

# Whistleblowing Procedure

Human Resources

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Version Control

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Version	Description of version	Effective Date
1.0	Whistleblowing Policy	15th November, 2010
2.0	Whistleblowing Policy – updated to show changes arising out of restructures within the Council.	2 <sup>nd</sup> July, 2012
3.0	Whistleblowing Policy and Procedure - updated owing to changes in the Council's structure	7 <sup>th</sup> February, 2013
4.0	Updated - restructure	1 <sup>st</sup> May, 2013
5.0	Updated to take into account change in legislation – June 2013 - replace “in good faith” with “in the public interest”	25 <sup>th</sup> June, 2013
5.1	Amendment to reference to HR	8 <sup>th</sup> February 2017
6.0	Updated – General review following publication of <a href="#">BS ISO 37002:2021, Whistleblowing management systems, Guidelines</a>	1 April 2022

## Approvals

Approved by	Date
Joint Negotiating Group	7th February, 2013 (V3)
Joint Consultative Committee (if applicable)	N/a
Finance & Management Committee	N/a

## Associated Documentation

Description of Documentation	
Grievance Procedure	Harassment Policy

## 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 their concerns rather than report what may be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with this 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 document makes it clear that employees can do something without fear of reprisals. The Whistleblowing Procedure is intended to encourage and enable employees to raise serious concerns **within the Council** rather than overlooking a problem or "blowing the whistle" outside. If something is troubling you that you think the Council should know about or look into, please use this procedure.
- 1.3 This document explains:
- The type of issues that can be raised.
  - How the person raising the concern will be protected from victimisation and harassment.
  - How to raise a concern.
  - What the Council will do.
- 1.4 This procedure has been agreed with the recognised Trade Unions.

## 2.0 Aims of the procedure

- 2.1 This procedure is designed to ensure that you can raise your concerns about wrongdoing or malpractice within the Council without fear of victimisation, subsequent discrimination, disadvantage or dismissal.
- 2.2 It is also intended to encourage and enable you to raise serious concerns within the Council rather than ignoring a problem or 'blowing the whistle' outside.
- 2.3 This procedure aims to:
- Encourage you to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about malpractice.
  - Provide safe options for you to raise those concerns and receive feedback on any action taken.
  - Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
  - Reassure you that you will be protected from possible reprisals or victimisation if you have made any disclosure in the public interest.

## 3.0 Scope of the procedure

- 3.1 This procedure is intended to enable those who become aware of wrongdoing in the Council affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated.

#### **Who can raise a concern?**

- 3.2 The procedure applies to all:

- Employees.
- Casual/temporary and fixed term workers
- Employees of contractors working for the Council, for example, agency workers, sub-contractors and consultants
- Employees of suppliers.
- Those providing services under a contract or other agreement with the Council.
- Voluntary workers working with the Council.

#### **Matters where the policy does not apply**

- 3.3 The Whistleblowing procedure is not intended to replace existing procedures:

- If your concern relates to your own treatment as an employee, you should raise it under the existing employment procedures such as the Grievance Procedure or Harassment Procedure whichever is appropriate.
- If a client has a concern about services provided to him/her, it should be raised as a complaint to the Council's Comments, Compliments and Complaints Policy and Procedure.
- Complaints of misconduct by Elected Members are dealt with under a separate procedure by the Council's Monitoring Officer.

## **4.0 Background**

- 4.1 The Public Interest Disclosure Act (PIDA) 1998 provides protection against being dismissed or penalised by employers as a result of disclosing information which is in the public interest where malpractice, wrongdoings or danger has been identified. This law provides protection for workers who raise concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that: one of the following is being, has been or is likely to be committed:

- A criminal offence.
- A miscarriage of justice.
- An act of creating risk to health and safety.
- An act causing damage to the environment.
- A breach of any other obligation.
- Concealment of any of the above.

- 4.2 It is not necessary for the worker to have proof that such an act is being, has been, or likely to be committed – a reasonable belief is sufficient. The worker has no responsibility for investigating the matter – it is the Council's responsibility to ensure that an appropriate investigation takes place.
- 4.3 A worker who makes a protected disclosure has the right not to be dismissed, subjected to any other detriment or victimised because they have made a disclosure.

### **Examples of what should be reported**

- 4.4 Any serious concerns that you have about service provision or the conduct of officers or members of the Council or others acting on behalf of the Council that:
- Is unlawful.
  - Make you feel uncomfortable in terms of known standards and/or industry requirements.
  - Are not in keeping with the Council's Constitution and policies.
  - Fall below established standards of work practice.
  - Are improper behaviour and/or conduct.
  - Has the potential to impact on the welfare, health or safety of employees or members of the public.
- 4.5 These might relate to:
- Conduct which is an offence or a breach of the law (a criminal offence has been committed or failing to comply with any other legal obligation).
  - Disclosures related to miscarriages of justice.
  - Racial, sexual, gender, age, religious, disability or any other form of discrimination.
  - Health and safety of the public and/or other employees.
  - Damage to the environment.
  - Unauthorised or inappropriate use of public funds or other assets.
  - Possible fraud and corruption
  - Offering financial incentives or bribes in relation to Council contracts
  - Neglect or abuse of clients.
  - Other unethical conduct

This list is not exhaustive.

## **5 Harassment or victimisation**

- 5.1 The Council is committed to good employment practice and to being supportive of you as an employee.
- 5.2 The Council recognises that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe what you are saying is true, you should

have nothing to fear because you will be doing your duty to your employer, your colleagues and those for whom you are providing a service.

- 5.3 The Council will not tolerate any harassment or victimisation of a whistle-blower, including informal pressures. Appropriate action to protect you will be taken when you raise a concern in the public interest and the Council will consider any such action against any employee as a serious disciplinary offence which will be dealt with under the Disciplinary Procedure.

### **Support to you**

- 5.4 Throughout this process:

- You will be given full support from the Council.
- Your concerns will be taken seriously.
- The Council will do all it can to help you throughout the investigation.
- You will be kept informed of the actions being taken as appropriate.

## **6 Confidentiality**

- 6.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if that is your wish.
- 6.2 If disciplinary or other proceedings follow, it may not be possible to take action as a result of your disclosure without your help, so you may be asked to come forward as a witness. If you agree to this, you will be offered advice and support.

## **7. Anonymous allegations**

- This procedure encourages you to put your name to your allegation whenever possible. If you do not tell us who you are, it will be much more difficult for us to protect your position or to give you feedback. This procedure is not ideally suited to concerns raised anonymously.
- Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:
  - The seriousness of the issue raised.
  - The credibility of the concern.
  - The likelihood of confirming the allegation from other sources.

## **8 Advice**

- 8.1 If you are unsure whether to use this procedure or want independent advice at any stage you can contact the independent organisation Protect on **020 3117 2520** or or visit their website at [Raising a concern | Protect - Speak up stop harm \(protect-](#)

[advice.org.uk](https://advice.org.uk)). There are a number of case studies on their website for examples of what whistleblowing is.

8.2 Other assistance can be obtained from your Trade Union, professional organisation or your line manager.

## 9 Untrue allegations

9.1 If you make an allegation in the public interest and reasonably believing it to be true, but it is not confirmed by the investigation, the Council will recognise your concern and no further action should be taken. Appropriate support, as detailed in this procedure will be provided to you.

9.2 If, however, you make an allegation frivolously, maliciously or for personal gain, appropriate action that could include disciplinary action may be taken. It is therefore important that you take advice and seek clarification if appropriate before you take any action.

## 10 How to raise a concern internally

### Do I need to put the issue in writing?

10.1 Concerns may be raised **verbally or in writing**. You will need to provide the following information:

- The background and history of the matter (giving relevant dates).
- The reason why you are particularly concerned about the situation.
- Names of people/organisation involved.
- Any supporting information that you have available

10.2 The earlier you express the concern the better as this will enable the Council to address the situation. Do not leave it for someone else to do.

10.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

10.4 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

10.5 You may invite your Trade Union or professional association to raise the matter on your behalf.

10.6 You may be accompanied by a Trade Union representative, professional association representative or an employee of the Council during any meetings or interviews in connection with the concerns you have raised.

### Who do I raise my concern with?

10.7 This will depend on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing. As a first step you should normally raise concerns with your manager or another senior manager.

10.8 Alternatively you can contact one of the officers below if you:

- Have spoken to one of the above managers and you still have concerns or,
- Feel that the matter is so serious or sensitive that you cannot discuss it with any of the above managers or,
- Feel that senior managers are involved

10.9 These officers have the responsibility for regulating the Council and its activities and they can give you advice and guidance on how to pursue any matter(s) of concern that you have. They are:

- Chief Executive
- Head of Legal and Democratic Services
- Head of Organisational Development and Performance
- Internal Audit, Central Midland Audit Partnership – Direct Line 01332 643280

The contact details including email address for the above Officers are on the Council internal email directory, on the intranet (Connect) or email [HR@southderbyshire.gov.uk](mailto:HR@southderbyshire.gov.uk) who can provide the details to you.

### **How the Council will handle the matter**

10.10 Once you have told us of your concern we will look into it to assess initially what action should be taken. Do not forget that testing out your concerns is not the same as either accepting or rejecting them. We will tell you who is handling the matter, how you contact her/him and whether your further assistance may be needed.

10.11 Where appropriate, the matters raised may:

- Be investigated by management, Internal Audit or through the Disciplinary Procedure.
- Be referred to the police.
- Be referred to the External Auditor.
- Form the subject of an independent inquiry.
- Be referred to the Council's Standards Committee

10.12 In order to protect individuals and those accused of malpractice, abuse or wrongdoing initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest. Concerns or allegations, which fall within the scope of specific procedures (for example, child protection hate crime or discrimination issues), will normally be referred for consideration under those procedures.

10.13 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.



10.14 Within ten working days of a concern being raised, the Council will write to you:

- Acknowledging that the concern has been received.
- Informing you who is dealing with your concern.
- Indicating how we propose to deal with the matter.
- Giving an estimate of how long it will take to provide a final response.
- Informing you whether any initial enquiries have been made.
- Providing you with information on support mechanisms.
- Informing you whether further investigations will take place and if not, why not.

10.15 The amount of contact that you have with the officers considering the issue you have raised will depend on the nature of the issue, the potential difficulties involved and the clarity of the information you have provided. It is likely that you will be interviewed to ensure that your concern is fully understood.

10.16 Where any meeting is arranged to speak with you to obtain additional information, a Trade Union representative, a representative of your professional association or another employee of the Council can accompany you. If you prefer, any meeting can take place away from the Council Offices.

10.17 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 arrange for you to receive advice about the procedure.

10.18 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **11.0 How to raise a concern externally**

11.1 This policy is intended to provide you with a procedure within the Council to raise concerns. The Council hopes you will be satisfied with any action it takes. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- The designated independent person or organisation nominated for the purpose by the Council. This will be confirmed with you should this be necessary.
- The External Auditor.
- Your Trade Union.
- The local Citizens Advice Bureau.
- A relevant professional body.
- A relevant or regulatory organisation. The Council's Monitoring Officer or the independent organisation, Protect, will be able to advise you on who you can contact.
- The police.

11.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with your designated contact about this issue.

## **12.0 Data protection**

12.1 Any investigation that takes place under this procedure may involve access to sensitive personal data or records. In all cases, those who necessarily access it will respect the confidentiality of this information, in accordance with the principles of The Data Protection Act 2018. The information will only be used for the purpose of the investigation and not used for any other purpose.

## **13.0 The Responsible Officer**

13.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this procedure. This officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

## **14.0 Review of the procedure**

14.1 The policy may be reviewed at any time in consultation with the appropriate Trade Unions. As a minimum it will be reviewed every three years.

14.2 Human Resources have authorisation to make minor amendments to the procedure and arising out of an organisational restructure (e.g. change in post titles).