

APPENDIX 1: WHISTLE BLOWING POLICY

Procedure for dealing with an allegation of fraud, corruption and other malpractice.

1. Introduction

- 1.1 Staff may come across instances whilst they are working, where they have concerns about something that is happening within the Council. The Whistleblowing / Confidential Reporting Policy has been put in place to enable staff to bring attention to those concerns whilst at the same time ensuring they are protected from any victimisation or harassment.
- 1.2 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.
- 1.3 Staff of the Council are expected to follow the Council’s Code of Official Conduct which sets out the Council’s requirements on personal conduct (this code forms part of the Council’s Staff Handbook, a copy of which is held by all staff) and abide by any Code of Conduct issued by their Professional Institute or body.
- 1.4 Employees are often the first to realise that there may be something seriously wrong within the Council, but may not express their concerns because they feel that speaking out would be disloyal to their colleagues or the Council. Staff may also fear harassment or victimisation and may feel that it would be easier to ignore the concern rather than report what may be just a suspicion of malpractice. However this is not a culture that the Council wishes to encourage. This policy document makes it clear that anyone wishing to highlight wrongdoings can do so without fear of reprisals.
- 1.5 The Council is committed to the highest possible standards of openness, probity and accountability and is opposed to wrongdoing whether it is attempted on, or from within the Council. In line with this commitment, employees (including casual workers, temporary and agency staff, trainees and contractors) with serious concerns about any aspect of the Council’s work are encouraged to come forward and voice those concerns.

This Whistleblowing Policy Statement is intended to encourage and enable staff to raise serious concerns within the Council, rather than overlooking the problem or in the first instance “blowing the whistle” outside the Council. In addition this policy is designed to encourage the raising of any concerns regarding the following areas:-

- Fraudulent or corrupt behaviour;
- Breaches of the Council’s Constitutional requirements / Procedure Rules
- Unlawful behaviour;
- Breaches of agreed procedures and practices;
- Closed and unfair recruitment
- Discrimination on the grounds of race, religion, disability, age, gender or sexual orientation;
- Unsafe working practices;
- Abuse of children, and vulnerable adults (including the elderly);
- Damage to the environment;
- Endangering others or their own health and safety.
- Breaches in legislation relating to Data Protection and Freedom of Information.

1.6 The objectives of the policy are to:-

- Give a clear and unambiguous statement of the Council’s position on wrongdoing;
- To provide avenues for staff to raise concerns regarding wrongdoing and receive feedback on any action taken;
- To allow staff to take the matter further if they are dissatisfied with the Council’s response;
- To re-assure staff that they will be protected from reprisals or victimisation for whistle-blowing in good faith.

However in order for the staff to be protected by the Public Interest and Disclosure 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.

1.7 EQUALITIES STATEMENT

This policy is intended to operate within the Council's commitment to equalities and diversity including:

- Equal treatment regardless of race, gender, age, disability, sexual orientation, religion or belief, with reasonable adjustments where necessary in line with the Disability Discrimination Act.
- Working to eliminate unlawful discrimination.
- Promoting equal opportunities.
- Promoting community cohesion, including good relations between people from different racial groups.
- Providing reasonable access to interpretation or support on request.
- Responding to the needs of all, and working to engage all sections of the community.

This policy will be assessed as part of a rolling programme of reviews to ensure that it does not have a detrimental or disproportionate effect on any group.

Any concerns that the policy is operating in a way that could be construed as discriminatory should be passed to the responsible Manager and will be dealt with as part of the official Complaints Procedure, in line with the Council's Equality Schemes.

2. Culture

- 2.1 The Council is determined that the culture and tone of the organisation is one of honesty and opposition to all forms of wrongdoing.
- 2.2 The Council's staff are central to achieving this aim and staff are positively encouraged to raise any concerns they may have on any issues associated with the Council's activity. They can do this in the knowledge that such concerns will be treated in confidence and will be fully investigated. Concerns should be reported as soon as possible as it is then easier to investigate any allegations made.
- 2.3 This does not mean that, if staff are already the subject of disciplinary or redundancy procedures, or if staff have raised a separate grievance, that those procedures will be halted as a result of your whistle-blowing.
- 2.4 The Council recognises that the decision to report a concern is a difficult one to make, not least because of the fear of reprisal from those committing the wrongdoing. Therefore, the Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith.
- 2.5 The Policy encourages staff to put their name to any allegation they make as concerns expressed anonymously are much less powerful. However, anonymous allegations will be considered at the discretion of the Council depending on the seriousness of the issue, the credibility of the concern and the likelihood of confirming the allegation.
- 2.6 Allegations of abuse of children and vulnerable adults will always be referred to Worcestershire Social Services.

3. Reporting

- 3.1 If staff discover or have any other concerns regarding wrongdoing that may be taking place within the Council, but feel unable to report the matter to their Line Manager or Director, or have raised the matter in this way without success, they should contact either:-

Internal Audit (Worcestershire Internal Audit Shared Services)

- RBC Chief Executive - Kevin Dicks - Extension 3250
- Benefits Fraud Manager -
- Monitoring Officer - Claire Felton - Extension 3210
- Human Resources Manager - Becky Talbot - Extension 3385.

- 3.2 If staff require any advice about the Council's Whistleblowing Policy, or who they should report their concerns to, they can also seek advice from their Trade Union Local Branch Secretaries.

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- 3.3 Staff are welcome to raise concerns by telephone or through a direct meeting with the Officer in question. If they wish to set out the background to their concern in writing and provide documents in support, this would be helpful.

Alternatively, they may choose to explain the reasons for their concern orally. A written (contemporaneous) record will be taken when staff express their concern and this note may be used as evidence.

- 3.4 Although staff are not expected to prove the truth of an allegation, they will need to demonstrate to the Officer concerned that there are sufficient grounds for their concern. Staff should remember that the earlier they express their concern, the easier it may be for action to be taken. If in doubt, staff should contact one of the Officers named above and talk to them about the situation.
- 3.5 If staff wish, they may ask their trade union representative, professional association or solicitor to raise a matter on their behalf. They will have an equal right to contact the Officers named above on the same terms as the whistleblower.

Confidentiality and Support

- 3.6 The Council will do its best to protect the identity of staff who raise a concern and do not want their name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by the whistleblower may be required as part of the evidence (albeit that it may be presented anonymously).
- 3.7 The Council will do all that it reasonably can to support staff once they have taken the decision to voice their 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 the whistleblower should not feel "shut out" once they have voiced their concern.

They are, therefore, encouraged to talk to the person that they raised the concern with, or any of the nominated people within this document at any time whilst their concern is being dealt with.

Untrue allegations

- 3.8 However, there is a need to ensure that any investigation process is not misused and therefore any abuse such as raising unfounded, malicious allegations will be dealt with as a disciplinary matter.
- 3.9 In addition, victimising employees or deterring them from raising a concern about fraud, corruption or any other matter will not be tolerated and will be considered as a disciplinary offence.

Further Reporting Routes

- 3.10 This policy is intended to provide staff with a route for reporting their concerns within the Council. However if staff feel unable to do this then they should contact:-

The Council's External Auditor -

“Public Concern at Work” / National Whistle-blowing Helpline
Suite 306, 16 Baldwins Gardens, London, EC1N 7RJ
Telephone: 020 7404 6609
Website: www.whistleblowing.org.uk
Fax: 020 7404 6576
e-mail: helpline@pcaw.co.uk

Childline 0800 1111

Action on Elder Abuse Helpline 080 8808 8141

Social Services Duty Social Work Team 01527 575855.

However, staff must remember that if the matter is taken outside the Council they must have reasonable grounds for suspicion and should not disclose confidential information unless it can be shown to be in the public interest.

- 3.11 Senior Management are responsible for following up any allegation of wrongdoing received and will do so through clearly defined procedures.

- 3.12 Staff are strongly advised not to refer any concerns they may have to the media TV, radio, press, or websites.

Adverse publicity may damage the reputation of the Council and by going to the media staff may be in breach of their contract of employment and liable to disciplinary action. Staff may also lose their right to statutory protection against whistleblowing. In addition, it could leave the whistleblower more exposed to publicity and to counter allegations/actions by those accused.

However, disclosures made outside the Council 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.

4. Detection and Investigation

- 4.1 It is often the alertness of staff and members of the public that first identifies where cases of possible wrongdoing are occurring.
- 4.2 Despite the best efforts of Unit Managers and Auditors many instances of wrongdoing are discovered by chance or 'tip-off' and the Council has in place arrangements to enable such information to be properly communicated. These are shown within the policy at Section 3.
- 4.3 Reporting is an essential element of the Whistleblowing Strategy and all allegations of wrongdoing will be forwarded to the Council's Internal Audit Section and/or Council's Monitoring Officer for investigation. This will ensure that:-

- Incidents are correctly collated;
- There is consistent treatment;
- Evidence is collected properly and as early as possible; and
- Experienced Officers are available to investigate the claim.

Initial enquiries will be made to decide whether an investigation is appropriate (this will depend on nature and scale of alleged wrongdoing and the evidence that is available) and, if so, what form it will take. Some concerns may be resolved by agreed action without the need for investigation.

- 4.4 Within ten working days of a concern being raised (if raised with one of the internal contacts), the Officer contacted will write to the whistleblower:

- Acknowledging that the concern has been received
- Indicating how the matter is likely to be dealt with
- Supplying the whistleblower with information on staff support mechanisms in place.
- Giving an estimate of how long the investigations will take.

4.5 The matters raised may:-

- Be investigated internally;
- Be referred to the Police;
- Be referred to the Council's External Auditor (KPMG);
- Form the subject of an independent inquiry.

or any combination of all four of the above avenues.

4.6 The amount of contact between the Officers considering the issues and the whistleblower 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 the whistleblower. Depending on the circumstances, they may be asked to maintain confidentiality.

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

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

4.9 The Council's Disciplinary Procedures will be used where the outcome of the investigation indicates improper behaviour.

4.10 When the investigation finds that the matter occurred because of a breakdown in the authority's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented to prevent a recurrence.

- 4.11 The Council will normally wish the Police to be made aware of and to independently prosecute offenders where financial impropriety is discovered or a criminal offence has been committed. Referral to the Police is a matter for the Borough Director.
- 4.12 Arrangements will be put in place to ensure that if requested and subject to legal constraints a report back to the complainant indicating the outcome of the investigation and on any proposed action will be made.

5. Persons working for Council Contractors, Partners and Agents

- 5.1 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.
- 5.2 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.
- 5.3 If such persons have any concerns, they are encouraged to contact either their Manager or the Council's Monitoring Officer, the Chief Executive or Internal Audit Manager in the first instance.
- 5.4 These Officers will follow the same approach and endeavour to provide the same safeguards as would apply to a concern expressed by a Council employee.
- 5.5 If the concerns relate to an elected member of the Council then Officers may contact the Monitoring Officer.

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

- 6.1 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 staff if they are the subject of someone voicing their concern.
- 6.2 The following steps will be taken by the Council if staff are the subject of such a concern:-

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- When appropriate staff will be informed both verbally and in writing of the concern, and will be advised to seek the advice of their trade union, solicitor or professional association.
- There will be nominated people available for support who will be responsible for advising staff at regular intervals on how the investigation is proceeding.
- Staff 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.
- Staff will be advised of the outcome of the investigation and how this may impact their employment with the Council as soon as possible, once the investigation has been concluded.

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