



**THE HIGHLAND COUNCIL**

**STAFF WHISTLEBLOWING POLICY**

**Date:** 20/08/20

Approved by Highland Council on 29/10/20

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## 1. INTRODUCTION

### 1.1 What is whistleblowing?

Whistleblowing is the term used where an employee or worker suspects malpractice or wrongdoing and reports this information to an independent officer (see below) within the Council or an external organisation (see 2.4). Malpractice and wrongdoing fall into one or more of the following categories:

- Criminal offences
- Failure to comply with legal obligations
- Miscarriage of justice
- Health and safety danger of an individual
- Damage to the environment
- Deliberate attempt to cover up of any of the above.

Whistleblowing does not cover:

- Less serious matters where an employee should raise these with their line manager and follow the organisational hierarchy for escalating concerns
- An employee's concerns about their employment which should be addressed in accordance with the relevant HR policy for example bullying and harassment or grievance policy.

### 1.2 Aim of policy

The aim of this policy is to encourage employees and workers to raise internally any serious concerns they have with confidence that they will not be harassed or victimised for doing so. Workers include those who work closely for the Council such as agency staff and key contractors.

The policy sets out how whistleblowing allegations can be reported and how these will be addressed within the Council.

If you are considering whistleblowing, it is important that you read this policy first and comply with its requirements. A flowchart is provided at Appendix 1 to assist you in deciding if whistleblowing applies to your situation or whether another route should be followed.

You may also wish to take advice. This can be undertaken internally by contacting the Corporate Fraud Team (see 2.1) for confidential advice or externally by contacting [Protect](#) (formerly known as Public Concern at Work) on 020 3117 2520. If you are a member of a Trade Union, you can also contact your trade union representative for advice.

### 1.3 Who can raise concerns?

All Council employees and workers who may identify malpractice or wrongdoing in their dealings with the Council are encouraged to use the Whistleblowing Service where this fits into one of the categories in 1.1 above.

Employees/ workers are not expected to prove the truth of an allegation but will need to demonstrate there are sufficient grounds for concern, i.e. they have an honest and reliable suspicion or belief that the malpractice or wrongdoing has happened, is happening or is likely to happen.

### 1.4 Protection and safeguards

All employees are legally protected <sup>1</sup> in whistleblowing and cannot be dismissed for this reason, provided they:

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<sup>1</sup> Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998)

- are reporting malpractice or wrongdoing as detailed at 1.1 above
- are making a disclosure in the public interest i.e. it is not motivated by personal interests, and
- reasonably believe that the information provided is both true and being reported to the correct person/ organisation.

This legal protection also means that employees cannot be bullied, harassed or victimised for whistleblowing. Failure to comply with this could result in an employee raising a claim with an Employment Tribunal.

Furthermore, the Council will not tolerate harassment or victimisation by employees or workers under its' control and will take appropriate action to protect those who raise a concern either during its investigation; and/ or subsequent to investigation.

Deterring or victimising employees for raising concerns amount to serious misconduct and may lead to disciplinary action.

If employees/ workers make an allegation in good faith and in the public interest, but it's not confirmed by the investigation, the matter will end there. However, where they are found to have made malicious or vexatious allegations, this may lead to disciplinary action.

The Council will strive to protect an individual's identity when they raise a concern and does not wish their name to be disclosed. However, this information may have to be revealed during the investigation process and the individual required to produce a statement as part of the evidence. This may also be compromised in matters of civil or criminal law where anonymity cannot be guaranteed.

## 1.5 Training and awareness

All staff should be made aware of this policy in accordance with the normal communication arrangements. An electronic version of this policy will also be published on the Council's website.

Managers are responsible for ensuring that their staff have been made aware of this policy and its requirements. In particular this should be included as part of staff induction and any refresher training.

Employees have a responsibility to ensure that they are aware of, and fully understand this policy including the circumstances under which it can be used.

Should any employee receive a whistleblowing concern this should be sent in confidence to the Corporate Fraud Team as detailed at 2.1 below. They should not take any further action on this matter and should not attempt to investigate the matter themselves.

## **2. PROCESS**

### **2.1 Reporting a concern**

All whistleblowing concerns will be investigated by the Corporate Fraud Team within the Internal Audit Section which is an independent review function within the Council. Any concerns can be reported to them using one of the following methods, all of which are treated in confidence:

- Telephoning the hotline on 0800 854183
- Completing the [Online Form](#)
- E-mailing: [Whistleblowing@highland.gov.uk](mailto:Whistleblowing@highland.gov.uk)

The more information provided then the easier it is to properly investigate any concerns.

### **2.2 How concerns will be dealt with**

All concerns received will be logged and reviewed to determine the best course of action. This will be dependent upon the nature of the concern. Where these fall into the scope of other existing procedures, e.g. child protection, HR policies, complaints process then these will be referred to the appropriate officers to address. Also, where this falls outside the Council's responsibilities then this will be referred to the relevant external agency e.g. NHS, Department of Work and Pensions (DWP).

The Council will write to the employee/ worker at their home or e-mail address if provided, within 10 working days of receiving their concern. This response will:

- Acknowledge receipt of the concern;
- Indicate how this will be dealt with;
- Provide an estimate of the timescale for providing a final response;
- State whether any initial enquires have been made; and
- Detail if further investigations will be made, and if not, why not.

If any meeting is arranged to seek further information from the employee/ worker, they have the right to be accompanied by a trade union or professional association representative or a colleague.

The Council accepts that employees/ workers need to be assured that the matter has been properly addressed. Subject to legal constraints, we will endeavour to inform how the issue has been dealt with in writing.

### **2.3 Anonymous allegations**

The policy encourages employees/ workers to put their names to allegations. If not, it is more difficult to investigate if further information/ clarification is required and this may limit what action can be taken. Also, employees/ workers who remain anonymous cannot be informed of the outcome of the investigation. However, if an individual does wish to remain anonymous then it is helpful if the following is provided:

- A mobile phone number or e-mail address through which contact can be made
- The information requested in the whistleblowing form (see Appendix 2).

Anonymous disclosures are preferred to silence in matters relating to allegations of serious wrongdoing.

### **2.4 Reporting to prescribed persons**

All employees/ workers are expected to report whistleblowing internally and the earlier this is done then the easier it is to address. However, if they feel that the correct course of action is to report it outside of the Council then care must be taken to report to the correct organisation (prescribed person) to ensure adherence to the Code of Conduct

for Council Employees and also avoid breaking laws relating to issues such as Data Protection. Again, advice can be sought before taking this action (see 1.2).

Where information is reported externally this should only be done to the appropriate “prescribed person” where this falls within their remit. This link provides details of the [prescribed person](#) and a brief description of what can be reported. For Council business this is [Audit Scotland](#).

## 2.5 Security and retention of information

Information provided and/ or established during an investigation is likely to include personal data and so arrangements for the retention, security and destruction of any documentation will be undertaken in accordance with the requirements of the Data Protection Act 2018.

Where a formal investigation is undertaken which culminates in a disciplinary hearing, Police investigation and/ or report to the Procurator Fiscal, then in accordance with the Internal Audit data retention schedule, this information is held for 10 years after completion of the investigation. Any information obtained that is not necessary for the investigation should be securely destroyed.

## 2.6 Monitoring of concerns

An annual report detailing the number of whistleblowing concerns received and outcomes will be provided to the Audit and Scrutiny Committee. This information will be anonymised so that employees/ workers cannot be identified and will not contain any confidential information.

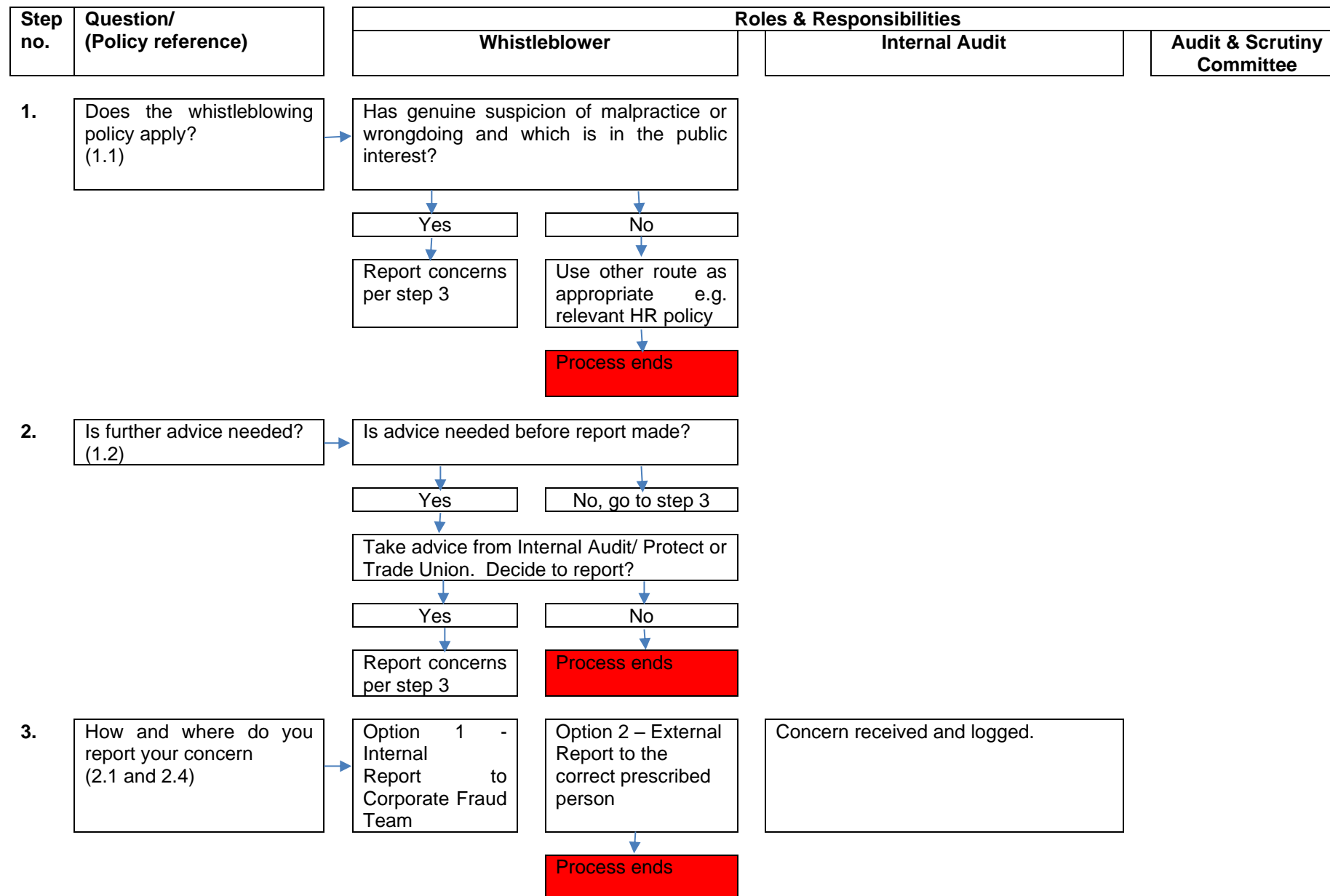
The aim of this report is to ensure that there is appropriate Member scrutiny and to provide assurance that:

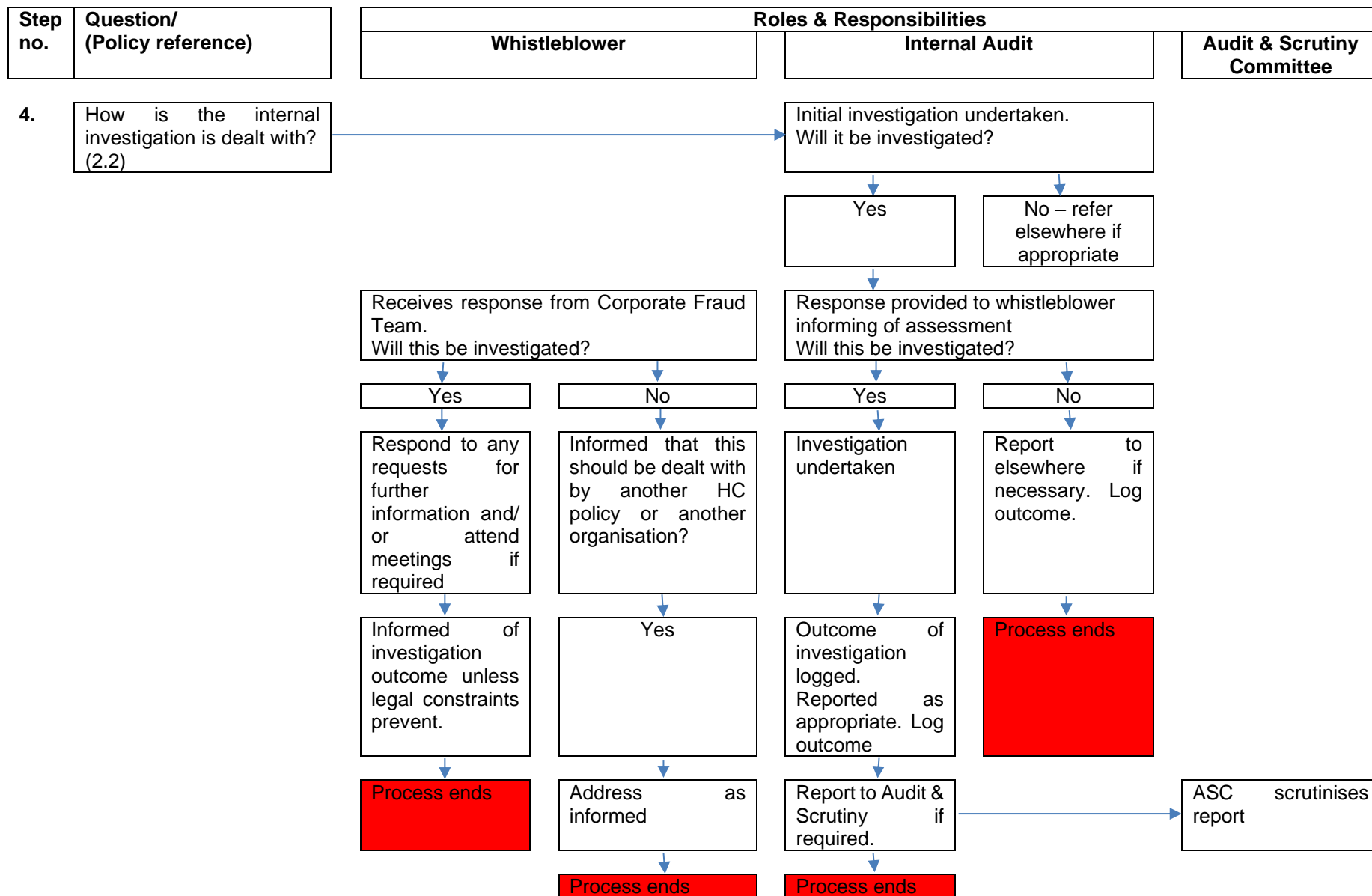
- The Council, Service or team learns from the investigation findings and that appropriate action has been taken to address these to ensure they are not repeated, and
- All whistleblowing complaints received have been addressed in accordance with this policy and in a consistent matter.

Where an investigation identifies control weaknesses and/ or fraudulent activity, this information will be reported to the Committee in the normal manner by way of an Internal Audit report.

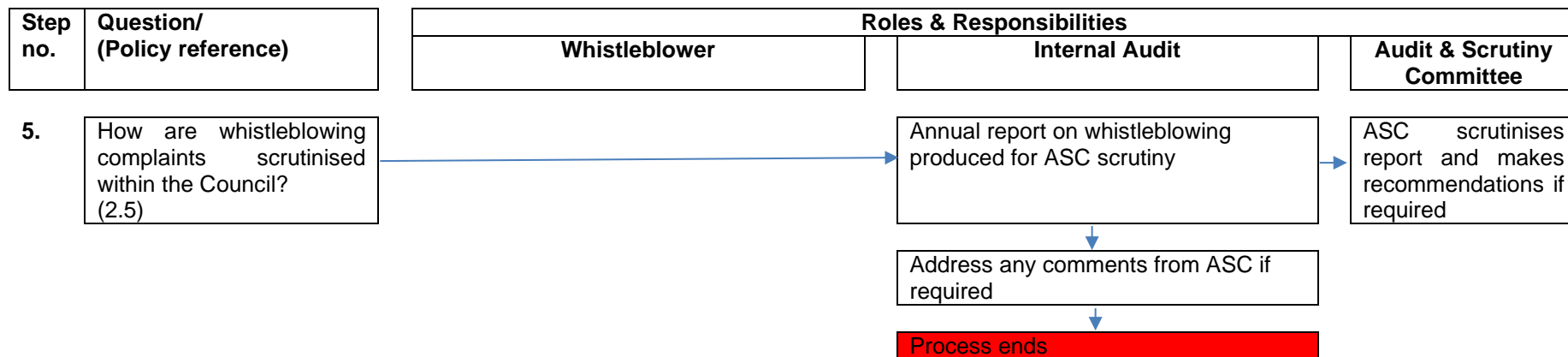
## Guide to whistleblowing process

## Appendix 1









## Whistleblowing Form

## Appendix 2

This form is to assist you in reporting of any wrongdoing or malpractice such as:

- criminal acts e.g. stealing from the council or its service users, abuse of service users
- the improper use of council or other public funds, any other financial irregularity, improper use of council assets such as equipment (including IT), vehicles or buildings
- bribery i.e. payment for favours or to influence decisions or any other corrupt activity
- a failure to comply with a legal obligation e.g. a statutory duty to provide a certain level of care
- an action or a failure to act which endangers health or safety or damages the environment
  - the concealment of information about any of the above.

Please try to answer the questions below. You may not be able to answer them all but give as much information as you can as this will be valuable to any investigation.

### 1 Who Is committing the wrongdoing?

**First Name**

**Surname**

**Address**

**Any other relevant information about this person**

If more than one person is involved, please give details about them

[Show Additional Person 1](#)

**First Name**

**Surname**

**Address**

**Any other relevant information**

An empty rectangular text area with a light gray border. It features a vertical scrollbar on the right side and a horizontal scrollbar at the bottom, both with standard arrow and track controls.

[Show Additional Person 2](#)

**First Name**

**Surname**

**Address**

An empty rectangular text area with a light gray border. It features a vertical scrollbar on the right side and a horizontal scrollbar at the bottom, both with standard arrow and track controls.

**Any other relevant information**

An empty rectangular text area with a light gray border. It features a vertical scrollbar on the right side and a horizontal scrollbar at the bottom, both with standard arrow and track controls.

[Show Additional Person 3](#)

**First Name**

**Surname**

**Address**

An empty rectangular text area with a light gray border. It features a vertical scrollbar on the right side and a horizontal scrollbar at the bottom, both with standard arrow and track controls.

**Any other relevant information**

An empty rectangular text area with a light gray border. It features a vertical scrollbar on the right side and a horizontal scrollbar at the bottom, both with standard arrow and track controls.

## 2 Details of the wrongdoing

**What is happening/ happened? When and where did it happen/ is happening? \***

**Please describe any vehicle(s) involved e.g. registration number, make, model and colour**

**Please give any other details that you think are relevant**

**If you have any supporting documentary evidence, please attach a scanned copy. Alternatively, it can be sent by letter marked 'PRIVATE AND CONFIDENTIAL' to the Corporate Fraud Team, Glenurquhart Road, Inverness, IV3 5NX**

## 3 Your Details

This section is optional - you do not have to complete it, but it will help us if we need to contact you to seek further information about the investigation. All the information you provide will be assessed and the most appropriate course of action undertaken. This could include passing the information to another organisation, including the Police.

**Are you a Highland Council employee or worker?**

**Do you wish to remain anonymous? \***

**Title**

**First Name**

**Surname**

**Address Line 1**

**Address Line 2**

**Town**

**Postcode**

**Contact details:**

**Email**

**Telephone number**

☐

Please tick this box to confirm that you have read and understood the Whistleblowing Policy

**Thank you for your help**