

CYNGOR CYMUNDOL RHOSDDU COMMUNITY COUNCIL



WHISTLEBLOWING AND CONFIDENTIAL REPORTING POLICY 2023

To be reviewed every 3 years or when legislation or guidance changes		
ADOPTED	AMENDED	REVIEWED
25 th October 2023 Minute Ref: 16		

It is important that any fraud, misconduct or wrongdoing by staff or others working on behalf of the Council is reported and properly dealt with. Rhosddu Community Council therefore requires all individuals to raise any concerns that they may have about the conduct of those involved with the Council. This policy sets out the way in which individuals may raise any concerns that they have, and how those concerns will be dealt with.

The wording of this policy is based on an employee's statutory right to make a disclosure in the public interest. Adopting and applying this policy as it stands will support the Council to comply with this right.

1. Background

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about specified matters in the public interest. These are called 'qualifying disclosures'. A qualifying disclosure is one made by an employee who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed. It is not necessary for an employee to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter - it is the Council's responsibility to ensure that an investigation takes place.

If an employee makes a protected disclosure s/he has the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. An employee making a genuine disclosure under this policy is protected from victimisation and any unfavourable treatment. If a member of staff believes they have been treated differently because they have made a disclosure, they may be able make a claim to an Employment Tribunal, irrespective of whether they are a casual, fixed term worker, or an established member of staff.

Rhosddu Community Council encourages you to raise your concerns under this procedure in the first instance.

2. Principles underpinning this policy

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff and others working on behalf of the Council should be watchful for illegal or unethical conduct and should report anything of that nature that they become aware of.

- Any matter raised under this procedure will be investigated thoroughly, promptly, and confidentially, and the outcome of the investigation reported back to the person who raised the issue.

- No employee, or other person working on behalf of the Council, will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern.
- Victimisation of an individual for raising a qualified disclosure will be a disciplinary offence.
- If misconduct is discovered as a result of any investigation under this procedure our Disciplinary Policy and Procedure will be used, in addition to any appropriate external measures.
- Maliciously making a false allegation is a disciplinary offence.
- An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, such as a manager, people should not agree to remain silent - they should report the matter to the Clerk or the Chair of the Council.

3. Procedure

If you believe a Councillor has breached the Councillors' Code of Conduct raise it with the Chair of the Council. Concerns relating to an alleged breach of the Code of Conduct will be referred to the Monitoring Officer for investigation.

This procedure is for disclosures about matters other than a breach of your own contract of employment, which should be raised via our Grievance Procedure.

Stage 1

In the first instance, any concerns should be raised with the Clerk (or delegated officer), who will arrange an investigation of the matter. The investigation may involve you and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. Your statement will be taken into account, and you will be asked to comment on any additional evidence obtained.

The Clerk (or delegated officer) will take any necessary action, including reporting the matter to the Council, or any appropriate government department or regulatory agency. The Clerk (or delegated officer) will also invoke any disciplinary action if required. On conclusion of any investigation, insofar as confidentiality allows, you will be told the outcome and what the Council has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

Stage 2

If you are concerned that the Clerk (or delegated officer) is involved in the wrongdoing, has failed to make a proper investigation, or has failed to report the outcome of the investigations to the relevant person, you should escalate the matter to the Chair of the Council. The Chair will arrange for a review of the investigation to be carried out and will make any necessary enquiries.

If a concern or issue relates to the Chair of the Council, it should be raised with the Vice Chair. Ultimately, the Monitoring Officer of the principal authority (WCBC) can always be contacted by a whistleblower who feels unable to deal with the issue using the internal processes set out in this policy.

Stage 3

If, on conclusion of Stages 1 and 2, you reasonably believe that the appropriate action has not been taken, you should report the matter to the relevant body. This includes, but is not limited to:

- HM Revenue and Customs.
- The Health and Safety Executive.
- The Environment Agency.
- The Serious Fraud Office.
- The Charity Commission.
- The Pensions Regulator.
- The Information Commissioner.
- The Financial Conduct Authority.

You can find the full list in The Public Interest Disclosure (Prescribed Persons) Order 2014: Blowing the whistle to a prescribed person (publishing.service.gov.uk)

4. Data protection

When an individual makes a disclosure, we will process any personal data collected in accordance with our Information and Data Protection Policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

This is a non-contractual procedure which will be reviewed from time to time.

Based on the NALC Model Policy 2019 which was written by the HR Services Partnership and is endorsed by OVW.

To be reviewed every THREE years unless guidance or legislation changes