

# **Whistleblowing Policy and Procedure**

**July 2024**

## 1. INTRODUCTION

Wiltshire Council is committed to the highest possible standards of openness, probity, and accountability. In line with that commitment we wish to encourage employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. This process is commonly referred to as "Whistleblowing".

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Council upholds the seven principles of public life, it expects all employees (including agency staff) to maintain these standards in everything they do. Employees, and others the Council deal with (including suppliers and those providing services to the Council), are therefore encouraged to report any wrongdoing by the Council or its employees that fall short of these standards.

The Whistleblowing Policy and Procedure is intended to encourage and enable employees (including temporary staff), contractors working for the Council (e.g. agency staff, builders etc.) and members of the public to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. This policy makes it clear that you can do so without fear of victimisation, subsequent discrimination, or disadvantage. The Council is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly. There is also statutory protection from any disclosures made by staff. It is important for potential whistleblowers to understand that their employment will be protected by the Council on the strict assumption that any disclosures or allegations are not malicious in nature. We would rather the matter be raised when it is just a concern, the message we wish to get across is "if in doubt, raise it".

All employees of the Council can raise their concerns under this policy, as well as contractors working for the Council (e.g. agency staff, builders etc.), the voluntary sector **and members of the public**. This policy also applies to suppliers of goods and services under a contract to the Council and voluntary workers working with the Council. The Council will seek to ensure that as part of its procurement processes this policy is brought to the attention of such external contractors, suppliers, and service providers.

This policy and procedure complies with the Public Interest Disclosure Act 1998 ("PIDA") and the Enterprise and Regulatory Reform Act 2013.

## **2. AIMS AND SCOPE OF THIS POLICY**

### 2.1 This policy aims to:

- Provide avenues for employees **and others** to raise concerns and receive feedback on any action taken.
- Allow employees **and others** to take the matter further if they are dissatisfied with the Council's response to the concerns expressed; and,
- Reassure employees **and others** that they will be protected from possible reprisals or victimisation.

### 2.2 Complaint or blowing the whistle?

When an individual blows the whistle, they are raising a concern about a danger or illegality that affects others (for example customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern, they are simply trying to alert others.

When an individual complains or raises a grievance, they are saying that they have been personally treated poorly. This poor treatment could involve a breach of their individual employment rights or bullying, and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and for this reason, is expected to prove their case.

There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This policy is intended to cover concerns that fall outside the scope of the grievance procedure. Thus, any serious concern that a member of staff has about any aspect of service provision, the conduct of officers, members of the Council or others acting on behalf of the Council can and should be reported under this policy. Your concerns may relate to something which is happening, has already happened or is likely to happen in the future.

For example, concerns raised under this Policy could include:

- Failure to observe health and safety regulations, or actions which involve risks to the public or other employees.
- Financial irregularities - including fraud, corruption, or unauthorised use of public funds.
- Improper or unlawful conduct by an officer or a member.
- Action causing, or is likely to cause, damage to the environment.
- Employees claiming benefits to which they are not entitled.
- Sexual, racial, physical, or other abuse.
- Other causes of malpractice, negligent, unprofessional, or unethical behaviour.
- Concealment of any of the above.

Please note that this is not a comprehensive list but is intended to illustrate the range of issues which might be raised under this Code.

The spirit of this policy will also be applied to elected members of the Council, recognising though that they have separate and distinct roles as the elected representatives of their communities who operate within a political environment. Elected members to whom the whistle is blown should in the first place contact the Monitoring Officer. However, where members actions are involved, the Standards Regime under the Localism Act 2011 will be engaged.

The scope of this policy does not cover schools as every maintained school should have their own whistleblowing policy. The governing body of a school is responsible for agreeing and establishing their own whistleblowing policy. Similarly, academy trusts must have appropriate procedures in place for whistleblowing, making it clear all concerns will be responded to properly, consistently, and fairly. Therefore, any concerns relating to a school should be reported to the school via the school's own whistleblowing policy.

It is recognised that concerns may be raised under the whistleblowing policy which are not sufficiently about wider organisational concerns to be a whistleblowing complaint, but rather something that might be dealt with as a grievance, through a disciplinary process or some other council procedure. When such processes are concluded if any additional information is uncovered which might be of organisational concern, the relevant HR officer will refer them to the relevant Director to form a judgement about any further process needed.

Managers and staff should be vigilant in respect of identifying potential whistleblowing concerns. If there are concerns that are raised during or as a result of an internal process or which are raised during the course of usual day to day management and which may be considered to potentially amount to a whistleblowing disclosure, the manager concerned should report the matter and seek advice from the relevant Director and/or SWAP in line with the procedure set out within this policy in order for an assessment to be completed as to whether the concerns amount to a whistleblowing disclosure.

### **3. SAFEGUARDS**

#### **3.1 Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisals from those who may be guilty of malpractice or from the Council as a whole. The Council will not tolerate any harassment or victimisation (including informal pressures). The Council will not tolerate any attempt on the part of any employee, Councillor, Council contractor or supplier to apply any sanction or detriment to any person who has reported to the Council any serious and genuine concern that they may have of any apparent malpractice.

We understand that some individuals may not be comfortable with what is known as 'open whistleblowing', so we will offer the option of keeping your identity

confidential unless we are required to disclose it by law, or unless we have your permission. If you wish us to maintain confidentiality, we will always seek to do so.

The Public Interest Disclosure Act (PIDA) 1998 provides legal protection, in certain circumstances, to workers making disclosures in good faith about malpractice. The Act makes it unlawful for the council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

In order for protection against recriminations, victimisation or harassment to apply, the person making the disclosure should have a reasonable belief that the disclosure they are making is in the “public interest”. Their belief need not be correct for protection to apply.

### 3.2 Confidentiality

As far as possible, the Council will protect the identity of any employee who raises a concern and does not want his/her name to be disclosed, but this confidentiality cannot be guaranteed. It must be appreciated that any investigation process may reveal the source of the information and a statement by the person reporting the concern may be required as part of the evidence. Where an employee has requested that their identity not be revealed, the Council will discuss the matter with them before embarking on any course of action whereby their identity will need to be disclosed.

### 3.3 Anonymity

Concerns expressed anonymously will be considered at the discretion of the Council, although it must be appreciated that it is inherently difficult to investigate concerns expressed this way. It is hoped that the guarantees contained in this policy will provide sufficient reassurance to staff to enable them to raise concerns in person. However, in exercising the discretion, the factors to be taken into account would include:

- The likelihood of obtaining the necessary information.
- The seriousness of the issues raised.
- The specific nature of the complaint.
- The duty to the public.

### 3.4 False and Malicious Allegations

The Council will protect itself and its employees from false and malicious expressions of concern by taking disciplinary action where appropriate. The Council will try to ensure that the negative impact of either a malicious or unfounded allegation about any person is minimised.

## 4. **HOW TO RAISE A CONCERN**

4.1 As a first step, you should normally raise concerns with your immediate

manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you prefer (for whatever reason) or if you believe that management is involved, you could approach one of the individuals in section 4.4.

4.2 Alternatively, you can raise concerns via SWAP Internal Audit Services using their email address:- [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk)

4.3 SWAP Internal Audit must be notified of all concerns raised under the Whistleblowing Policy (via 4.1 or 4.6) and their outcome using SWAP's email address:- [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk) On notification of the concern, Wiltshire Council must inform SWAP as to whether SWAP is required to conduct the initial assessment of the concern or whether Wiltshire Council shall itself conduct the initial assessment.

4.4 Concerns may be raised by a whistleblower orally or in writing. Normally it is preferable to put your concern in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. To assist in the notification process, the Council has set up an arrangement for a confidential answer phone service with SWAP Internal Audit Services (020 8142 5030) or alternatively there is a confidential email address ([confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk)).

4.5 The earlier you express the concern, the easier it is to take action. You should not wait until you have proof. Although you are not expected to prove the truth of the allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

**N.B. If an employee has any personal interest in the matter this should be disclosed at the outset.**

4.6 If you do have a concern, however small and you don't feel comfortable discussing such a sensitive issue with a close colleague, the following officers can provide advice and guidance:

- Assistant Director SWAP Internal Audit Services – Counter Fraud and Investigations – Jacqui Gooding ([jacqui.gooding@swapaudit.co.uk](mailto:jacqui.gooding@swapaudit.co.uk))
- Section 151 Officer (Director for Finance and Procurement) – Lizzie Watkin ([Lizzie.Watkin@wiltshire.gov.uk](mailto:Lizzie.Watkin@wiltshire.gov.uk))
- Monitoring Officer (Director of Legal & Governance) – Perry Holmes ([Perry.Holmes@wiltshire.gov.uk](mailto:Perry.Holmes@wiltshire.gov.uk))
- Deputy Monitoring Officer (Head of Legal Services, Democracy & Governance) – Joanna Madeley ([Jo.Madeley@wiltshire.gov.uk](mailto:Jo.Madeley@wiltshire.gov.uk))

All concerns will be treated sensitively and with due regard to confidentiality and where possible every effort will be made to protect a whistleblower's wishes. However, the Council does not encourage staff to make disclosures anonymously as this can constrain the process of investigation. The information will, normally, need to be passed on to those with a legitimate need to see it in order to investigate the matter and to act upon any findings. However, a concern raised will be logged with SWAP Internal Audit as per 4.3.

Alternatively, employees may wish to get confidential advice from their trade union or professional association. They can also contact the independent charity Protect (020 3117 2520) or [www.protect-advice.org.uk](http://www.protect-advice.org.uk) who have lawyers who can give independent advice at any stage about how to raise a concern about serious malpractice at work.

4.7 Employees may invite their trade union or professional association to raise a matter on their behalf.

## 5. PROCESS

5.1 Initial concerns may be raised orally or in writing, although normally it is preferable to put the concern in writing, and there may be occasions when it will be necessary to go back to the whistleblower to confirm the complaint in writing. The whistleblower is invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why this is of particular concern. There is an example report form in Appendix 3 of this Policy.

5.2 The action taken by the Council will depend on the nature of the concern. where appropriate, the matters raised may:

- Be investigated by senior management, internal audit (SWAP) or through the disciplinary process.
- Be referred to the police.
- Form the subject of an independent inquiry.

5.3 In order to protect the individual and the Council, an **initial assessment** will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take. The **initial assessment** may be carried out internally or the Council may ask another body (e.g. SWAP) to carry it out. Concerns or allegations, which, fall within the scope of specific procedures (for example fraud, theft and corruption) will normally be referred to **SWAP** for consideration under those procedures.

5.4 It should be noted that some concerns may be resolved by agreed action without the need for a full investigation. If urgent action is required, this would be taken before any investigation is completed.

5.5 Within ten working days of a concern being raised, and following the **initial assessment**, one of the officers detailed in section 4.4 will write to the person

raising the concern and;

- acknowledge that the concern has been received,
- indicate the initial findings and how he/she proposes to deal with the matter; and
- give an estimate of how long it will take to provide a final response.

If it is impossible for **initial assessment** to be completed within ten working days, or where urgent action is required, the situation will be explained in the letter of acknowledgement. Where a decision is made that a full investigation will take place, the reasons for this will be provided.

If a full investigation is required, this will be carried out by the Council internally or the Council may ask another body (e.g. SWAP) to carry it out. Following the full investigation, the Council will either resolve by agreed action or take appropriate further action. This further action could be:

- Agreed steps such as disciplinary process.
- Referral to the Police.
- An independent enquiry.

5.6 **SWAP Internal Audit must be notified of all initial assessments and full investigations raised under the Whistleblowing Policy and their outcome using SWAP's email address:- [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk)**

5.7 The amount of contact between the officers considering the issues and the employee raising the concern will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern. Should further information be required, initial findings will be provided to the person raising the concern within four working days of the additional information requested being received by the Council.

5.8 Where any meeting is arranged, employees have the right, if they so wish, to be accompanied by a union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

5.9 The Council will take appropriate steps to minimise any difficulties, which an employee may experience as a result of raising a concern. For example, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will need to inform them and consider what steps are required to provide support.

5.10 The Council accepts that employees raising a concern need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the person raising the concern will receive as much information as possible about the outcomes of any investigation.

## **6. HOW THE MATTER CAN BE TAKEN FURTHER**

- 6.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not satisfied with the outcome of your confidential allegation you can write to the Chief Executive and ask for the investigation and outcome to be reviewed. If you remain dissatisfied and you feel it is right to take the matter outside the Council, you may wish to take advice from your trade union, your local Citizens Advice Bureau, any of the external agencies listed in section 6.4 below, or your legal advisor on the options that are available to you.
- 6.2 Another option is that you may wish to rely on your rights under the Public Interest Disclosure Act 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public interest. The provisions are quite complex and include a list of prescribed persons outside of the Council who can be contacted in certain circumstances. You should seek advice on the effect of the Act from the Director of Legal & Governance (Monitoring Officer).
- 6.3 If you do take the matter outside the Council, you need to ensure that you do not disclose information where you owe a duty of confidentiality to persons other than the Council (e.g. service users) or where you would commit an offence by making such disclosures. This is something that you would need to check with one of the officers mentioned in Section 4.4.

#### 6.4 External Contacts

If for any reason you do not wish to use the internal arrangements set out above, or require additional support and advice, a list of some of the prescribed people and bodies to whom you can make a disclosure and whose functions have particular relevance to the council's work:

- The Audit Commission for England ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk))
- The Certification Officer ([www.certoffice.org](http://www.certoffice.org))
- The Care Quality Commission ([www.cqc.org.uk](http://www.cqc.org.uk))
- Ofsted
- The Office of the Children's Commissioner ([www.childrenscommissioner.gov.uk](http://www.childrenscommissioner.gov.uk))
- Her Majesty's Revenue and Customs (HMRC) ([www.hmrc.gov.uk](http://www.hmrc.gov.uk))
- Serious Fraud Office Confidential ([www.sfo.gov.uk](http://www.sfo.gov.uk))
- The Environment Agency ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk))
- The Food Standards Agency ([www.food.gov.uk](http://www.food.gov.uk))
- The Health and Care Professions Council (HCPC) ([www.hpc-uk.org](http://www.hpc-uk.org))
- The Health & Safety Executive ([www.hse.gov.uk](http://www.hse.gov.uk))
- The Homes and Communities Agency (HCA) ([www.homesandcommunities.co.uk](http://www.homesandcommunities.co.uk))
- The Information Commissioner ([www.ico.org.uk](http://www.ico.org.uk))
- Relevant professional bodies or regulatory organisations
- A solicitor or legal advisor
- The Police
- The Local Government Ombudsman ([www.lgo.gov.uk](http://www.lgo.gov.uk))

- The Council's External Auditors (Deloitte) ([www2.deloitte.com/uk](http://www2.deloitte.com/uk))

## **7. RESPONSIBILITY FOR IMPLEMENTING**

7.1 The responsibility for ensuring that the Council adheres to this Policy rests with the Corporate Leadership Team.

## **8. MONITORING AND REPORTING**

8.1 The Assistant Director (SWAP) will provide an annual report to the Council's Audit and Governance Committee which has responsibilities for overseeing the effectiveness of the Council's governance arrangements as well as the Standards Committee. All reporting will be anonymised and will only identify common themes, numbers of disclosures year on year and will highlight actions taken to improve systems and policies.

## **9. REVIEW**

9.1 This Policy will be regularly reviewed in line with future changes and developments and at least every two years.

## **10. RELATED POLICIES AND OTHER STRATEGIES**

10.1 The following policies support or are linked to the Whistleblowing Policy and Procedure.

- Anti-Fraud, Theft, and Bribery Strategy and Policy
- Codes of Conduct (employees and councillors)
- Grievance Policy and Procedure
- Disciplinary Procedures

## **11. WHISTLEBLOWING BY MEMBERS OF THE PUBLIC**

11.1 Unlike disclosures by employees, PIDA does not offer legal protection for disclosures made by members of the public. However, the Council will take reasonable and appropriate action to protect members of the public when they disclose a concern.

11.2 The Council considers that any such disclosure made by members of the public in respect of serious misconduct should be handled in the same way as concerns raised by employees.

11.3 Once a disclosure from a member of the public has been received by the Council, it will be handled in the same way as concerns raised by employees, unless it is considered more appropriate for the concerns to be dealt with using the Council's Complaints Procedure or any other procedure as appropriate.

11.4 The Council shall notify SWAP Internal Audit of all concerns, initial investigations and full investigations raised by members of the public under the Whistleblowing Policy and their outcome using SWAP's email address:-

[confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk)

## **APPENDIX 1**

### **INVESTIGATION ARRANGEMENTS**

SWAP Internal Audit must be notified of all concerns raised, initial assessments and full investigations undertaken under the Whistleblowing Policy and their outcome using SWAP's email address:- [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk)

All concerns raised should also be passed to the Section 151 Officer (Director of Finance and Procurement), the Monitoring Officer (Director Legal & Governance), the Deputy Monitoring Officer, and the Head of Internal Audit (SWAP Assistant Director) irrespective of who was contacted in the first instance.

On notification of the concern, Wiltshire Council must inform SWAP as to whether SWAP is required to conduct the initial assessment of the concern or whether Wiltshire Council shall itself conduct the initial assessment.

All initial assessments will be undertaken by Wiltshire Council or SWAP Internal Audit Services.

The Monitoring Officer will advise on the legal implications and will:

- a) Arrange support and counselling for the employee who reported the concern as necessary; and,
- b) Provide advice on any necessary disciplinary action, if required.

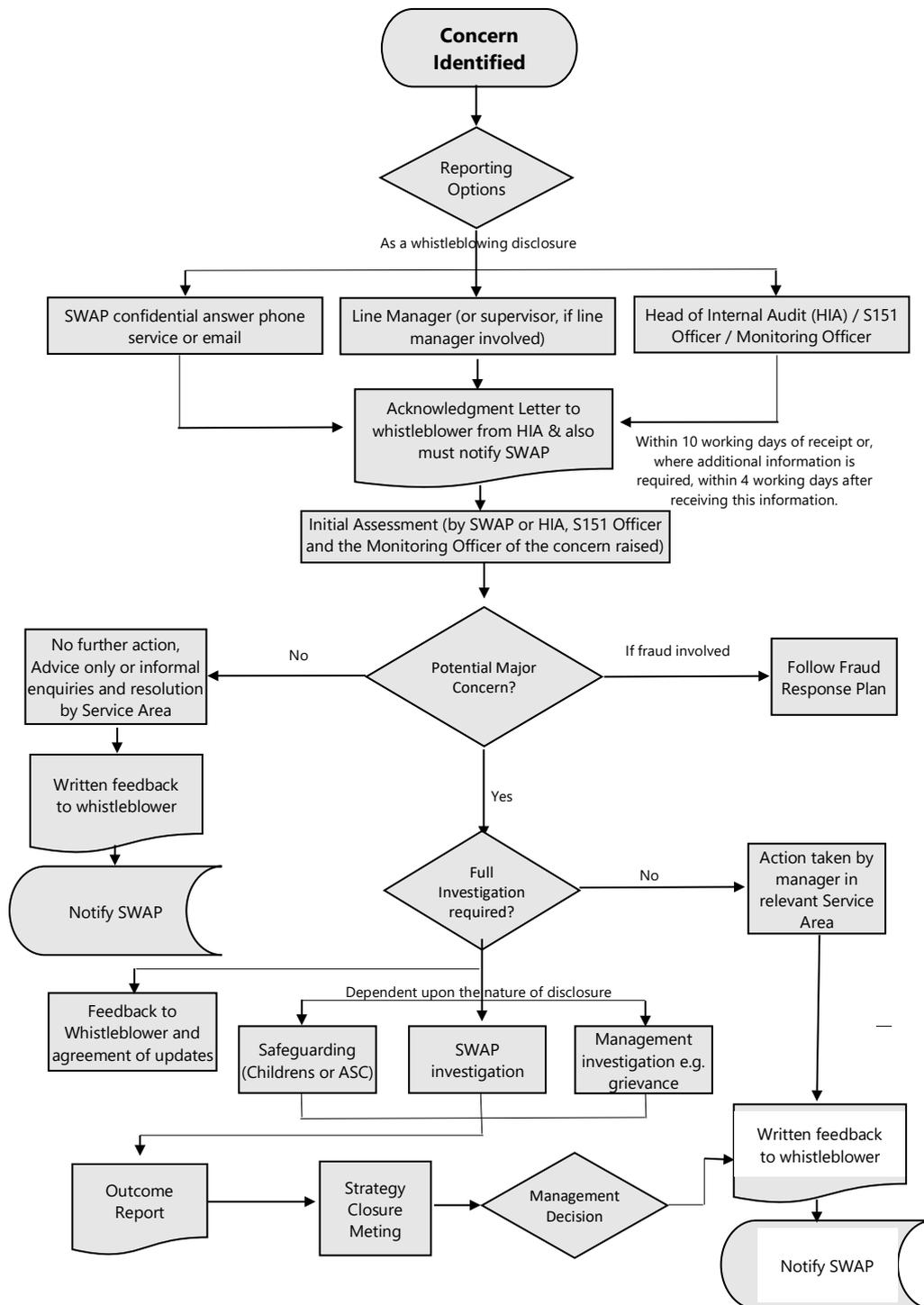
Any initial assessment or full investigation carried out by SWAP Internal Audit Services will adopt the following good practice points:

- Deal promptly with the allegation or concern.
- Contact the Police and other agencies as appropriate at an early stage and keep them and the employee who reported the concern informed of progress.
- Prepare a background or objectives statement and consider the likely outcome, i.e. prosecution and/or internal disciplinary action.
- Record all evidence received, ensure that it is sound, adequately supported and kept secure.
- Notify the Council's insurers where appropriate.
- Notify and liaise with the Monitoring Officer (Director Legal & Governance) and the Section 151 Officer (Director of Finance and Procurement);
- Identify actions required, systems weaknesses and lessons learnt.

Any initial assessment or full investigation carried out by other investigative teams shall adopt similar good practice points where relevant.

## APPENDIX 2

### Whistleblowing Procedure Flowchart



### **APPENDIX 3**

#### **WHISTLEBLOWING POLICY – Report Form for Whistleblowing Complaints**

Wiltshire Council is committed to the highest possible standards of openness, professionalism, and accountability. In line with that commitment we expect employees, partners, members of the public and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

Description of the concern

Where possible include:

- Dates of
- Whether there were any
- Who was involved/other witnesses
- Why this is a concern
- Whether you have tried to raise this with your/a manager
- What the result was

You are encouraged to put your name to this report. Concerns expressed anonymously are much harder to investigate but will be considered at the discretion of the Monitoring Officer.

Name:		Service (if staff member)	
Address:		Contact Number:	
Date:		Signature:	