

# "WHISTLEBLOWING" POLICY

## 1. Preamble

- 1.1 The Public Interest Disclosure Act 1998 gives statutory protection to persons who raise concerns in good faith about possible wrongdoing. Additional provisions are inserted into the Employment Rights Act 1996 related to "protected disclosures" and the rights of employees not to suffer detriment through making such disclosures. This protection applies provided that the disclosure is itself classed as a "protected disclosure" and that the individual choosing to "blow the whistle" does so in accordance with the requirements set out.
- 1.2 Employees and workers 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 wrongdoing. However, this is not a culture that the Council wishes to encourage.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that anyone wishing to highlight wrongdoings can do so without fear of reprisals. This Whistleblowing Policy is intended to encourage and enable persons to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle outside. This policy should be read in conjunction with the Council's existing Anti-Fraud and Corruption Policy.
- 1.4 This policy applies to all workers of the Council, that is; employees, casual workers, temporary and agency staff, trainees, work experience placements and contractors. Further details on the application of this policy in respect of contractors can be found towards the end of this policy.
- 1.5 The policy does not form part of the contract of employment.
- 1.6 This policy has been discussed with the relevant trade unions and staff representatives and has their support.

## 2. Aims and Scope of this Policy

- 2.1 This policy aims to:
  - provide confidential avenues for you to raise concerns of wrongdoing (see below for examples) and receive feedback on any action taken
  - allow you to take the matter further if you are dissatisfied with the Council's response, and
  - reassure you that you will be protected from reprisals or victimisation for whistleblowing in good faith, provided that you have followed the recognised procedure.
  - recognise that whilst such concerns will be voiced in good faith, the fundamental principle of natural justice will operate in respect of any individual or collective group against whom a concern has been expressed. This will not, however, prevent the Council from suspending such individuals from their employment if it is considered appropriate to do so. In such circumstances suspension will not be regarded as a punitive measure.
- 2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment and also for dealing with corporate complaints. This whistleblowing policy is intended to cover concerns about wrongdoing that fall outside the scope of those other

procedures and is not intended to replace them.

### 3. **Qualifying Disclosures and Examples of Wrongdoing**

In order for you to be protected by the Act, the disclosure needs to fall under one (or more) of the following:

- a criminal offence has been committed, is being committed or is likely to be committed;
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject;
- a miscarriage of justice has occurred, is occurring, or is likely to occur;
- the health and safety of an individual has been, or is being, or is likely to be endangered;
- the environment has been, is being, or is likely to be damaged;
- information tending to show any matter falling within any one of the preceding paragraphs has been, is being, or is likely to be deliberately concealed.

Taking these criteria, examples of concerns that you may have are considered to be:

- unlawful behaviour by an individual or a collective body;
- corrupt or fraudulent behaviour;
- a breach of the Council's Standing Orders or Financial Regulations;
- a breach of agreed procedures;
- discrimination on grounds of sex, race, disability or age;
- harassment or victimisation;
- an unsafe working practice.

### 4. **Safeguards**

#### ***Gagging Clauses***

- 4.1 Such clauses in employment contracts and severance agreements are void insofar as they conflict with the Act's protection.

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

- 4.2 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.
- 4.3 The District Council has adopted a Policy and Procedure to ensure that any complaint of harassment will be treated seriously and dealt with quickly and fairly in a confidential, sensitive and supportive manner. You will find this Policy and Procedure in the Staff Handbook (Pages 98 – 100).
- 4.4 This does not mean that, if you are already the subject of disciplinary or redundancy procedures, or if you have raised a separate grievance, that those procedures will be halted as a result of your whistleblowing.
- 4.5 Additional protection is afforded by the Act, such that if you are victimised for blowing the whistle, you may bring a claim for compensation to an employment tribunal.

#### ***Confidentiality and Support***

- 4.6 The Council will do its best to protect your identity when you raise a concern and do not want this to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you will be required as part of the evidence (albeit that it may be presented anonymously).
- 4.7 The Council will do all that it reasonably can to support you once you have taken the decision to voice your concern. It recognises that people are all individual and that they will each deal with the circumstances in different ways. The type and level of support offered will therefore depend upon the person concerned. The Council does, however, fundamentally believe that you should not feel “shut out” once you have voiced your concern. You are, therefore, encouraged to talk to the person that you have raised the concern with, or any of the nominated people within this document at any time whilst your concern is being dealt with.
- 4.8 In accordance with the spirit of the Public Interest Disclosure Act and this policy itself, there is no question that you will be suspended from your employment once you have voiced a genuine concern in good faith.

### ***Anonymous Allegations***

- 4.9 This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.
- 4.10 In exercising the 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 attributable sources.

### ***Untrue Allegations***

- 4.11 If you make an allegation in good faith, but it is not substantiated, no punitive action will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you.

## **5. The Procedure in Practice**

- 5.1 As a first step, you should raise concerns with your Line Manager or Service Unit Manager. Alternatively, you may, if you wish, contact anyone from among the list of persons below:
- \* *Monitoring Officer - ext. 2209*
  - \* *Chief Executive - ext 2338*
  - \* *Personnel Officer - ext. 2379*
  - \* *Chairman of Council / Chairman of Standards Committee (for the time-being)*
  - \* *Director of Finance & IT /Section 151 Officer – ext 2201*
  - \* *Head of Legal Services – ext 2213*
  - \* *Head of Planning Services - ext 2293*
  - \* *Internal Audit Manager – ext 2406*
- 5.2 You are welcome to raise your concern by telephone or through a direct meeting with the officer/Member in question. If you wish to set out the background to your concern in writing and provide documents in support, this would be helpful. Alternatively, you may choose to explain the reasons for your concern verbally. A contemporaneous note will be taken when you express your concern and this note will be used as evidence.
- 5.3 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the officer/Member contacted that there are sufficient grounds for your concern. Remember that the earlier you express the concern, the easier it may be for action to be taken. If in doubt, you should contact one of the officers/Members named above and talk to them about the situation.
- 5.4 If you wish, you may ask your trade union, staff representative, professional association or

solicitor to raise a matter on your behalf. They will have an equal right to contact the officers/Members named above on the same terms as yourself.

## 6. **How the Council Will Respond**

6.1 Any action taken by the Council will depend on the nature and scale of the alleged wrongdoing and the evidence that is available.

6.2 The matters raised may:

- be investigated internally
- be referred to the Police
- be referred to the District Auditor
- form the subject of an independent inquiry

Or any combination of all four of these avenues.

6.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Allegations or concerns which fall within the scope of specific procedures (for example, harassment or fraud/corruption) will normally be referred for consideration under those procedures.

6.4 Some matters may be resolved without the need for investigation or formal action.

6.5 Within ten working days of an allegation or concern being received, the Council will write to you:

- acknowledging receipt of the allegation or concern
- indicating how it proposes to deal with the matter
- telling you whether any initial enquiries have been made
- telling you whether further investigations will take place, and if not, why not
- if the matter is to be dealt with internally, giving you an estimate of how long it is likely to take to provide a full response.

6.6 The amount of contact between the officers considering the issues and you will depend on 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. Depending on the circumstances, you may be asked to maintain confidentiality.

6.7 When any meeting is arranged with you, you have the right, if you so wish, to be accompanied by a trade union or professional association representative, a staff representative, solicitor or friend; such a person must respect any confidentiality that applies.

6.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

6.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcome of any investigation which may still remain confidential.

## 7. **How The Matter Can Be Taken Further – Wider Disclosures**

7.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied.

7.2 If you are not satisfied, and if you feel it is right to take the matter outside the Council, the following are possible contacts:

- the District Auditor
- relevant professional bodies or regulatory organisations

- your Solicitor
- the Police
- the Standards Board for England (in respect of complaints against Councillors)
- your Member of Parliament.

7.3 If you do take the matter outside the Council, you need to take care with regard to the possible disclosure of confidential information. If you are in any doubt as to your position, you should check with either your external contact or the Council's Monitoring Officer.

7.4 You are strongly advised not to refer concerns to the media (TV, Radio and press). If, notwithstanding this advice, you do decide to contact them, you should make certain that:-

- you have exhausted all the avenues described above;
- you do not disclose confidential information;
- you do not make false allegations which could result in libel proceedings.

7.5 Adverse publicity can damage the reputation of the Council. If you do not follow the advice at 7.4. above it is likely that you will be in breach of your contract of employment and liable to disciplinary action. You may also lose your right to statutory protection for whistleblowing.

7.6 Wider disclosures are protected provided they are not made for personal gain and they were not raised internally because there was a reasonable belief of victimisation or that there would be a cover up, and the matter was exceptionally serious.

## 8. **Persons Working for Council Contractors, Partners and Agents**

8.1 The Council wishes the principles and procedures set out above to apply, so far as possible, to persons working for Council contractors, its partners and agents.

8.2 Such persons or organisations may have concerns about possible wrongdoing:

- by Council officers
- by work colleagues engaged in performing works or services for the Council.

8.3 If persons have any concerns, they are encouraged to contact either their Manager or the Council's Monitoring Officer or the Director of Finance & IT /Section 151 Officer on 01684 862209/01684 862232 in the first instance.

8.4 The Monitoring Officer will follow the same approach and endeavour to provide the same safeguards as would apply to a concern expressed by a Council employee.

8.5 If the concerns relate to an elected Member of the Council then they may contact the Standards Board for England in writing.

## 9. **Statutory Protection**

9.1. The Council's Whistleblowing Policy is intended to complement the statutory protection now given to employees, rather than detract from it. For the avoidance of doubt, an employee's statutory rights will not be affected in any way by the Whistleblowing Policy.

## 10. **What happens if you are the subject of a concern in accordance with the Public Interest Disclosure Act?**

10.1 The Council believes that everyone has the right to be treated fairly and in accordance with the principles of natural justice, and will therefore apply these principles to you if you are the subject of someone voicing their concern.

10.2 The following steps will be taken by the Council if you are the subject of such a concern:

- You will be informed both verbally and in writing of the concern, and will be advised

to seek the advice of your trade union or staff representative, solicitor or professional association.

- You will be assigned an officer or member of the Council who will be responsible for advising you at regular intervals on how the investigation is proceeding.
- You may be suspended from work on full pay during the investigative process but this will not be regarded as a punitive measure. It will be used in circumstances, where for example, public interest is likely to be high or where, it may aid the investigation itself.
- You will be advised of the outcome of the investigation and how this may impact upon your employment with the Council as soon as possible, once the investigation has been concluded.

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