

# Whistleblowing Policy – Raising Concerns

Personnel & Training Services

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**SALISBURY**  
District Council

## WHISTLEBLOWING POLICY – RAISING CONCERNS

### 1 INTRODUCTION

- 1.1 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 be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of conduct and, in line with that commitment, the Council encourages employees with 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" and this policy gives detailed advice and reassurance to staff.
- 1.3 This policy intends to give confidence to employees to whistleblow and it incorporates statutory provision for protection under the Public Interest Disclosure Act which applies to certain kinds of disclosure. The Council also has to act in accordance with the Regulation of Investigatory Powers Act 2003. The Council approved the policy applicable to this Act on 29 September 2003.
- 1.4 Provided that you are acting **in good faith**, it does not matter if you are mistaken. You do not have to prove anything. The message the Council wishes to get across to you is "**if in doubt – raise it**."
- 1.5 The Council will investigate any matters raised to prove or disprove the concern raised. It is not possible within the confines of this policy to identify the specific path to be considered for the outcomes of the investigation.

### 2 AIMS AND SCOPE

- 2.1 This Policy aims to:
- provide avenues for employees to raise concerns and receive feedback on any action taken
  - allow employees to take the matter further if they are dissatisfied with the Council's response to the concerns expressed
  - reassure employees that they will be protected from possible reprisals or victimisation
- 2.2 All organisations face the risk of things going wrong or of unknowingly harbouring malpractice. The Council believes it has a duty to identify such situations and take the appropriate measures to remedy the situation. By encouraging a culture of openness within the Council the Council believes it can help prevent malpractice - prevention is better than cure. That is the aim of this policy.
- 2.3 This policy is not the normal grievance procedure, which enables employees to raise complaints about a variety of issues. It is intended to cover concerns that fall outside the scope of the grievance procedure. Thus any serious concern that you have about any aspect of service provision or the conduct of members of the Council can and should be reported under this Policy.
- 2.4 This concern may be about something that is:
- unlawful
  - against the Council's Standing Orders, Financial Regulations and policies
  - against established standards of practice
  - improper conduct
  - amounts to malpractice
  - a criminal act

- a failure to comply with a legal duty (such as a breach of a statutory duty)
- a miscarriage of justice
- a danger to individuals health and safety
- damage to the environment
- deliberate cover up of any of the above

2.5 Health and Safety representatives are covered by this policy in acting on behalf of Union members and staff. Staff do have a duty to report Health and Safety concerns to management and there are agreed procedures for raising concerns.

2.6 If there is anything that you think the Council should know about you should use the procedure set out in this policy. By knowing about malpractice at an early stage the Council stands a good chance of taking the necessary steps to safeguard the interests of all staff and protect the Council. **In short, please, do not hesitate to “blow the whistle” on malpractice.**

2.7 Any concerns raised maliciously may be dealt with under the Council's disciplinary procedure. If you are already the subject of redundancy, disciplinary or other internal proceedings these will not be halted as a result of raising a concern.

2.8 This policy is not another route for disciplinary and grievance appeals.

### **3 POLICY**

#### **3.1 The Council's Guarantee**

The Council is committed to this policy. If you use this policy to raise a concern the Council gives you its assurance that you will not suffer any form of retribution, victimisation or detriment. The Council will act according to this policy. You will not be asked to prove anything.

### **4 GENERAL POINTS**

4.1 Although concerns can be raised verbally or in writing it is better to put them in writing setting out the background and history of the concern giving names dates and places where possible. You may wish to involve your Union representative at this stage.

4.2 You are encouraged to put your name to your concerns. Concerns expressed anonymously will be considered at the discretion of the Council. In exercising the discretion the Council will take into account the seriousness of the issues raised, the credibility of the concern and the likelihood of corroboration from attributable sources.

4.3 Although you are not expected to prove anything you will need to show to the person contacted that there are sufficient grounds for your concern.

4.4 The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. However the investigation process may reveal the source of the information and a statement may be required from you as part of the evidence.

4.5 Advice and guidance on how matters of concern may be pursued can be obtained from Personnel and Training Services or your Trade Union.

### **5 HOW TO RAISE YOUR CONCERN INTERNALLY**

#### **5.1 Tell your line manager**

If you are concerned about any form of malpractice you should normally first raise the issue with your line manager or Service Unit Head. There is no special procedure for doing this – you can tell that person about the problem or put it in writing if you prefer. The Service Unit Head will notify the Chief Executive that a concern has been raised under the policy without identifying the employee.

**5.2 If you feel unable to tell your line manager**

If you feel you cannot tell your line manager or Service Unit Head, for whatever reason, please raise the issue with the Head of Personnel and Training Services (Tel 01722 434228) the Monitoring Officer (Tel 01722 434227), the Chief Internal Auditor (Tel 01722 434618) or the Chief Financial Officer (Tel 01722 434244). These officers will notify the Chief Executive that a concern has been raised under the policy without identifying the employee.

**5.3 If you still have concerns**

If you have raised your concerns and you are still concerned, or the matter is so serious that you feel you cannot discuss it with any of the persons named above, you should raise the matter with the Chief Executive (Tel 01722 434217)

**5.4 After the outcome is known**

If you are dissatisfied with the process of the Council investigation into your concern raised under this policy then you may raise your concern with the Standards Committee. Your written submission should be sent to the Monitoring Officer and the Standards Committee will scrutinise the process. If the Committee has doubts about the process then the matter will be referred back to the Responsible Officer for further consideration. The Responsible Officer will report back to the Standards Committee who may refer the matter to the Cabinet.

**6 HOW THE COUNCIL WILL RESPOND**

6.1 After you have raised your concern the Council will decide how to respond under this policy. This may involve making internal enquiries first, but it may be necessary to carry out an investigation at a later stage which may be formal or informal depending on the nature of the concern raised. The employee's trade union will be consulted on the terms of reference of the investigation subject to the employee's consent. Because it is impossible to predict the nature of matters raised it will be necessary to identify investigation officers according to the circumstances of the matter.

6.2 Some concerns may be resolved by agreed action without the need for investigation.

6.3 Within 10 working days of a concern being received the Council will write to you

- acknowledging that the concern has been received
- indicating how the Council proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial inquiries have been made
- telling you whether further investigations will take place and if not why not.

6.4 Where necessary further information will be sought from you.

6.5 When any meeting is arranged you may if you wish be accompanied by a Union representative or a work colleague who is not involved in the area of work to which the concern relates.

6.6 Where you require personal advice and/or support you can contact Personnel and Training Services.

6.7 As far as possible, the Council will keep you informed of the decisions taken and the outcome of any enquiries and investigations carried out. However, the Council will not be able to inform you of any matters which would infringe the duty of confidentiality owed to others.

- 6.8 It is possible that the disciplinary procedure will need to be used subsequently. The investigation may form part of this process.
- 6.9 The employee expressing the concern is entitled to a meeting with his/her manager after the outcome of the investigation is known. The purpose of the meeting is to explain the process is concluded.

## **7 RAISING YOUR CONCERN EXTERNALLY (EXCEPTIONAL CASES)**

- 7.1 The main purpose of this policy is to give you the opportunity and protection you need to raise your concerns internally. The Council would expect that in almost all cases raising concerns internally would be the most appropriate action for you to take.
- 7.2 However, if you feel threatened or your safety is at risk and you feel unable to raise a concern internally you should consider raising the matter with the appropriate regulator. The matter needs to be serious and you should honestly and reasonably believe the information and allegations are true. For a list of those bodies that are recognised for this purpose see the Appendix. Employees can also contact these bodies where they have an honest and reasonable suspicion that a malpractice to which this Policy relates has occurred, is occurring or is likely to occur and honestly and reasonably believes that the information and any allegation contained in it are substantially true. However, the Council hopes that this policy and procedures give to employees the reassurance to raise matters internally in the first instance. Alternatively employees may wish to contact the independent charity Public Concern at Work (0207 404 6609) who have lawyers who can give independent advice at any stage about how to raise a concern about serious malpractice at work.
- 7.3 **Caution:** If you think you have good reasons for not using the internal or regulatory disclosure procedures described above, you might consider making wider disclosure by reporting the matter to the police or to your trade union, professional association or one of the regulators listed in the Appendix. However, whistleblowers who make wider disclosures of this type will only be protected in certain circumstances. The Council recommends that you take advice from your trade union, professional association or legal advice before following this course of action since the Council believes it will be in your own interests to do so.
- 7.4 In taking a matter outside the Council, employees should ensure that, as far as possible, it is raised without confidential information being involved.

## **8 THE RESPONSIBLE OFFICER**

- 8.1 The Chief Executive has overall responsibility for the maintenance and operation of this policy and maintains a record of concerns raised and the outcomes [but in a form which does not infringe confidentiality] and will report as necessary to Members.

## **9 SUPPORT FOR EMPLOYEE**

- 9.1 If an employee has to be relocated as a consequence of assisting the Council in applying this policy then he/she will not suffer financially. His/her salary will be protected indefinitely and any additional expenses (e.g. travelling) will be paid by the Council. Personnel will assist the employee to ensure that he/she is given full support in adjusting to changed working circumstances.

## **10 SAFEGUARDS**

### **Harassment or Victimisation**

- 10.1 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) and will take appropriate action which could include disciplinary action in order to protect a person who raises a concern in good faith even if they were mistaken.** In addition, employees have statutory protection against reprisals under the 1998 Act and can refer their case to an Employment Tribunal.

### **Confidentiality**

- 10.2 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.

### **Anonymity**

- 10.3 Concerns expressed anonymously will be considered at the discretion of the Council although it must be appreciated that it is difficult to investigate concerns in 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 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

### **False and Malicious Allegations**

- 10.4 The Council will protect itself and its employees from frivolous, vexatious false and malicious expressions of concern or those made for personal gain by taking disciplinary action where appropriate. In addition, a concern which is genuinely believed may prove to be unfounded on investigation. The Council will try to ensure that the negative impact of either a malicious or unfounded allegation about any person is minimised.

## **11 HOW THE POLICY WILL BE MONITORED**

- 11.1 The Council has a responsibility for registering the nature of all concerns raised under this policy and to record the outcome. The Monitoring Officer and the Head of Personnel and Training Services will jointly produce an annual report which identifies any patterns of concern and assesses the effectiveness of the Policy.

## **12 RESPONSIBILITY FOR IMPLEMENTATION**

- 12.1 The responsibility for ensuring the Council adheres to this Policy rests with the Management Team and the Standards Committee.

## **13 REVIEW**

- 13.1 This procedure will be kept under review and any amendments will be subject to consultation with staff representatives.

## APPENDIX

### WHISTLEBLOWING – APPROPRIATE REGULATORS

The identity of the appropriate regulator will depend on the nature of your concern. However, the regulator must be one of those prescribed by an order made by the Secretary of State for the purposes of the Public Interest Disclosure Act 1998 Section 43F. The Public Interest Disclosure (Prescribed Persons)(Amendment) Order 2003 lists the prescribed regulators. They include: -

- **Audit Commission for England and Wales** – ensuring the proper conduct of public business, value for money, investigating fraud and corruption in local government
- **Charity Commissioners for England and Wales** – ensuring the proper administration of charities and fund given or held for charitable purposes
- **Chief Executive of the Criminal Cases Review Commission** – dealing with actual or potential miscarriages of justice
- **Commissioners of Customs and Excise** – checking value added tax, insurance premium tax, excise duties and landfill tax
- **Commissioners of the Inland Revenue** - checking income tax, national insurance contributions, statutory maternity pay, statutory sick pay, child benefits and the enforcement of the minimum wage
- **Comptroller and Auditor General of the National Audit Office** – ensuring the proper conduct of public business, values for money, investigating fraud and corruption in relation to the provision of centrally-funded public services
- **Director of the Serious Fraud Office** – investigating serious or complex fraud
- **Environment Agency** – acts which relate to pollution, flooding, the flow of rivers and the management or regulation of the environment
- **Financial Services Authority** – monitoring the business of businesses, clubs, and societies in respect of financial misconduct
- **Food Standards Agency** – matters affecting the health of the public relating to the consumption of food
- **Health and Safety Executive** – dealing with matters affecting the health and safety of any individual at work and also any matters which may affect a member of the public arising from the activities of people at work
- **Information Commissioner** – compliance with the requirements of legislation relating to data protection and to freedom of information
- **Occupational Pensions Regulatory Authority** – matters relating to occupational pension schemes
- A person ('person A') carrying out functions, by virtue of legislation, relating to relevant failures falling within one or more matters within a description of matters in respect of which another person ('person B') is prescribed by the Public Interest Disclosure (Prescribed Persons) Order 1999, where person B was previously responsible for carrying out the same or substantially similar functions and has ceased to be so responsible.

WHISTLEBLOWING - RAISING CONCERNS PROCEDURE



