



## Confidential Reporting (Whistleblowing) Policy

### What is this Policy about?

The Council is committed to conducting its business with honesty and integrity, and we expect all those who work for the Council and Councillors to maintain high standards in accordance with their respective Codes of Conducts (or any service or goods contracts with them). However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring and to address them when they do occur.

**Comment [JT1]:** Not sure this section really explains what the problem is that the Policy seeks to address. So suggest this insertion

The Council ~~therefore has~~ introduced this ~~P~~policy to reassure ~~you~~ that it is safe and acceptable to speak up. ~~It aims to ensure you are aware of how and when to raise a concern and assure you that you will be protected from possible reprisals or victimisation if you have made a disclosure in the public interest.~~ The Council recognises the importance of whistleblowing and promotes it as part of its commitment to ensuring good governance.

This Policy covers all “workers”<sup>1</sup> i.e. employees, casual workers and ~~agency / contract workers.~~

**Comment [JT2]:** Whilst a contractors may have their own WBP there are good reasons for the Council to encourage such individuals to report any wrongdoing using the employer’s internal channels. The same applies to volunteers and the genuinely self-employed. **MW** – I would prefer it if we could advise agencies of the process to be followed if their worker has a concern whilst they are with us, as use of internal Council procedures might give weight to a presumption that they are employees when this is not the case. **JT:** Whilst they are not employees they are protected in the ERA in relation to a protected disclosure. Including them and encouraging them meets both the BIS and PCaW Codes of Practice, in that it encourages them to report concerns and allows the Council greater control over the process (and any publicity relating to the issue).

Members are not “workers” in the whistleblowing sense, but are nonetheless encouraged to utilise the reporting systems if they have relevant concerns.

#### The aims of this Policy are:

- ~~• This policy is to explain help you understand the Council’s approach to confidential whistleblowing reporting – (whistleblowing) and how you are protected if you want to raise a concern.~~
- ~~• To encourage workers to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected~~
- ~~• To provide workers with guidance as to how to raise those concerns.~~
- ~~• To reassure workers that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.~~
- ~~• To provide a comprehensive approach towards whistleblowing to address concerns as quickly and effectively as possible.~~

This Policy takes account of the Department for Business Innovation & Skills Whistleblowing: Guidance for Employers and Code of Practice<sup>2</sup>, and Public Concern at Work’s (‘PCaW’) Best Practice Guide<sup>3</sup>. ~~It has been agreed following consultation with the Trade Union and Staff Consultation Forum.~~

**Comment [MW3]:** We normally consult on rather than agree policies with the Union and SCF. **JT** noted and amendments made.

<sup>1</sup> To reflect the Employment Rights Act 1996 definition where individual introduced or supplied to do work by a third person, and the terms on which s/he is or was engaged were substantially determined not by him but by the person for whom he works or worked, by the third person or by both of them.

<sup>2</sup> March 2015

<sup>3</sup> An independent Charity which seeks to ensure that concerns about malpractice are properly raised / addressed in the workplace. PCaW Best Practice Guidance November 2015.

Legal Services



This Policy does not form part of any employee's contract of employment and the Council may amend it at any time.

~~Whistleblowing is the common term used when an employee reports suspected wrongdoing at work this includes raising a concern about the way that the Council operates which could put colleagues, Councillors, the public or the Council's reputation at risk.~~

~~As an employee, you are often the first to realise that there may be something seriously wrong within the Council. However, you may not feel able to express your concerns because you feel that speaking up would be disloyal to your colleagues or to the Council. You may also fear harassment or victimisation. In these circumstances you may feel it is easier to ignore the concern than report what may be a suspicion of malpractice.~~

~~The Council has introduced this policy to reassure you that it is safe and acceptable to speak up. It aims to ensure you are aware of how and when to raise a concern and assure you that you will be protected from possible reprisals or victimisation if you have made a disclosure in the public interest. The Council recognises the importance of whistleblowing and promotes it as part of its commitment to ensuring good governance.~~

**What this Policy does not cover**

The Council recognises that grievances and whistleblowing issues often become entangled, for example where an employee's personal grievance raises wider issues such as health and safety.

However, if this is a personal grievance (and you are an employee) then you should use the Council's Complaints Resolution grievance procedure. ~~As his policy~~ The Whistleblowing Policy does not cover complaints about your employment or any grievance about the conditions of your employment or the manner in which you may have been treated. Those matters are covered by the Complaints Resolution Policy or the Bullying and Harassment Policy which can be found on the intranet. The ~~Confidential Reporting Code~~ Whistleblowing Policy is should be used when there is about risk to the interests of others or the Council.

~~This policy, as a consequence of the new 'public interest' requirement, precludes employees from being able to 'blow the whistle' about breaches of their own employment contract. Employees making such complaints should still use the Complaints Resolution Policy. You should also use the Complaints Resolution procedures if you believe you have suffered **a detriment as a result of making a whistleblowing disclosure**. OR the relevant appeals procedure if you have been disciplined or dismissed **and you believe this is as a result of making a whistleblowing disclosure**. If you believe this to be the case, you should also raise this with the Monitoring Officer (so that this issue can be recorded as potentially linked to a disclosure).~~

Once a matter has been raised under the Complaints Resolution Policy, Appeal and / or the Whistleblowing Policy the Council will carefully consider which procedure is appropriate for dealing with your complaint/ concern.

**Comment [JT4]:** Recent case *Chesterton Global Ltd (t/a Chestertons) v Nurmohamed EAT 2015* means the definition is wider – that case involved manipulating commission, so managers were not paid as much, and the complainant raised this as a whistleblowing issue – which was determined to be in the 'public interest' and therefore protected..

**Comment [MW5]:** If they are dismissed, this would have to be under one of the other existing Council procedures e.g. Managing Misconduct, Improving Performance, Attendance etc. and in which case they should use the specific appeals process included in the relevant policy.  
**JT noted and amendments made.**

**Comment [JT6]:** The ACAS Code describes grievances as "concerns, problems or complaints that employees raise with their employers", which is potentially wide enough to cover whistleblowing. Therefore, an employer should (where reasonable) take the ACAS Code into account if the subject matter of the disclosure appears to affect the employee personally and could lead to one of the claim in Schedule A2 to the Trade Union and Labour Relations (Consolidation) Act 1992 and affect compensation payable if dismissed).

**Comment [MW7]:** See comment MW5 above.



This Policy does not cover allegations that Councillors may have breached the Member Code of Conduct. The Code of Conduct is available in Section 17 of the Constitution on the Internet: [http://www.north-herts.gov.uk/constitution -- 5.9.13 -- section 17.pdf](http://www.north-herts.gov.uk/constitution--5.9.13--section-17.pdf)  
<http://www.north-herts.gov.uk/home/council-and-democracy/council-constitution>

A complaint form about Councillor conduct is also available on the Internet: [https://northhertfordshire-self.achieveservice.com/fillform.php?self=1&form\\_id=NnTHuCVBSno&1](https://northhertfordshire-self.achieveservice.com/fillform.php?self=1&form_id=NnTHuCVBSno&1)

This Policy is not intended to be used by external does not cover third parties acting on the Council's behalf unless they are agency staff. An agency worker is encouraged to raise the issue with the Council (and their employer company/ agency under their procedures). Any worker or Member may also raise concerns regarding third parties providing a service (or goods) on the Councils behalf directly with the Monitoring Officer – outside of this Policy, if it covers the issues listed below\*.

**Comment [MW8]:** See MW comment under JT2 above. JT noted and see response above. The Council is required to cover this issue under the ERA 1996/ BIS Code and best practice.

~~This policy has been discussed with the relevant trade unions and has their support.~~

**What if my concern relates to the treatment of children or vulnerable adults?**

All employees staff have a legal duty to recognise, respond and refer any concerns that they have relating to the treatment of children or vulnerable adults. To achieve this, all staff employees need to be aware of basic procedures to follow whether they regularly work with children or vulnerable adults or have ad hoc contact or have no direct contact at all. If there is concern about this or potential radicalisation (and the prevent strategy). Please refer to the Safeguarding Children and Safeguarding Adults at Risk of Harm Policies for details.

<http://intranet.north-herts.gov.uk/finance-policy-and-governance/policy-and-community-services/active-communities/safeguarding-childr-0>

You may also raise terrorism concerns with the Council's Prevent Working Group.

**Applicable to:**

ALL ( X ) Non-management ( ) Management ( ) Members ( )

**THE COUNCIL'S POLICY**

The Council is committed to this Policy and has appointed the Monitoring Officer to have overall responsibility for its operation. The Monitoring Officer maintains a record of concerns raised and the outcomes of investigative work in a form which does not endanger your confidentiality.

Confidential whistleblowing reports may be presented to the Standards Committee Finance, Audit and Governance Committee and the Cabinet council. This will be considered on a case by case basis depending on the nature and seriousness of the concern raised.

**What is Whistleblowing?**

Whistleblowing is the common term used when a worker reports suspected wrongdoing at work. This includes raising a concern about the way that the Council





operates which could put colleagues, Councillors, the public or the Council in danger or lead to financial problems and/or put its reputation at risk. This applies to reports of:

- criminal activity (including potential bribery, corruption, financial fraud or mismanagement);
- failure to comply with a legal obligation or requirement;
- dangers to health and safety;
- a miscarriage of justice;
- damage / likely damage to the environment;
- deliberate concealment of any of the above matters.

A whistleblower is a person who raises a genuine concern relating to any of the above. The Council recognises that a worker is often the first to realise that there may be something seriously wrong within the Council. However, you may not feel able to express your concerns because you believe that speaking up would be disloyal to your colleagues or to the Council. You may also fear harassment or victimisation. In these circumstances you may think it is easier to ignore the concern rather than report what may be a suspicion of misconduct.

Nonetheless, if you have any genuine concerns related to suspected wrongdoing or danger affecting any of the Council's activities you should report it under this Policy, as this can be dealt with confidentially and protection/ support can be offered if you do so. This applies to Members also.

### ***How do I raise my concern?***

We hope that in most cases you will be able to raise any concerns with your line manager. You can raise your concern verbally or in writing. Remember that you will need to set out the background and history of the concern, (giving relevant dates wherever possible) and explain the reason why you are particularly concerned about the situation.

The earlier you express the concern the easier it is to take action.

You may invite your trade union representative or a work colleague to be present at any meetings or interviews held in connection with the concerns you have raised.

Members can raise their concerns directly with the Monitoring Officer.

### ***Anonymous Allegations***

The Council would like to promote a culture of openness and honesty amongst its staffworkers and Members and you are encouraged to put your name to your allegation whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Monitoring Officer. In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised;



- the credibility of the concern; and
- the likelihood of confirming the allegation from other sources.

Please remember that if you do not tell us who you are it is impossible to ask for any further information, give you feedback, or protect your position and it might not be possible to continue an investigation without your personal evidence of the wrongdoing.

### ***Who do I speak to/ contact?***

You should feel confident to come forward with any concerns you have and as indicated this should ideally be with your line manager.

Where your concern relates to a serious or sensitive matter, one which you do not want to raise with your line manager, or you suspect management is involved, you should approach the Monitoring Officer directly. ~~However if you are able to speak to your line manager about the issue, please do so in the first instance.~~

If you have told your line manager, then s/he will tell the Monitoring Officer about your concerns as soon as is practicable, and prior to any investigative work being carried out. Ordinarily, the Monitoring Officer may expect your line manager to lead on initial enquiries or deciding how investigating the matter and will liaise with the line manager before a decision is taken on how the matter will be handled (investigated or referred for investigation) not become involved unless the Monitoring Officer considers it necessary. You can speak to the Monitoring Officer at any time if you are concerned about the way your line manager is handling the issue-problem.

If you want your identity to remain confidential please tell the Monitoring Officer. The Monitoring Officer can be contacted as follows:

Monitoring Officer (Corporate Legal Manager) – Tel: 4745884345 or by email to 'Monitoring.Officer@north-herts.gov.uk'. The Monitoring Officer email address is a confidential email address.

### ***Who else can I speak to/ contact?***

If you have reported your concerns but don't think that the line manager or Monitoring Officer is dealing with ~~them your concerns~~ properly, you might wish to raise the matter with an independent person. ~~You can contact the Chairman of the Council's Standards Committee, contact details for whom are on the intranet page for the Confidential Reporting Code.~~ The Chairman is a Councillor Member of the Council and he can ask the Monitoring Officer for a report on how any matter is proceeding.

If your concern is about the Monitoring Officer you should contact the Chairman of the Standards Committee, the Chief Executive or ~~Public Concern at Work PCaW~~ (contact details below).

If you believe that the matter is so serious that you cannot discuss your concern with an internal officer, you can contact the Council's Shared Internal Audit Service ~~on 01438 845502~~ or Shared Anti-Fraud Service on XXXXX. This should only be used for

**Comment [JT9]:** Need number. Check correct confidential line for both. This went through to an individual.



the most serious matter where you are unable, or unwilling, to report the matter internally.

If you do take the matter outside the Council, you should be aware of the confidential nature of the information you possess and only divulge what is absolutely necessary to establish your concern. It is strongly recommended that you seek external legal advice or the advice of a trade union officer before taking this action.

### **Getting some advice**

If you are unsure about whether or how to use this ~~Code~~Policy or want independent advice, you may contact the independent charity PCaW~~Public Concern at Work~~. Their advisors can give you free confidential advice at any stage on how to raise a concern about serious malpractice at work. Their contact details are:

[helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk) UK advice line: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)  
Whistleblowing Advice Line: ~~Tel:~~ 020 7404 6609  
Address: CAN Mezzanine, 7 - 14 Great Dover Street, London SE1 4YR

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. However please carefully consider the need to maintain confidentiality to protect any potential investigation and prevent those who are the subject of the concern ~~being to be~~ made aware of it through a third party.

### **What protection will I receive?**

#### Employment protection and ~~your~~ legal rights

If you are dismissed or victimised for whistleblowing, the protection you are offered is different depending on what type of worker you are.

#### Employees

There is employment protection available for ~~workers-employees~~. If you raise a genuine concern you will not be at risk of losing your job or suffering any form of detriment/ retribution. The Legislation makes it unlawful for the Council to dismiss anyone or allow them to ~~suffer a detriment be victimised or suffer any form of retribution~~ on the basis that they have made an protectedappropriate lawful disclosure. An ~~worker-employee~~ should ~~will~~ not be victimised for invoking this Policy even if the reported breach is not substantiated, ~~-or~~ proven or you were mistaken.

#### Workers that are 'non-employees'

If you are not an employee and your contract has been terminated or you have been victimised you should be able to take your case to an Employment Tribunal and claim that you have suffered 'detrimental treatment'.

#### Members:

Members are obviously not employees or non-employees under the above definitions. They cannot be dismissed for raising a protected disclosure as they are ultimately accountable to the electorate and subject to an election process.



The Council recognises that the decision to report a concern can nonetheless be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

The Council will not tolerate any harassment or victimisation (including informal pressures) because you have raised a concern and will consider taking action under its Bullying and Harassment Policy or Managing Misconduct Policy ~~other disciplinary action~~ deemed necessary to protect you when you raise a concern in the public interest. The Council will not apply pressure on you to withdraw a concern.

**Note:** Colleagues must not mistreat a fellow ~~worker/employee~~ for ~~making a confidential reporting a whistleblowing concern~~. If an employee is involved in such conduct they may be subject to disciplinary action, including dismissal under the Council's Managing Misconduct Policy. In some cases the whistleblower has the right to sue someone who has done this to them personally (in an Employment Tribunal), if they can show they were subjected to a detriment from that person as a result of the protected disclosure.

~~This also means that where you act in the public interest, it does not matter even if you are mistaken.~~

If, however, someone you makes an untrue allegation maliciously or for personal gain, consideration may be given to taking disciplinary action ~~against you~~. Disciplinary matters are for managers to consider but they will discuss the matter with the Monitoring Officer and Human Resources.

#### Confidentiality

The Council hopes that the protection it offers will encourage you to raise your concerns openly but you can ask that your identity is not disclosed when the matter is being investigated. If you ask for confidentiality, the Monitoring Officer will advise you about whether your concern can be investigated if your identity is withheld. If so, ~~the Council your name will~~ make every effort to keep your identity confidential not be disclosed unless the Council is required to by law. In some cases it may be necessary to disclose details of your allegation to the Police or the Council's auditors/Audit Commissie or the Shared Anti-Fraud Services, for example where the matter are is likely to results in criminal proceedings or where the Council has a statutory obligation such as a requirement to report.

You should understand that if your personal evidence is necessary to prove your claim you might need to consider revealing your identity. The Monitoring Officer can discuss this with you.

~~Should you require support during an investigation you can contact 'ppeworldwide' the Council's confidential employee assistance provider or Public Concern at Work. As indicated, we do not encourage workers to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should report that to the Monitoring Officer in the first instance and appropriate measures can then be taken to preserve confidentiality. If you are in any doubt you can seek advice you can contact 'ppeworldwide' the Council's confidential~~





employee assistance programme provider, or PCaW, (the independent whistleblowing charity, who offer a confidential helpline) or a 'prescribed person'. Further details are at the end of this Policy.

### **How will the Council respond?**

The timescales for a response will vary depending on the circumstances of the concern raised. You will be informed of the likely timescales for receiving a response and will be updated as to progress against that estimate.

If you have raised your concerns with your line manager, they will be able to keep you informed of what action they and/or the Monitoring Officer are taking to resolve your concerns.

If you raise your concerns with the Monitoring Officer there is a two step process for deciding what action might be appropriate (this may or may not involve a line manager – if applicable).

#### Step 1

As indicated above, ordinarily, the Monitoring Officer may expect your line manager to lead on initial enquiries or decide whether or not an informal review or an internal investigation is warranted. The line manager will liaise with the Monitoring Officer before any decision is taken.

If the Monitoring Officer is leading on the matter, s/he will make initial enquiries to decide whether or not an informal review or an internal investigation is warranted.

In both cases the line manager or Monitoring Officer's decision to proceed or not will be supported by reasons which will be given to you in writing.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

#### Step 2

If an investigation is necessary the Monitoring Officer may ask the line manager, the Deputy Monitoring Officer, Audit or a similar servicefunction to carry this out, or in more serious cases, refer the matter to the Police for investigation. The Monitoring Officer will tell you who is handling the case and what further assistance may be required from you. Your identity will not be revealed to the investigating officer (unless this is your line manager and you have reported this to them), if you have asked for confidentiality but you will be told how to contact the investigator if you want to do so. This may, however, cause severe difficulties investigating any concern.

The Monitoring Officer will also try to give an indication of:

- how it is proposed to deal with the matter;
- how long it will take to provide a final response;
- whether any initial enquiries have been made; and
- staffworkers support mechanisms.

The outcomes of investigations carried out by an investigating officer ~~or management~~ will be reported back to the Monitoring Officer. Wherever possible you will be given





feedback about the investigation. However, sometimes the actions that are proposed involve a duty of confidence that the Council owes another person, for example when taking disciplinary proceedings. It will not be possible to tell you about such actions.

If you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice and support about the procedure.

If you believe you require further support during an investigation, you can contact 'ppeworldwide' the Council's confidential employee assistance provider or PCaW, or alternatively the Monitoring Officer directly.

**Reviewing the outcome**

This CodePolicy is intended to provide you with an avenue to raise your concerns. If you are unhappy with the outcome of any investigation and can provide additional information not considered before, you can ask the Monitoring Officer to review an investigation. Alternatively you may wish to speak to Public Concern at WorkPCaW or the Council's external auditors ~~whose details can be found on the intranet page for the Confidential Reporting Code.~~

All workers and Members are responsible for the success of this Policy. They are invited to comment on this Policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Monitoring Officer at: Monitoring.Officer@north-herts.gov.uk

<b>Links to relevant information:</b>
<b>Policies:</b> <u>Handling Whistleblowing - Advice for Managers:</u>
<b>Standard documentation:</b>
<b>Employment Law:</b> Local Government Act 1972 <u>Employment Rights Act 1996</u>

<b>For further advice contact :</b>
<u>Monitoring Officer</u> <u>(Corporate Legal Manager)</u>
<del>Employee Relations Officer</del>
<del>Corporate Human Resources</del>
<del>Manager</del>
<del>Monitoring Officer</del> <del>(Corporate Legal Manager)</del>
<del>HRHelp employee assistance</del> <del>provider</del>



Public Interest Disclosure Act 1998

**Other:**

PCaW

(independent charity):

Helpline: 020 7404 6609

E-mail: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)

BIS Whistleblowing: Guidance for Employers and Code of Practice (March 2015):

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf)

Employee Assistance Programme

[http://intranet.north-](http://intranet.north-herts.gov.uk/employee-assistance-programme)

[herts.gov.uk/employee-assistance-programme](http://intranet.north-herts.gov.uk/employee-assistance-programme)

ACAS Helpline: Helpline number:

0300 123 1100

Monday-Friday: 8am-8pm and

Saturday 9am-1pm

BIS: Blowing the whistle to a prescribed person: List of prescribed persons and bodies, June 2015

**Last Updated :**

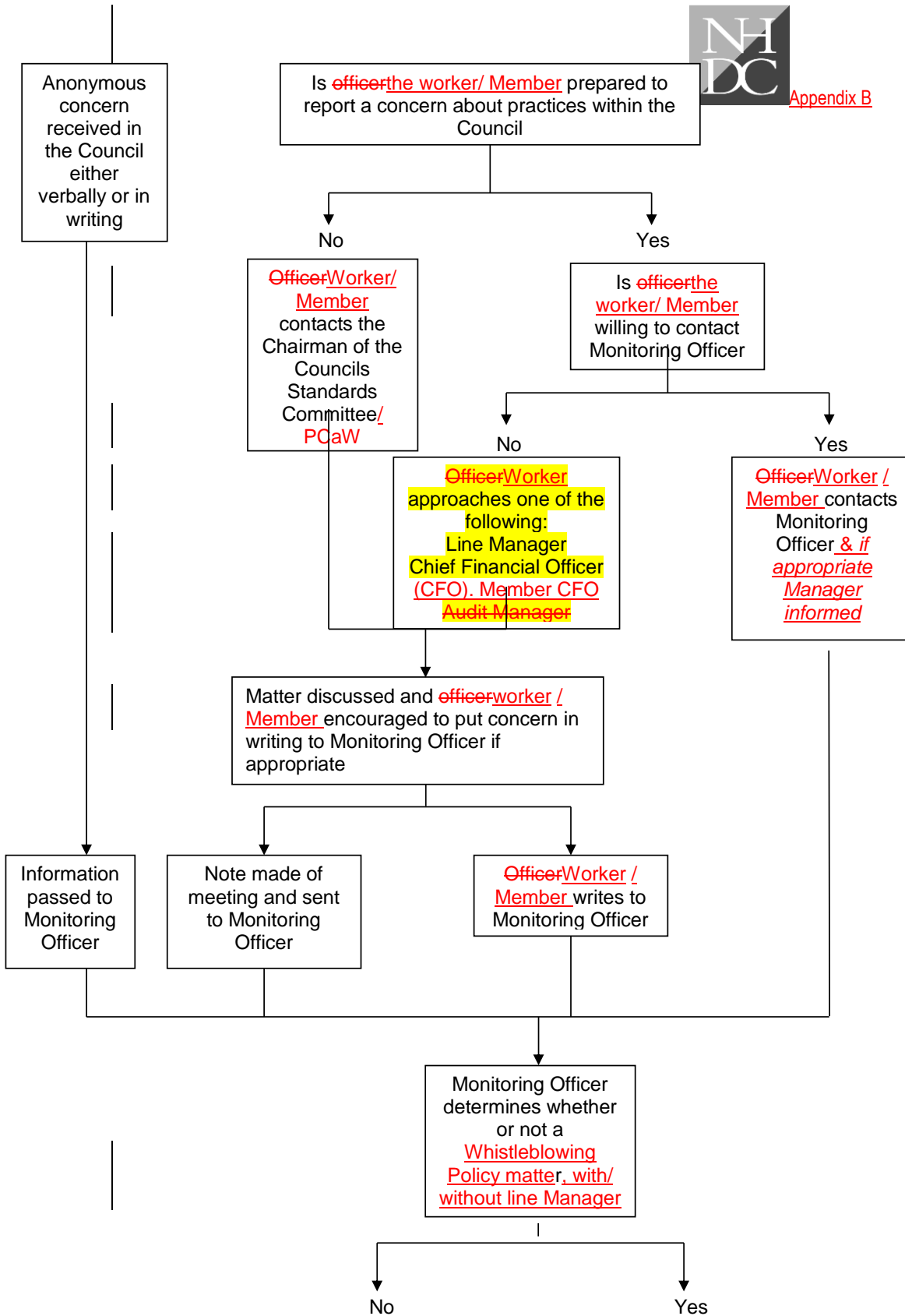
~~June 2014~~ **March 2016**

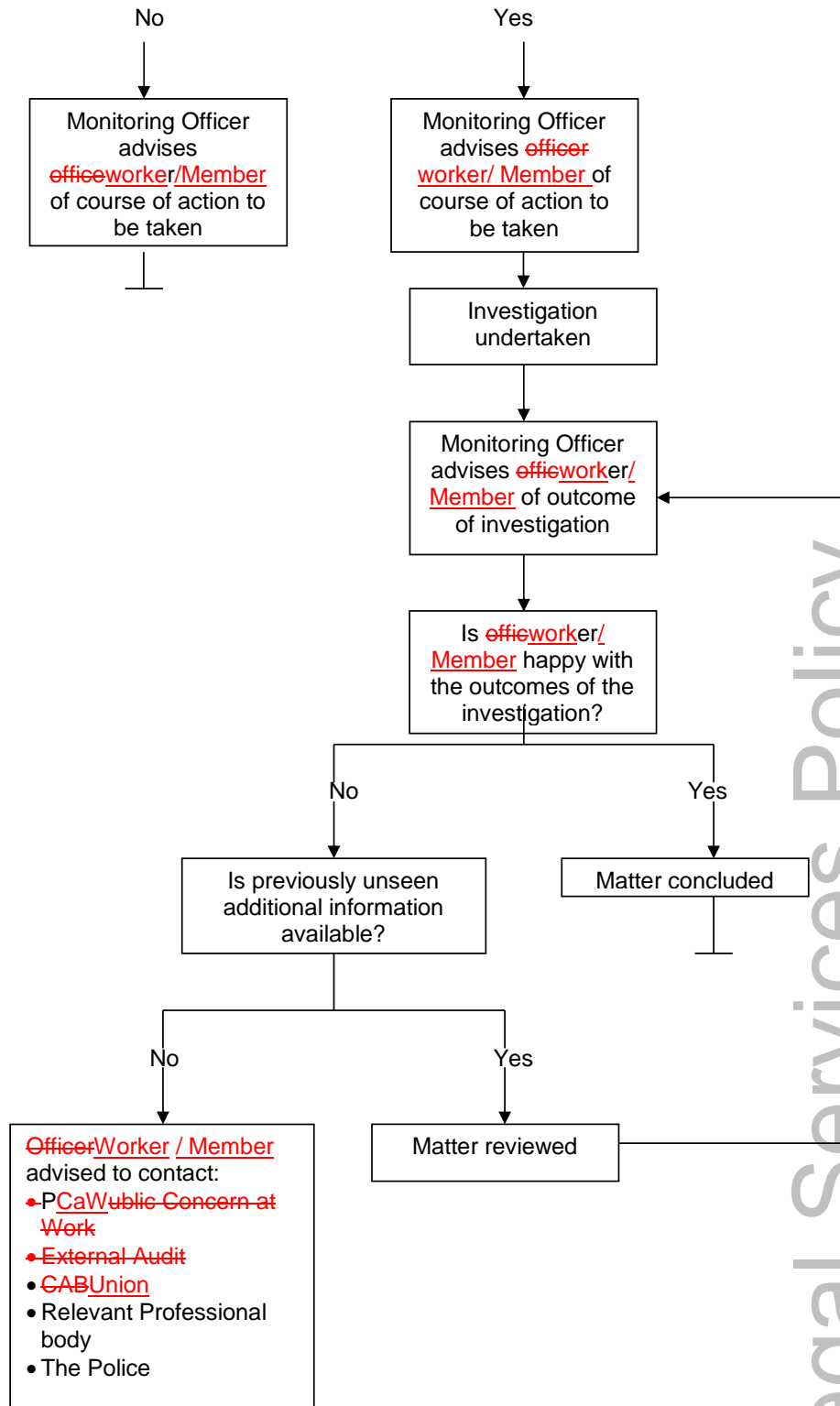
**To be reviewed no later than :**

June 2018~~7~~

**Policy Sponsor :**

Monitoring Officer





Legal Services Policy