SECTION 24

24. CONFIDENTIAL REPORTING ("WHISTLEBLOWING POLICY") CODE

24.1 Introduction

At the Vale of Glamorgan Council, we want to make sure that we are providing excellent services to the residents of the Vale. All our staff, permanent and temporary, Councillors, partners, agency workers and contractors have an important role to play in achieving this goal and we expect everyone to be committed to our high standards of service which are based on the principles of honesty, openness, and accountability.

We know that we face the risk that something may go wrong or that someone may ignore our policies, our procedures or the law resulting in some very serious consequences. Experience shows that staff, or others who work on behalf of an organisation, often have worries or suspicions and could, by reporting their concerns at an early stage, help put things right or identify and stop potential wrongdoing.

A Whistleblower is generally a term used for a person who works in or for an organisation and raises an honest and reasonable concern about a possible fraud, crime, danger or other serious risk that could threaten colleagues, service users, contractors, customers, members of the public or the success and reputation of the organisation.

We want you to feel that it is safe and acceptable to speak out about your concerns so that we can investigate and act as soon as possible. We recognise that you may be worried about reporting for a number of reasons:

- fear of reprisal or victimisation (e.g. loss of job)
- too much to lose (reputation, damage to career etc.)
- feelings of disloyalty
- worries about who may be involved
- you have no proof only suspicions
- fear of repercussions if there is no evidence or you are proved wrong.

We welcome all genuine concerns and will treat your issues seriously - this policy explains how to raise a concern, the types of activity you should report, the protection we can provide, confidentiality, our response and how you can take matters further, if necessary.

We want to assure you that there is no reason to remain silent; your decision to speak to us may be difficult but, if you believe what you are saying is true, you have nothing to fear as you are following the Council's Code of Conduct and helping to protect the users of our services and the residents of the Vale. We will

not tolerate any harassment or victimisation and we will take action to protect those of you who raise concerns that you believe to be in the public interest.

UK law protects employees from dismissal, harassment, or victimisation if such treatment occurs as a result of having made a whistleblowing disclosure considered to be **in the public interest**. In addition to the employer's liability, the individual who subjects the employee to such treatment may also be held personally liable.

This policy does not replace our existing employment policies and procedures: grievance, code of conduct and disciplinary. You should use these policies and procedures if you have a personal grievance or are unhappy with the way you are being treated. Our Whistleblowing arrangements are not intended to give you a further opportunity to pursue a grievance or complaint once you have exhausted the relevant employment procedures.

24.2 **Scope**

You can use our Whistleblowing arrangements if you are: a Councillor, Council Employee, employee of a Local Authority School, a School Governor *(if the school has adopted our policy)*, a contractor or partner. Our policy also applies to agency staff, contractor staff and suppliers providing goods or services to, or on behalf of, the Council.

Our Whistleblowing arrangements **do not** replace the following:

- Children and Young People Safeguarding reporting
- Adult Care Safeguarding reporting
- Corporate Concerns and Complaints Policy
- Disciplinary Policy
- Grievance Procedure
- Code of Conduct
- Anti-Fraud and Bribery Policy.

You should only consider raising concerns through our Whistleblowing arrangements if:

- you have genuine reasons why you cannot use the above policies and procedures
- you have reason to believe that these policies and procedures are failing or are not being properly applied
- there is a public interest aspect.

24.3 **Protection and Confidentiality**

The Whistleblowing law is contained in the Public Interest Disclosure Act 1998 (PIDA – amended by the Enterprise and Regulatory Reform Act 2013). Public bodies, such as this Council, are required to have a Whistleblowing policy and to ensure that employees are not victimised or dismissed for raising their concerns internally. This also applies to those who, as a last resort, feel the need to take their concerns to an outside body, such as the Local Government Ombudsman.

You may feel that the only way you can raise your concerns is if we protect your identity. If the whistleblower does choose to disclose their identity, we will respect confidentiality as far is possible, but there are times when we cannot guarantee this, for example, where a criminal offence is involved or if there are child protection or adult safeguarding issues.

We will attempt to ensure the whistleblower's identity is not disclosed to third parties and information will not be disclosed unless the law allows or compels us to do so, for example in order to comply with a court order. If the information you provide includes personal information about another person, then that person may be entitled to access it under subject access provisions of the Data Protection Act or General Data Protection Regulations (GDPR). If releasing that information could reveal identifying information about the whistleblower, we will always ask for your consent prior to releasing the information.

We will not tolerate any harassment or victimisation (including informal pressure) and we will take action to protect you when you raise a concern believed to be in the public interest. We will take any disciplinary or corrective action should anyone attempt to victimise the whistleblower or prevent concerns being raised.

If we proceed to a formal investigation, we may require you to give evidence along with other employees and witnesses; we are, in some circumstances, able to do this without disclosing the identity of the whistleblower. A statement from you may also be required as part of criminal proceedings or Employment Tribunal – this depends on the nature of the concern.

If your whistleblowing disclosure results in an internal investigation and you provide a witness statement under that process, your statement may be used for disciplinary purposes. This means your statement may be given to the subject as part of a disciplinary hearing. An employee subject to the disciplinary process can ask to see personal information held about them at any time under the subject access provisions of the Data Protection Act – this may include information within your statement. If it is possible to provide access to personal information within your statement without revealing any information about you, we will do so. If this is not possible, we will always seek your consent before releasing any information.

If your statement is not required for disciplinary purposes it will be:

- held confidentially on our case file (until the case file is destroyed after 7 years)
- released only with your consent or a Police / Court

Order The Council:

- does not expect you to give us your consent – this is your decision alone – but we are required by law to ask you
- does not need a reason should you choose to refuse the request.

If you find yourself the subject of a whistleblowing disclosure and a decision is made to investigate, the Council will follow the appropriate employment procedure: code of conduct, grievance or disciplinary. This means you will have all the rights contained in that procedure, such as, the opportunity to respond to the allegation and representation at the investigatory interview.

24.4 **What You Should Report**

We encourage you to use our whistleblowing arrangements for issues such as:

- conduct which is a criminal offence or breach of law
- a breach of our Code of Conduct for staff or Councillors
- sexual, physical, or verbal abuse of our clients, employees, contractors or public
- dangerous procedures risking the health & safety of our clients, employees, contractors or public
- unauthorised use of public funds
- suspected fraud or corruption
- damage to the environment (e.g. land, buildings, highways, water, air, waste, energy, transport, natural habitat etc.)
- unethical or improper conduct
- services that fall seriously below approved standards or practice
- failure to follow the Council's policies and procedures.

NB. This is not an exhaustive list

24.5 **Anonymous or Untrue Allegations**

We do not encourage anonymous reporting as the concerns are more difficult to investigate and are generally less powerful. We would like you to put your name to the allegations whenever possible and remind you of the protection we can provide if we know who you are.

Anonymous whistleblowing referrals will be considered at the discretion of the officers handling your concern, in consultation with the service area, where appropriate. This discretion will be based on the:

- seriousness of the issues raised
- credibility of the concern
- likelihood of confirming the allegation from an attributable source evidence base.

It may be that our investigations do not confirm your allegation. We take all concerns seriously and can assure you that no action will be taken against you if you have raised a concern in the genuine belief that it is, or may be, true.

If we find that you have maliciously made a false allegation, we will take action and you will not be eligible for protection under PIDA.

24.6 **How to Raise a Concern**

We encourage you initially to raise your concern internally – this allows the Council the opportunity to right the wrong and give an explanation for the behaviour or activity. We also advise staff to report any allegation to their line manager. We recognise that your first actions will depend upon the seriousness and sensitivity of the issues and who you believe to be involved.

We advise that you make it clear that you are raising your concerns under the Council's whistleblowing arrangements – this will help managers respond in line with this policy. (See Flowchart – Whistleblowing Process)

If you are in any doubt about what you should do, you can contact:

- Chief Executive: 01446 709202
- Monitoring Officer: 01446 709402
- Interim Head of Finance / Section 151 Officer: 01446 709778
- Head of Regional Internal Audit Service: 01446 709572
- Head of Human Resources and Organisational Development: 01446 709357 All are located at the following address:

  Vale of Glamorgan
  Council
  Civic Offices
  Holton
  Road
  Barry
  CF63 4RU

  Chair of Governors (if you work for a school)

You may wish to raise the matter in person, and you can do this by using one of the contact numbers above or alternatively you can contact the Council's

confidential Speak Out number below or visit the dedicated Speak Out website and complete an online form.

01446 731115

Speak Out – Report a Concern

The Investigation Officer, who reports to the Head of Regional Internal Audit Service, will monitor this dedicated reporting line. If you call this number out of hours you can leave a message on the answer phone, which is located in a secure area.

Concerns are better submitted in writing – we need the background and history of your concern, giving names, copies of any documents, dates, and places (where possible). We would like you to explain why you are concerned about the situation – we do not expect you to prove the truth of an allegation, but you will need to show that there are sufficient grounds for your concern.

You can write directly to one of the officers named above or you can use the confidential dedicated email address (which is monitored by the Investigation Officer).

Email address: speakout@valeofglamorgan.gov.uk

Staff have the option to seek independent advice from their trade union representative or professional association or can invite a work colleague to raise a concern on their behalf.

Further free and independent advice may be sought from Protect *[formerly known as Public Concern at Work (PCAW)]*, the whistleblowing charity, via their email link: protect-advice.org.uk or on their whistleblowing advice line: 020 3117 2520.

Remember – the earlier you raise the concern, the easier it is to take action24.7

24.7 **Guidelines for Managers**

An employee must not be afraid to raise concerns they may have relating to bad practice within the Council and must not suffer any disadvantage as a result of voicing a reasonably held suspicion.

Senior Managers are expected to deal swiftly and thoroughly with such concerns. In following up such concerns, clearly defined procedures will be adopted. When receiving a complaint or concern in relation to bad practice the following steps should be taken:

- the matter should be dealt with promptly.
- advice should be given to the employee, if appropriate that their concerns and any follow-up reports will be treated in the strictest confidence.
- all staff concerns should be treated seriously and sensitively.

- the employee should be questioned sufficiently so that you can be assured that there is a genuine cause for concern.

- managers should make a note all relevant details, obtaining as much information as possible, and if the individual has made his or her own notes, where possible obtain a copy of these or advice the complainant to retain them for future reference.

- ensure that the evidence is Clear and logical, adequately supported, and secure, ensuring that you do not interfere with evidence.

- advise an employee that, if necessary, further information may be sought from them.

- evaluate the allegation objectively to confirm whether any suspicions seem justified.

- be objective when assessing the issue, consider the facts as they appear, based on the information available to you.

- consider that some concerns may be resolved by agreed action without the need for further investigation.

- if you remain in any doubt you should raise the issue with your line manager to identify the next steps.

- take all immediate action necessary to ensure that no individual is at risk of harm or injury.

- verify with your Senior Manager the next steps to be taken if the issue is outside your direct remit/responsibility, take all necessary action to protect the 'whistleblower', any witnesses to the concerns raised and ensuring that any evidence available or produced is not tampered with.

- take all reasonable steps to prevent co-workers and/or an agent of the Council, acting on the Council's authority, from subjecting the 'whistleblower' to a detriment. It is important to record the details of steps taken. You need to remember that employees who victimise whistle-blowers can be made personally liable for their own conduct and the Council could be held liable if it has not taken all reasonable steps to prevent the act of victimisation.

- ensure that the employee's identity must not be disclosed unless disclosure is necessary in furtherance of natural or prescribed justice.

- managers should report this matter in confidence to the relevant Chief Officer/Service manager.

- The Officer/Service Manager receiving the whistleblowing allegation will immediately notify the Operational Manager Customer Relations (OMCR) to include the disclosure on a central register.

24.8 **How We Will Respond**

Our response will depend on the nature of the concern raised and may be:

- advice only
- resolved by agreed action without the need for investigation
- investigated internally (by management, Audit, Investigation Officer, or other independent investigators)
- referred to the relevant safeguarding team (child protection or vulnerable adults)
- referred to the Police if a criminal matter
- referred to the external auditor
- the subject of an independent inquiry.

The officer receiving the whistleblowing allegation will immediately notify the Operational Manager Customer Relations to include the disclosure on a central register.

We may carry out initial enquiries in order to protect individuals or employees and those accused of wrongdoing. We will use the results of these enquiries to decide whether an investigation is needed and if so, what form it should take. If urgent action is required, this will be taken before we start any investigation.

Concerns of fraud, bribery or corruption will be followed up by the Investigation Officer within the Regional Audit Service. If there are other serious concerns of a potentially criminal nature, the complaint will be referred to the Council's Monitoring Officer. They will determine whether the concern should be referred to the Police directly by the Council or whether the complainant should be advised to make such a referral.

If the Monitoring Officer decides that the matter should be referred to the Police by the Council, advice will be sought from the Police to establish if a simultaneous internal investigation can be conducted, and whether or not they consent for the subject of the complaint to be informed of the allegations.

We will acknowledge your whistleblowing disclosure within 5 working days. Within the next 10 working days we will write and explain how we propose to deal with the matter. The whistleblower will be:

- given an estimate of how long it will take to provide a final response
- told if initial enquiries have been made
- told if further investigation is required, and if not, why not (where appropriate)
- given details of support mechanisms

- advised of the investigating officer (where appropriate)
- advised how we will inform you of progress.

The amount of contact between you and the Officer considering your whistleblowing disclosure will depend on the nature of the concerns raised. For example, if further investigation is required, the investigator may need to seek additional information from you.

If a meeting is necessary, this can be held off site if you prefer. If you are an employee, you will have a right to be accompanied – this will be a union representative or work colleague (not involved in the area where the concern exists).

We will help with any difficulties you may experience as a result of raising a concern – we will, for example, provide advice if you are required to give evidence for criminal or disciplinary proceedings. Sometimes, whistleblowers have counter-allegations made against them. The Council has a duty to investigate any concerns that it receives and that will apply in these circumstances. However, this will not detract from the principles, as set out in this policy, which govern how the Council will respond to whistleblowers. **The over-riding objective will be to establish the truth.**

Records will be retained of all work carried out and actions taken to address the concerns raised by the whistleblower, including the investigator's case file, where relevant. All files will be held securely and confidentially, in accordance with the Council's retention of records policy.

At the end of our investigations we will provide feedback to the whistleblower (if known) on actions taken and limited detail on the outcome of investigations. Feedback will be subject to legal constraints, but we do recognise the importance of providing you with assurances that the matter has been dealt with properly.

24.9 **Taking the Matter Further**

If you have genuine concerns about how we have handled your whistleblowing disclosure you can raise this with the Investigating Officer(s) and/or the Monitoring Officer.

24.10 **Monitoring**

The Monitoring Officer will provide an annual report to the Council's Audit Committee which has responsibilities for overseeing the effectiveness of the Council's governance arrangements.

All reporting will be anonymised and will only identify common themes, numbers of disclosures year on year and will highlight actions taken to improve systems and policies.

The Council's Governance Group will monitor the effectiveness of this policy.

24.11 **Final Notes**

If a concern relates to an external organisation you can report the concern to a prescribed person rather than the Council. Attached as **Appendix 1** to this policy is a link to a list of external organisations as per GOV.UK which may help you to identify the appropriate 'prescribed person', depending upon the nature of the organisation and the concerns raised, their responsibilities and how to contact them if you need to make an external disclosure.

You should be aware that the Auditor General for Wales or their appointed auditors will deal with matters about public services in Wales including value for money, fraud and corruption which provide public services'. **Appendix 2** is a copy of the Wales Audit Office Whistleblowing leaflet.

Any concerns about 'the proper conduct of a public business, value for money, fraud and corruption in relation to the provision of public services' can be made to the Auditor General for Wales on telephone number 02920 320522 which has been dedicated for this purpose, via email whistleblowing@audit.wales or by writing to:

PIDA Officer
The Auditor General for Wales.
24 Cathedral Road
Cardiff
CF11 9LJ

However, neither the Auditor General for Wales nor their appointed auditors have the power to decide whether a disclosure is protected, or to get involved in employment relations matters and they cannot provide legal advice. The Auditor General for Wales and their appointed auditors have no power to discipline any individuals, or to bring criminal prosecutions after completing any investigations.

Disciplinary action can only be taken by the council/school or relevant professional organisations. Allegations of criminal behaviour are referred to the police for investigation, if deemed appropriate by the police, resulting in any such prosecutions being determined by the Courts.

If it is not possible to make your disclosure internally you should consider whether it is appropriate to report your concerns to others including your MP, Assembly Member, or to the Local Government Ombudsman. This step should be taken only where opportunities to raise matters internally have been fully exhausted.

24.12 **Appendices**

Appendix 1

www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people- and-bodies

Appendix 2

https://www.audit.wales/sites/default/files/2020-12/Whistleblowing-leaflet-2016-english-final.pdf