Cardinal Newman Catholic High School

WhistleBlowing Policy

Approved by:	R Finn	**Date:** 26th September 2026
Last reviewed on:	September 2026	
Next review due by:	30th September 2028	

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1. INTRODUCTION

1.1 Employees are often the first to realise that something may be seriously wrong within the Council or with the services that it commissions. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. Employees may also fear that there may be personal consequences if they speak up, for example victimisation or harassment. As a result, employees may decide not to report the matter.

1.2 The Council is committed to the highest possible standards of transparency, probity and accountability. We would therefore encourage employees and those with whom we work in partnership to come forward with any serious concerns they may have about any

aspect of the Council's work. The earlier a concern is raised, the easier it is to take action and deal with the matter.

1.3 This procedure outlines the process for reporting any serious concerns relating to unlawful conduct, malpractice or dangers to the public or the environment within the Council's activities. The areas covered by the policy include:

- Criminal offences (including fraud, bribery and corruption)
- Failure to comply with any legal obligations to which the Council is subject
- Miscarriage of justice
- Danger to health and safety
- Sexual harrassement
- Damage to the environment
- An attempt to cover up any of the above

2. AIMS OF THE PROCEDURE

2.1 This procedure:

- Encourages individuals to feel confident in acting on concerns and raising them internally
- Describes how to raise concerns
- Outlines how the Council will respond to concerns and how the matter can be taken further if the individual who raised the issue is not satisfied with the response
- Provides reassurance that anyone who raises an issue will be protected from reprisals or victimisation where the individual reasonably believes that concerns have been raised in good faith

2.2 This procedure does **not** cover matters where there are other existing procedures to be followed. These include:

- Grievance Procedure
- Dignity at Work Policy
- Disciplinary Procedure
- Corporate Equality Objectives
- Drug, Alcohol and Substance Misuse Policy
- Comments, complaints and compliments procedures
- Child and Adult Safeguarding Policies and Procedures
- Complaints against members

2.3 However, disclosures concerning sexual harassment may also be raised under this Whistleblowing Procedure, as such disclosures are as qualifying protected disclosures

under the Employment Rights Act. Employees may therefore choose to raise concerns of sexual harassment either under the Dignity at Work Policy or under this Whistleblowing Procedure.

3. SCOPE OF THE PROCEDURE

3.1 This procedure applies to:

- All employees of the Council – both permanent and temporary staff
- All agency staff and contractors working for the Council, on Council premises or elsewhere
- Those providing contracted services to the Council in their own premises e.g. care homes
- Trainees on work experience or vocational schemes
- Staff seconded to a third party
- Staff from other organisations or bodies working under the supervision of Council managers

3.2 There is a bespoke Whistleblowing Procedure for schools, which reflects the responsibilities and accountabilities of a Governing Body.

3.3 People not employed by the Council but providing contracted services to it, may raise concerns through the Council's Whistleblowing Procedure. In these cases, the matter raised should relate to the service being provided to the Council by that organisation and not to any other aspect of the contracted service's operations.

4. RAISING A CONCERN

4.1 As soon as there is a reasonable belief that one of the serious concerns covered by this procedure may be happening, the employee's immediate supervisor or line manager should be informed. This can be either verbally or in writing, although it is preferable that it is in writing to ensure that all the relevant details of the concern are noted.

4.2 If it is believed that a manager or supervisor is involved in the matter, then the employee should contact a more senior manager. If the concern is sufficiently serious, one of the following can be contacted:

- The Monitoring Officer to the Council
- The Chief Executive
- The Director of Corporate Services / Deputy Chief Executive
- The Head of Audit, Risk & Insurance

4.3 A Whistleblowing hotline and an on-line web form where details of any concerns can be logged is also provided. The information provided goes to Internal Audit, who decide how to proceed.

Whistleblowing line number: 01925 442360
On-line web form (Ctrl+click this link)

4.4 When raising a concern, it should be made clear whether the matter is to be treated in confidence. If the matter is to be dealt with in confidence, the individual's identity will not be disclosed without consent. If the situation arises where a person's identity has to be made known (for example if evidence in court is required to be given), the individual will always be contacted to discuss how they want to proceed.

4.5 The only time when confidentiality might be breached **without** consent is where the allegation is so serious that the Council has to take immediate action to prevent anyone coming to any harm, in which case it **may** be necessary to reveal the nature and source of the complaint. Obviously, if it is possible to proceed without breaking any confidences, the Council will endeavour to do so. These are extreme cases and the Council would always notify the individual in advance if this needs to be done. The Council make suitable protective arrangements for anyone if this becomes necessary.

4.6 **The earlier a matter is raised, the easier it is to deal with it.**

5. ANONYMOUS COMPLAINTS

5.1 The Council encourages people to put their names to any concerns. The Council will consider anonymous referrals, but they may carry less weight and will only proceed where there is enough detail to justify further investigation.

6. HOW THE COUNCIL WILL RESPOND

6.1 After details of any concerns are received, the Council will:

- Decide whether the matter could be dealt with under any other Council policy – if so, the referral will be dealt with using the procedures set out in that policy
- Make further enquiries to decide if an investigation is appropriate and if so, what form it will take. This could be an internal investigation or the matter may be referred externally, for example to the external auditor or the police
- Identify whether any urgent action is required to protect the interests of the Council or the public

6.2 The Council will write to the individual within ten working days of the concern being raised to tell them how they are going to proceed. The individual will also be told if they will need to be contacted again to obtain further information.

6.3 If there is no requirement to speak to the individual again, the Council will look to minimise any difficulties that may arise. The individual will be given the opportunity to meet off-site and to be accompanied by a trade union or professional representative. The Council will also ensure that the individual receives appropriate support and guidance if they agree to give evidence in criminal or disciplinary proceedings.

6.4 As soon as any investigations are complete, the Council will inform the individual what the outcome is. The level of detail provided will depend on any legal constraints that may arise from the action taken.

7. SAFEGUARDS

7.1 The Council recognises that the decision to report a concern can be a difficult one to take. The Council will not tolerate any harassment or victimisation of anyone as a result of making this decision. The Council will take appropriate action to protect any individual from this, as long as they have raised the concern in good faith

7.2 Employment law (the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998) also provides protection for an employee against harm or damage caused to them as a result of reporting a concern to their employer. This is known as making a "protected disclosure". For example, it is unfair for an employer to dismiss you or select you for redundancy on the grounds that you have made a protected disclosure. The Enterprise and Regulatory Reform Act 2013 added a further amendment to the Employment Rights Act by stating that a disclosure is only protected if the person making it has a reasonable belief that it is **in the public interest** to do so (known as the "public interest test").

7.3 It is important to note that this protection only applies to the areas and situations set out in this procedure. If there is any uncertainty whether the matter is covered, independent advice can be sought. Some key contacts have been included under the "Further Information" section below at point 10.

7.4 The information provided in some referrals may indicate the need for the Council to investigate other related matters of concern. For example, an allegation that a client in a residential home has been the victim of theft may suggest wider safeguarding issues. Any investigation into these other matters will be carried out separately in accordance with the relevant policy or procedure. In these cases, no action will be taken that compromises the confidentiality of the original whistle-blower.

7.5 When a referral under this procedure is made, the individual is acting as a witness, not a complainant. It is not the responsibility of the individual to prove the case. However, if the individual is an employee of the Council and it is determined that an allegation has been made frivolously, maliciously or for personal gain, this may be taken forward under the Council's Disciplinary Procedure.

8. MAKING A DISCLOSURE OUTSIDE THE COUNCIL

8.1 The Council would encourage an employee to make a disclosure internally first as this gives the opportunity to deal with the matter and remove or reduce the danger or risk. However, if an individual feels that the matter is serious enough, there is a list of "prescribed persons" that can be contacted. These are mainly regulatory bodies, for example the Care Quality Commission, OFSTED, Health and Safety Executive, Charity Commission, but also includes the Council's external auditors (currently Grant Thornton). The current list of prescribed persons can be found on the direct.gov.uk website (search under "whistleblowing").

8.2 If this route is chosen, a protected disclosure should only be made if it is reasonably believed that the information provided is "substantially true" – this means that more evidence will need to be provided to back up the case than for an internal disclosure. If there is any doubt about which route to take, it is recommended that the prescribed person be contacted first for advice (without initially naming the employer or providing specific details) or speak to a professional Trade Union Association.

8.3 There are also circumstances in which an external disclosure could be made to another person or organisation, for example the police, a union official, an MP or the media. The law is more complex in this area, and one of the following three conditions must apply for this to be a protected disclosure:

- There is a reasonable belief of victimisation if the matter is raised internally
- There is a reasonable belief that there is likely to be a cover-up if the matter is raised internally
- The matter has already been raised internally or with a prescribed person

The following conditions must also **all** be met:

- The individual reasonably believes that the allegation is substantially true
- The disclosure is not being made for purposes of personal gain
- It is reasonable, given the circumstances of the case, for the disclosure to be made externally

8.4 In terms of the last point, what makes an external disclosure "reasonable" includes things like the seriousness of the allegation, the likelihood of the risk or damage continuing in the future and the action taken by the Council or a prescribed person if they have already disclosed the matter to them. If a disclosure has already been made to the Council or a prescribed person, any action already taken should be known before considering taking the matter further.

8.5 Disclosure will not be protected if an offence has been committed in making the disclosure.

9. CONFIDENTIAL INFORMATION

9.1 The law states that a protected disclosure can be made using information that the employer classes as confidential. It is important to note that the procedures still need to be followed as detailed above in making this disclosure or there is a potential for disciplinary action to be taken.

9.2 If a disclosure is made using information that a third party has provided to the Council in confidence (for example a provider or a partner organisation), the disclosure may not be protected if it causes the third party unjustifiable damage or breaches their rights.

10. FURTHER INFORMATION

10.1 Although every attempt has been made to make this procedure as clear as possible, it is appreciated that there may be a desire to seek further independent advice before deciding whether to raise a concern under this procedure. Some useful contacts have been included below:

Protect (formerly Public Concern at Work)
A registered charity whose services are free and strictly confidential.
Tel: 020 3117 2520
Protect - the whistleblowing charity

Local Citizen's Advice Bureau
For general advice and information on a range of legal fields.
Tel: 0800 144 8848
www.citizensadvice.org.uk

Advisory, Conciliation and Arbitration Service (ACAS)
For advice on relationship issues in the workplace.
Tel: 0300 123 1100

www.acas.org.uk

You can also contact your trade union representative or the relevant regulator or your professional body.