

## **THE CONSTITUTION – SECTION 22 WHISTLEBLOWING PROCEDURE**

### **1 Introduction**

- 1.1 People who work for or with the Council are often the first to realise that there may be something wrong within the Council. However, they may feel unable to express their concerns because they fear that speaking up would seem disloyal to their colleagues, managers or to the Council. They may also fear harassment or victimisation. They may be worried about raising such issues or they may want to keep the concerns to themselves, perhaps feeling it's none of their business or that it's only a suspicion. They may decide to say something but find that they have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.2 The Council has introduced this policy to enable you to raise your concerns at an early stage and in the right way. We would prefer that you raised the matter when it is just a concern rather than wait for proof.
- 1.3 This policy makes it clear that you can raise your concerns without fear of harassment, victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable people working for or with the Council to raise concerns about problems within the organisation rather than overlooking a problem. This policy provides both an internal reporting procedure and a range of external contacts who can be contacted where you feel your concerns cannot be appropriately dealt with from within the organisation. If something is troubling you which you think we should know about or look into, please use this policy.
- 1.4 This policy applies to all:
  - Employees of Wrexham County Borough Council;
  - Consultants, agency workers or contractors (or their employees) working for the Council (including those not working on Council premises);
  - Those providing services under a contract or other agreement with the Council in their own premises, for example, care homes;
  - Voluntary workers working with the Council as part of, or together with, the Council's services.

This policy does not however relate to elected Members, who may wish to make a whistleblowing report or complaint. Elected Members do not have the same statutory protection that employees and other workers do and as such will not be protected under this policy. Reference must be made to section 8 of this policy which deals with cases where a whistleblowing report is received by a Member directly.

Furthermore, this policy does not apply to employees appointed by the Governing Body of a school within the County Borough of Wrexham for whom a procedure will usually be provided by the relevant Governing Body.

### **2 Aims and Scope of the Policy**

2.1 The Whistleblowing Policy is an important part of the Council's corporate governance framework and its aims are to:

- encourage you to feel confident in raising concerns and to question and act upon concerns about malpractice;
- provide avenues for you to raise concerns and receive feedback on any action taken;
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- reassure you that you will be protected from reprisals or other action if you have a reasonable belief that you have made any disclosure in good faith.

2.2 The Whistleblowing Policy is intended to cover concerns other than in relation to your employment, where the interests of others or of the Council itself are at risk. These include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriages of justice;
- cases where the health and safety of any individual has or is likely to be endangered;
- unlawful discrimination;
- damage to the environment;
- the unauthorised use of public funds;
- possible bribery, fraud and corruption;
- the theft or unauthorised use of public funds or equipment;
- sexual or physical abuse of clients;
- the neglect, emotional, physical or sexual abuse of children or other inappropriate behaviour towards them;
- other unethical conduct; or
- that information tending to show any of these matters is being or is likely to be deliberately concealed.

This is not intended to be an exhaustive list.

2.3 Thus, any concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders, Financial Regulations and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

2.4 The Officers Code of Conduct Para. 5.2 provides that, if an employee becomes aware of activities which he or she believes to be illegal, improper or unethical, the employee should report the matter in accordance with this Policy.

2.5 This Policy does not apply in the following circumstances:

2.5.1 Employment Issues

If you are an employee, there are existing procedures in place to enable you to raise concerns relating to your own employment, such as issues relating to your contract of employment, salary, problems with your colleagues, etc. These issues are generally not whistleblowing complaints but rather grievances or general employment complaints. These types of issues should usually be raised directly with your manager and in accordance with the relevant Council policy (such as the Grievance Procedure, the Dignity at Work Anti-Bullying and Harassment Policy and Procedure, etc).

2.5.2 Elected Members Conduct (other than the above)

Concerns relating to the conduct of elected Members, other than the types of concern outlined at 2.2 above, should be raised under the complaints provisions of the Protocol on Member/Officer Relations and usually be directed to your line manager in the first instance.

2.5.3 Complaints

This policy does not replace the corporate *Complaints Procedure* which is concerned with addressing complaints about Council services.

2.5.4 Other Services

If you have any concerns about another organisation that provides services on behalf of the Council you should contact the service provider in the first instance. In cases where the Council contracts with a private organisation, it may be appropriate to notify the relevant Service Area of the Council. In some cases it may also be necessary to inform the appropriate regulatory organisation.

### 3 Safeguards – Our Assurances to You

3.1. The Council is committed to good practice and high standards and wants to be supportive of employees and others using this policy.

#### Your legal rights

3.2. The Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998) provides legal protection for workers (including contractors and agency staff) who raise genuine concerns and make disclosures about malpractice which they reasonably believe to be in the public interest. The Act makes it unlawful for the Council to dismiss anyone or allow them to be penalised or victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Employment Rights Act 1996 (hereafter “the Act”).

#### Support to you

3.3. The Council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and that it is in the public interest, then you have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service. You

will not be at risk **of** losing your job or suffering any form of punishment as a result.

- 3.4. The Council will not tolerate the subjection of those who have made whistleblowing reports to discrimination, harassment or victimisation (including informal pressures) and will take appropriate action, including disciplinary action to protect you when you raise a concern
- 3.5. Any investigations into allegations of potential malpractice raised by you will not influence or be influenced by other procedures such as investigations and hearings under the disciplinary, sickness, capability, redundancy or any other procedures that already affect you or may affect you in the future.
- 3.6 At all times during the raising and investigation of your concerns:
  - 3.6.1 you will be given full support from Senior Management;
  - 3.6.2 your concerns will be taken seriously;
  - 3.6.3 the Council will do all it can to help you throughout the investigation, e.g. provide advocacy services, interpreters etc.
- 3.6. If appropriate, after full consultation the Council will consider temporarily re-deploying you or others for the period of the investigation.

#### **4 Confidentiality**

- 4.1. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. If the situation arises where we are not able to resolve the concern without revealing your identity, you will be informed of this and the reasons. Sometimes it might be necessary to pass your details on to external law enforcement bodies such as the Police. If that is necessary, it will only be done after consultation with yourself.

#### **5 Anonymous Allegations**

- 5.1. This policy encourages you to put your name to your allegation whenever possible.
- 5.2. Concerns expressed anonymously are much less powerful, but will be considered at the discretion of the Chief Officer Governance & Customer (who, as stated above, is the Council's Monitoring Officer) where these are made internally.
- 5.3. In exercising this discretion, the factors to be taken into account would include:
  - the seriousness of the issues raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources.
- 5.4. Remember that if you do not tell us who you are, or you refuse to engage with the investigating officer, then it will be much more difficult for us to look into the matter, to protect your position and to give you feedback. Accordingly, you are

encouraged to provide your name to ensure your report can be looked into to the fullest extent possible.

- 5.5 If the Chief Officer Governance & Customer decides not to pursue an anonymous allegation he/she will record the reasons for this decision in writing. These decisions will be included in the Chief Officer Governance & Customer's annual report to the Standards Committee referred to in 11.7 below.

## **6 Untrue Allegations**

- 6.1. If you make an allegation reasonably believing it is in the public interest, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.
- 6.2. The question of whether or not an allegation has been made frivolously, maliciously or for personal gain will be determined by the outcome of the investigation into your concern.

## **7 How to Raise a Concern**

- 7.1 The Council wishes to ensure that people who have concerns that should be raised under this Policy do so. Paragraphs 7.2 to 7.7 set out the procedure for you to do so internally and the appendices at the end of this policy will provide contact details for both internal and external contacts.
- 7.2 Where you feel unable to raise a concern within the organisation, you may contact one of the external bodies listed in Appendix 2 to this policy who, if they accept your complaint, will have their own procedure to follow.
- 7.3 As a first step, we hope you will feel able to raise concerns with your immediate manager. Your manager will then need to report this to the Chief Officer Governance & Customer (the Council's "Monitoring Officer") in accordance with paragraph 9.3.
- 7.4 In some cases, it may be more appropriate to raise concerns with someone more senior or directly with one of the internal contacts listed at the end of this document (see Appendix 1). Again, these individuals will ensure this is raised with the Chief Officer Governance & Customer.
- 7.5 This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that your management is involved, you should approach the Chief Executive, the Chief Officer, Governance & Customer, the Chief Officer Finance & ICT or the Head of Service, Audit and Technical.
- 7.6 If any information raises concern about harm or potential harm to either children or vulnerable adults, then these concerns should be reported immediately to the Child Protection Co-ordinator or the Protection of Vulnerable Adults Co-ordinator or the out of hours Emergency Duty Team.
- 7.7 If you have serious concerns which you feel unable for whatever reason to raise within the Council, you should raise the matter with one of the external contact points referred to in Appendix 2 to this policy.

7.8 Concerns may be expressed verbally or in writing. Where you make your concerns known verbally, the Council may write to you outlining your concerns to ensure these have been captured correctly. If you wish to make a written report then you are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

If you prefer, you may use the report form contained at the end of this policy and give this to the person with whom you raise your concern. Please provide as much information as you can, but it is important that you do not provide unsubstantiated allegations, do not carry out surveillance of the individuals concerned and that you do not commit any illegal act or put yourself or others at risk of harm in obtaining the information. The concerns you raise will be investigated fully once these have been brought to the attention of the Chief Officer Governance & Customer, who will ensure that any investigation is conducted lawfully and appropriately.

7.9 The earlier you express your concern the easier it is to take action.

7.10 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

7.11 Advice and guidance on how matters of concern may be pursued can be obtained either from your Chief Officer or the Chief Officer Governance & Customer.

7.12 You may invite your Trade Union representative or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised. If translation facilities are required then you should inform the relevant investigating officer as soon as possible.

## **8 Whistleblowing Reports made to Elected Members**

8.1 This section applies to cases where an employee, or other person to whom this policy applies, makes a whistleblowing report or complaint directly to an elected member of this authority.

8.2 If an elected member is approached in connection with a concern covered by this policy, they should encourage individuals to raise the concern in accordance with this policy.

8.3 In cases where an elected member receives a whistleblowing report, they shall forward it to the Chief Officer Governance & Customer who will then process the report in line with this policy.

8.4 Members must not investigate concerns raised themselves.

## **9 How the Council will Respond**

- 9.1 This section will apply to all concerns raised internally. Where a complaint is raised with an external body, listed in Appendix 2, the procedure may differ depending on how the external body proposes to deal with the matter.
- 9.2 The Council will respond to your concerns (provided you have provided contact details) and it may need to ask you questions as part of the investigation. Do not forget that testing out your concerns is not the same as either accepting or rejecting them. However, direct discussions with yourself are often the best way of investigating concerns and so it would be beneficial if you made yourself available for the Council's investigation.
- 9.3 The person to whom you report your concerns under this policy **must** in turn report them to the Chief Officer Governance & Customer within three working days.
- 9.4 The Chief Officer Governance & Customer will liaise with the Head of Service, Audit and Technical to consider the most appropriate method of investigating the matters of concern raised by you. Please do not attempt to investigate these matters yourself once they have been raised as this could compromise any subsequent investigation into your concern.
- 9.5 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.
- 9.6 There may be cases where a whistleblowing report contains a variety of matters, some of which may fall outside of the ambit of this policy (such as where general employment issues are raised). Accordingly, to address this possibility, the Council will endeavour to convene an initial meeting with yourself (to which you may be accompanied by a Trade Union representative or a work colleague) to discuss your concerns and to determine whether they can be dealt with wholly under this policy or whether other policies may need to be used for part or all of your concerns. In cases where your concerns are deemed not to fall under this policy in their entirety, this policy will cease to apply, though the Council will endeavour to keep the details of your initial meeting confidential as set out in section 4 above.
- 9.7 Some concerns may be resolved by agreed action without the need for further investigation. If urgent action is required this will be taken before any investigation is conducted.
- 9.8 Where appropriate, the matters raised may:
- be investigated internally by management, internal audit, or through the disciplinary process;
  - be referred to the Police;
  - be referred to the External Auditor;
  - form the subject of an independent inquiry.
- 9.9 Within ten working days of a concern being raised, you will receive a letter (or information in your preferred format):

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

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

9.11 Where any meeting is arranged off-site, if you so wish you can be accompanied by a Trade Union representative or a work colleague.

9.12 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, in the event that an investigation results in action being taken against the subject of a concern and you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure and endeavour to provide you with the necessary support in respect of such proceedings.

9.13 The Council accepts that you need to be assured that the matter has been properly addressed. You will, subject to legal constraints, receive information about the outcome of any investigations.

9.14 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, properly and without undue delay. By using this policy, you will help us to achieve this.

9.15 Where the Council is required to interview other members of staff, they will have the right to be accompanied by a Trade Union representative or work colleague to any such interview/meeting. Furthermore, where an investigation concludes with a finding that there was no case to answer, employees who were interviewed will be advised of this by letter.

## **9 Independent Advice**

9.1 If you are unsure whether or how to raise a concern or you want confidential advice, you can contact the independent charity Public Concern at Work on 020 7404 6609 or at [www.pcaaw.co.uk](http://www.pcaaw.co.uk).

9.2 Their lawyers and advisers can give you free confidential advice on how to raise a concern about serious malpractice at work.

9.3 You may prefer to speak to your Trade Union to seek advice about how to raise a concern under this policy. The contact details for the Trade Unions recognised by the Council for collective bargaining purposes are contained in Appendix 2.

## **10 The Responsible Officer**

10.1 The Chief Officer Governance & Customer has overall responsibility for the maintenance and operation of this policy.



- 10.2 The Chief Officer Governance & Customer maintains a record of concerns raised and the outcomes of investigations in a form which does not endanger your confidentiality.
- 10.3 The person who receives your concerns must report them to the Chief Officer Governance & Customer in accordance with 7.3 above.
- 10.4 The person who receives the report into the investigation of your concerns must report the outcomes to the Chief Officer Governance & Customer.
- 10.5 The Chief Officer Governance & Customer will pursue the outcomes of the investigation if they are not reported promptly in accordance with 11.4 above.
- 10.6 The Chief Officer Governance & Customer will review all concerns and outcomes on a periodic basis to ensure that they have all been investigated in accordance with this Policy.
- 10.7 The Chief Officer Governance & Customer will report, in a format that does not compromise confidentiality, at least once a year to the Standards Committee on the operation of this Policy, the outcome of the reviews conducted under 11.6 above and any changes in practice introduced as a result of a concern raised under this Policy.

## **11 How the matter can be taken further**

- 11.1 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 if you feel it is right to take the matter outside the Council, further possible contact points are given in the External Contact List at Appendix 2 to this policy.
- 11.2 If you do take the matter outside the Council, you should ensure that you do not disclose information which should properly remain confidential. You will need to confirm this with the person or organisation you decide to contact.
- 11.3 The Council is bound to comply with the Data Protection Act 2018 (which aims to secure your privacy) and the Freedom of Information Act 2000 (which relates to release of information to the public). However, the Council will endeavour to ensure that your confidentiality and privacy is protected at all times. If you have any concerns about this then you should direct these to the Chief Officer Governance & Customer.

## **APPENDIX 1 INTERNAL CONTACT LIST**

Advice or guidance about how to pursue matters of concern may be obtained from any of the people named below:

Chief Executive, Guildhall, Wrexham, LL11 1AY – Tel. No. 01978 292100

Chief Officer Governance & Customer, Governance & Customer Department, Guildhall, Wrexham, LL11 1AY – Tel. No. 01978 292202

Deputy Monitoring Officer, Legal Services Section, Governance & Customer Department, Guildhall, Wrexham, LL11 1AY – Tel. No. 01978 292221

Chief Officer Finance & ICT, Lambpit Street, Wrexham, LL11 1AR – Tel. No. 01978 292704

Head of Service, Audit and Technical, Finance & ICT Department, Lambpit Street, Wrexham, LL11 1AR – Tel. No. 01978 292750

The Chair of the Standards Committee – By a sealed letter addressed to the Committees Section, Guildhall, Wrexham, LL11 1AY

Any other Chief Officer or any local Trade Union official.

Any Elected Member of Wrexham County Borough Council (who will refer the concerns in accordance with section 8 of this policy)

Concerns about harm or potential harm to a child, young person or vulnerable adult should be reported immediately to:

**Child or Young Person:**

Single Point of Access (SPOA) – Tel. No. 01978 292039

**Vulnerable Adults:**

Protection of Vulnerable Adults – Tel. No. 01978 292066

**For both Adults or Children and Young Persons:**

Emergency Duty Team (out of hours) - Tel. No. 0345 0533116

## **APPENDIX 2 EXTERNAL CONTACT LIST**

Although the Council encourages employees to make use of internal contacts to try raise a whistleblowing complaint, you are permitted by law to contact certain specific regulatory bodies/persons. Furthermore, the Council recognises certain additional external bodies which you can use to raise a whistleblowing complaint.

Under the Public Interest Disclosure (Prescribed Persons) Order 2014, there is a prescribed list of bodies/persons who can be contacted externally. The full list can be found in the order<sup>1</sup>, but some of those which are most likely to be relevant are:-

<b>Body/Person</b>	<b>Matters which can be referred to them</b>
Auditor General for Wales  Tel. No. 02920320522	The proper conduct of public business; value for money, fraud and corruption in relation to the provision of public services.
Social Care Wales  Tel. No. 0300 30 33 444	Matters relating to the registration of social care workers under the Care Standards Act 2000.
Chief Executive of the Criminal Cases Review Commission  Tel. No. 0121 233 1473	Actual or potential miscarriages of justice.
Children's Commissioner for Wales  Tel. No. 01792 765601 (ask for Investigation and Advice Team)	Matters relating to the rights, welfare and interests of children.
Health and Safety Executive  Tel. No. 0300 0031647 (Concerns Team)	Matters which may affect the health or safety of any individual at work other than individuals at work wholly or mainly on premises which are, or are on—  (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013); (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or  (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).

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<sup>1</sup> A copy of the order, as it was originally enacted, can be found at: <http://www.legislation.gov.uk/ukxi/2014/2418/contents/made> Please note that the list of bodies may change from time to time. The Council cannot be responsible for the accuracy of the content on external websites.

	Matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work other than persons at work on a GB nuclear site, an authorised defence site or new nuclear build site.
Information Commissioner	Compliance with the requirements of legislation relating to data protection and to freedom of information.
Tel. No. 0303 123 1113 The National Society for the Prevention of Cruelty to Children (NSPCC)	Matters relating to child welfare and protection.
Tel. No. 0808 800 5000 Natural Resources Wales (formerly the Environment Agency Wales)	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to pollution, abstraction of water, flooding, the flow in rivers, inland fisheries and migratory salmon or trout.
Tel. No. 0300 065 3000 (or for urgent incidents: 0800 807060)	
Public Services Ombudsman for Wales	Breaches by a member or co-opted member of a relevant authority (i.e. the Council or a community council) of that authority's code of conduct.
Tel. No. 0300 790 0203	
The Welsh Government <a href="http://wales.gov.uk">http://wales.gov.uk</a>	Matters relating to the provision of Part II services as defined in section 8 of the Care Standards Act 2000 and the Children Act 1989. Matters relating to the inspection and performance assessment of Welsh local authority social services as defined in section 148 of the Health and Social Care (Community Health and Standards) Act 2003. Matters relating to the review of, and investigation into, the provision of health care by and for Welsh NHS bodies as defined under the Health and Social Care (Community Health and Standards) Act 2003.

In addition to the above, the Council recognises and approves the following external bodies who you may contact to make a whistleblowing complaint:

- Care and Social Services Inspectorate for Wales – Tel. No. 0300 7900126
- Equality and Human Rights Commission – Tel. No. 020 7832 7800
- North Wales Police – Tel. No. 0300 330 0101
- The following recognised Trade Unions:

UNITE	Tel. No. 01352 733611
UNISON	Tel. No. 01492 511667

GMB

Tel. No. 01492 535313

If you are unsure whether or how to use this procedure or want independent advice, you may contact the independent charity Public Concern at Work on 020 7404 6609 or at [www.pcaw.co.uk](http://www.pcaw.co.uk). Their lawyers can give you free confidential advice at any stage on how to raise a concern about serious malpractice at work.

Alternatively, if you are still not sure of what to do, you can seek advice from your local Citizens Advice Bureau (for Wrexham the contact number is 01978 363332).



## WHISTLEBLOWING POLICY REPORT FORM

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with who have concerns to come forward and voice those concerns. It is recognised that many cases will have to proceed on a confidential basis. If you wish to make a report please use this pro-forma.

1 Background and history of the concern (please give as much information as you can dates, times of incidents, names of others who may have information, names of people involved)

2 The reasons why you are particularly concerned about the situation.

(Please attach additional sheets if necessary)

3 You are encouraged to put your name to this report. Concerns expressed anonymously are much less powerful but they will be considered so far as is possible by the Council. If you feel able to, please give your name and details below.

Signed .....

Name.....

Department (if applicable).....

Address:.....

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Contact Telephone Number.....

E-mail address: .....

Date.....