will have full protection throughout any such process to ensure that they can continue to work in their role in an environment free from threats or intimidation or undue stress.
- 11.4 Threatening, retaliating, bullying or harassing anyone making a Disclosure will be regarded as a serious disciplinary offence or gross misconduct. It is also a serious disciplinary offence to attempt to deter someone from making a Disclosure or to attempt to influence an investigation in any way.
- 11.5 These are some examples of the sort of support you might find helpful. You do not need to decide immediately, but it is good to be aware of them.
- counselling or psychological support;
 - trade union support;
 - occupational health support; and
 - the Employee Wellbeing information found on the Orb including PAM assist.

Disclosures to External Organisations

- 12.1 As noted at 9.3.2, there may be circumstances in which Disclosures may be properly reported to external organisations (other than the whistleblowing Service Provider).
- 12.2 These organisations are known as "prescribed persons" and include more than 50 regulatory bodies to which protected Disclosures can be made. A list of prescribed persons is maintained by the UK Government and can be found on their website Whistleblowing: list of prescribed people and bodies - GOV.UK (www.gov.uk)
- 12.3 In circumstances where you decide to raise the matter externally, you will only be protected if you do this in the appropriate way. This is something you should take advice on from Protect, your Trade Union, a lawyer or at the website referred to above.

Implementation

- 13.1 The effective date of implementation is 1 February 2024.
- 13.2 All colleagues will be made aware of the revised policy through established communications and training refresher channels.
- 13.3 In accordance with the Council's Record Retention Scheme, details of all whistleblowing concerns and investigations will be retained for 6 years from the close of the investigation, except where separate retention rules apply (including, but not limited to child protection matters).

Related documents

- 14.1 [Finance and Resources Committee 19 September 2013: item 7.2 - Revised Whistleblowing Policy](#)
- 14.2 [Finance and Resources Committee 27 August 2015: item 7.13 - Review of Whistleblowing Arrangements](#)
- 14.3 [Finance and Resources Committee 27 March 2018: Item 7.4 - Whistleblowing Policy](#)

Integrated impact assessment

- 15.1 It has been assessed that this policy will have a positive equalities impact.

Whistleblowing Toolkit (1 February 2024)

This toolkit is designed to help all of those who want to either make or handle a whistleblowing issue. It is something that we want to make as practically useful as possible. We might therefore amend or change it from time to time as we learn what is useful from experience.

The definitions used in the toolkit are those that are set out in the Whistleblowing Policy.

How should a disclosure be dealt with?

- 1.1 Upon receipt of a Disclosure that is to be investigated under the Whistleblowing Policy by the Service Provider, they will assess and classify the Disclosure to determine if the Disclosure is either:
 - (a) An External matter which will be investigated entirely externally from the Council by Safecall, an external independent law firm or other outside expert, or
 - (b) An Internal matter which will be investigated by the Investigation Team or other Council officer with subject matter expertise, to be scrutinised by the Service Provider on conclusion of the investigation. For more serious Internal Investigations, the Service Provider will provide greater oversight in the capacity as a 'critical friend'. 'Critical friend' oversight will include monitoring by the Service Provider from the outset and during the investigation, as well as scrutiny on conclusion of the investigation.
- 1.2 In consultation with the Monitoring Officer's Team, the Service Provider will also consider whether the Disclosure is suitable for Early Resolution – see section 8 and Appendix 1 below.
- 1.3 Where a matter is first referred elsewhere than the Service Provider, e.g., the Council's Monitoring Officer's Team or Human Resources Team, the Disclosure will be referred to the Service Provider for determination as to the designation of External or Internal.
- 1.4 Disclosures shall be assessed and a classification of External or Internal will be made and provided to the Whistleblower, after consideration of the following:
 - 1.4.1 Does the disclosure concern one of the issues set out at 6.1 of the Whistleblowing Policy?
 - 1.4.2 Bullying and harassment claims will usually be dealt with by HR under HR policies but if the disclosure relates to a significant or reoccurring allegation of bullying, harassment, or abusive conduct (particularly, but not exclusively, if it is directed at more than one colleague or involves physical harm or mental distress) if so, it may

be dealt with under the Whistleblowing Policy and will usually be assessed as an External matter.

- 1.4.3 Does the disclosure relate to a more minor matter which does not concern a breach of the law? If so, it will usually be assessed to be dealt with under another Council policy or as an Internal matter.
- 1.5 The Service Provider will liaise with the Monitoring Officer's Team and Investigations Team to have the matter progressed.
- 1.6 Where a disclosure is received that involves or includes matter(s) relating to child or adult protection, the Monitoring Officer's Team will urgently seek to obtain any applicable information and documentation from any relevant child or adult protection service. This includes but is not limited to: Social Care Direct, Police Scotland and the Council's Criminal Justice Services or the Chief Social Work Officer. Any information received may be used to assist the Service Provider in determining whether an investigation is required.

Investigations

- 2.1 If an Internal investigation is required, the Investigations Team, or other appropriately appointed investigator, will take ownership of any investigations required in response to a Disclosure, liaise with the Service Provider and the Monitoring Officer's Team, as appropriate and, following the investigation, prepare a report. The Monitoring Officer's Team will keep parties readily informed as the investigation progresses.
- 2.2 If an External investigation is required, the Service Provider will determine who should investigate, either by direct investigation by the Service Provider themselves or by any alternative means that they stipulate, including an independent external law firm or outside expert. Following investigation, a report will be prepared.
- 2.3 In all cases, the Service Provider will review the final reports and provide any challenge or comments before matters are reported to GRBV Committee. Where full reports are provided to GRBV Committee for their consideration, officers will require to consider to what extent, if at all, redactions are applied to such reports in order to ensure that appropriate legal obligations are complied with (e.g. in relation to confidentiality, data protection, member/ officer protocol etc).

Disclosures Relating to the Monitoring Officer, Chief Executive, an Executive Director, Service Director or the Chief Officer of the Health and Social Care Partnership (500 Disclosures)

- 3.1 For 500 Disclosures, it is of paramount importance that any conflict of interest, real or perceived, is avoided.
- 3.2 Accordingly, in such cases, following initial contact with the Service Provider, these Disclosures will be handled as follows:

Who is the disclosure made about?	Who will it be passed to by the Service Provider in order to take forward?
Monitoring officer	Chief Executive
Chief Executive	Council leader, who will then liaise with the Monitoring Officer as appropriate
Executive Director, Service Director or the Chief Officer of the Health and Social Care Partnership	Monitoring Officer and the Chief Executive.

- 3.3 For all 500 disclosures, a non-panel law firm or appropriate Counsel will be used to investigate matters, reporting to the Service Provider and relevant Council officer as above. The Service Provider will agree alternative support and reporting requirements, including in relation to the detail and timing of reporting to Governance, Risk and Best Value Committee (GRBV), with the relevant named post holder.

Prejudice Based Incident Reporting

- 4.1 Any Disclosure relating to discrimination based on race, gender, religion, disability, sexual orientation, age or other such legally protected characteristic shall be reported to the Council's Human Resources team in accordance with the Prejudice Based Incident Reporting Procedure.
- 4.2 All concerns in relation to Council employees of a sexual nature, domestic abuse, physical violence, harassment or stalking (whether occurring during the course of work hours or on Council premises or not) must be escalated to the Council's Monitoring Officer prior to the appointment of any investigator, whether internal or external; and a record should be kept of all such concerns for an appropriate period of time, subject to GDPR considerations, to allow for identification of patterns of behaviour. The Council's Chief Executive and Chief Social Work Officer will also be informed.

Timescales and support arrangements

5.1 We shall make all reasonable efforts to undertake investigations in compliance with the following timescales:

Investigation Type	Timescale
Internal	0 - 6 months
External	Efforts will be made to conclude timeously, however, Disclosures of this nature may take longer than 6 months
500 Disclosure	0-6 months

The timescales provided are indicative and not guaranteed. Some Disclosures are very complex and may take considerably longer to investigate thoroughly, particularly where, for example, witnesses are not available due to sickness or other absence. Insofar as practicable, you will be kept up to date with progress and amended timescales. All efforts will be made to ensure that the investigation is concluded as soon as possible.

5.2 It should be recognised that annual leave and sickness absence and other factors may impact upon witnesses being available and, accordingly, in cases where additional time is required, the Whistleblower, and any individuals subject to concerns raised, will be informed as soon as possible and estimated alternative timescales provided.

5.3 The Monitoring Officer's Team will ensure that all reasonable steps are taken to ensure that Whistleblowers are supported, and confirmation is provided to them as to how this can best be provided. The same offer, where appropriate, should also be made to those who are the subject of a whistleblowing investigation.

Alternative and Concurrent Procedures

6.1 There are various ways to report concerns. These include –

- the fraud reporting portal on the Council's website;
- direct reports to Internal Audit (InternalAudit@edinburgh.gov.uk); and
- direct reports to Human Resources under one of our policies.

6.2 You can use one of these mechanisms to report your concerns as well as using the process set out in the Whistleblowing Policy. However, we want to avoid unnecessary delay and duplication and therefore, information identified as a whistleblowing matter (that is falling within the matters identified at 6.1 of the Whistleblowing Policy) in an alternative process will be shared with the Service Provider to ensure that all

whistleblowing disclosures are dealt with properly and we have as complete an understanding as possible of any problems that have arisen within the Council.

- 6.3 Delay is a serious concern and putting one process (such as a whistleblowing investigation) 'on hold' while another (such as disciplinary investigations, employment tribunal proceedings, or Police or regulatory e.g., SSSC investigations) is completed might not be the right and fair thing to do. Where other procedures commence (or are ongoing), insofar as possible, these processes should run concurrently so as not to delay progress nor any associated reporting. Care must be taken to ensure that concurrent procedures do not conflict with each other or create gaps in knowledge or understanding that could compromise the investigation process. Witnesses to a whistleblowing investigation are informed from the outset that the evidence that they give may be used in other related and relevant procedures. It will only be in exceptional circumstances that processes will not run concurrently and in such circumstances, the Whistleblower and those subject to concerns raised will be regularly updated in relation to the delay and when the whistleblowing process can be expected to re-commence.
- 6.4 If it is considered that a whistleblowing investigation should be paused due to a concurrent process, the reasoning for this should be communicated to the Convener of GRBV Committee and the outcome documented and reported to GRBV as appropriate, and the Whistleblower, and other relevant parties, informed as soon as possible.

Data Protection

- 7.1 Personal information provided under the Whistleblowing Policy or gathered during any investigation shall always be handled in compliance with applicable data protection law and regulation.

Early Resolution

- 8.1 Where possible and appropriate the Monitoring Officer's Team and/or Investigations Team may work with the relevant service to seek to resolve concerns raised by way of early resolution.
- 8.2 We encourage early resolution where appropriate but, where this is not possible, investigations will be conducted in accordance with the process and timescales noted.
- 8.3 The early resolution process is intended for simple and straightforward concerns that can be responded to within 15 working days, or fewer, and which will involve little or no investigation.
- 8.4 These concerns may be better handled by facilitated dialogue between parties (informal mediation), or by relevant persons (e.g. the Monitoring Officer's Team or Investigations Team or other appropriate managers) liaising with the subject(s) of the Disclosure, to determine if the matter can be addressed informally, without the need for an

investigation. This allows for matters to be raised and resolved quickly which is usually in everyone's best interests.

8.5 In these cases, the Early Resolution Process should be followed and can be found at Appendix 1.

8.5.1 This will typically be suitable where matters fall into the Internal investigation category (particularly if the matter being reported is unlikely to trigger a disciplinary investigation), or

8.5.2 the person making the report wishes for the matter to be handled, at least initially, by way of a more consensual, informal approach aimed at maintaining relationships, while also addressing the underlying concern.

Expectation Management

9.1 The investigator and/or Monitoring Officer's Team will make reasonable efforts at the outset of an investigation to give the Whistleblower an outline of what is involved in the investigation process, the timescales and outcomes which can be expected. An Expectation Management Protocol is set out at Appendix 2. This is only a draft and may or may not be used depending on the specific circumstances and requirements of a particular matter.

9.2 It should be recognised that the outcome of an investigation may not be appropriate to be shared with the person who raised it. Whilst it is understood that there may be a personal interest in understanding what occurred and any outcome and recommendations, the public interest is being fulfilled by the matter being independently and fairly examined and accordingly the process should provide whistleblowers with comfort that the matter is being taken seriously. However, there may be circumstances where it is possible to provide some feedback or other assurance as to the matters raised and, where appropriate, this will be done.

Departing Staff

10.1 In serious or sensitive cases, an investigation may continue (either under this policy or any other policy triggered as a result of the whistleblowing investigation) even though the Whistleblower or those who have been whistleblown about have left their employment with the Council.

Implementation

- 11.1 The effective date of implementation is 1 February 2024.
- 11.2 All employees and workers will be made aware of the revised whistleblowing policy and toolkit through established communications and refresher training.
- 11.3 In accordance with the Council's Records Retention Scheme, details of all whistleblowing concerns and investigations will be retained for 6 years from the close of the investigation, except where separate retention rules apply (including, but not limited to child protection matters where a period of 25 years will apply).

Related documents

[Finance and Resources Committee 19 September 2013: item 7.2 – Revised Whistleblowing Policy](#)

[Finance and Resources Committee 27 August 2015: item 7.13 - Review of Whistleblowing Arrangements](#)

[Finance and Resources Committee 27 March 2018: Item 7.4 - Whistleblowing Policy](#)

Integrated impact assessment

- 12.1 It has been assessed that this Toolkit will have a positive equalities impact.

Risk assessment

- 13.1 The Whistleblowing Policy and Whistleblowing Toolkit were developed and agreed to complement existing management reporting arrangements and to ensure that employees are aware of their rights and responsibilities to raise concerns in the knowledge that they will be taken seriously, that matters will be investigated appropriately, and that confidentiality will be maintained.

Appendix 1 – Early Resolution Process

MODEL EARLY RESOLUTION PROCESS

1. The early resolution process is intended for simple and straightforward concerns that can be responded to within 15 working days, and which will involve little or no investigation. These concerns may be better handled by facilitated dialogue between parties, or by the Monitoring Officer's Team speaking with the subject(s) of the report to see if the issue can be addressed informally, without the need for an investigation.
2. The early resolution process will be suitable where:
 - 2.1 The matter being reported is capable of being quickly and consensually resolved;
 - 2.2 The matter being reported may not meet the legal test for being a whistleblowing disclosure and may be handled under a different Council policy;
 - 2.3 The matter being reported is unlikely to trigger a disciplinary investigation; or
 - 2.4 The person making the disclosure wishes for the matter to be handled, at least initially, by way of a more low-key, consensual, approach aimed at maintaining relationships, while also addressing the concern.
3. The following will apply after a concern is raised:
 - 3.1 The Service Provider will assess whether any immediate action needs to be taken to prevent any criminality and to ensure colleague or service user safety;
 - 3.2 As part of its assessment and classification process, the Service Provider will liaise with the Council, to consider if the Disclosure is capable of being handled through an early resolution process as an alternative to a whistleblowing investigation being commenced or diversion to other Council policies. The following will be considered:
 - 3.2.1 What outcomes the person disclosing the concerns is hoping to achieve, and whether these are achievable;
 - 3.2.2 What action the Council needs to take to put things right, and appropriate timescales for this;
 - 3.2.3 Whether all the issues are appropriate for consensual resolution or whether it would be appropriate to handle some of the concerns under a different process;

- 3.2.4 Whether the person who raised the concern needs any occupational health or well-being support and how to provide that support; and
 - 3.2.5 Whether the Disclosure raises any patterns of behaviour known to the Service Provider, or the Council.
 - 3.3 As part of the assessment process, the Service Provider/Council will consider:
 - 3.3.1 What exactly the whistleblower is concerned about;
 - 3.3.2 Who else is involved;
 - 3.3.3 The best way to maintain the whistleblower's confidentiality (if applicable); and
 - 3.3.4 Whether the concern can be addressed through the early resolution process or whether it should be referred for investigation.
- 4. If the Service Provider/Council considers, having assessed matters as per the steps in paragraph 3 above, that the disclosure cannot be handled through the early resolution process, the disclosure will be passed from the Service Provider to the Monitoring Officer's Team for further triaging and potential investigation or diversion to other CEC policies. Where a whistleblowing investigation is required, the target for completing the investigation and providing the whistleblower with a response should be within 6 months of the initial disclosure being received. Updates should be provided to the whistleblower during this period.
- 5. If the Service Provider/Council considers that the disclosure can be handled through the early resolution process, the whistleblower will receive, within 15 working days, a response which must:
 - 5.1.1 Respond to all the issues raised;
 - 5.1.2 Explain the proposed next steps to deal with the concern(s) raised; and
 - 5.1.3 Be in writing (unless it has been agreed with the reporter that this is not needed).
- 5.2 The proposed next steps may include:
 - 5.2.1 ascertaining the manager's position and establishing whether steps can be taken by the manager and/or other colleagues to address the concerns;
 - 5.2.2 facilitating a discussion between the whistleblower and the colleague(s) about whom they have a concern; or
 - 5.2.3 offering to provide further support to the manager/service in question.

6. If the Council are unable to provide the whistleblower with a response within 15 working days, they must tell the whistleblower why they are not able to meet the 15-day timescale and when the whistleblower can expect a response.
7. The proposed next steps will only be taken with the agreement of the whistleblower and subject to a discussion about the best way to maintain the whistleblower's confidentiality, should they wish to remain confidential.
8. The proposed next steps will be taken within 20 working days of the initial report being submitted and the steps taken must be recorded in a log maintained by the Monitoring Officer's Team and shared with the Service Provider for reporting purposes.
9. After 30 working days, the Monitoring Officer's Team will contact the whistleblower (where this is possible) to ascertain if the whistleblower is content that their concern(s) have been addressed.
10. If the whistleblower is not content that the concern(s) have been addressed, the disclosure will go back to the Service Provider for further triaging and potential investigation or diversion to other CEC policies.

TIMETABLE – MODEL EARLY RESOLUTION PROCESS ROUTE

All references to days are working days from Initial Report (IR); and months are calendar months.

Time from IR	Action	Paragraph
Day 0	Initial Report by Whistleblower	
Day 1	The Service Provider will assess whether any immediate action needs to be taken to prevent any criminality and to ensure colleague or service user safety.	3.1
Day 15	Triaging process to consider if the report is capable of being handled through an early resolution process. - If matter is capable of early resolution, response to Whistleblower responding to all concerns and outlining proposed next steps; or - If matter not capable of early resolution, return to triaging process to consider investigation / diversion to other CEC policies; or - If the Council are unable to provide a response within 15 days, they must tell the Whistleblower why they are not able to meet the 15-day timescale and when the Whistleblower can expect a response.	3.2 5 4 6
Day 20	Next steps to be taken as logged.	7 and 8
Day 30	Ascertain whether the Whistleblower is content that their concern(s) have been addressed. - If not, report to go back to the Service Provider for triaging and further investigation.	9 and 10
6 months	Any whistleblowing investigation commenced to be concluded and reporter provided with a response.	10

Appendix 2 – Expectation Management Protocol

Expectation Management Meeting

This is a suggested form of wording to be used at the beginning of whistleblowing processes by the Monitoring Officer's Team.

The wording could also be put into an email or communicated via the Secure Portal.

1. Introduction

Firstly, thank you for contacting the Monitoring Officer's Team/ Service Provider. It can sometimes be difficult to do so but it is only if colleagues speak up that we can try and resolve any issues fairly.

Do you have a copy of the Whistleblowing Policy?
If not, I will send you a copy for your information.

2. Anonymity

There are different ways that you can provide information to us:

- (1) You can speak with us on an open basis. This means that you are happy for anything you tell us to be "on the record" and attributed to you; or
- (2) You can speak with us on a fully anonymous basis, where not even the Service Provider knows your details; or
- (3) You can tell the Service Provider who you are, but they will withhold your name and any identifying details from the Council – this is called semi anonymous.

If you proceed anonymously, please be aware this may limit what we can do to respond to your concern and the weight that can be given to what we are told by you.

There are also some possible limitations on anonymity, even if you select to be semi anonymous, for example a court could order disclosure of information you tell me about yourself.

If your Disclosure raises a criminal issue or public safety concern, we may need to tell the authorities.

3. Protecting you from harm

The Council is determined to protect whistleblowers from any detrimental or harmful treatment. It is vital for a healthy culture that colleagues feel comfortable about raising concerns. If you feel you have suffered harm as a result of whistleblowing after making this Disclosure, please report that immediately to the Service Provider or the Monitoring Officer.

4. Early-resolution and triage

We would like to explore whether complaints and concerns are capable of being resolved through dialogue between parties. We will consider whether some sort of facilitated discussion may help to resolve matters. Is this something you would be willing to explore?

If matters cannot be resolved or you do not wish to explore early-resolution, we will also consider who is most appropriate to look into your concerns. The process by which the Service Provider, working with the investigation and Monitoring Officer's teams, assesses whether your Disclosure is a whistleblowing matter or a matter that should be dealt with under another Council process is sometimes called triage.

Your concern may be investigated by the Service Provider, or another third party such as a law firm, but most cases are investigated by an Investigating Officer from the Council who will report back to the Service Provider.

5. Fact-finding

It is very important that we have a clear picture of what happened, when it happened and who was involved. Simple first steps like a timeline and a "who's who?" are very useful.

Trying to get as full an understanding as we reasonably can is a vital part of the process and allows us to determine what should happen next.

The results of the fact-finding exercise could be used in a number of ways, including to help address your concerns and to prevent recurrence. There could also be a further process such as an internal disciplinary investigation, for example, where the evidence gathered here might be relevant.

We hope not to have to talk to the same people about the same things more than once if this can be avoided, so the results of the fact-finding will generally be used for any related processes.

If the matter is serious and you are willing, you might be asked to contribute further (possibly by giving a witness statement that could be used in a disciplinary process). You will understand that without evidence that can be used, things like disciplinary processes may not be possible.

If you have any concerns that anyone is unsafe or that criminality is occurring, please tell us.

It would be helpful to understand if there is an outcome you wish to achieve from making your Disclosure.

6. Independence

If a fact-finding investigation is conducted by an investigating officer from the Council, the Service Provider will oversee the investigation and check that it is conducted independently and fairly. If you have any concerns about independence or fairness you can raise your concerns with the Service Provider.

7. Timing

There is a balance to be struck between making sure that the investigation is thorough, while not taking too long. Delay can mean that memories fade and can result in strain or upset for everyone involved. We want to avoid unnecessary delays, but we have to be realistic as things can sometimes take longer for good reason.

The next step is for us to consider if the matter disclosed is suitable for an early resolution process and to consider how best to approach matters. [] will be in touch with you about this shortly.

If the matter proceeds to a fact-finding investigation, our aim is to have any investigation completed with 3 months, ideally sooner, although if the matter is complicated it may take longer.

We will keep you updated but if you want an update at any time in between our updates you can use the Service Provider's portal or contact [] who will give you more information.

8. Confidentiality and transparency

Our aim is to have a good working environment for all. It is important to us to have a process that encourages trust and faith in the system and where possible information will be shared with whistleblowers. However, each case will be different and, while processes are ongoing, we might not be able to tell you everything that is happening. We appreciate that this can be frustrating.

To be fair to everyone, we might not be able to tell you everything that has happened at the end of a process and the reasons for that. It might be that there is another process (such as a disciplinary investigation) and we may not tell you if that is the outcome as it would be unfair to the person going through that process. If we can reasonably tell you more, we will, but you should be aware that there are a number of factors that might mean that we cannot do that (such as confidentiality and data protection issues).

9. Support

Do you feel that you need any support at this time?

If you are finding things difficult, there is help for you.

These are some examples of the sort of support you might find helpful. You do not need to make any decision immediately, but it is good to be aware of the options.

- access to a confidential contact (such as a Speak Up Champion) who can provide information and advice on the procedure for raising concerns and signpost you to support during the process;
- counselling or psychological support;
- occupational health support;

- any changes you might need at work to make things easier; and
- employee wellbeing information found on the Orb including PAM assist.

10. Questions?

Do you have any questions?

Can I confirm your preferred means of future communication? By phone, by email or via the portal?

As I said I will be in touch again shortly and I look forward to speaking to you then.

Once again, thank you for coming forward to share your experiences.