
WHISTLEBLOWING POLICY

Committee: Corporate Governance and Finance Committee

Date: 4 December 2014

Author: Monitoring Officer

[P141]

1.0 ISSUE

1.1 To seek approval of the amendments to the Whistleblowing policy.

2.0 RECOMMENDATION(S)

2.1 To agree the new policy and procedure (Appendix A) for the reporting by employees of concerns of wrongdoing in writing, e-mail or telephone to the Monitoring Officer or the Deputy Monitoring Officer.

3.0 BACKGROUND/OPTIONS

3.1 The Whistleblowing Policy sets out how staff can confidentially raise any serious concerns that they have about a Council activity, confident in the knowledge that they have protection under the safeguards of the policy.

3.2 Since the coming into operation of the Public Interest Disclosure Act 1998 in 1999, the Council has provided a whistleblowing service for staff. It is regularly reviewed and updated to include legislative changes and compliance with British Standards BSI Whistleblowing Code of Practice PAS1998:2008.

3.3 The Enterprise and Regulatory Reform Act 2013 has introduced some major changes to the regime. A disclosure will not 'qualify' for protection unless, in the reasonable belief of the worker, the information is in the public interest and tends to show one or more of a number of listed 'wrongdoings'.

3.4 A central recording system has been set up on the legal database to record all incidents of whistle blowing. Since the last review of the policy in 2010 no concerns have been raised.

3.5 All staff will be made aware of the new policy via email that will include a link to the policy on the Councils intranet.

4.0 ARGUMENTS/CONCLUSIONS

4.1 The current system of staff reporting any concerns will be maintained.

4.2 Over the last three years there have been no concerns raised by staff through the whistleblowing service. The current system is considered to be the most adequate and cost effective method for the Council to carry out this service.

4.3 Staff are also informed that should they have concerns they can seek advice from the independent charity Public Concern at Work on 0207404 6609 or helpline@pcaw.co.uk. This advice and contact details are within our Whistle blowing policy documentation.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 If the current system is retained then this would be met within existing budgets.

5.2 Equality Impact Assessment (INRA) not required.

6.0 APPENDICES

6.1 Appendix A – Draft amended Whistleblowing Policy

Background Documents

Location

Contact Officer

British Standards BSI
Whistleblowing Code of
Practice PAS1998:2008.

The Grange
Ely

Amanda Apcar
(Principal Solicitor and Monitoring
Officer)
(01353) 616347

The Whistleblowing
Commission:
Report on the effectiveness
of Existing arrangements
for workplace whistleblowing
in the UK

E-mail:
amanda.apcar@eastcambs.gov.uk

WHISTLEBLOWING POLICY

1.0 INTRODUCTION TO THE POLICY

“What is Whistleblowing?”

Public Concern at Work, a charity providing independent advice and information on raising concerns at work, utilises the following definition:-

“When someone blows the whistle they are raising a concern about danger or illegality that affects other (e.g. customers, members of the public or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern – they are simply trying to alert others. For this reason the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.”

- 1.1 The Council takes its responsibilities to its staff very seriously and recognises that its staff are often in the best position to know when the interests of the public are being put at risk, or to act as an early warning system on matters of health and safety, or to help uncover fraud and mismanagement.
- 1.2 Local Government employees have an individual and collective responsibility regarding their conduct and practices, which are always subject to scrutiny. As individuals, employees are required to work within the Code of Conduct for East Cambridgeshire District Council Employees, which is made available to all employees.
- 1.3 The Council’s ‘Financial Procedure Rules’ and ‘contract Procedure Rules’ (procurement standards for buying any item) within the Constitution must be met along with ensuring that the relevant codes of conduct including the standards appropriate to professional organisations or associations are met.
- 1.4 This Policy is for use by employees, providing guidance how to raise concerns within the Council in the knowledge that they are protected under the safeguards of this Policy.

2.0 POLICY STATEMENT

- 2.1 A Whistleblowing policy is an essential part of a good governance framework. The Council is committed to ensuring that all its activities are conducted ethically, honestly and promote a culture of openness, fairness with the expectation that all those who work for and with them to adopt the highest standards of accountability.

Appendix A

- 2.2 It is therefore committed to dealing with fraud and other forms of malpractice. In line with these commitments, employees and others with serious concerns about any aspect of the Council's work are encouraged to come forward and voice their concerns internally at an early stage, without fear of reprisal.

3.0 AIMS

- 3.1 This Policy aims to:

- encourage employees to feel confident in raising serious concerns promptly, and to question and act upon any concerns about Council practices;
- to provide routes for all employees to be able to raise concerns in confidence and ensure that all concerns are taken seriously;
- reassure employees that they will be protected from victimisation, subsequent discrimination or disadvantage, for whistleblowing in good faith;
- to ensure that concerns are dealt with and that employees are aware of how they can take the matter further if they are dissatisfied with the Council's response.

4.0 SCOPE OF THIS PROCEDURE

- 4.1 Any serious concerns that you have about a Council activity or the conduct of any of its officers or Members can be reported under the Whistle Blowing Policy. “

The types of major concerns that are covered include: -

- conduct, which is an offence or a breach of the law;
- a criminal offence has been, is being or is likely to be committed;
- suspected fraudulent activity;
- health and safety risk to either employees or the public;
- dangerous issues or working practices
- conduct which has led or could lead to damage to the environment (i.e. inappropriate disposal of waste);
- showing undue favour over a contractual or employment matter;
- Sexual, physical or verbal abuse of clients, employees and others;
- in breach of standing orders or financial regulations;
- breach of codes of conduct;
- Possible fraud / bribery or corruption;
- The unauthorised use of public funds; or
- Improper and unethical conduct

(This is not an exhaustive list)

Appendix A

4.2 Issues relating to you personally or to your terms and conditions of employment are not covered by this policy. The Council has a number of internal policies and procedures that allow employees to raise concerns about employment related issues. You should use the procedures listed in the remainder of this section to raise such concerns.

- Employees Code of Conduct;
- Equal Opportunities Policy;
- Disciplinary Policy and Procedure;
- Grievance Policy and Procedure;
- Protocol on Member/Officer relations;
- Anti-Fraud and Corruption Policy;
- Dignity at Work Policy and procedure.
- Corporate Complaints Procedure
- Members Code of Conduct
- Safeguarding issues.

4.3 Staff are encouraged to use the provisions in place where appropriate. You may be concerned that using one of these options may cause you problems at work; the whistleblowing service provides an alternative channel through which you can voice concerns with or without being identified (see below).

5.0 COUNCIL RESPONSIBILITY

5.1 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 may feel that speaking up would be disloyal to their colleagues or to the Council. When a concern is raised the Council will be as supportive as is possible and will not tolerate harassment or victimisation. The Council will take action to protect you where in your reasonable belief, disclosure of information is made in the public interest.

5.2 If the Council has the chance to deal with a potentially serious problem at the earliest opportunity this can minimise the risks before serious damage can be caused to persons, property or reputation.

6.0 CONFIDENTIALITY

6.1 Any concerns raised by a member of staff will be treated in the strictest confidence. The Council will do its best to protect the identity of staff who whistleblow, even though your name will not be mentioned, the Council cannot guarantee that other will not try to deduce (correctly or otherwise) your identity.

6.2 Where someone had already voiced a concern to colleagues, your manager or others may assume that you are the source of any disclosure made higher up in the organisation. In certain circumstances the investigation may reveal

Appendix A

the identity of the whistleblower and a statement may be required as part of the evidence.

7.0 HOW TO RAISE A CONCERN

71 It is preferable that a whistleblowing concern is raised as soon as you have reasonable suspicion. You will not be required to investigate the matter or provide evidence that the concern is well founded. Therefore you do not need to delay and seek the evidence to build and safe guard your position.

7.2 If it is appropriate, concerns should first be raised with your line manager, who will be able to offer support and advice on taking the matter forward. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.

7.3 Concerns can be raised in the following ways:

- In writing to the Council's Monitoring or Deputy Monitoring Officers;
- Write to "Confidential Whistleblowing" at The Grange Ely;
- By ringing either the Monitoring or Deputy Monitoring Officers;
- Secure internal e-mail link – accessed by using the whistleblowing section on the Council's intranet (through this route you can chose whether to identify yourself or not).
- Guidance and information for employees and for managers can be found at Appendices A and B respectively of this policy.

7.4 It may be better to outline concerns in writing, in order to give as much detail as possible, for example, names, dates, places, a brief summary and background of the concern and identify the specific reasons for your concerns.

7.5 If you know that the matter you wish to raise is also of concern to your colleagues you can discuss the matter with them first. A concern raised by two or more employees will add weight to allegations that may be made.

7.6 Although the matter may be raised directly with a specific person or group, they may need to refer the matter onto a more appropriate person, specialist, or Organisation.

7.7 Employees have the right to be accompanied by a trade union representative, any other professional representative or friends during meetings or interviews.

Appendix A

8.0 ANONYMOUS ALLEGATIONS

- 8.1 Although allegations can be raised anonymously, persons are encouraged to put their names to any allegations they make, as this adds greater weight and makes it easier for the Monitoring Officer to act on them. Any anonymous allegations will only result in limited investigation.
- 8.2 The Council cannot provide protection to a person whose identity they do not know. It also becomes difficult to judge whether the individual raised the concern in the public interest or maliciously.
- 8.3 The Council will make a judgment whether or not to consider anonymous allegation depending on:
- The seriousness of the issue;
 - whether the concern is believable
 - Based on the information provided can it sufficiently investigate the concern

9.0 UNTRUE ALLEGATIONS

- 9.0 Action will not be taken against an employee if they make an allegation which they believed to be true but is not confirmed by investigation.
- 9.1 However, appropriate disciplinary or legal action may be taken if the employee makes a false or malicious allegation that they know is untrue.

10.0 HOW THE COUNCIL WILL RESPOND

- 10.1 In order to protect individuals and the Council, the Monitoring Officer, who has the authority to act independently, will deal with initial enquiries. The purpose of the initial enquiry is to confirm or repudiate the suspicions that have arisen so that if necessary, the Council should instigate a further investigation.
- 10.2 If the concern raised involves the Monitoring Officer, the Chief Executive will initially deal with the allegation and will nominate a responsible employee to conduct initial enquiries with the same authority that the Monitoring Officer would have.
- 10.3 During the initial enquiry, the Monitoring Officer will:
- determine the factors that gave rise to the suspicion;
 - examine factors to determine whether any irregularity has occurred (i.e. any incident of action that is not part of the normal operation of the system or the expected course of events); and
 - where necessary, carry out discreet enquiries with staff and/or review documents.
- 10.4 The Monitoring Officer will consult with the Chief Executive, the Section 151 (Officer and the Internal Audit Manager. They will agree whether an investigation is appropriate, and if so, whether the responsibility will pass to

Appendix A

the S151 (Chief Finance) Officer and what form that responsibility should take.

The matter could involve:

- investigation by management, internal audit, or through the disciplinary process
- referral to the police;
- referral to the external auditor;
- an independent inquiry.

- 10.5. In dealing with any allegations, the Monitoring Officer, Section 151 Officer, or the Chief Executive will ensure that those officers who would usually respond to allegations of malpractice will not be involved in any enquiries or investigations, if they are involved in the allegation.
- 10.6. The Council will normally refer concerns or allegations that fall within the scope of other policies and procedures for consideration under those procedures, and will advise the whistleblower accordingly.
- 10.7. The Monitoring Officer, or Section 151 Officer (if responsibility for the case has passed to them), can decide to take no further action if a complaint appears to be trivial or malicious.
- 10.8. The Council will write to the whistleblower, within 10 working days of a concern being received to:
- acknowledge receipt of the concern;
 - explain how the Council proposes to deal with the matter;
 - indicate whether any initial enquiries have been made;
 - state whether further investigations will take place and if not, why not.
- 10.9. The amount of contact between the people dealing with the allegation and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. The Monitoring Officer, or Section 151 Officer (if responsibility for the case has passed to them), will make the Council's final decision upon the level of contact or involvement with the whistleblower. They may inform the whistleblower that there is no further need for their involvement.
- 10.10. Any meetings arranged will normally take place at the Council's offices but the Council can agree to have the meeting elsewhere. However, the whistleblower may elect to have correspondence etc forwarded to their home address.
- 10.11. The Council will take steps to reduce any difficulties that an individual may experience after raising a concern. For instance, if the individuals need to give evidence in criminal or disciplinary proceedings, the Council will provide support and advice on the procedures.
- 10.12. The Council accepts that in the working environment members of staff need assurance that the Council has properly addressed the matter raised. Thus, subject to legal constraints, the Council will provide information about the

Appendix A

outcome of any investigation.

- 10.13. If responsibility for the case has passed to the Section 151 Officer they will advise the Monitoring Officer of the outcome of the case to enable the Monitoring Officer to fulfil their reporting responsibilities under this policy.
- 10.14 The Monitoring Officer will report as necessary all concerns raised and the outcomes (in an anonymous format) to the Council's Corporate Governance and Finance Committee.

11.0 HOW THE MATTER CAN BE TAKEN FURTHER

- 11.1. This policy aims to provide an avenue to raise concerns within the Council
- 11.2 If an individual decides to take the matter outside the Council, they must ensure that they do not disclose information about a third party e.g. a company or a private individual, which may be confidential.
- 11.3. Before taking matters to an external body, the Council advises individuals to seek independent legal advice.
- 11.4 The following are possible contact points:
- the Audit Commission's dedicated telephone [hotline](#) for receiving disclosures -0303 4448346
 - the local Citizens Advice Bureau;
 - relevant professional bodies or regulatory organisations;
 - the Environment Agency;
 - the Police (if it is potentially a criminal matter)
 - the Health and Safety Executive;
 - a relevant voluntary organisation;
 - a Trade Union;
 - the Local Government Ombudsman;
 - Equality and Human Rights commission;
 - Public Concern at Work.
- 11.5 If, having raised a concern directly with the Council, an individual is dissatisfied with the outcome, they can also contact any of the above organisations.

12. INDEPENDENT ADVICE

- 12.1 Whilst it is hoped that this Policy reassures employees to raise concern internally, the Council accepts that employees may prefer to contact an appropriate external body.
- 12.2 If you are unsure whether to use this procedure or you want independent advice at any stage, you may contact:

Appendix A

- your union;
- the independent charity Public Concern at Work. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work; - to contact them telephone 0207 4046609, fax 0207 404 6576, e-mail enquiries whistle@pcaw.co.uk or helpline@pcaw.co.uk or visit their website;
- the Audit Commission.
- Any of the other bodies listed above.

13. SUMMARY

- 13.1 The Whistleblowing service is in place to provide staff with a confidential service that will protect them from any harassment and victimisation they may fear from raising concerns within the Council. The service aims to work alongside existing procedures in place that promote ethical and honesty and the highest possible standards of openness and accountability.
- 13.2 The Council does not tolerate any reprisal against an employee because he or she has raised a concern under the Policy and will treat any such reprisal as a disciplinary matter that might lead to dismissal. This assurance is not extended to those who maliciously raise concern that they know to be false.

Appendix A**Guidance for employees****HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR**

The action taken when first suspecting inappropriate behaviour may be crucial. This guidance explains what to do and what not to do on suspicion of inappropriate behaviour.

ACTING UPON SUSPICIONS – THE DO'S AND DON'TS

If suspecting inappropriate behaviour affecting the Council, there are a few simple rules to follow to help the Council with subsequent enquiries:

Do

- make an immediate note of concerns and note as many relevant details as possible, ideally:
 - the background details and nature of the suspicions (including relevant names, dates and locations)
 - details of the job and responsibilities of the individuals involved;
 - action taken to date (if any) before raising the concern.
 - communicate suspicions to someone with the appropriate authority and experience in accordance with the Councils' whistleblowing policy;
 - deal with the matter promptly if the concerns are warranted;

Any delay may result in accidents, cause the Council to suffer loss or make further enquiries more difficult.

Don't

- do nothing;
- be afraid to raise concerns;

Note: An individual will not suffer any recrimination from the Council as a result of voicing reasonably held concerns. The Council will treat the matter sensitively and confidentially if it is able to, and will take reasonable steps to protect the individual.

- approach or accuse any individuals directly;
- try to investigate the matter;

Note: There are special rules about gathering evidence. Any attempt to gather

Appendix A

evidence by people who are unfamiliar with these rules may weaken or destroy any future prosecution.

- convey suspicions to anyone other than those indicated in the Council's whistleblowing policy.

Note: The Public Interest Disclosure Act 1998 as amended will protect individuals from any reprisals as long as the requirements of the Act are met. These are that the individual:-

- discloses the information in the public interest;
- reasonably believes it to be substantially true;
- must not seek any personal gain.

Public Concern at Work (PCAW) (www.pcaw.org.uk; 020 7404 6609) can offer free, confidential advice to people concerned about crime, danger, or wrongdoing at work.

Appendix B

Guidance for Managers

HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action taken when first identifying, or becoming aware of suspected inappropriate behaviour, may be crucial in determining the success of any subsequent investigation.

Managers should familiarise themselves with the Council's anti-fraud and corruption Policies and its whistleblowing policy to equip themselves to deal with allegations if they arise.

ACTING UPON SUSPICIONS – THE DO'S AND DON'TS

The following simple rules should help to ensure that matters are properly handled:

Do

- Be responsive to employees' concerns;

Encourage employees to voice any reasonably held concerns or suspicions. As a manager, treat them seriously, confidentially and sensitively. Reassure the individual that they will not suffer because of concerns raised in the public interest.

- Note all relevant details;

Details should ideally include:

- the background details and nature of the suspicions (including relevant names, dates and locations)
- details of the job and responsibilities of the individuals involved
- the reasons why the person is raising the concerns
- action (if any) taken to date before this concern was raised

Get as much information as possible from the employee reporting the suspicion and encourage them to record this in writing. If the employee has made any notes, obtain a copy of them.

In addition, note any documentary evidence that may exist to support the allegations, but do not interfere with this evidence in any way. Thereafter, contact the Monitoring Officer to discuss the report received.

If in doubt, report suspicions anyway.

Appendix A

If deciding that no further action is necessary, record the decision and inform the Monitoring Officer of the original notification details and the reasons why no further action is considered necessary. In recommending that no further action is necessary, be objective when evaluating the issue. Consider the facts as they appear based on the information to hand. The Monitoring Officer will then help to determine if further action is necessary.

Deal with the matter promptly, particularly if the concerns are considered warranted, and bearing in mind the 10 day deadline that the Council has set to respond to the whistleblower.

Any delay may cause the Council to suffer financial or reputational loss, or make enquiries more difficult.

Don't

- ridicule or belittle any suspicions raised by employees.

The Council cannot operate an effective anti-fraud and corruption culture or whistleblowing policy if employees are reluctant to pass on their concerns to management out of fear of ridicule or recrimination.

Give all employees' concerns a fair hearing and reassure employees that they will not suffer recrimination by raising any reasonably held suspicion in the public interest.

- approach the suspect or accuse any individuals directly;
- communicate suspicions to anyone other than those indicated in the councils' whistleblowing policy;
- try to investigate the matter.

Remember that investigations by employees who are unfamiliar with the requirements of evidence are highly likely to jeopardise a successful outcome. They may also alert the suspect and result in the destruction of evidence. Remember that the primary responsibility is to report the issue and all associated facts to the appropriate employee, wherever possible.