



WHISTLE BLOWING POLICY

Adopted by:-

Council on 12 January 2006

Revised August 2005

1. INTRODUCTION

Whistleblowing is a phrase that has to be used to describe circumstances where a person believes that there is something so seriously wrong that he or she must disclose information in a manner which will draw attention to it in the public interest.

The Public Interest Disclosure Immunity Act 1998 gives every worker the right not to be subject to any detriment because he or she has made what is called a qualifying disclosure. The term 'worker' has a wider meaning than 'employee' and it includes for example contractors, suppliers and agency workers. This protection is important because many workers owe what is called a duty of confidence to their employer so that disclosures of information could be regarded as misconduct or breach of contract. However the Act does not give workers this immunity unless the disclosure tends to show certain types of failing and the disclosure is made in a prescribed manner. Information as to the scope of the protection offered by the Act is set out in Appendix A to this Policy.

2. PURPOSE OF THE POLICY

The Council is committed to the highest possible standards of openness, probity and accountability. The Council expects its Members, employees and others with whom it deals to come forward and voice any legitimate concerns.

The Council wishes to secure and maintain the trust and confidence of its employees and workers in its procedure for facilitating disclosure of concerns. No employee or worker will be subject to any detriment from the Council or anyone acting on its behalf by reason only of their having made or proposing to make a disclosure under this Policy unless the disclosure is not made in good faith or in making it a crime is committed.

This Policy is intended to explain to the Council's employees and any others who may have information relating to a failing which they consider should be disclosed, how the disclosure can be made, to whom and how that information will be handled.

This Policy also applies to Members of the Council who may have information relating to a failing falling within the scope of this Policy.

3. SCOPE OF THE POLICY

The Policy covers

- (a) Information which shows or tends to show one of the following matters is either happening now, took place in the past or is likely to happen in the future
 - a criminal offence.
 - a breach of a legal obligation.
 - a miscarriage of justice. Miscarriage of justice means miscarriage of justice in civil or criminal proceedings but would not include the Council's internal procedures such as disciplinary action
 - a danger to the health or safety of any person
 - damage to the environment

- deliberate covering up of any information tending to show any of the above five matters

These are all called ‘relevant failures’

- (b) Relevant failures which
- concern the Council or
 - relate solely or mainly to the conduct of a Member, employee, contractor, sub-contractor, supplier or agent of the Council or
 - concern a matter for which the Council has a legal responsibility or
 - are a matter where the Council has regulatory powers or powers of enforcement

4. Exclusions from the Policy

The Policy does not cover

- (a) A disclosure of information which is not a relevant failure
- (b) A disclosure of information which does not concern the Council, its functions, powers and duties or any of its Members, employees, contractors, suppliers or agents.
- (c) Any instance where the person disclosing the information commits or would commit an offence, for example if the disclosure was prohibited under the Official Secrets Act 1989
- (d) A disclosure of information, which would be protected from disclosure because of legal professional privilege, that is to say if it was made by the legal adviser (or, say, a clerk in the adviser's office) to whom the information was disclosed in the course of obtaining legal advice.
- (e) Grievances or any response or answer to a grievance made in accordance with the Council's Grievance Procedure
- (f) Matters of dispute between individual employees or groups of employees

5. QUALIFICATIONS TO THIS POLICY

- (a) In this Policy where another policy is referred to the process and procedure of that other policy will apply unless the context otherwise requires.
- (b) A person making the disclosure under this Policy must act in good faith. This means that the person making the disclosure should have a reasonable belief that the information disclosed, and any allegations contained in it, are substantially true.
- (c) An employee cannot use the fact of making a disclosure under this Policy to avoid disciplinary or other action resulting from misconduct or from the relevant failure itself. In other words an employee cannot say I stole £5 from the Council and then say, I cannot be subject to disciplinary action because I am a whistleblower.

6. THE PERSON TO WHOM A RELEVANT FAILURE SHOULD BE REPORTED

- (a) In the case of any information that tends to show fraud or corruption within the Council's Anti Fraud and Corruption Strategy or failure to comply with the Council's financial Procedure Rules, the relevant failure should be reported to the Audit Manager (or his nominee).
- (b) In the case of any information which is
- raised in the course of a disciplinary investigation or

- by way of defence or in answer to any allegations made in the course of a disciplinary investigation,

the relevant failure should be reported to the Investigating Officer appointed under the Council's Disciplinary Procedure Rules.

- (c) In any other case, any relevant failure shall be reported to the Council's Monitoring Officer (or his nominee)

If the relevant information shows or tends to show that the relevant failure has arisen due to the personal default of the person to whom the report is to be made as provided above, the report shall be made to the Council's Chief Executive who shall determine (in his absolute discretion) the process to be followed.

7. HOW TO REPORT A RELEVANT FAILURE

- (a) The report should be made forthwith the relevant failure has arisen. It is important that there is no delay in reporting the failure so that the Council can ensure that vulnerable people are not put at risk, that any investigation is not compromised by any delay and that others are not implicated by the failure to report in a timely manner.
- (b) The report should be made in writing or if first reported orally, confirmed in writing, in the format set out in Appendix B. The person to whom the report was made should arrange for assistance to be given to the person reporting the relevant failure to complete a written report where that person so wishes. A Flow chart summarising the procedure is included in the attached Appendix C.

Where there is risk of harm to either children or vulnerable adults or an imminent danger to life or property the matter must be reported immediately by the quickest means – usually telephone – and the risk or urgency should be explained in sufficient detail and with accuracy to ensure that the person receiving the report understands what the harm or risk is and whom or what needs to be protected. A report in writing should be made as quickly as possible thereafter.

- (c) The report should as far as possible
- Set out the facts with the relevant dates, the names of the people involved and what their roles are/were
 - How those facts show or seem to show that there is a relevant failure
 - Any documents or evidence which needs to be protected or gathered as evidence
 - The names or classes of persons whose interests need to be protected as a matter of urgency e.g. children, the elderly and others who need help from the Council.
 - What may be necessary to correct the relevant failure or to stop it happening again.
 - Whether the matter has been reported before, when, in what manner and to whom.

8. HOW THE DISCLOSURE WILL BE HANDLED

- (a) *In the case of any matter which shows or tends to show the risk of harm to any child or vulnerable adult the person to who the report is made will take immediate action to minimise the risk and to protect those who may be at risk.*

- (b) The person to whom the report is made will consider whether the matters reported fall within this policy.
- (c) If the matters reported fall within this policy, the person to whom the report was made will arrange for further inquiries as set out below
- (d) If it appears that the matters reported do not fall within this Policy, the person to whom the report was made will tell the person making the disclosure of that finding. If appropriate the matter will be referred to an appropriate person in the Council if it falls under another policy or procedure of the Council e.g. Council's Harassment Policy, Complaints Policy etc.
- (e) The anonymity of the person making a disclosure reasonably and properly made under this policy, will be protected as far as possible. However the Council cannot promise to keep the identity of the person making the disclosure, secret because the identification of that person may need to be revealed to undertake the investigations or others may make assumptions as to the identity of the person. See below for disclosures made anonymously.

9. INQUIRIES

- (a) In the case of any information that tends to show fraud or corruption or failure to comply with the Council's Financial Procedure Rules, the Audit Manager will arrange for such inquiries as may be appropriate in accordance with the Council's Counter Fraud Strategy.
- (b) In the case of any information which is
 - raised in the course of a disciplinary investigation or
 - by way of defence or in answer to any allegations made in the course of a disciplinary investigation,

the Investigating Officer will arrange such inquiries as may be appropriate in accordance with the Council's Disciplinary Procedure. If the information is disclosed after a decision has been made to hold a disciplinary hearing and is raised by way of defence, answer or mitigation in those proceedings then (subject to the Investigating Officer taking steps to protect the health, safety and well-being of any person or to protect the property of the Council or of any person for whom the Council has a statutory duty of care, and to secure that such action is taken) the relevant disclosure will form part of the consideration of the disciplining officer in those proceedings. In any case where the relevant failure is alleged to be that of the disciplining officer then the matter shall be referred to the Chief Executive who shall determine (in his absolute discretion) the process to be followed.

- (c) In any other case the Monitoring Officer will make arrangements for the allegations arising from the disclosure to be investigated and appropriate action to be taken to achieve the key objectives. The Monitoring Officer may nominate such person to undertake the investigation as he thinks fit having regard to the nature of the information disclosed (including another officer of the Council or a person (not being an employee of the Council) or an organisation).

10. KEY OBJECTIVES

The key objectives in carrying out the inquiries will be

- (a) to establish that there is prima facie a relevant failure

- (b) to decide if immediate action is necessary to protect the health, safety and well-being of any person or to protect the property of the Council or of any person for whom the Council has a statutory duty of care, and to secure that such action is taken
- (c) to secure any evidence referred to in the information disclosed and prevent interference with it
- (d) to take necessary action to protect the person making the disclosure from detriment² because he or she has made the disclosure
- (e) to identify any potential witnesses
- (f) to establish the facts, to take appropriate action to address the allegations in the relevant disclosure and to eliminate bad practice

11. INVESTIGATIVE TECHNIQUES

Any person making inquiries or undertaking an investigation in connection with this Policy must comply with all legal requirements including the Data Protection Act 1998, Human Rights Act 1998 and the Regulation of Investigatory Powers Act 1998.

In making inquiries or undertaking investigations regard should be had to any best practice guidance issued by the Council.

12. APPLICATION OF OTHER POLICIES OR REFERENCE TO OTHER BODIES

If it appears at any stage that the allegations or any one or more allegations arising from the relevant disclosure should be managed in accordance with another Policy of the Council e.g. the Disciplinary Policy and Procedure or the Council's Harassment Policy or should be referred to another forum or body e.g. to the Standards Board for England, to the Standards Committee or to the Police, then the procedure required under that policy or by that forum or organisation will apply.

13. THE PERSON MAKING DISCLOSURE TO BE KEPT INFORMED

Normally the person making a relevant disclosure will be advised as soon as reasonably practicable by the person to whom the disclosure was made whether the disclosure is considered to be a relevant disclosure, of the proposals to make further inquiries and of the outcome of those further inquiries. There will be instances when it will not be possible to provide information, for example where the information would result in the disclosure of sensitive personal data or it would compromise an on-going investigation. However where possible the Council will endeavour to ensure that the person who made the disclosure knows what steps have been taken or are proposed as a result of the disclosure of the relevant information.

14. RECORDS

Written records should be kept by a person investigating or making a decision in relation to a relevant failure reported under this Policy. The records should be complete and accurate showing the actions taken and why and the reasons for any decision. In keeping such records regard should be had to any best practice guidance on undertaking investigations and record keeping issued by the Council.

15. ANONYMOUS ALLEGATIONS

The Council recognises that from time to time allegations are made anonymously or in a manner where the source cannot be identified (e.g. by a third party such as a trade union, on behalf of an un-named complainant). Where anonymous allegations or complaints are made then if on a proper analysis they contain clear information relating to a default that is capable of being investigated the Council reserves the right to take action where it receives such information. It should be recognised that a proper investigation is often hampered where the source of the allegation cannot be identified and further details elicited from that person. In addition the Council cannot honour its commitment to persons who properly provide information of a relevant failure under this Policy if it is unaware of the identity of the person in question.

16. MISUSE OF THE POLICY

This Policy recognises the protection which should be given to those who give information about a relevant failure. However the Council will not allow this Policy to be used to make frivolous, vexatious, false or malicious allegations whether against its workers or anyone else. Nor will the Council allow the Policy to be used in a manner to frustrate the proper management and operation of its functions or of the implementation of its policies.

Where an employee of the Council misuses the Policy, then the Council will regard that conduct as gross misconduct. In the case of any other worker, the Council will take into account such conduct in deciding whether or not to award a contract or engage the services of the person concerned. Misuse of the Policy means making frivolous, vexatious, false or malicious allegations or employing the Policy in a manner so as to frustrate the proper management and operation of the Council's functions or of the implementation of its policies or acting in bad faith.

Misuse of this Policy by a Member of the Council could be regarded as a breach of the Members' Code of Conduct and the Member would be reported to the Standards Board for England.

17. FURTHER INTERNAL GUIDANCE ON THIS POLICY

Further advice on how to apply this Policy can be obtained from the Council Solicitor or the Assistant Solicitor.

Further advice on the Council's Counter Fraud Strategy can be obtained from the Audit Manager.

Further advice on the Council's Disciplinary Procedure can be obtained from the Human Resources Manager.

Further advice on the Council's Complaints Procedure can be obtained from the Human Resources Manager.

18. SEEKING ADVICE OUTSIDE THE COUNCIL ON MAKING A DISCLOSURE UNDER THIS POLICY

If you sincerely believe that, by raising your concern with us, you will be subject to victimisation or reprisals of whatever sort, or that evidence to support your concern will be destroyed, then you should raise the matter by making a qualified disclosure with a "prescribed person" which in this case is the Audit Commission.

If you wish to take this course of action, but are unsure of what to do then please contact either Mr James Ingham the Audit Manager or Mr Anthony Winship the Council Solicitor. They will be able to advise you on what you need to do, without asking for details of your concern.

Alternatively you could contact the “prescribed person” direct by writing to :

Complaints and PIDA Manager
Audit Commission
Westward House
Lime Kiln Close
Stoke Gifford
Bristol
BS34 8SR

You may also contact the prescribed person on the Audit Commission confidential public interest disclosure line 0845 052 2646.

When raising a concern externally remember to make it clear that you are raising the issue as a whistleblower. This gives you additional statutory rights.

Help may also be available from :

- the Local Government Ombudsman, Beverley House, 17 Shipton Road, York YO30 6FZ. Tel : (01904) 380200
- the Council’s External Auditor, Audit Commission, Spa Court, Spa Lane, Harrogate HG2 7JF Tel : (01423) 889209
- a Trade Union
- relevant professional bodies or regulatory Organisations
- the Police
- your Solicitor

If advice on a matter is sought from outside the Council, then it is important that confidential information is not disclosed to someone who is not entitled to receive it.

19. FAILURE TO FOLLOW THE POLICY IN MAKING A DISCLOSURE

Failure to follow the Policy in making a disclosure means that it is more difficult for the Council to monitor that all relevant failures are properly tackled quickly and that the interests of service users are protected. The Council would hope that all its employees and workers and those with whom it works would raise concerns directly with the Council. However the Council recognises that an employee or worker or other person might not feel able to report it directly to the Council or consider that appropriate. The Public Disclosure Interest Disclosure Act 1998 affords protection to employees and other workers where they make a qualified disclosure in accordance with that Act. The Council respects the right to make such disclosures.

20. OTHER SOURCES OF GUIDANCE

The DTI has published a Guide to the Public Interest Disclosure Act 1998. This guide is available via its web-site www.dti.gov.uk. An organisation called “Public Concern at Work” can also be contacted. Public Concern at Work is a registered charity which provides free, confidential legal

advice to workers and others who are concerned about serious malpractice in the workplace. The organisation can be contacted on Telephone no. 020 7404 6609, or by letter at the following address: -Public Concern at Work, Suite 306, 16 Baldwins Gardens, London EC1N 7RJ. Guidance is also available on its website at www.pcaw.co.uk.

Public Interest Disclosure Act 1998

1998 CHAPTER 23

An Act to protect individuals who make certain disclosures of information in the public interest; to allow such individuals to bring action in respect of victimisation; and for connected purposes

[2nd July 1998]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Protected disclosures

After Part IV of the Employment Rights Act 1996 (in this Act referred to as “the 1996 Act”) there is inserted—

“Part IVA
Protected Disclosures

43A Meaning of “protected disclosure”

In this Act a “protected disclosure” means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H.

43B Disclosures qualifying for protection

- (1) In this Part a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following—
 - (a) that a criminal offence has been committed, is being committed or is likely to be committed,
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
 - (d) that the health or safety of any individual has been, is being or is likely to be endangered,
 - (e) that the environment has been, is being or is likely to be damaged, or
 - (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.
- (2) For the purposes of subsection (1), it is immaterial whether the relevant failure occurred, occurs or would occur in the United Kingdom or elsewhere, and whether the law applying to it is that of the United Kingdom or of any other country or territory.
- (3) A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.
- (4) A disclosure of information in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality as between client and professional legal adviser) could be

maintained in legal proceedings is not a qualifying disclosure if it is made by a person to whom the information had been disclosed in the course of obtaining legal advice.

- (5) In this Part “the relevant failure”, in relation to a qualifying disclosure, means the matter falling within paragraphs (a) to (f) of subsection (1).

43C Disclosure to employer or other responsible person

- (1) A qualifying disclosure is made in accordance with this section if the worker makes the disclosure in good faith—
- (a) to his employer, or
 - (b) where the worker reasonably believes that the relevant failure relates solely or mainly to—
 - (i) the conduct of a person other than his employer, or
 - (ii) any other matter for which a person other than his employer has legal responsibility, to that other person.
- (2) A worker who, in accordance with a procedure whose use by him is authorised by his employer, makes a qualifying disclosure to a person other than his employer, is to be treated for the purposes of this Part as making the qualifying disclosure to his employer.

43D Disclosure to legal adviser

A qualifying disclosure is made in accordance with this section if it is made in the course of obtaining legal advice.

43E Disclosure to Minister of the Crown

A qualifying disclosure is made in accordance with this section if—

- (a) the worker’s employer is—
 - (i) an individual appointed under any enactment by a Minister of the Crown, or
 - (ii) a body any of whose members are so appointed, and
- (b) the disclosure is made in good faith to a Minister of the Crown.

43F Disclosure to prescribed person

- (1) A qualifying disclosure is made in accordance with this section if the worker—
- (a) makes the disclosure in good faith to a person prescribed by an order made by the Secretary of State for the purposes of this section, and
 - (b) reasonably believes—
 - (i) that the relevant failure falls within any description of matters in respect of which that person is so prescribed, and
 - (ii) that the information disclosed, and any allegation contained in it, are substantially true.
- (2) An order prescribing persons for the purposes of this section may specify persons or descriptions of persons, and shall specify the descriptions of matters in respect of which each person, or persons of each description, is or are prescribed.

43G Disclosure in other cases

- (1) A qualifying disclosure is made in accordance with this section if—
 - (a) the worker makes the disclosure in good faith,
 - (b) he reasonably believes that the information disclosed, and any allegation contained in it, are substantially true,
 - (c) he does not make the disclosure for purposes of personal gain,
 - (d) any of the conditions in subsection (2) is met, and
 - (e) in all the circumstances of the case, it is reasonable for him to make the disclosure.
- (2) The conditions referred to in subsection (1)(d) are—
 - (a) that, at the time he makes the disclosure, the worker reasonably believes that he will be subjected to a detriment by his employer if he makes a disclosure to his employer or in accordance with section 43F,
 - (b) that, in a case where no person is prescribed for the purposes of section 43F in relation to the relevant failure, the worker reasonably believes that it is likely that evidence relating to the relevant failure will be concealed or destroyed if he makes a disclosure to his employer, or
 - (c) that the worker has previously made a disclosure of substantially the same information—
 - (i) to his employer, or
 - (ii) in accordance with section 43F.
- (3) In determining for the purposes of subsection (1)(e) whether it is reasonable for the worker to make the disclosure, regard shall be had, in particular, to—
 - (a) the identity of the person to whom the disclosure is made,
 - (b) the seriousness of the relevant failure,
 - (c) whether the relevant failure is continuing or is likely to occur in the future,
 - (d) whether the disclosure is made in breach of a duty of confidentiality owed by the employer to any other person,
 - (e) in a case falling within subsection (2)(c)(i) or (ii), any action which the employer or the person to whom the previous disclosure in accordance with section 43F was made has taken or might reasonably be expected to have taken as a result of the previous disclosure, and
 - (f) in a case falling within subsection (2)(c)(i), whether in making the disclosure to the employer the worker complied with any procedure whose use by him was authorised by the employer.
- (4) For the purposes of this section a subsequent disclosure may be regarded as a disclosure of substantially the same information as that disclosed by a previous disclosure as mentioned in subsection (2)(c) even though the subsequent disclosure extends to information about action taken or not taken by any person as a result of the previous disclosure.

43H Disclosure of exceptionally serious failure

- (1) A qualifying disclosure is made in accordance with this section if—
 - (a) the worker makes the disclosure in good faith,
 - (b) he reasonably believes that the information disclosed, and any allegation contained in it, are substantially true,
 - (c) he does not make the disclosure for purposes of personal gain,
 - (d) the relevant failure is of an exceptionally serious nature, and
 - (e) in all the circumstances of the case, it is reasonable for him to make the disclosure.
- (2) In determining for the purposes of subsection (1)(e) whether it is reasonable for the worker to make the disclosure, regard shall be had, in particular, to the identity of the person to whom the disclosure is made.

43J Contractual duties of confidentiality

- (1) Any provision in an agreement to which this section applies is void in so far as it purports to preclude the worker from making a protected disclosure.
- (2) This section applies to any agreement between a worker and his employer (whether a worker's contract or not), including an agreement to refrain from instituting or continuing any proceedings under this Act or any proceedings for breach of contract.

43K Extension of meaning of "worker" etc for Part IVA

- (1) For the purposes of this Part "worker" includes an individual who is not a worker as defined by section 230(3) but who—
 - (a) works or worked for a person in circumstances in which—
 - (i) he is or was introduced or supplied to do that work by a third person, and
 - (ii) the terms on which he is or was engaged to do the work are or were in practice substantially determined not by him but by the person for whom he works or worked, by the third person or by both of them,
 - (b) contracts or contracted with a person, for the purposes of that person's business, for the execution of work to be done in a place not under the control or management of that person and would fall within section 230(3)(b) if for "personally" in that provision there were substituted "(whether personally or otherwise)",
 - (c) works or worked as a person providing general medical services, general dental services, general ophthalmic services or pharmaceutical services in accordance with arrangements made—
 - (i) by a Health Authority under section 29, 35, 38 or 41 of the National Health Service Act 1977, or
 - (ii) by a Health Board under section 19, 25, 26 or 27 of the National Health Service (Scotland) Act 1978, or
 - (d) is or was provided with work experience provided pursuant to a training course or programme or with training for employment (or with both) otherwise than—
 - (i) under a contract of employment, or
 - (ii) by an educational establishment on a course run by that establishment;and any reference to a worker's contract, to employment or to a worker being "employed" shall be construed accordingly.
- (2) For the purposes of this Part "employer" includes—
 - (a) in relation to a worker falling within paragraph (a) of subsection (1), the person who substantially determines or determined the terms on which he is or was engaged,
 - (b) in relation to a worker falling within paragraph (c) of that subsection, the authority or board referred to in that paragraph, and
 - (c) in relation to a worker falling within paragraph (d) of that subsection, the person providing the work experience or training.
- (3) In this section "educational establishment" includes any university, college, school or other educational establishment.

43L Other interpretative provisions

- (1) In this Part—

"qualifying disclosure" has the meaning given by section 43B;

“the relevant failure”, in relation to a qualifying disclosure, has the meaning given by section 43B(5).

- (2) In determining for the purposes of this Part whether a person makes a disclosure for purposes of personal gain, there shall be disregarded any reward payable by or under any enactment.
- (3) Any reference in this Part to the disclosure of information shall have effect, in relation to any case where the person receiving the information is already aware of it, as a reference to bringing the information to his attention.”

2 Right not to suffer detriment

After section 47A of the 1996 Act there is inserted—

“47B Protected disclosures

- (1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.
- (2) Except where the worker is an employee who is dismissed in circumstances in which, by virtue of section 197, Part X does not apply to the dismissal, this section does not apply where—
 - (a) the worker is an employee, and
 - (b) the detriment in question amounts to dismissal (within the meaning of that Part).
- (3) For the purposes of this section, and of sections 48 and 49 so far as relating to this section, “worker”, “worker’s contract”, “employment” and “employer” have the extended meaning given by section 43K.”

3 Complaints to employment tribunal

In section 48 of the 1996 Act (complaints to employment tribunals), after subsection (1) there is inserted—

“(1A) A worker may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47B.”

4 Limit on amount of compensation

- (1) Section 49 of the 1996 Act (remedies) is amended as follows.
- (2) At the beginning of subsection (2) there is inserted “Subject to subsection (6)”.
- (3) After subsection (5) there is inserted—“(6) Where—
 - (a) the complaint is made under section 48(1A),
 - (b) the detriment to which the worker is subjected is the termination of his worker’s contract, and
 - (c) that contract is not a contract of employment,

any compensation must not exceed the compensation that would be payable under Chapter II of Part X if the worker had been an employee and had been dismissed for the reason specified in section 103A.”

5 Unfair dismissal

After section 103 of the 1996 Act there is inserted—

“103A Protected disclosure

An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.”

6 Redundancy

After subsection (6) of section 105 of the 1996 Act (redundancy) there is inserted—

“(6A) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in section 103A.”

7 Exclusion of restrictions on right not to be unfairly dismissed

- (1) In subsection (3) of section 108 of the 1996 Act (cases where qualifying period of employment not required), after paragraph (f) there is inserted—

“(ff) section 103A applies,”

- (2) In subsection (2) of section 109 of the 1996 Act (disapplication of upper age limit), after paragraph (f) there is inserted—

“(ff) section 103A applies,”.

14 Remedy for infringement of rights

In section 205 of the 1996 Act (remedy for infringement of certain rights) after subsection (1) there is inserted—

“(1A) In relation to the right conferred by section 47B, the reference in subsection (1) to an employee has effect as a reference to a worker.”

15 Interpretative provisions of 1996 Act

- (1) At the end of section 230 of the 1996 Act (employees, workers etc) there is inserted—

“(6) This section has effect subject to sections 43K and 47B(3); and for the purposes of Part XIII so far as relating to Part IVA or section 47B, “worker”, “worker’s contract” and, in relation to a worker, “employer”, “employment” and “employed” have the extended meaning given by section 43K.”

- (2) In section 235 of the 1996 Act (other definitions) after the definition of “position” there is inserted—

“protected disclosure” has the meaning given by section 43A,”.

16 Dismissal of those taking part in unofficial industrial action

- (1) In section 237 of the Trade Union and Labour Relations (Consolidation) Act 1992 (dismissal of those taking part in unofficial industrial action), in subsection (1A) (which

provides that the exclusion of the right to complain of unfair dismissal does not apply in certain cases) —

- (a) for “or 103” there is substituted “, 103 or 103A”, and
- (b) for “and employee representative cases)” there is substituted “employee representative and protected disclosure cases)”.

'Whistleblowing' Report Form

<i>This form will form the basis of the investigation. It is important that it is completed as fully and accurately as possible. Please read the Council's Whistleblowing Policy before filling in this form.</i>		
Who are you sending/giving this report to?		
What is your name?		
Where can you be contacted/What is your home address?		
What is your preferred method of contact e.g. email (at home or at work), telephone (at home or at work), post etc? Please provide address or number?		
What is your role or job?		
What are you reporting? Please tick relevant box	a criminal offence.	
	a breach of a legal obligation.	
	a miscarriage of justice	
	a danger to the health or safety of any person	
	Damage to the environment	
	If you also believe that there is deliberate covering up of any information tending to show any of the above five matters please also tick this box	
Please set out the events/facts which you say support the failure you have identified above and the dates and time when they occurred?		
How do those facts or event show that there is a failure?		
Were you there on every occasion?	Yes/No	
If the answer to the previous question is no, how do you know what occurred and when?		
Which people were there when events/facts occurred, what were their roles and how were they involved?		
Is there any documentary or other evidence which is relevant to the events/facts? If so what is		
It, where is it and who has control of it?		
Is there anyone else who may be able to help the Council look into the events/facts? If so what are their names, where can they be contacted and state briefly what you think they may know?		

Do you think anybody is at risk because of the events or facts and who may need to be protected now or in the future e.g. children, the elderly and others who need help from the Council? If so who are they, where can they be contacted or how can they be identified?	
Have any threats been made against you personally in connection with the matter revealed in this report, by whom and when?	
What do you think may be necessary to correct the failure you think has occurred or to stop it happening again?	
Have you reported the matter to anyone else? If so to whom, how, when and where?	
Have you discussed the matters referred to with anyone else or has someone helped in completing this form, if so whom?	
Have you lodged a grievance under the Councils' Grievance Procedure which relates to the events/facts referred to in this report? If so please give the date on which the notice was given under that policy and at what stage that process has now reached?	
Are you or any of the people referred to in this report subject to a disciplinary investigation or disciplinary action in connection with the events or facts which you are reporting?	
If so please give the name of the disciplinary investigating officer?	
The matters you refer to in this report will be referred to someone to investigate, if there anyone who you believe should not be asked to investigate, if so who is that person and why?	
<p>I believe that the information disclosed in this report, and any allegations contained in it or to be inferred from it, are substantially true.</p> <p>Signed:.....</p> <p>Date:</p>	

Official Record

Date Received	
Date Acknowledged	
File Reference	
Allocated	

Flow Chart



