

## **WHISTLEBLOWING POLICY**

### **Aim of the Policy**

1. The Council is committed to high standards of conduct and compliance with legal obligations and good practice. It expects malpractice to be pointed out and dealt with and expects its employees, and others who help to deliver its services, to help with that.

2. This policy encourages employees to raise genuine concerns and provides a procedure for doing so. It explains how those who make public interest disclosures when they have a reasonable belief of malpractice may be protected from detriment such as victimisation or discipline. Often, that involves treating the disclosure confidentially, including protecting the complainant's identity when it is legally possible to do so.

3. This policy may be used where there is no specific provision to raise a concern through any other policy. There are specific policies for reporting concerns that relate to Safeguarding (vulnerable adults or children), Corporate Anti fraud, Grievance and Bullying and Harassment. Anyone who has any concerns and is unsure of the appropriate policy should speak to their line manager or a member of the HR Team.

The policy has the support of the relevant trades unions.

### **Who is Protected by the Policy?**

4. You are protected if you work for the Council as:

- An employee
- An agency employee
- A trainee
- A worker who provides services on behalf of the Council

The policy does NOT apply to raising grievances about an employee's personal situation and thus, does not replace existing procedures for personal differences or conflicts. If you have concerns in this area you should consult the Council's Grievance Policy or your immediate manager.

Individuals must raise the issue – 'whistle blow' - in a particular way and for a particular reason in order to gain the protection of the Public Interest Disclosure Act 1999 (PIDA). Protection is only granted if disclosure is a 'qualifying disclosure' and is a 'protected disclosure'.

### **What Kind of Disclosures are Covered?**

5. To qualify the whistleblower must have a 'reasonable belief' that the information shows that one or more the following has or is likely to take place:

- That a criminal offence has been, is being or is likely to be committed.
- That a person has failed, is failing or is likely to fail to comply with any legal obligation.
- That a miscarriage of justice has occurred, is occurring or is likely to occur.
- That the health or safety of any individual has been, is being or is likely to be endangered.
- That the environment has been, is being or is likely to be damaged.

- That information showing that any matter falling within any one of the above has been, is being or is likely to be deliberately concealed.

'Reasonable belief' means that an individual who bases their disclosure on unsubstantiated rumours, uncorroborated allegations or unfounded suspicions will not have made a qualifying disclosure. However there is no requirement that the individual has to prove the truth of the information disclosed. It is therefore irrelevant if the reasonable belief subsequently turns out to be mistaken. There is however a requirement that the 'reasonable belief' of the worker is made in the 'public interest'

### **What is Expected of the complainant?**

6. If you make a disclosure to someone within the Council, you are expected to:

- Have a reasonable suspicion about the malpractice
- Reasonably believe that your information, and any allegation in it, is true
- Not make the disclosure for personal gain

7. The conditions for outside disclosures are one or more of the following to apply:

- You reasonably believe you would suffer detriment if you made the disclosure to the Council or to a regulator;

or

- None of the regulators covers the matter and you reasonably believe the evidence is likely to be concealed or destroyed;

or

- You have already made the disclosure to the Council or to a regulator

### **How is the complainant protected?**

8. If you act in good faith and comply with the expectations of paragraph 6 & 7, you will be protected from any detriment as a result of making a disclosure. In particular, you will be protected from harassment or victimisation.

9. If you want your identity to remain confidential, this will be observed as far as possible within the law. Should it not be possible to resolve a concern without revealing your identity (for example, because your evidence is needed in court or in a subsequent internal disciplinary hearing), we will discuss with you whether we should take the matter forward at all and if so, how we will do so. We will also discuss with you how best to protect your interests.

10. Anonymous disclosures may be considered to the extent that it is reasonable and practicable to do so. Anonymous allegations are often difficult to consider due to the need to confirm or follow up evidence.

11. Failure to comply with the expectations of paragraph 6 & 7, including, making a frivolous or malicious disclosure may result in disciplinary action being taken.

### **Procedure for Dealing with a Disclosure**

12. Disclosures will be dealt with under the following stages. Not all disclosures will follow the full sequence of Stages, subject to the particular circumstances of each case:

### Stage 1 – Informal Resolution

13. If an individual is aware or concerned about misconduct taking place inside the organisation that he or she thinks may damage or undermine the interests of the wider public they are advised in the first instance to share the details with their line manager to see if it can be resolved without a formal procedure. This may be done orally or in writing.

When making a disclosure, give as much information as possible about:

- The nature of the problem
- The background (with dates if possible)
- Who is involved
- The reasons you are concerned

The Manager should decide on the basis of the information provided, whether the matter can be resolved informally and either:

- Explain how the matter can be resolved
- Refer the matter for formal consideration
- Advise the individual that they may raise it formally.

14. If the individual is unable to raise the matter with his or her line manager they are advised to speak to a Chief Officer or the Human Resources Manager who should consider whether the matter can be resolved informally as set out above or referred for formal consideration as detailed below.

### Stage 2 – Formal Disclosure

15. If the individual feels unable to discuss their concerns with any of the above, or does not accept that the response at the informal stage is sufficient, they can make a formal disclosure by contacting the Monitoring Officer as follows:

Phone: 01455 255951

Write to: Louisa Horton, HBBC, Hinckley Hub, Rugby Road, Hinckley. LE10 0FR

Email: [louisa.horton@hinckley-bosworth.gov.uk](mailto:louisa.horton@hinckley-bosworth.gov.uk)

16. At this stage, the person making the disclosure, will be asked whether he or she wishes their identity to be disclosed and the process for protecting the individual from possible reprisals or victimization will be explained.

17. He or she may also be asked to consider making a written or verbal statement. In such cases, a brief summary of the interview will be made which will be agreed by both parties.

18. Details of the disclosure will be considered by the Monitoring Officer, or representatives, who will make recommendations for any further action.

### Stage 3 – Initial Response to a Formal Disclosure

19. The Monitoring Officer will take any necessary urgent action and then decide how to respond to the disclosure, having regard to all the circumstances, including the evidence available. Preliminary inquiries may be made to help decide how best to

respond in the public interest. Depending on the nature of the issue raised, the response may be one or more of the following:

- A management investigation
- An internal audit investigation
- A disciplinary investigation
- A referral for consideration under another Council procedure
- Referral to the police
- Referral to the District Auditor
- An independent investigation
- Amend procedures
- Take no action for lack of sufficient evidence

20. The complainant will be notified of the intended response to his or her disclosure and the reasons for it.

#### *Stage 4 – Management Investigation*

21. Where the decision has been made to carry out a Management Investigation, a senior manager will be appointed as an investigating officer. He or she will agree terms of reference with the Monitoring Officer or representative and identify a date by when the investigation will be completed.

22. The investigation may need to be carried out under the strictest confidentiality. The investigation is essentially a 'fact finding' exercise, to establish what further action may be necessary and make recommendations accordingly.

23. The Investigating Officer will have regard to the human rights of any individuals affected by the investigation. The investigation may serve as the information gathering part of the Council's disciplinary procedure. In such cases this will be made clear to any people who may be subject to such investigation and the usual right to be represented will be made clear.

#### *Stage 5 – Responding to Management Investigation*

24. The Monitoring Officer or representative will decide whether any further action is necessary as a result of the investigation report and recommendations. If the result of the investigation is that there is a case to be answered by any individual, the recognised procedure will be followed.

25. Where there is no case to answer, but the complainant held a genuine concern and acted in accordance with paragraphs 6 & 7 of this policy, the Council will ensure that they suffer no reprisals or victimisation, as far as is reasonably practicable.

26. Where it is established that false allegations have been made and the complainant has not acted in accordance with paragraphs 6 & 7 of this policy, disciplinary actions may be taken against the complainant.

#### *Stage 6 – Confirmation of the Outcome*

27. So far as legally possible and subject to rights of confidentiality, the complainant will be informed of the outcome of the investigation and how the matter has been resolved. If he or she is dissatisfied with this response the complainant may take the matter further with the prescribed persons or organisations where justified under this procedure.

## **Responsibility for this Policy**

28. The Monitoring Officer is responsible for keeping this policy up-to-date and for overseeing how it is operated. This includes:

Confirming representatives who will be responsible for actions as outlined in the policy

Ensuring records of all disclosures are made and their outcomes recorded.

Reporting as appropriate and necessary to relevant Chief Officer, the Chair of Ethical Governance and Personnel Committee.