

CHAPTER 5 Part 5: Whistleblowing Charter

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WHISTLEBLOWING POLICY

1. Introduction

- 1.1 The Public Interest Disclosure Act became law in July 1999. The Act seeks to address circumstances which arise when employees have concerns about what is happening at work. It seeks to ensure that a whistleblower who makes a proper disclosure of relevant information does not thereby incur unfair treatment. This policy document sets out the Council's response to the requirements of the Act.

2. Detail

- 2.1 Where such concerns arise, they are usually easily resolved. However, when they are perceived to be about unlawful conduct, financial malpractice or dangers to the public or the environment (see Section 4.2 for particular types of concerns), it can sometimes be difficult to know what to do.
- 2.2 You may be worried about raising issues or may want to keep the concerns to yourself, perhaps feeling that it's none of your business, or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or the organisation. You may decide to say something but find you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 2.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it is expected that employees of the Council and others with whom the Council deals who have serious concerns about any aspect of the Council's work, will come forward and voice these concerns. It is recognised that most disclosures will be undertaken on a confidential basis.
- 2.4 The Council has introduced this procedure to enable you, as an employee, to raise your concerns about perceived malpractice at an early stage and in the right way. The Council would rather that you raised the matter when it is just a concern rather than waiting for proof. Any amendments to this policy will be notified to employees.
- 2.5 If something is troubling you which you think should be known about or looked into, please use this procedure. This whistleblowing procedure is primarily for concerns where the interests of others or of the organisation itself are potentially at risk.
- 2.6 These procedures are in addition to and separate from the Council's complaints procedures including the grievance procedure and the harassment policy. If you are aggrieved about your personal position, please use the grievance procedure (which can be obtained from your line manager, Administrative Officer or the Human Resources Division of the Chief Executive's Department. (See para 4.2)
- 2.7 This policy applies to:
- (i) all employees of the Council.

- (ii) contractors working for the Council on Council premises (for example agency staff).
- (iii) suppliers and those providing services under a contract with the Council.
- (iv) people working in partnership with the Council, and its employees and Members (e.g. volunteers, trustees etc.).

2.8 If in doubt - raise it!

3. The Council's Assurance to You

3.1 Your safety

The Members, the Chief Executive and the General Management Team are committed to this Policy. You will not be at risk of suffering any form of retribution as a result of raising your concerns, provided that you are acting in good faith. It does not matter if you are mistaken, so long as you reasonably believe there is a problem.

3.2 Of course, the Council does not extend this assurance to someone who maliciously raises a matter that they know is untrue or makes an allegation for personal gain. This could be construed as gross misconduct and disciplinary action may be taken.

3.3 Your confidence

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this Policy. If you ask that your identity is protected by keeping your confidence, it will not be disclosed without your consent. If the situation arises where the Council is not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), it will be discussed with you, as to whether and how the matter can be proceeded with.

3.4 Remember that if you do not tell the Council who you are, it will be much more difficult to look into the matter, or to protect your position, or to give you feedback. Accordingly, while anonymous reports may be considered, this Policy is not appropriate for concerns raised anonymously. Concerns raised anonymously are much less powerful, but may be considered at the discretion of the Council.

3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect you.

4. Aims and scope of the policy

4.1 This Policy aims to:

- (i) encourage you to feel confident in raising serious concerns and to question and to act upon concerns about Council practice.

- (ii) provide avenues for you to raise those concerns and receive feedback on any action taken.
- (iii) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- (iv) reassure you that you will be protected from any possible reprisals and victimisation if you have a reasonable belief that you have made the disclosure in good faith.

4.2 There are already existing procedures in place within the Council for disclosing certain concerns. These are:

- (i) the Council's complaints procedure.
- (ii) the Council's Grievance Procedure, which enables you to lodge a grievance relating to your own employment.

This policy is intended to cover major concerns that may fall outside the scope of other procedures. These include:

- the unauthorised use of public funds.
- possible fraud or corruption.
- sexual or physical abuse of both employees and clients.
- health and safety risks (including risks to the public as well as to other employees).
- conduct which is an offence or breach of law.
- disclosures related to miscarriages of justice (i.e. where the Council has acted improperly or unfairly).
- damage to the environment.
- other unethical conduct.

4.3 It is clear that any serious concerns that you may have 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 be reported under this Policy. This may be something that:

- makes you feel uncomfortable, or
- is against any of the Council's existing codes and policies, such as procedure rules or financial regulations or
- is contrary to established standards of practice, or amounts to improper conduct.

5. How the matter will be handled

5.1 Once you have notified the Council of your concern, it will be looked into in order to assess initially what action should be taken. This may involve an internal enquiry or a more formal investigation. You will be notified who is handling the matter, how you can

contact them, and whether your further assistance may be needed. A formal written response will be issued to you summarising your concern and setting out how the Council proposes to handle the matter.

- 5.2 When you raise the concern you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, it is vital that this is mentioned at the outset. If your concern more properly falls within another Council policy, such as the grievance procedure you will be notified.
- 5.3 While the purpose of this Policy is to investigate possible malpractice and take appropriate steps to deal with it, you will be given as much feedback as possible.
- 5.4 Rarely, a case might arise where it is the employer that has participated (or even continues to participate) in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible.

6. How to raise a concern

6.1 Step 1

If you have a concern about malpractice, it is hoped that you will be able to raise it first with your line manager. This will obviously depend upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the officers identified in Step 2 below. You may, at any stage, feel the necessity to take independent advice (See Section 6.4).

6.2 Step 2

If you feel unable to raise the matter with your line manager, for whatever reason, you should raise the matter with your Director.

6.3 Step 3

If either, or both, of these channels have been followed, and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may wish to contact either the Monitoring Officer or the Chief Executive:

Name: Sachdev Khosa (Monitoring Officer)
Contact Details: Monitoring Officer
Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB
Tel: 9173221

or

Name: Ruth Hyde (Chief Executive)
Contact Details: Chief Executive's Office, Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB
Tel: 9173255

or

Name: Chris Fish (Chief Audit and Control Officer)

Contact Details: Chief Audit and Control Officer, Council Offices, Foster Avenue, Beeston, Nottingham, HG9 1AB
Tel: 9173212

6.4 Either the Chief Executive or the Monitoring Officer may refer your concern to the Council's Standards Hearing Sub Committee.

6.5 Independent advice

If you are unsure whether in principle to use this procedure or you want independent advice at any stage, you may contact:

- your union (if you are a member) who could assist you in raising your concern, or
- the Council's external auditors are Mazars. The lead external auditor at Mazars for Broxtowe is Mark SurrIDGE, contact details are: <https://www.mazars.co.uk/Users/Our-team/Mark-SurrIDGE> or 0121 2329600, or
- the independent charity Public Concern at Work on 0171 404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

6.6 External contracts

While it is hoped that this Policy gives you the reassurance you need to raise such matters internally, it is recognised that there may be circumstances where you can properly report matters to outside bodies, such as the prescribed regulators, some of whom are outlined below, or the police. Prescribed regulators, who will be appointed by the Government, are external bodies able to take and consider your concerns). Public Concern at Work, or if applicable your own union, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

Relevant prescribed regulators are as follows:

- (i) Health and safety risks - Health and Safety Executive
- (ii) Environmental issues - The Environment Agency
- (iii) Financial services - Financial Conduct Authority and The Bank of England.
- (iv) Fraud and fiscal irregularities - Serious Fraud Office, Inland Revenue and Customs and Excise.
- (v) Public sector finance - National Audit Office.
- (vi) Competition & consumer law - Office of Fair Trading.

- (vii) Others - Certification Officer (Trade Unions), Charity Commission, Data Protection Registrar.

There are additional regulators other than those outlined above.

- 6.7 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.
- 6.8 You may invite your union representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

7. How the Council will respond

- 7.1 Any concerns raised will always receive a response. This will entail consideration of the disclosure and may involve an internal investigation, following which matters may be referred to an external agency (such as external audit or the police).
- 7.2 In order to protect individuals and those accused of possible malpractice, initial enquiries will be made in order to identify whether an investigation is appropriate and, if it is, what form it should take. The overriding principle here is the public interest.
- 7.3 Within ten working days of a concern being raised, the Monitoring Officer will write to you:
 - (i) acknowledging that the concern has been received.
 - (ii) indicating how it is proposed to deal with the matter.
 - (iii) giving an estimate of how long it will take to complete investigations.
 - (iv) telling you whether any initial enquiries have been made.
 - (v) supplying you with the information on how the Council will support you if you think this is necessary, whilst the matter is under consideration.
 - (vi) keeping you informed of the progress.
- 7.4 The amount of contact between you and the Officers considering the matter will depend on both the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you. Meetings can take place away from the Council offices if you prefer.
- 7.5 Steps will be taken 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, arrangements will be made for you to receive advice about the procedure.

8. If you are dissatisfied

- 8.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned in section 6.5. While it cannot be guaranteed that all matters will be addressed in the way you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this.
- 8.2 If you do take the matter outside the Council, you must ensure that you do not disclose confidential information.

9. The Responsible Officer

- 9.1 The Chief Executive has the overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the results of any investigations made (in a form that will not endanger your confidentiality).