

5.5 Irregularities Response Plan

This plan sets out the actions to be taken when dealing with:

- (a) a Whistle-Blowing allegation or
- (b) other suspected Irregularity

Examples of other irregularities which are included in this plan are:

1. An allegation indicating that an officer has committed a criminal offence
2. An allegation that an officer has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
3. A breach by an officer of Financial Regulations or Contract Procedure Rules which may:
 - a. at serious financial risk (that is with a consequence beyond delegated authority to Heads of Service
 - b. place the Council at risk of serious adverse publicity,
 - c. require a report to Members or
 - d. lead to adverse media coverage.
4. An allegation that the health or safety of any individual has been, is being or is likely to be endangered by the action or inaction of an officer or officers
5. Death or serious injury to an individual while on premises managed by the Council.

1. **Action to be taken by an Officer suspecting or receiving a Whistle-Blowing allegation or dealing with an Irregularity.**

1.1 Guidance for staff on how to raise a concern is documented within the Whistle-Blowing Policy.

1.2 Any officer who is informed of a potential problem through the Whistle-Blowing Policy or is notified of any other irregularity must record the following:

- Date discovered
- Discovery method
- Names of contacts
- Nature of irregularity

1.3 Where any officer receives such a report, they must not embark on an investigation.

The Officer must immediately report details of the irregularity to a member of the Irregularity Response Team. That officer must then convene a meeting of at least three members of the team as soon as possible, and ensure all of the Team members are notified of the issue and the proposed course of action.

- 1.4 The Irregularity Response Team members are :
- The Chief Executive (as Head of The Paid Service)
 - The Strategic Director of Corporate Services (as section 151 Officer)
 - The Head of Legal and Democratic Services (as Monitoring Officer)
 - The Head of Human Resources
 - The Internal Audit Manager
- 1.5 If the allegation relates to a member of the Irregularity Team, that individual should not be invited to attend the meeting.

2. Initial response of the Irregularity Response Team

The initial response will include:

- 2.1 An initial risk assessment, this will establish the plausibility of any fraud or irregularity and identify the possible implications to the authority.
- 2.2 If necessary the Irregularity Response Team will provide advice to the Leader of the Council regarding minimising any future loss to the Council. If it is considered that a precautionary suspension may be required the Head of Human Resources must be consulted for advice.
- 2.3 A decision as to who will carry out an investigation. The options for investigating include an internal investigation (Service or Internal Audit) or external investigation (Police or External Auditor).
- 2.4 The formation of a 'Investigation Team' to handle an investigation (or provide a contact for an external investigation), this will consist of some or all of the Irregularity Response Team plus any other officers thought appropriate. The Irregularity Response Team should appoint a lead officer.
- 2.5 A decision as to whether to plan a media response.
- 2.6 The notification, if appropriate, to the External Auditor.
- 2.7 The notification of the potential problem on a strictly confidential basis to the Leader of the Council and relevant Cabinet Member by the Chief Executive.
- 2.8 An assessment of the implications of the Public Interest Disclosure Act must be considered if the potential problem has been notified via Whistle Blowing arrangements.

3. Preventing further loss or irregularity

- 3.1 Where initial investigation provides reasonable grounds for suspecting fraud or irregularity the Irregularity Response Team will decide what action to take to

minimise any future loss to the Council. If a suspected fraud or irregularity involves an employee this may require suspension of the suspect(s). The Head of Human Resources must be consulted regarding the procedure for suspending employees. A decision to suspend an employee rests with the relevant Chief Officer, having received advice from the Head of Human Resources.

- 3.2 It should not be assumed that suspension must follow automatically from an allegation of irregularity or that an investigation can only proceed in the absence of the employee who may have been responsible. Broadly, suspension need only be considered where the particular circumstances are such that an investigation is impeded by the presence of the individual, or where it appears that there is a danger of further irregularities occurring.
- 3.3 As an investigation proceeds the Officer leading an investigation will bring to the Irregularity Response Team's attention any information that might lead to a review of their decision as to the appropriateness of suspension. The decision must, however, remain with the relevant Chief Officer. The precautionary suspension of an employee is not disciplinary action and carries no implication of guilt.
- 3.4 It is important that an individual who is being suspended is not given the impression that they are being dismissed or that any decision has yet been taken about their future. Accordingly a Chief Officer should not normally carry out suspension without prior consultation with the Head of Human Resources. However, there may be cases, for example, where sites are functioning outside the Council's normal office hours, where it is not possible for a Manager to obtain advice even though they feel it is important that the individual should be immediately removed from their duties. In such cases the Manager should send the individual home and tell them to await further instructions. The Manager must inform their Chief Officer and the Head of Human Resources at the earliest opportunity. The Chief Officer with advice from the Head of Human Resources will ask the employee to return to work or inform the employee that they have been suspended.
- 3.5 It may be necessary to plan the timing of suspension to prevent the suspect from destroying or removing evidence that may be needed to support disciplinary or criminal action. In these circumstances the suspect should be approached unannounced. They should be supervised at all times before leaving the Council's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Council. Any security passes, keys to premises, offices and furniture should be returned. The possibility of collusion between Officers must be considered and the merits of carrying out simultaneous suspensions evaluated.

3.6 The Information Technology Service Manager must be instructed to withdraw without delay access permissions to the Council's computer systems.

4. Investigation Arrangements

4.1 Internal investigations will normally be lead by a member of the Irregularity Response Team or service management.

4.2 Where an investigation is lead by a member of the Irregularity Response Team the relevant Chief Officer may be asked to nominate a suitably independent officer to represent a service in an investigation. The Service Management representative may be asked to assist in gathering information and / or interviewing staff.

4.3 No action under the disciplinary procedure should normally be commenced until after the investigation has been completed and a report submitted.

4.4 It is essential that the investigation should be a complete one and the officer to whom it is delegated is entitled to expect the fullest co-operation from all employees

4.5 Where there is a need for an internal investigation Internal Audit or where appropriate the Health and Safety Officer may be used. Internal Audit are trained to carry out investigations regarding fraud and irregularity. The Internal Audit Manager will allocate resources to the investigation and this may mean an amendment to the annual Internal Audit plan. The Health and Safety Officer is trained to carry out Health and Safety Investigations.

4.6 As the outcome of any investigation may be that there has been no irregularity, the investigator will take every possible care, as far as is compatible with their task to avoid prejudicing the position of, or embarrassing, an employee involved.

4.7 As part of their fact finding it may be necessary for the investigator to interview employees suspected of irregularities, some of which may be of a criminal nature. Interviews may also be required with relevant staff that have a detailed knowledge of the operations of the Authority in the area in question. The precise form of the interview must, within certain constraints, remain a matter for the investigator's discretion but they will normally ensure that:

(i) Another officer of the Council accompanies them.

(ii) They say nothing to the employee that might provide a basis for the individual to argue that they were forced to resign.

(iii) Where a person does express a wish to resign they will be told that the investigator is not authorised to receive resignations and informed of the correct procedure for tendering resignations. No resignation will be accepted without consultation with the relevant Chief Officer, the Head of Legal and Democratic Services and the

Head of Human Resources on the potential implications of a resignation. In certain circumstances it may be necessary to refuse the resignation.

- (iv) Where a person offers to repay money they will be told that the offer cannot as yet be accepted. Any such offer will be reported to the Strategic Director of Corporate Services for consideration as a matter of urgency.
- (v) These procedures are not designed to provide for interviews that comply with the Police and Criminal Evidence Act and where there is a possibility of criminal offence guidance should be sought from the Head of Legal and Democratic Services or the Police.
- (vi) The interviewer and interviewee should sign interview notes, alternatively the tape recording of interviews may be considered with the agreement of both parties.

4.8 The extent of an enquiry will be a matter for the investigator's discretion but will be discussed with the relevant Chief Officer. There may be cases where the nature or extent of the offences revealed indicates that the facts should be reported to the Police before a report is completed. Referrals to the Police will be made with the agreement of the Chief Executive or the Strategic Director of Corporate Services or the Head of Legal and Democratic Services.

4.9 The interview does not form part of the disciplinary process but the employee will be allowed to be represented, by a union steward or workplace colleague. The representatives' role is that of an observer but they will be allowed to clarify details both during and at the end of the interview. Interview transcripts or summaries will not be made available to the employee being interviewed except where they form part of the overall investigation report. Outside discussion by the employee or representative of the contents of such an interview should be considered a disciplinary offence in its own right.

4.10 It is important that no disciplinary action should be taken before an investigation report has been completed. It will be crucial in justifying any subsequent disciplinary action to show that there has been a full and thorough investigation and it is important to establish the scale of the irregularity before any action is taken.

5. Investigation Progress Reports

The Investigation Team must provide progress updates to the relevant Chief Officer and the Irregularity Response Team to enable findings to be shared and facilitate different courses of action where appropriate. Update reports regarding

internal investigations can facilitate the review of decisions to suspend employees or not and referring the matter to the Police.

6. Completion of Investigation

- 6.1 When the full report is completed it will be sent to the relevant Chief Officer and the Irregularity Response Team. The purpose of the full report is to set out facts and all the relevant circumstances as a basis on which the relevant Chief Officer can consider whether disciplinary proceedings are appropriate or whatever other action needs to be taken arising from the findings in the report. Referrals to the Police will be made with the agreement of the Chief Executive or the Strategic Director of Corporate Services or the Head of Legal and Democratic Services. All members of the Irregularity Response Team and the External Auditor will be informed of any report to the Police.
- 6.2 The relevant Chief Officer will consider whether the report indicates a need for disciplinary proceedings in accordance with the agreed disciplinary procedure, this decision will be taken following advice of the Head of Human Resources.
- 6.3 A copy of the investigation report will be made available to members of the Irregularity Response Team.
- 6.4 Any Disciplinary action will be taken by following the Council's Disciplinary procedure.

7. Post Investigation Review

- 7.1 The investigating officer will carry out a Post Investigation Review. The purpose of Post Investigation Review is to identify any system weaknesses and to recommend actions for improvement.
- 7.2 The Post Investigation Review will include a timetable for implementing any recommendations and will include a response from the relevant management.
- 7.3 Reporting arrangements regarding replying to someone raising a Whistle-Blowing concern are documented in the Whistle Blowing Policy.
- 7.4 Where an irregularity has occurred it is important that staff are made aware that action has been taken and procedures strengthened to minimise a future occurrence. It is important that staff working in an area that has been the subject of a Whistle-Blowing complaint are aware of action as a result of bringing a concern to the attention of management.
- 7.5 A summary of findings and recommendations as a result of the irregularity should be presented to the Standards Committee. If criminal proceedings are to follow the content of any report must be agreed with the Head of Legal and Democratic Services.