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## **Confidential Reporting Code**

Approved by:	Accounts and Governance Committee
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Responsible Officer:	Deputy Chief Executive (Monitoring Officer)

## **1. Introduction**

- 1.1 A Confidential Reporting Code frequently is known as or referred to as the whistleblowing code. Whistleblowing arises when an employee reports suspected wrongdoing. Officially, this is called 'making a disclosure in the public interest'. Whistleblowing is important to safeguard the effective delivery of public services, and to ensure value for money. It serves to protect and reassure the workforces, and to maintain a healthy working culture and an efficient organisation. Whistleblowing can enable problems to be addressed promptly and before they escalate.
- 1.2 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 being the subject of harassment or victimisation or that action may be taken against them. It may be thought that it is easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3 The Council wishes to make it clear that employees should raise legitimate concerns. Whistleblowers may be simply wishing to alert others. Employees should be able to raise legitimate concerns so that they can be addressed.
- 1.4 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns without fear of reprisal.
- 1.5 It is recognised that some cases may have to proceed on a confidential basis. This Code makes it clear that you can raise issues without fear of victimisation, subsequent discrimination or disadvantage. Employees should make and should feel able to make disclosures about wrong doing to their employers so that problems can be identified and resolved. This Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns in an appropriate way within the Council rather than overlooking a problem or feeling compelled to 'blow the whistle', prematurely, outside the Council.
- 1.6 The Code applies to all employees, agency workers and contractors working for the Council on Council premises, agency staff and suppliers.
- 1.7 The Code is in addition to the Council's complaints procedures. This Code complements and links with the Anti-Fraud, Theft, Bribery and Corruption Strategy, the Officers and Members' Codes of Conduct, health and safety at work policies in particular. Grievances about a person's employment should be raised under the Fair Treatment at Work Policy.
- 1.8 The Code has been raised with and discussed with relevant trade union and staff representatives and has their support.

- 1.9 The Deputy Chief Executive (Monitoring Officer) is responsible for reviewing this Code annually. The Code is also reviewed annually by the Council's Accounts and Governance Committee. The Code and the complementary Council policies are published on Sharepoint and are accessible to all employees. A copy of the Code is provided to the Council's main contract service providers (Amey, GL Leisure, Cumbria Waste Recycling and Eden Housing currently).
- 1.10 The Council wishes to promote employees raising legitimate concerns and blowing the whistle as this will:
- deter wrongdoing;
  - pick up potential problems at an early stage;
  - enable people to have critical information which they need to know so that they can address the issue;
  - demonstrate to stakeholders, regulators and the courts that the Council is accountable and well managed;
  - reduce the risk of anonymous and malicious leaks;
  - minimise costs and compensation from accidents, investigations, litigation and regulatory inspections;
  - maintain and enhance the Council's reputation; and
  - provide opportunities to learn and improve.

## **2. Aims and Scope of this Code**

- 2.1 This Code aims to:
- encourage any employee, to feel that it is acceptable and he or she is able to raise any serious concern he/she may have about the Council, its services and the conduct of its staff, Members, contractors or service providers;
  - provide methods for an employee to raise those concerns and receive feedback on any action taken;
  - ensure that an employee receives a response to concerns and is aware of how to pursue those concerns;
  - re-assure any employees that he or she will be protected from possible reprisals, detriment, dismissal or victimisation if there is a reasonable belief that any disclosure is made in good faith.
- 2.2 There are existing procedures in place to enable an employee to lodge a grievance relating to his/her employment. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures. The concerns which may be raised under this Code are:
- conduct by anyone which tends to show a criminal offence is being or is likely to be committed;

- a disclosure that a miscarriage of justice is occurring or likely to occur;
  - a person's failure or likely failure to comply with a legal obligation to which he or she is subject;
  - information which shows that any of the above issues are being concealed;
- 2.3 The unauthorised use of public funds, possible fraud or corruption and sexual or physical abuse may be criminal offences. Health and safety risks include those to the public as well as to employees.
- 2.4 Any serious concerns that a person has about any aspect of any Council service or the conduct of officers, Members of the Council, or others acting on behalf of the Council, can be reported under the Confidential Reporting Code. The concerns may relate to something that:
- is inappropriate in terms of the standards the Council subscribes to; or
  - is against the Council's procedures and policies; or
  - falls below established standards of practice; or
  - amounts to improper or unethical conduct or behaviour;
  - is unlawful;
  - is discriminatory behaviour or conduct;
  - is unfair treatment.

It may be that some concerns may be dealt with or considered under other policies or procedures such as those which specifically relate to disciplinary or capability issues, harassment or the Codes of Conduct, for example.

### **3. Safeguards**

- 3.1 The Council is committed to good practice and high standards and wants to be supportive of employees and enable them to raise issues of serious concern. An employee acting in good faith has protection under the Public Interest Disclosure Act 1998 (see paragraph 11).
- 3.2 The Council recognises that a decision to report a concern can be a difficult one to make. If what a person is saying is true, he/she should have nothing to fear because he/she is doing his/her duty as a good employee or citizen and to those for whom the Council's services are provided.
- 3.3 The Council will not tolerate any harassment or bullying (including informal pressures) and will take appropriate action to protect a person who raises a concern. The Council's Fair Treatment at Work Policy identifies the procedures to prevent any harassment and bullying at work. This policy is also available to members of staff on sharepoint.
- 3.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary, capability, grievance or redundancy procedures that may already be in place.

## **4. Confidentiality**

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal a person's identity unnecessarily or inappropriately. At the appropriate time, however, a person who 'blows the whistle' may be asked to come forward as a witness.
- 4.2 It may be necessary as part of an investigation process for that person to give evidence to substantiate any allegations that have been made. If this arises it will be made clear what the implications of acting as a witness are.
- 4.3 If the situation arises where the Council will not be able to resolve the concern without revealing a person's identity, that person will be informed of this and the reasons. Sometimes it might be necessary to pass on the details of a person who 'blows the whistle' on to external law enforcement bodies such as the Police.

## **5. Anonymous Allegations**

- 5.1 A person is encouraged to put his/her name to any allegation whenever possible.
- 5.2 It is recognised that the personal cost of whistleblowing can be high and some people may be tempted not to put their names to reports. The Council will, at its discretion, investigate anonymous disclosures but this can be open to abuse and anonymous reports are not encouraged. However, confidential reporting recognises the potential personal cost to whistleblowers and allows the person to remain unidentified, while providing a channel for further communication. This method of reporting seeks to reduce malicious reports and allow an investigator to obtain more and relevant information.
- 5.3 Concerns which are expressed anonymously are much less powerful and may be malicious. In exercising any discretion to pursue an anonymous complaint account will be taken of:
- the seriousness and nature of the issue raised;
  - the credibility of the concern; and
  - any other apparently relevant factor.

## **6. Untrue Allegations**

- 6.1 If an allegation is made in good faith, and in accordance with the Code, but it is not confirmed by the investigation, no action will be taken against the person who made the disclosure. If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken.

## **7. How to Raise a Concern**

- 7.1 As a first step, a concern should normally be raised with the person's immediate line manager depending on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. A concern may be raised with any manager. If you have raised a concern and are not satisfied with your manager's action you may raise your concern with the Deputy Chief Executive (Monitoring Officer). Alternatively, you may raise the matter with the

Chief Executive, Director of Finance, the Assistant Director Organisational Development or the Senior Auditor.

- 7.2 Concerns may be raised verbally or in writing. A member of staff who wishes to make a written report is invited to:
- identify the nature of the concern and why it is serious;
  - set out the background and history of the concern (giving relevant dates and names); and
  - explain the reasons why he/she is particularly concerned about the situation.
- 7.3 The earlier the concern is expressed the easier it is to take action. Although a person is not expected to prove beyond doubt the truth of an allegation, any report needs to demonstrate to the person contacted that there are reasonable grounds for the concern.
- 7.4 Advice and guidance on how to pursue matters of concern may be obtained from the:
- Director of Finance;
  - Deputy Chief Executive (Monitoring Officer);
  - Chief Executive; or
  - Senior Auditor
  - Assistant Director Organisational Development

The named officers will be willing to assist any person and will deal with any issue with sensitivity and discretion. The independent charity Public Concern at Work can also be contacted.

- 7.5 Anyone wishing to raise a concern may wish to consider discussing that concern confidentially with a colleague first and it may be easier to raise the matter if there are two who have had the same experience or concern. For staff in a trade union, a union official may provide advice, guidance and support. Other staff may wish to raise a matter with a non-union staff representative.
- 7.6 A trade union, professional association representative, staff representative or a friend may be present during any meetings or interviews in connection when the concerns are raised.

## **8. How the Council will Respond**

- 8.1 The Council will respond appropriately to the concerns to which the Code relates. The action taken will depend upon the nature of the concerns. A concern may:
- be investigated by an independent person;
  - be referred to the police for consideration and investigation where a criminal offence is suspected;

- be reported to the Health and Safety Executive;
  - be referred to the external auditor for consideration and investigation;
  - form the subject of an independent inquiry;
  - be referred to relevant professional bodies; or
  - be referred for consideration under another policy, procedure or code.
- 8.2 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries may be made to decide whether an investigation is appropriate and, if so, what form it should take. The Council will consider and act in the public interest. Concerns or allegations which fall within the scope of other specific procedures (for example allegations of discrimination) will normally be referred for consideration under those procedures.
- 8.3 Some concerns may be resolved by identified action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted and concluded.
- 8.4 Within ten working days of a concern being raised, the Officer whom you have approached will write to you:
- acknowledging that the concern has been received;
  - indicating how it is proposed to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;
  - informing the complainant whether any initial enquiries have been or will be made;
  - supplying the complainant with information on staff support mechanisms; and
  - telling the complainant whether further investigations will take place and if not, why not.
- 8.5 The amount of contact between the officer considering the issues and the complainant will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. The Council may seek further information or clarification from the complainant.
- 8.6 Where any meeting is arranged, which can be off-site if this is appropriate, the complainant may be accompanied by a union official, a staff representative or a professional association representative or a colleague.
- 8.7 The Council will take steps to minimise any difficulties which the complainant may experience as a result of raising a concern if such steps are necessary or appropriate. For instance, if the complainant is required to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive advice about the procedure and your anticipated involvement. If appropriate counselling will be arranged by the Council but this would be only with consent.

8.8 The Council recognises that a complainant will need to be assured that the matter has been properly addressed. A complainant will be informed of the outcome of any investigation, subject to any inhibitions or constraints there may be.

## **9. The Responsible Officer**

9.1 The Deputy Chief Executive (Monitoring Officer), on behalf of the Chief Executive, has overall responsibility for the application of this Code. He will maintain a record of concerns raised and outcomes (but in a form which does not endanger or undermine confidentiality) and will report as necessary to the Accounts and Governance Committee or any appropriate Executive or other Member upon the concerns raised. The reporting of concerns will be undertaken sensitively and in such a way which seeks to maintain confidentiality and confidence in the process.

## **10. How the Matter can be taken Further**

10.1 This Code is intended to provide an employee with a method to raise concerns with the Council. The Council expects that any action taken will be appropriate to the issue.

10.2 If a person takes the matter outside the Council, he or she should ensure that confidential information is not disclosed.

10.3 A complainant may raise an issue outside the Council and be protected in some circumstances. A person should seek advice before doing so in his or her own interests. A person may make a disclosure to a prescribed person if he or she acts in good faith and the information which is disclosed is substantially true. A list of prescribed persons is available on the Direct Gov Website (see Clause 11.3).

10.4 It may be acceptable to make a disclosure externally to a person who is not prescribed provided:

- a) the disclosure is made in good faith;
- b) the information and any allegation disclosed is reasonably believed to be substantially true;
- c) the disclosure is not made for personal gain; and
- d) the complainant acts reasonably taking account of all the circumstances.

10.5 If a complainant is not satisfied with the action taken with the Council he or she may wish to raise the issue with either the Chief Executive or the Accounts and Governance Committee (if the issue has involved the Chief Executive). The Accounts and Governance Committee may enquire into the issue and take appropriate action.

## **11. The Law**

11.1 The Code has been written with regard to a person's rights under the Public Interest Disclosure Act 1998. This Act protects employees who make what is known as a qualified disclosure about the following matters of concern in accordance with the Act's provision:



- a criminal offence;
- a breach of a legal obligation;
- a serious miscarriage of justice;
- a danger to the health and safety of an individual or groups of people;
- any severe damage to the environment; or
- the deliberate covering up of any matter which relates to any of the above issues.

11.2 The Act is incorporated into the Employment Rights Act 1996 which protects employees who take action over, or raise concerns about, health and safety at work. An employee cannot be subject to any detriment or dismissed because he/she has made a disclosure of a kind set out in Paragraph 11.1. An employee must act reasonably and in good faith. An employee who acts in accordance with this policy will be protected under the Public Interest Disclosure Act 1998.

11.3 A guide to the Public Interest Disclosure Act 1998 is available on the Direct Gov Website ([www.direct.gov.uk](http://www.direct.gov.uk)).

## **12. Concerns about Chief Executive, Deputy Chief Executive, Director of Finance or any Deputy or Assistant Director**

12.1 If a concern is raised about the Chief Executive, the Leader shall be informed within twenty-four hours unless the Leader is implicated within the complaint in which case the Deputy Leader shall be informed and consulted by the person who is considering the concern. In the event that the Deputy Leader as well as the Leader is implicated then the Resources Portfolio Holder shall be informed and consulted.

12.2 The Chief Executive shall be informed within five working days of the raising of the concern and invited to respond.

12.3 If a concern is raised about the Deputy Chief Executive, Director of Finance or any Deputy or Assistant Director the Chief Executive shall be informed within twenty-four hours of the nature of the concern and may at his/her discretion inform the Leader.

## **13. Training**

13.1 The Council has a corporate induction programme for all staff. In addition, every two years refresher training is provided on standards of conduct for all staff. All Members of the Council undergo a corporate induction programme, receive training on the Code of Conduct and should have an awareness of the standards of expected behaviour. The corporate induction programme for Members occurs after the four yearly election cycle with refreshers during the four year period.

13.2 The corporate induction programmes and refresher training include code of conduct matters and confidential reporting or whistleblowing to ensure there is appropriate awareness of procedures and arrangements.