



WHISTLEBLOWING "CONFIDENTIAL REPORTING" POLICY AND PROCEDURE

PRODUCED BY: HEAD OF INTERNAL AUDIT / GROUP MANAGER - INVESTIGATIONS, CORPORATE
FRAUD / HEAD OF HR & COMMUNICATIONS

SUBJECT TO ANNUAL REVIEW

PRESENTED TO:

CORPORATE MANAGEMENT TEAM: MAY 2011

AUDIT COMMITTEE: JUNE 2011

CABINET: JULY 2011

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INTRODUCTION

Employees, workers or contractors at one time or another may have concerns about what is happening at their work with Southend-on-Sea Borough Council (“the Council”). Usually these concerns are easily resolved by speaking to their manager without using a formal process. The Council has introduced this Whistleblowing Policy and Procedure to enable employees, workers or contractors to raise more serious concerns.

This Whistleblowing Policy cannot be used by employees who have a grievance regarding their own employment, who should use the Grievance processes, or by members of the public, who should use the Council’s Complaints processes.

The Council is committed to the highest standards of openness, probity and accountability. In line with that commitment we encourage employees, workers and contractors with serious concerns about any aspect of the Council's work to come forward and voice their concerns. The Council would rather they raised the matter when it is just a concern rather than wait for proof. It is recognised that certain cases will have to proceed on a confidential basis. This Whistleblowing Policy makes it clear that such concerns can be raised without fear of reprisals.

This Whistleblowing Policy is not intended for initial reporting of minor lapses of standards, inaction or incidents. If, however, employees, workers or contractors have something more serious that is troubling them which they have discussed with their manager but feel that they have not been taken seriously, or due to the sensitivity of the matter feel they cannot raise their concerns within their service, then they should use this Whistleblowing Policy.

LEGISLATIVE BACKGROUND

The Public Interest Disclosure Act 1998 protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions.

The 1998 Act is incorporated into the Employment Rights Act 1996, which also protects employees who take action over, or raise concerns about health and safety at work.

DEFINITION

Any serious concerns that employees, workers or contractors 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 the Whistleblowing Policy. These may include:

- a criminal offence
- fraud & corruption, **including bribery**
- failure to comply with legislation

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- failure to comply with good practice, especially where this endangers children and/or vulnerable adults
- disclosure relating to miscarriage of justice
- health and safety risks, including risks to the public as well as other employees
- damage or danger to the environment
- sexual, physical, emotional or psychological abuse of clients
- failure to comply with the Employees or Members Code of Conduct
- theft of Council property and assets
- failure to comply with the Council's rules on gifts and hospitality
- serious mismanagement or failure to manage
- continuing inappropriate conduct or behaviour or performance by any employee which has been reported to a relevant manager, especially harassment or bullying or discriminatory behaviour. This may include, but not be confined to, actions considered to be based upon the race, gender, disability, age, religion/belief or sexual orientation of the victim
- a cover up of, or failure to report, any of the above.

Under the Public Information Disclosure Act 1998 a "protected disclosure" is specified under section 43B. Not all disclosures detailed in this paragraph offer 'protected disclosure' under the Act. However the Council undertakes to extend the same protection for all disclosures wherever possible.

COMMITMENT OF THE COUNCIL

The Council is committed to considering the concerns of employees, workers or contractors and will take actions as appropriate in line with the Whistleblowing Procedure attached to this policy.

SAFEGUARDS

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 reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect employees, workers or contractors when they raise a concern in good faith.

The Council will treat any harassment or victimisation as a serious disciplinary offence to be dealt with under the Discipline and Dismissal at Work Policy.

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This does not mean that if employees are already the subject of disciplinary, redundancy or other Procedures that those Procedures will be halted as a result of their whistleblowing.

Confidentiality

The Council recognises that employees, workers or contractors may nonetheless want to raise a concern in confidence under this Whistleblowing Policy. If an employee, worker or contractor asks the Council to protect their identity, the Council will do its best not to disclose it without their consent. If the situation arises where the Council is not able to resolve the concern without revealing the employee, worker or contractors identity (for instance because their evidence is needed in court), we will discuss with them whether and how we can proceed.

Anonymous allegations

This Whistleblowing Policy encourages employees, workers or contractors to put their name to their allegation. Concerns raised anonymously are much less powerful but they will be considered at the discretion of the Council.

In exercising the discretion the factors to be taken into account would include:

- The seriousness of the issues raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation.

Untrue allegations

If an employee makes an allegation in good faith but it is not confirmed by the investigation no action will be taken against them. If however, an employee makes a malicious or vexatious allegation, disciplinary action may be taken against them.

THE MONITORING OFFICER (HEAD OF LEGAL AND DEMOCRATIC SERVICES)

The Head of Legal and Democratic Services is the Monitoring Officer for the Council. The Monitoring Officer has overall responsibility for the maintenance and operation of this Whistleblowing Policy and Procedure.

The Corporate Fraud Team maintains a record of concerns raised under the Whistleblowing Policy and Procedure and of the outcomes (in a form that does not endanger employee, worker or contractor confidentiality) on behalf of the Monitoring Officer, who will report if necessary to the Standards Committee.

The Monitoring Officer will consult with such other Council officers as he or she considers necessary and may arrange for any investigation to be conducted and dealt with in such manner as he or she decides.

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SCOPE OF POLICY

- This Whistleblowing Policy applies to all employees, workers and contractors working for the Council, for example agency workers, builders, drivers etc. to enable them to raise serious concerns.
- This Whistleblowing Policy cannot be used by employees who have a grievance regarding their own employment, who should use the Grievance processes, or by members of the public, who should use the Council's Complaints processes.
- Community schools will be bound by the principles of this Whistleblowing Policy.
- In educational establishments with fully delegated budgets, it is for the relevant governing body to decide whether or not it is appropriate to apply this Whistleblowing Policy. Where it is decided that it is not appropriate, the governing body is reminded of its obligation as an employer to nevertheless satisfy the requirements of the law and, where appropriate, the requirements of specific conditions of service.

DELEGATION

- All managers are authorised to discuss and act upon employees concerns about what is happening at work without using the formal process of the Whistleblowing Policy.
- The Monitoring Officer (Head of Legal & Democratic Services), Corporate Directors, Heads of Service, the Head of Internal Audit and the **Group Manager – Investigations, Corporate Fraud** are authorised to act upon serious concerns raised under the Whistleblowing Policy, in accordance with the Whistleblowing Policy and Procedure.
- All concerns raised under this Whistleblowing Policy will be notified to **the Corporate Fraud Team**.
- All concerns raised under this Whistleblowing Policy regarding financial issues will also be notified to the Head of Internal Audit.

AMENDMENT

- November 2001
- February 2008
- July 2009
- May 2011

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HOW TO RAISE A CONCERN

Employees who raise concerns that fall within the scope of other Council Procedures will not be dealt with under this Whistleblowing Procedure, but will be advised on the appropriate procedure to use. Such employees will still receive protection as detailed in the Whistleblowing Policy.

Employees, workers or contractors should normally raise concerns with their immediate manager, without needing to use the Whistleblowing Policy. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.

Where a concern is serious or where it is a concern about the line manager, or having made a report they believe that their manager has failed to take appropriate action, the employee, worker or contractor should contact:

- to the **Corporate Fraud Team on 01702 534018** or via antifraud@southend.gov.uk or
- the Council's **Confidential Report Line on 01702 215215**

Concerns should be raised in writing, clearly marked "**Whistleblowing, Corporate Fraud Team**" and placed in an envelope marked "**Staff in Confidence**". The background and history of the concern (giving names, dates, and place where possible), and the reasons for the concern should be set out.

The earlier employees, workers or contractors express a concern, the easier it is to take action. Employees may invite a trade union representative or work colleague to raise a matter on their behalf.

All concerns raised under this Whistleblowing Policy regarding financial issues will also be notified to the Head of Internal Audit.

HOW THE COUNCIL WILL RESPOND

Once an employee, worker or contractor has raised their concern under the Whistleblowing Policy with **Corporate Fraud Team, initial enquiries will be made** to decide if an investigation is appropriate and if so what form the investigation should take.

The employee, worker or contractor will be advised of the following:

- who is considering the issue;
- how that person can be contacted;
- whether their further assistance may be needed.

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The senior officer responsible for considering the issue will write to the employee, worker or contractor summarising their concern and setting out how the Council proposes to handle it, if requested to do so. The employee, worker or contractor will also be requested to state any personal interest they may have in the matter.

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 or discrimination issues) will normally be referred for consideration under those procedures. The action taken by the Council will depend on the nature of the concern and may:

- be resolved by agreed action without the need for investigation;
- be investigated internally;
- be referred to the police;
- be referred to the external auditor;
- form the subject of an independent inquiry.

The amount of contact between the employee, worker or contractor and the officers investigating the concerns will depend on the concerns raised, but the Council may need to seek further information from the employee, worker or contractor. Any meetings may be arranged on or off site and an employee may be accompanied by a friend, union or professional body representative.

While the purpose of this Whistleblowing Policy is to enable the Council to investigate possible malpractice and take appropriate steps to deal with it, they will provide as much feedback to the employee, worker or contractor as they properly can. If requested, confirmation of the response may be provided in writing. It may not, however, be possible to advise the precise action that will be taken where this would infringe a duty of confidence owed by the Council to someone else.

HOW A CONCERN CAN BE TAKEN FURTHER

The Whistleblowing Policy is intended to provide employees, workers or contractors with the reassurance they may need to raise concerns internally and that they will be satisfied with any action taken.

However, if they are not, and feel that it is appropriate to take the matter outside the Council or if they feel unable to raise their concerns internally, the Council would rather they raised the matter with an appropriate regulator than not at all. The following are possible contact points:

- Local Council Member.
- The designated independent organisation (independent charity "Public Concern at Work" which provides a confidential helpline on 020 7404 6609).

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- The Audit Commission.
- The employee's trade union.
- Local Citizens Advice Bureau
- The Police
- Relevant professional bodies, regulatory or other organisations

If employees, workers or contractors take their concerns outside the Council they should take care not to disclose any confidential information.