



Concerns at Work Procedure (Whistle Blowing)

Title	Concerns at Work
Who should use this	All Staff
Author	SAC/Adapted by AVJB
Approved by Management Team	20 February 2018
Approved by Joint Board	N/A – Existing Procedure
Reviewer	Office Manager
Review Date	February 2021

Review History

REVIEW NO.	DETAILS	RELEASE DATE
1	REVIEWED	JANUARY 2012
2	REVIEWED – MINOR AMENDMENT – CHANGE TO POLICY TITLES	MARCH 2015
3	REVIEWED – REMOVAL OF “FRIEND”	28 FEBRUARY 2018
4	REFERENCE	
5		
6		

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1. INTRODUCTION

- 1.1 The principles and guidance outlined in this policy and procedure have been developed to implement the Public Interest Disclosure Act 1998 (the so called “whistle-blowers” Act) and to complement the provisions of the Code of Conduct for Local Government Employees in Scotland, and the Code of Conduct - Openness in Local Government. The Act seeks to protect workers who make disclosures of information in the public interest and allow such individuals to bring an action in respect of victimisation or detriment suffered as a result of making a protected disclosure.
- 1.2 In the course of your employment, you may become aware of what you reasonably believe to be serious wrongdoing in the Board or you may have information regarding malpractice. The Board treats breaches of Health and Safety and malpractice very seriously and the disclosure of such matters is clearly in the public interest. This procedure outlines the steps you should take to bring serious situations to the attention of the Board. It has been designed to provide guidance on reporting incidents of malpractice or wrongdoing and indicates how matters can be expedited thoroughly, discreetly and in a confidential way.

The procedure outlines:

- what sort of concerns may be reported
 - the employees covered by this procedure
 - the appropriate steps to be taken to report serious wrongdoing or malpractice
 - how a matter may be raised in confidence
 - the rights of employees who are the subjects of disclosures
 - any obligations placed on an employee in terms of bearing witness
 - the interests of the Board
 - the right to raise matters of concern and not be subject to any detriment
 - the actions the Board may take when an employee does not comply with the stipulated reporting procedure
- 1.3 For the purposes of this procedure, not only are employees protected, but agency contract workers; homeworkers; NHS practitioners, e.g. GP’s; and certain work experience and vocational trainees.

- 1.4 This procedure for reporting concerns at work is based on the following principles:
- fair and reasonable treatment at work
 - the right to report concerns in the public interest (See section 2.1)
 - confidentiality
 - openness and accountability
 - honesty and integrity
- 1.5 The disclosure of information in the public interest involves the reporting of certain acts or omissions which give cause for serious concern, which may have been committed by an individual, more than one individual in the Board or external contractors working for the Board. The information broadly falls into 2 categories:
- i) Wrongdoing in terms of a breach of the criminal or civil law
- or
- i) Maladministration which may amount to a breach of the civil or criminal law.
- 1.6 This procedure has been developed in full consultation with the appropriate Trade Unions.

2. REPORTING CONCERNS

- 2.1 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This procedure is intended to cover major concerns that fall outside the scope of other procedures. If you are concerned about an aspect of individual behaviour or corporate practice it may fall under one (or more) of the following categories:
- **a criminal offence**
 - **a failure to comply with a legal obligation (for example, an officer not being in possession of a required professional qualification when the job requires them to have one).**
 - **a miscarriage of justice (for example a manager instructs an employee to do something which he/she knows is illegal and as a result, the employee faces legal action.)**
 - **danger to the health and safety of an individual**
 - **damage to the environment**
 - **the unauthorised use of public funds**
 - **possible fraud and corruption**
 - **sexual or physical abuse of clients, or**
 - **the deliberate concealment of information tending to show any of the matters above is being deliberately concealed**

- 2.2 Under the terms of this procedure, you can report a matter on a confidential basis to your line manager, or Assessor regarding any of the categories above. The categories are by no means mutually exclusive, for example, you may be aware of a health and safety failure that is also a criminal offence. The information disclosed may relate to an incident that has occurred in the past, in the present, or likely to occur in the future. If you are not sure whether the concern you wish to raise falls into one of the above categories, then you should contact your line manager or Assessor as appropriate.
- 2.3 As a guide to assessing whether to report your concern, is it something that:
- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Board subscribes to;
 - is against the Board's Standing Orders and policies;
 - falls below established standards of practice
 - amounts to improper conduct
- 2.4 If you have a concern that does not fall within the scope of any of the categories listed above, then another procedure should be considered, such as the Grievance, Disciplinary or Equality at Work Policies. If you are in any doubt about the matter concerned, then you should consult your line manager, or Assessor.
- 2.5 Where the line manager or Assessor is in any doubt over specific issues, direction should be sought from South Ayrshire Council's Human Resources.
- 2.6 The Act does not protect employees who commit a criminal offence by making such disclosure, for example, a breach of the Official Secrets Act would not qualify as a protected disclosure of information in the public interest.

3. CONFIDENTIALITY

- 3.1 For the reporting process to have credibility, employees must have confidence that any matter they draw to the attention of their line manager, or Assessor will be handled with discretion and tact.
- 3.2 Once an employee has made a report he/she will be updated on the next steps and any applicable timetable within 10 working days of a concern being raised.
- 3.3 In some cases, it may not always be possible to preserve the confidentiality between the employee and the individual the matter has been reported to, as the matter may be serious enough to involve agencies such as the Police or the Health and Safety Executive.

4. REPORTING PROCEDURE

- 4.1 If you wish to report a matter that is covered by the categories stated in Section 2.1, you should contact your line manager, or the Assessor, however this may depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Assessor or other Nominated Senior Officer.
- 4.2 Concerns may be raised verbally or in writing, employees who wish to make a written report are invited to use the standard form in Appendix 1. The earlier you express the concern the easier it is to take action.
- 4.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern. You may wish to discuss your concern with a colleague first as you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 4.4 You may wish to have your trade union representative or a work colleague present during meetings or interviews in connection with the concerns you have raised.

5. HOW THE BOARD WILL RESPOND

- 5.1 Once a report has been submitted, your line manager, or the Assessor will have responsibility for ensuring concerns are investigated. They will advise you in writing of the next steps and any applicable timetable within 14 days of a concern being raised. The overriding principle which the Board will have in mind is the public interest, therefore concerns or allegations which fall within the scope of specific procedures will normally be referred for consideration under these procedures.
- 5.2 At this stage in the process, it is important that confidentiality is maintained by both parties to ensure that the matter can be dealt with in the appropriate way, avoid prejudice and protect individual rights. The names of the people concerned will only be divulged to those closely involved in the investigation, who have a need to know.
- 5.3 The report will then be considered and a decision taken as to whether the matter should proceed.
- 5.4 Should your line manager, or the Assessor decide not to take any action, you will be notified and given the reasons for this decision.
- 5.5 If your line manager, or the Assessor decides to act on the basis of your report, then you will be notified, where possible, of the decision.
- 5.6 Once the matter has been concluded and the appropriate action taken in response to your report, you will be notified of the outcome.

- 5.7 Under the terms of this procedure, you may seek a progress update from your line manager, or Assessor regarding the status of your report, subject to any action being taken by the Board and the bounds of appropriate conduct.
- 5.8 The Board will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Board will arrange for you to receive advice and support with the procedure.

6. SAFEGUARDS

- 6.1 Employees who are raising a concern under this procedure may fear being victimised for speaking out, they may fear not being taken seriously and they may feel that their employment may be threatened in some way. The Board recognises that the decision to report a concern can be a difficult one to make. Under the terms of this procedure, the Board will ensure that any employee making a report based on Section 2.1 is safeguarded against any detriment in the course of their employment. The Board will also ensure to take all complaints seriously, treat all parties involved fairly, exercise confidentiality wherever possible and treat victimisation as a disciplinary offence. The Board has an Equality at Work Policy to ensure that it is providing a positive working environment for every employee in which we have equal opportunities, freedom from discrimination, harassment, bullying and victimisation. Further information on these policies can be obtained from the Board's personnel representatives.
- 6.2 Under this Act, if an employee is dismissed for making a protected disclosure, this is automatically unfair, and there is no qualifying period of service or age restriction if the employee wishes to make a claim to an Employment Tribunal.

7. FALSE REPORTING

- 7.1 There may be instances when a report is submitted, based on a genuine belief by the employee that something is wrong at a particular time, which is subsequently demonstrated to be false or inaccurate. In such circumstances, employees will be informed of the discrepancy between their report and the facts at hand. Provided that the Board is satisfied that the employee acted in good faith and had a genuine belief that such a situation should be reported, no further action will be taken.
- 7.2 If an employee has deliberately submitted a report that they know not to be true or unfounded, then they will be subject to the rules of the Board's Disciplinary procedure.

8. CONTACT WITH THE MEDIA

- 8.1 This procedure has been developed to enable employees to express what they reasonably believe to be concerns on the basis that it is in the public interest to make such matters known to their line manager or Assessor. However, reporting your concerns does not mean that such matters should be made available for public consumption through the media. In addition, employees must not criticise the Board through the media, in another public forum or written communication with the public. Therefore, contact with the media is prohibited unless you are authorised to do so.
- 8.2 All matters covered by Section 2.1 must be reported to your line manager or the Assessor.
- 8.3 Failure to comply with sections 8.1 and 8.2 of this procedure may result in disciplinary action being taken.
- 8.4 The above reporting restrictions are also outlined in the Board's Code of Conduct for Local Government Employees and the Code on Openness in Local Government.

9. HOW THE MATTER CAN BE TAKEN FURTHER

- 9.1 This policy is intended to provide employees with an avenue to raise concerns and hopes that any action taken will be satisfactory. However, if the internal process does not resolve the matter the following professional bodies and regulatory authorities may be contacted.

Accounts Commission for Scotland
Her Majesty's Commissioners of Customs and Excise
Her Majesty's Commissioners of the Inland Revenue
Health and Safety Executive
The Scottish Information Commissioner
Scottish Environment Protection Agency
Police Scotland

- 9.2 As detailed in 8.1 and 8.2, employees should ensure that they do not disclose confidential information and may only contact the media if authorised by management.

HOW TO REPORT A CONCERN – FLOW CHART

If you wish to report a matter that is covered by the categories stated in this policy on [Page 3 \(section 2.1\)](#) you should contact your Line Manager, or the Assessor– this can be done in writing using the form attached in [appendix 1](#) or can be reported verbally

When reporting a concern you will need to be able to demonstrate to the person contacted that there are reasonable grounds for your concern.

You may wish to have a Trade Union Representative or a work colleague present during any meetings or interviews in connection with the concerns you have made.

Once a report has been submitted, your Line Manager, or the Assessor will have responsibility for ensuring concerns are investigated.

You will be advised within 10 days of your concern being raised of the next steps and any applicable timetable.

At this stage of the process confidentiality must be maintained by both parties to ensure that the matter can be dealt with in the appropriate way, avoid prejudice and protect individual rights.

If your Line Manager, or the Assessor decide to take act on the basis of your report, you will be notified where possible of the decision.

Once the matter has been concluded and the appropriate action taken in response to your report, you will be notified of the outcome.

Should your Line Manager or the Assessor decide not to take any action you will be notified and given the reason for the decision.

The Board will take steps to minimise any difficulties, which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Board will arrange for you to receive advice and support with the procedure.

Public Information Disclosure Act

REPORTING CONCERNS AT WORK

INCIDENT REPORT FORM



CONFIDENTIAL

Note: If you require any assistance in completing this form, please contact the Boards Personnel Representatives

Personal details:

Name:		Department:	
		Section:	
Home Address		Work Location:	
		Phone (Work)	
		Name of Supervisor/Manager	
Phone No (home):			

Trade Union Details:

Name of Trade Union:		TU or other Representative:	
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Incident details:

Please provide the following information on the alleged incident:

Incident date(s):			
Date:	Date:	Date:	Date:
Name of the person(s) the complaint concerns:			
Name	Designation	Work Location	Tel No

Comments:

Name of any witnesses:

Name	Designation	Work Location	Tel No

