

Whistleblowing

A Reporting Policy and Procedure

1. PREAMBLE

- 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 as set out in the Code of Conduct. In line with that commitment, the Council encourages employees and others 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 to complement the Code of Practice. There is also statutory protection from any disclosures made by staff, which, comply with the Public Interest Disclosure Act 1998. The Act came into force on 2nd July 1999.
- 1.3 It is recognised that certain cases will have to proceed on a confidential basis. The Code of Practice set out in this policy makes it clear that staff can make reports without fear of reprisals. This Code is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking problems or raising them outside the Council. The Council would rather the matter be raised when it is just a concern rather than wait for proof. The message the Council wishes to get across to employees is "if in doubt - raise it".
- 1.4 A payment of up to £500, **may be approved by a majority decision of the members of the Corporate Governance Group** for "blowing the whistle", **in recognition of the difficulty faced by the** employee in **doing so**. This payment would be in addition to any other sums paid under this policy.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This Reporting 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 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This Policy is intended to cover concerns that fall outside the scope of the grievance procedure. Thus any serious concern that a member of staff has about any aspect of service provision or

the conduct of officers or members of the Council or others acting on behalf of the Council can and should be reported under this Policy.

This concern may be about something that is:

- Unlawful
- Against the Council's Standing Orders, Financial Procedure Rules and policies
- Against established standards of practice
- Improper conduct
- Amounts to malpractice
- Posing a danger to the health of individuals
- Likely to cause damage to the environment

3. HOW TO RAISE A CONCERN

3.1 Concerns should normally be raised with an appropriate level of line management (i.e. the immediate manager). However, the most appropriate person to contact will depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.

3.2 If an employee prefers (for whatever reason), or it is believed that senior management is involved in the matter of concern, or if they have raised the matter with their manager and still have concerns, an approach may be made to either a **Corporate** Director, the **HR and Performance** Manager, the Monitoring Officer (**Head of Legal and Democratic Services**), the Group Auditor or the Chief Executive. Irrespective of who is contacted that person must also inform the **HR and Performance** Manager, Monitoring Officer and the Group Auditor.

3.3 Concerns may be raised orally or in writing. Employees who wish to make a written report are invited to use the following format;

- The background and history of the concern (giving relevant dates);
- The reason why the employee is particularly concerned about the situation.

N.B. if an employee has any personal interest in the matter this should be disclosed at the outset.

3.4 It should be noted that often the earlier a concern is expressed the easier it is to take appropriate action; employees should not wait until they have proof.

3.5 Although employees are not expected to prove the truth of an allegation that is made, it will be necessary to demonstrate to the person contacted that there are sufficient grounds for concern.

3.6 Advice and guidance on how specific matters of concern may be pursued can be obtained internally from Human Resources, Legal Services or **South West**

Audit Partnership. Alternatively employees may wish to get confidential advice from their trade union or professional association. They can also contact the independent charity Public Concern at Work (020 7404 6609) www.pcaw.co.uk who have lawyers who can give independent advice at any stage about how to raise a concern about serious malpractice at work.

- 3.7 Employees may invite their trade union or professional association to raise a matter on their behalf.

4. HOW THE COUNCIL WILL RESPOND

- 4.1 The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:

- Be investigated by senior management, Internal Audit or through the disciplinary process;
- Be referred to the police;
- Form the subject of an independent inquiry.

- 4.2 In order to protect the individual and the Council, an initial investigation will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take (see Appendix 1). Concerns or allegations, which, fall within the scope of specific procedures (for example fraud, theft and corruption) will normally be referred for consideration under those procedures.

- 4.3 It should be noted that some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this would be taken before any investigation is completed.

- 4.4 Within ten working days of a concern being raised, the Group Auditor will write to the person raising the concern (i.e. initially the individual or representative with whom the report was lodged as set out in Sections 3.1 and 3.2):

- Acknowledging that the concern has been received;
- Indicating how he/she proposes to deal with the matter; and
- Giving an estimate of how long it will take to provide a final response.

If it is impossible for initial inquiries to be completed within ten working days, the situation will be explained in the letter of acknowledgement. Where a decision is made that no investigation will take place, the reasons for this will be provided.

- 4.5 The amount of contact between the officers considering the issues and the employee raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.

- 4.6 Where any meeting is arranged, employees have the right, if they so wish, to be accompanied by a union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- 4.7 The Council will take appropriate steps to minimise any difficulties, which an employee may experience as a result of raising a concern. For example, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will need to inform them and consider what steps are required to provide support.
- 4.8 The Council accepts that employees raising a concern need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the person raising the concern will receive as much information as possible about the outcomes of any investigation.

5. SUPPORT FOR EMPLOYEE

- 5.1 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 and any additional expenses (e.g. travelling) will be paid by the Council. Human Resources will assist the employee to ensure that he/she is given full support in adjusting to changed working circumstances.

6. HOW THE MATTER CAN BE TAKEN FURTHER

- 6.1 This Policy is intended to provide employees with an avenue to raise concerns within the Council. However, if an employee is dissatisfied with the Council's response or in any event, the matter can be raised with the District Auditor, Health and Safety Executive, Environment Agency etc. as appropriate. Employees can also contact these bodies without first exhausting the internal procedures 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.
- 6.2 In taking a matter of concern outside the Council, employees should ensure that, so far as possible, it is raised without confidential information being divulged.

7. SAFEGUARDS

- 7.1 **Harassment or Victimisation**
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 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 Industrial Tribunal.

7.2 Confidentiality

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.

7.3 Anonymity

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

7.4 False and Malicious Allegations

The Council will protect itself and its employees from false and malicious expressions of concern 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.

8. HOW THE POLICY WILL BE MONITORED

- 8.1 The Council has a responsibility for registering the nature of all concerns raised and to record the outcome. The **South West Audit Partnership** and **the HR and Performance Manager** will jointly produce an annual report, which identifies any patterns of concern and assesses the effectiveness of the Policy.

9. RESPONSIBILITY FOR IMPLEMENTING

- 9.1 The responsibility for ensuring that the Council adheres to this Policy rests with the Corporate Directors.

10. REVIEW

This Policy will be regularly reviewed in line with future changes and developments and at least every two years.

Reviewed for accuracy: April 2005 (Ian Baker)

2nd Review October 2007 (Ian Baker)

APPENDIX 1

INVESTIGATION ARRANGEMENTS

All allegations should also be passed to the **HR and Performance Manager**, Monitoring Officer, and the Group Auditor irrespective of who was contacted in the first instance.

All allegations to be investigated by the **South West Audit Partnership**. The Monitoring Officer will advise on the legal implications and the **HR and Performance Manager** will:

- (a) Arrange support and counselling for the employee who reported the concern
- (b) Advise on any necessary disciplinary action.

The Audit investigation will adopt the following good practice points: -

- Deal promptly with the allegation or concern;
- Contact the Police and other agencies as appropriate at an early stage and keep them and the employee who reported the concern informed of progress;
- Prepare a background or objectives statement; consider the likely outcome, i.e. prosecution and/or internal disciplinary action;
- Record all evidence received, ensure that it is sound, adequately supported and kept secure;
- Notify the Council's insurers where appropriate;
- Notify and liaise with the **HR and Performance Manager**;
- Identify actions required, systems weaknesses and lessons learnt.