

Shepway District Council

Whistle Blowing Protocol

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1.0 Introduction

- 1.1.1 Employees, members or contractors, supplier to or consultant with, the Council may, from time to time, witness practices that seem suspicious. However, individuals may be deterred from expressing their concerns because they fear harassment or victimisation. They may feel that it may be easier to ignore the concern rather than to report their suspicions.
- 1.1.2 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 without fear of reprisals. This policy document makes it clear that individuals can do so, without the fear of victimisation, subsequent discrimination or disadvantage.
- 1.1.3 These procedures are intended to encourage and enable individuals to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. Premature or unnecessary publicity may damage the Council's reputation, impede proper investigations, or hurt individuals unnecessarily.
- 1.1.4 A member shall not disclose confidential information, using the public interest exemption in the Council's code of conduct for councillors without first considering using the procedure in this Whistle Blowing Protocol to raise concerns about an issue, unless it is necessary for the disclosure to be made to the Police or a regulatory body.

1.2 The responsible officer

- 1.2.1 The Council's Monitoring Officer has overall responsibility for the maintenance and operation of this policy.

2.0 Purpose and Scope

- 2.1.1 These procedures have been introduced to provide employees, members and contractors, suppliers or consultants with a secure basis for reporting suspicions of impropriety, in the knowledge that the matter will be treated confidentially.
- 2.1.2 This policy covers the reporting of a malpractice, the information that will need to be recorded and the steps that need to be followed to ensure that individuals do not suffer any recriminations or victimisation.
- 2.1.3 These procedures are intended to supplement, rather than replace, existing Council policies and procedures (for example the Council's grievance procedures) whereby employees of the Council may already raise complaints or matters of genuine concern with the Council. They are therefore designed to provide for those instances where the person reporting the matter feels that, for any reason, they cannot make use of other procedures.

2.1.4 In particular there is a distinction between a grievance and whistle blowing. A grievance is a matter of personal interest and does not impact on the wider public; Grievances should be dealt with through the appropriate procedures and policies.

2.1.5 This policy has been designed to take into account Human Rights considerations.

2.2 Contractors, Suppliers and Consultants

2.2.1 In dealings with the Council individuals will often work very closely with Council employees and Members. They will also operate under the Council's procedures and policies. The Council is fully aware that if they notice anything suspicious, or come across malpractice, they may be concerned about their relationship or future relationship with the Council if they raise this. As with employees and councillors, the Council wants to encourage individuals to voice any concerns they may have, secure in the knowledge that the matter will be taken seriously and investigated, and that they and their organisation will not suffer any disadvantage.

3.0 Legislation

3.1.1 The Public Interest Disclosure Act 1998 has been introduced to protect employees who expose serious wrongdoing in the workplace. It applies where a malpractice is disclosed involving: -

- a crime or breach of regulatory, administrative and common law;
- a miscarriage of justice;
- danger to health and safety;
- damage to the environment;
- unauthorised use of public funds;
- possible fraud and corruption; and
- sexual, physical or financial abuse of clients

3.1.2 The Act protects employees from victimisation where they reasonably believe the information, and are acting in good faith.

3.1.3 A disclosure is protected if there is an honest and reasonable suspicion that a malpractice has occurred, is occurring or is likely to occur. As an employee concerns can be raised orally or in writing. As a first step, concerns should be raised with their immediate manager or their manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if it is believed that management is involved, individuals should approach the Chief Executive, Chief Finance Officer or the Monitoring Officer. Members and contractors, suppliers and consultants can report suspicions to: -

- Chief Executive
- Chief Finance Officer

- Monitoring Officer

4.0 Safeguards

4.1 Harassment or victimisation

- 4.1.1 The Council is committed to good practice and high standards, and wants to be supportive of employees and other who raise concerns.
- 4.1.2 The Council recognises that the decision to report a concern can be a difficult one to make. It will not tolerate any harassment or victimisation and will protect employees whom raise a concern in good faith.
- 4.1.3 If an individual is an employee and happen to be already involved in any disciplinary or redundancy procedures these will be kept separate from the investigation of their complaint.

4.2 Confidentiality

- 4.2.1 It is, however, recognised that some individuals may not feel that they can make such a report. Where this is the case the policy provides the whistleblower with the option of requesting that their name remains confidential.
- 4.2.2 Where confidentiality is requested the council will do its best to ensure that your name is not revealed. This cannot, however, be guaranteed as there are certain circumstances where the name of the whistleblower may be made known. For example:
 - The report is found to be knowingly false or malicious, or
 - Disclosure is ordered by the courts.
 - A formal statement is required as part of a police investigation.
- 4.2.3 Whilst it is possible to keep the name of a whistleblower confidential, it is not possible to prevent others from trying, often successfully, to work out the source of a report. This can lead to speculation and an unpleasant atmosphere that could have been avoided by making an open disclosure.

4.3 Anonymous Allegations

- 4.3.1 This policy encourages names to be put to an allegation whenever possible.
- 4.3.2 This is because concerns expressed anonymously are much less powerful than those raised by an identified individual. Anonymous allegations will, however, be considered at the discretion of the Council.
- 4.3.3 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 attributable sources.

4.4 Untrue Allegations

- 4.4.1 If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the person raising the concern. If, however, as an employee they make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against them. In the case of members, the Audit and Standards Committee will consider the matter and make recommendations to the Council.

5.0 **Procedures**

5.1 Raising a concern

- 5.1.1 Concerns can be raised orally, (i.e. face to face or over the phone) or in writing. Letters should be placed in envelopes and marked 'personal, private and confidential' and if the concern is of a serious nature, hand deliver the envelope to the relevant person.
- 5.1.2 As much information as possible should be provided including name, job and contact details.
- 5.1.3 The following should be included: -
- background information;
 - information as to why they are concerned;
 - details of any other procedures which they have already used, and what happened;
 - the names of the employee/members involved and where they work (if applicable);
 - dates or periods of time relating to the matter;
 - the names and jobs of any other employees/members who may support their concern.
- 5.1.4 The earlier concerns are expressed; the easier it will be to take action.
- 5.1.5 Sufficient evidence should be provided to ensure there are reasonable grounds for concern.
- 5.1.6 Concerns can be raised jointly if there is another employee or member who has the same concern and will support the allegation.
- 5.1.7 Trade union representative or a work based colleague can be present during any meetings or interviews in connection with the concern raised. If it is decided that the matter should be taken further under Whistle blowing procedures, the concern raised will be investigated by the Corporate Director – Strategic Operations or Monitoring Officer or their representative.

5.1.8 Alternatively, a secure 24 hour answer phone is available which the Head of East Kent Audit Partnership regularly monitors (01304 872198) or any other number published for this purpose)

5.2 How the Council will respond

5.2.1 One of those named in paragraphs 3.1.3 will firstly decide whether to carry out an investigation and determine which Council procedure it is appropriate to use. Those raising concerns may be interviewed by the person investigating the matter.

5.2.2 In order to protect individuals accused of a possible malpractice, enquiries will be made to decide whether an investigation is appropriate. Some concerns may be resolved by agreed action without the need for an investigation. If urgent action is required, this will take place before an investigation is undertaken.

5.3 What individuals will be told

5.3.1 Those receiving a concern should write to the individual raising the concern within 10 working days detailing the following:

- acknowledging that the concern has been received;
- indicating how the Council intends to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- detailing any initial enquiries that have been made; and
- informing them whether further investigations will take place (and if not, why not).

5.3.2 The amount of contact those raising concerns will have with the people considering the matter will depend on the type of concern, the potential difficulties of the investigation and the availability of information. Wherever possible, those raising concern will be told the final outcome of any investigation.

5.3.3 The Council will take steps to minimise any difficulties those raising concerns may experience. For example, if required to give evidence in criminal or disciplinary proceedings, the Council will arrange appropriate advice to be given about the procedure.

5.4 This procedure is meant to give everyone an effective way to raise a concern within the Council (and if possible resolve it internally). However, if individuals are still unhappy after using the procedure (and getting a final written response) consideration may be given to taking the concern elsewhere. This may vary depending on the nature of the allegations and whether the complainant is a Member, officer or member of the public.. Should this be necessary the following contacts may be helpful:

- UNISON Whistle blowing Hotline – 0800 597 9750
- Internal Audit

- Relevant professional body
- Their Trade Union
- the independent charity Public Concern at Work – 020 7404 6609
- a Citizens Advice Bureau
- a relevant professional or regulatory body
- the Police