



Broxtowe  
Borough  
COUNCIL

# WHISTLEBLOWING POLICY

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## **WHISTLEBLOWING POLICY**

### **1. Introduction**

The Public Interest Disclosure Act became law in July 1999, and was amended in June 2013. The Act seeks to address circumstances which arise when employees have concerns about what is happening at work. It seeks to ensure that a whistleblower who makes a genuine disclosure of concerns does not thereby incur unfair treatment. This policy document sets out the Council's response to the requirements of the Act.

This policy does not form part of an employee's contract of employment and it may be amended at any time.

A 'genuine' disclosure is a protected disclosure defined by one or more of the following within the Act found here:

[Public Interest Disclosure Act 1998](#)

**Whistleblowing** is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

- a criminal activity, e.g. fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- failure to comply with any legal obligation
- you believe someone is deliberately concealing any of the above matters

A **whistleblower** is a person who raises a genuine concern relating to any of the above. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a **whistleblowing concern**) you should report it under this policy. For your disclosure to be protected by law, you must make it to the right person and in the right way.

### **2. Process**

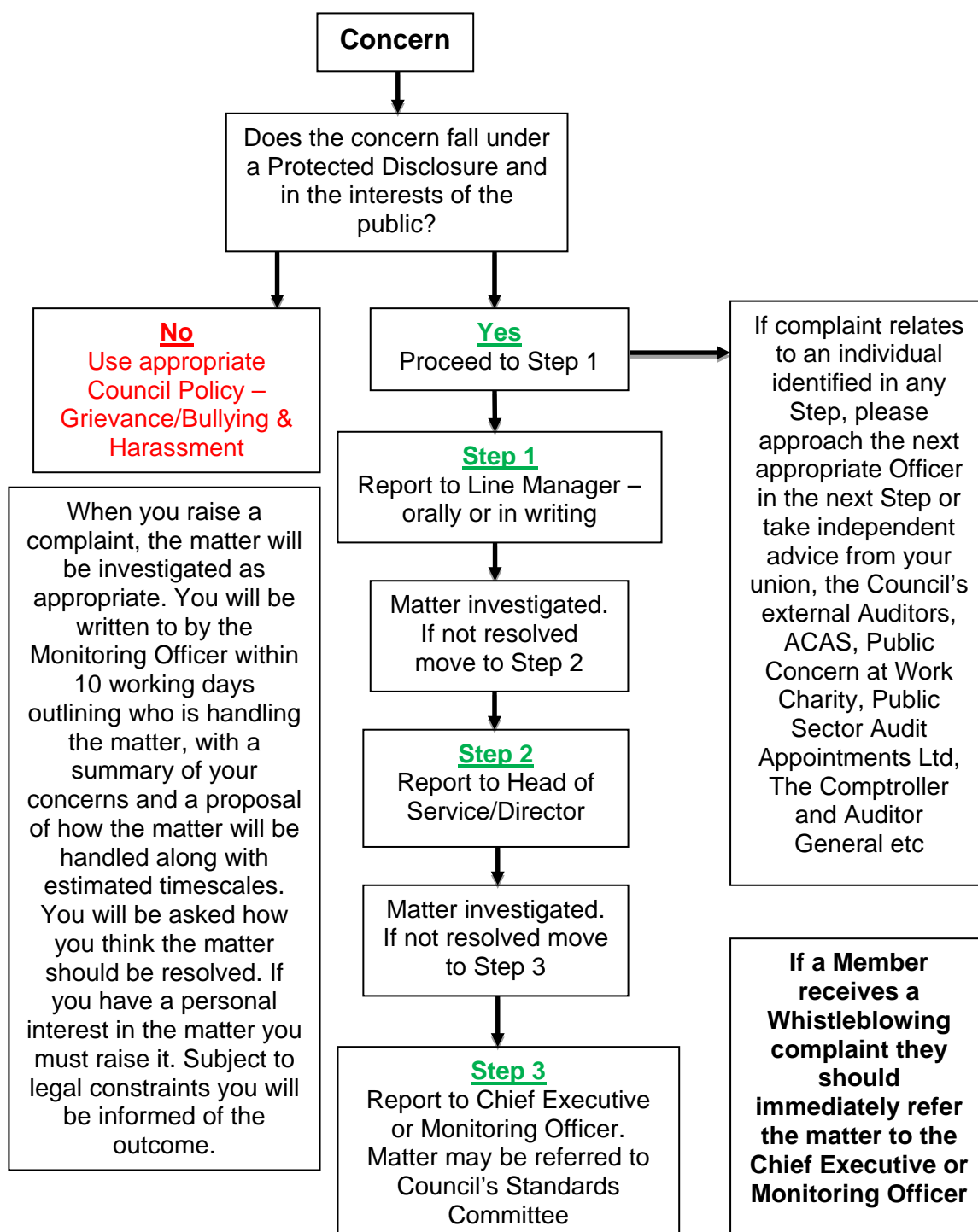
You may be the first person to realise that there may be something seriously wrong within the Council. It can sometimes be difficult to know what to do in these circumstances, and therefore the Council is committed to enabling employees to raise their concerns about any perceived malpractice by using this Whistleblowing procedure. If something is troubling you which you think is in the interests of the public to report, you can do this, confidentially by using the following process.

This policy applies to:

- all employees of the Council.
- contractors working for the Council on Council premises (for example agency staff).
- suppliers and those providing services under a contract with the Council.
- people working in partnership with the Council, and its employees and members (e.g. volunteers, trustees etc).

If in doubt - raise it!

This process is separate to the Council's Complaints procedure, which can be found here: [Complaints Procedure](#)



### **3. The Council's Assurance to You**

#### **3.1 Your safety**

The members, the Chief Executive and the General Management Team are committed to this policy. It does not matter if you are mistaken in your concerns, so long as you reasonably believe there is a problem. Whistleblowers will not be dismissed and should not be subject to detriment as a result of their complaint. If you believe that as a result of raising a concern, you are suffering or subject to detriment, please raise a grievance via the Council's Grievance Policy. Anyone who victimises or retaliates toward the individual, who raised the concern, will be subject to disciplinary action via the Council's Disciplinary Policy.

Of course, the Council does not extend this assurance to someone who maliciously or vexatiously raises a matter that they know is untrue or makes an allegation for personal gain. This could be construed as gross misconduct and disciplinary action may be taken. Any employee subjected to a vexatious or malicious whistleblowing allegation will be supported; this will include referral to the Council's Employee Assistance programme.

#### **3.2 Your confidence**

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this policy. If you ask that your identity is protected by keeping your confidence, it will not be disclosed without your consent. If the situation arises where the Council is not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), it will be discussed with you, as to whether and how the matter can be proceeded with.

#### **3.3 Anonymous complaints**

Anonymous Complaints will be dealt with using the procedure outlined in Appendix 1.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect you.

### **4. Aims and Scope of the Policy**

This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and to act upon concerns about Council practice.
- provide avenues for you to raise those concerns and receive feedback on any action taken.

- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- reassure you that you will be protected from any possible reprisals and victimisation if you have a reasonable belief that you have made the disclosure in good faith.

The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public.

This policy is intended to cover major concerns that may fall outside the scope of other Council procedures.

Personal grievances (e.g. bullying, harassment, discrimination) aren't covered by whistleblowing law, unless your particular case is in the public interest. If you are aggrieved about your personal position or matters relating to your employment, the Council's Grievance Policy and Anti-Bullying and Harassment Policy should be used and can be found here:

[Anti-Bullying and Harassment Policy](#)  
[Grievance Policy](#)

## **5. How the matter will be handled**

Once you have notified the Council of your concern, it will be looked into in order to assess initially what action should be taken. This may involve an internal enquiry or a more formal investigation. You will be notified who is handling the matter, how you can contact them, and whether your further assistance may be needed. A formal written response will be issued to you summarising your concern and setting out how the Council proposes to handle the matter.

When you raise the concern you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, it is vital that this is mentioned at the outset. If your concern more properly falls within another Council policy, such as the grievance procedure you will be notified.

While the purpose of this policy is to investigate possible malpractice and take appropriate steps to deal with it, you will be given as much feedback as possible.

Rarely, a case might arise where it is the employer that has participated (or even continues to participate) in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible.

## 6. How to raise a concern

The earlier you express the concern, the easier it is to take action. Concerns may be raised orally or in writing. If you wish to make a written report you should include:

- The background and history of the concern (giving relevant dates);
- The reason why you are particularly concerned about the situation.

Although you are not expected to prove the truth of the allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

### **6.1 Step 1**

If you have a concern about malpractice, it is hoped that you will be able to raise it first with your line manager. This will obviously depend upon 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 officers identified in Step 2 below. You may, at any stage, feel the necessity to take independent advice (see Section 6.4),

### **6.2 Step 2**

If you feel unable to raise the matter with your line manager, for whatever reason, you should raise the matter with your Head of Service or Director.

### **6.3 Step 3**

If either, or both, of these channels have been followed, and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may wish to contact either the Monitoring Officer or the Chief Executive:

Name:	Monitoring Officer
Contact Details:	Legal Services Council Offices Foster Avenue Beeston Nottingham NG9 1AB
Tel:	0115 9173230



Or

Name:	Chief Executive
Contact Details:	Chief Executive's Office Town Hall Foster Avenue Beeston Nottingham NG9 1AB
Tel:	9173255

Either the Chief Executive or the Monitoring Officer may refer your concern to the Council's Standards Committee

#### **6.4 Independent advice**

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external (see below). If you have a whistleblowing concern and decide to report it to someone other than your employer, they must be a 'prescribed person or body' in order for you to be legally protected. A list of these can be found here: [List of Prescribed People and Bodies](#)

Whistleblowing concerns usually relate to the conduct of our staff, but they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns internally first.

If you are unsure whether in principle to use this procedure or you want independent advice at any stage, you may contact:

- your union (if you are a member) who could assist you in raising your concern, or
- **The Council's Chief Audit and Control Officer**
- the Council's external auditors – details can be provided by the Council's Chief Audit and Control Officer
- the independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.
- The National Audit Office – Contact via telephone on 020 7798 7999, online contact form found here: [Contact Form](#) or write to:

The Comptroller and Auditor General  
National Audit Office  
157-197 Buckingham Palace Road  
London SW1W 9SP

- ACAS – The Advisory, Conciliation and Arbitration Service can provide advice and guidance on 0300 123 1100
- The Information Commissioner's Office is set up to uphold information rights in the public interest and promotes openness by public bodies. Contact via telephone on 0303 123 1113

You may wish to consider discussing your concern with a colleague first, and 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.

You may invite your union representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

## **7. How the Council will respond**

Any concerns raised will always receive a response. This will entail consideration of the disclosure and may involve an internal investigation, following which matters may be referred to an external agency (such as external audit or the police). Any individual named or implicated in the disclosure must not be involved in any investigating or decision-making in relation to the concern raised.

In order to protect individuals and those accused of possible malpractice, initial enquiries will be made in order to identify whether an investigation is appropriate and, if it is, what form it should take. This could be an initial fact-finding exercise to establish the facts and this could lead to, a grievance or disciplinary investigation in accordance with the Council's relevant policies

In cases where after initial fact-finding, there is evidence to establish that there may be a case to answer, the individual(s) named will be informed of any allegations made against them and, if necessary, suspension may apply.

The overriding principle here is the public interest.

Within ten working days of a concern being raised, the Monitoring Officer will write to you:

- acknowledging that the concern has been received.
- indicating how it is proposed to deal with the matter.
- giving an estimate of how long it will take to complete investigations.

- telling you whether any initial enquiries have been made.
- supplying you with the information on how the Council will support you if you think this is necessary, whilst the matter is under consideration.
- keeping you informed of the progress.

The amount of contact between you and the officers considering the matter will depend on both the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you. Meetings can take place away from the Council offices if you prefer.

Steps will be taken to minimise any difficulties which you may experience as a result of raising a concern and you should contact the Human Resources Team should you wish to discuss. The Council also offers an Employee Assistance Programme, details of which can be provided by Human Resources.

If you are required to give evidence in criminal or disciplinary proceedings, arrangements will be made for you to receive advice about the procedure.

Subject to legal constraints, you will be informed of the outcome of any investigation. In many cases, it may not be appropriate to provide explicit details in relation to the outcome of a case, other than informing you that 'appropriate management action has been taken'.

## **8. If you are dissatisfied as a Whistleblower**

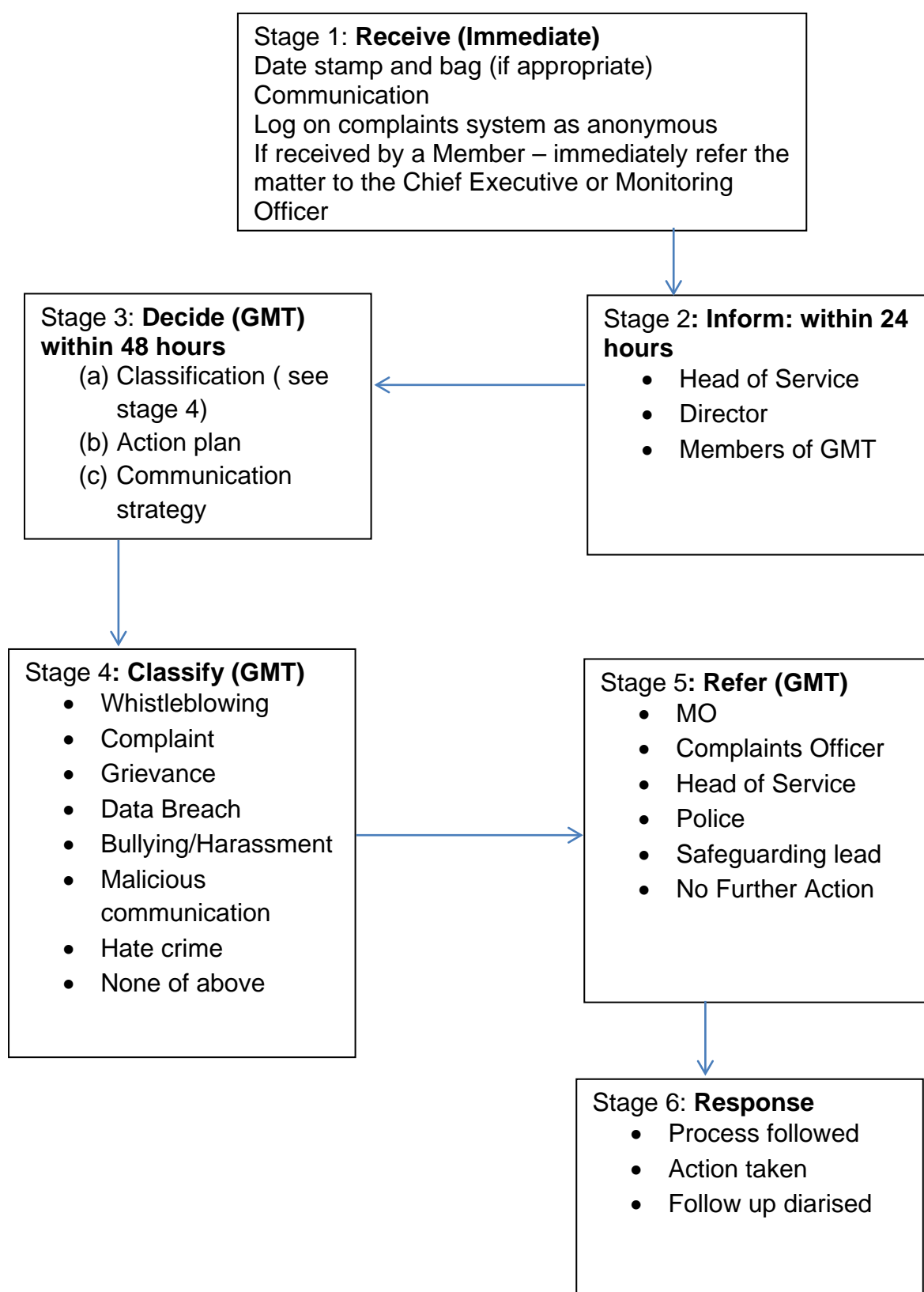
If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned in section 6.4. While it cannot be guaranteed that all matters will be addressed in the way you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this.

It is a fundamental part of an employee's implied terms and conditions to ensure confidentiality relating to employment matters. If you do take the matter outside the Council, you must ensure that refer to the information above in 6.4.

## **9. The Responsible Officer**

The Chief Executive has the overall responsibility for the maintenance and operation of this policy, and will maintain a record of concerns raised and the results of any investigations made (in a form that will not endanger your confidentiality). The Chief Executive will report as necessary to Council.

## Appendix 1 – Handling Anonymous Complaints



## **1. Handling anonymous complaints**

- 1.1. We value all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate.
- 1.2. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable us to take further action, we may decide not to pursue it further. We therefore take action proportionate / appropriate to the apparent risks involved.
- 1.3. Any decision not to pursue an anonymous complaint must be authorised by a senior manager not below the rank of Director and the reasons for not taking action must be recorded and records kept of these decisions by the Council's complaints Section.

## **2. Process to be followed**

- 2.1. This document sets out the process to be followed when an anonymous communication is received. The process is set out in five stages

### **Stage 1: Receive**

When an anonymous communication is received in any Council department it must be recorded as received immediately (date stamped if it is a physical letter and placed into a sealable plastic bag with any covering envelope in which it arrived). The circumstances of its delivery should be recorded (i.e. by whom it was received, at what time).

If a Councillor receives an anonymous communication it should be passed immediately to the Chief Executive, unless the communication refers to the Chief Executive, in which case it should be passed to the Deputy Chief Executive or Monitoring Officer. Any officer who may be considered to have a conflict of interest in relation to the matter should declare that (in priority order depending on who is conflicted to the chief Executive, the Deputy Chief Executive or the Monitoring Officer) in order that this can inform the action plan to be agreed at stage 3 below.

### **Stage 2: Inform**

Within 24 hours of receipt of an anonymous communication the relevant Head of section, the Director and remaining members of the General Management Team will be informed.

### **Stage 3: Decide**

Within 48 hours of receipt of the letter such members of GMT who are available and not conflicted shall

- (a) Consider how the anonymous communications should be classified (see stage 4 for classification options). This decision will determine the process, if any, which is to be followed with regard to the communication. Reasons for the decision shall be recorded and documented.
- (b) Make an action plan in writing which shall set out who is responsible for doing what within what time frame in relation to the letter.
- (c) An overall responsible person should be named for co-ordinating action relating to the communication and following up to ensure actions are completed.
- (d) Decide on a communication strategy with regard to the communication.

Action should be taken expeditiously in relation to the communication. There should be no unreasonable delay in responding.

### **Communication considerations**

In deciding what should be communicated to whom the following issues should be considered

- Whether any person named in the communication should be informed and if so how
- Whether any politician should be informed (e.g. leader or deputy leader or committee chair)
- Appropriate legal advice should be taken to ensure the proposed communication plan is not illegal in breaching data protection, whistleblowing or other legal provision
- HR advice should be sought in relation to staff welfare issues
- If it seems possible the communication will result in press interest, a draft press response should be considered.
- Confidentiality is important as it is likely that the anonymous author does not wish to be identified and may have a legitimate reason for not identifying themselves.
- Since communication of the outcome of any investigation cannot be done to an anonymous person consideration should be given as to how any actions which have been agreed to be taken as a result of receiving the communication should be communicated, internally or externally.

### **Stage 4: Classify**

In considering how the communication should be classified, regard should be paid to the relevant policies.

It may be that a number of policy approaches should be taken in relation to the letter in parallel or in sequence.

Legal and HR advice should be sought where necessary.

The decision in relation to how the communication should be classified – and therefore which procedure shall be followed in handling the matter – shall be kept under review as during any investigation or process, circumstances may come to light which may require an adjustment in the approach taken.

### **Stage 5: Refer**

Depending on the classification decision and action plan which is agreed in relation to the communication, stage 5 involves the formal referral to any person agency or lead individual who may be asked to undertake investigations.

### **Stage 6**

Stage 6 involves the completion of work agreed in the action plan and any subsequent work thought necessary following any investigation which takes place. The named lead person responsible for co-ordinating the response shall ensure that action is completed in a timely fashion and that appropriate procedures are followed. Any action agreed to be taken shall also be followed up to ensure they are implemented.

## **3. Record keeping**

The Complaints Section shall keep a record of all anonymous complaints received and include reference to these in the annual report on complaints which is given to the Governance and Audit Committee.