

Swindon Borough Council

Disclosure (‘Whistleblowing’) Policy

Approved: February 2016

**Whistleblowing (confidential internal) answer phone
and fax number:
01793 464603**

Public Concern at Work: 020 7404 6609

NSPCC Helpline 0800 028 0285

Ofsted’s Whistleblowing Hotline (0300 1233155)

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1. Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express 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 just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that staff can do so without fear of reprisals. This Disclosure 'Whistleblowing' Policy is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle outside.
- 1.3 This Disclosure Policy has been devised in accordance with the provisions of the Public Interest Disclosure Act 1998, the Enterprise and Regulatory Reform Act 2013 and the British Standard Institute Code of Practice regarding Whistleblowing arrangements, and seeks to bring into the open concerns of the staff and public relating to issues concerning dishonesty involving the Council.
- 1.4 This policy supports the Council's Anti-Fraud and Bribery Policy, and makes it clear that concerns can be raised without fear of reprisals. It is intended to encourage and enable employees to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally.
- 1.5 Maintained and Academy schools should have their own Whistleblowing Policy and arrangements.

2. Aims and Scope of the Policy

- 2.1 This policy aims to:
 - Provide avenues for staff to raise concerns and receive feedback on any action taken;
 - Allow staff to take the matter further if they are dissatisfied with the Council's response; and
 - Reassure staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.

2.2 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment for example in relation to areas such as terms and conditions of employment; health and safety; work relations; new working practices; working environment and conditions; workload; organisational change, etc. This Disclosure Policy is intended to cover concerns that fall outside the scope of that procedure.

2.3 That concern may be about something that:

- Is unlawful
- Is contrary to the Council's Standing Orders or policies
- Falls below established standards or practice; or
- Amounts to improper conduct

For example (this list is not exhaustive):

- Malpractice or ill treatment of a client/customer
- A criminal offence has been committed, is being committed or is likely to be committed
- Suspected fraud
- Suspected bribery
- Abuse of a child or adult
- Abuse of personal budgets/client accounts
- Disregard for legislation, particularly in relation to health and safety at work
- Breach of Financial Regulations, Standing Orders
- Showing undue favour over a contractual matter or to a job applicant
- A breach of any code of conduct or protocol
- Damage to the environment
- Information on any of the above has been, is being, or is likely to be concealed.

2.4 The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied. Staff will be encouraged to explain the public interest they are concerned with. In order to qualify for protection, a whistle-blower must have a reasonable belief that the relevant disclosure is in the public interest. The Public Disclosure Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act. Even if the disclosure is considered not to be in the public interest then it will still be investigated if considered appropriate by the Monitoring Officer or Head of Internal Audit.

2.7 Managers should ensure that this policy is made available to staff of contractors, consultants and suppliers working for or on behalf of the Council, on Council premises or elsewhere.

- 2.8 Any school staff that have concerns should refer to their own school's whistleblowing policy in the first instance.
- 2.9 Concerns relating to Councillors will be treated under the relevant Code of Conduct.

3. Safeguards

Harassment or Victimisation

- 3.1 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 staff 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 Disciplinary Procedure.
- 3.2 This does not mean that if staff are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of their whistleblowing.

Confidentiality

- 3.3 The Council will do its best to protect a staff member's identity when they raise a concern and do not want their name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by staff may be required as part of the evidence.

Anonymous Allegations

- 3.4 This policy encourages staff to put their name to their allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.
- 3.5 In exercising the discretion, the factors to be taken into account would include the:
- seriousness of the issues raised;
 - credibility of the concern; and
 - likelihood of confirming the allegation from an attributable source.

Untrue Allegations

- 3.6 If staff make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, staff make malicious or vexatious allegations, disciplinary action may be taken against them.

4. How to raise a concern

- 4.1 Employees who raise concerns that fall within the scope of other Council procedures will not be dealt with in this procedure, but will be advised on the appropriate procedure to use. Such employees will still receive protection as detailed in this policy.
- 4.2 As a first step, staff should normally raise concerns with their immediate manager or supervisor as soon as the employee has reasonable suspicion. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If in doubt, contact the Chief Executive, or the Director of Law and Democratic Services (the Council's Monitoring Officer), or the Head of Internal Audit.
- 4.3 Alternatively, staff can leave a message on the 24-hour Whistleblowing answer phone and fax service (**telephone number 01793 464603**). The phone and fax are located in a secure area. This service is strictly confidential and callers will not be asked to give their name if they do not want to.
- 4.4 Concerns are better raised in writing. Staff are invited to set out the background and history of their concern, giving names, dates and places where possible, and the reason why they are particularly concerned about the situation. If staff do not feel able to put their concern in writing, they can telephone or meet the appropriate officer. The earlier staff express the concern the easier it is to take action.
- 4.5 Although staff are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern and evidence that the concern is in the public interest.
- 4.6 Advice and guidance on matters of concern can be obtained from:
- Chief Executive
 - Director of Law and Democratic Services (Monitoring Officer)
 - Board Director: Resources
 - Head of Internal Audit
 - NSPCC helpline for professionals to raise concerns about how child protection issues are being handled in their own or other organisations (telephone: 0800 028 0285)
 - Ofsted's dedicated whistleblowing number: 0300 1233155
 - Confidential advice and guidance from an independent organisation can be obtained from Public Concern at Work (telephone: 020 7404 6609)
 - Head of Children, Families and Community Health or the Head of Commissioning: Children and Adults in relation to vulnerable children or adults.
 - any of those listed in paragraph 6.1 below
- 4.7 Staff may invite a trade union representative or work colleague to raise a matter on their behalf.

5. How the Council will respond

- 5.1 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
- 5.2 In order to protect individuals and the Council, initial enquiries will be forwarded to the Monitoring Officer who will consult with the Head of Internal Audit and the Chair of Standards Committee (where necessary) and decide whether an investigation is appropriate and, if so, what form it should take. The Monitoring Officer can decide to take no further action if a complaint appears to be trivial or vexatious. All such decisions will be reported to the next meeting of Standards Committee. Concerns or allegations that fall within the scope of specific existing Council procedures, for example discrimination issues, will normally be referred for consideration under those procedures.
- 5.3 Some concerns may be resolved by agreed action without the need for investigation and staff will be involved in those discussions. The Monitoring Officer shall report periodically thereon to the Standards Committee.
- 5.4 If an investigation is required, the Monitoring Officer will consult with the Head of Internal Audit and the Chair of Standards Committee and designate an appropriate officer to investigate the concern. Following this that officer will, within ten working days, write to the member of staff:
- Acknowledging that an investigation will be carried out
 - Indicating how he/she proposes to deal with the matter
 - Giving an estimate of how long it will take to provide a final response
 - Telling them whether any initial enquiries have been made
 - Telling them whether further investigations will take place, and if not, why not
 - Advising them that any investigation will be carried out in the strictest confidence; and
 - Keeping them informed of the progress of the investigation.
- 5.5 The amount of contact between the officers considering the issues and the staff member will depend on 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 staff.

- 5.6 When any meeting is arranged, staff have the right, if they so wish, to be accompanied by a union representative or work colleague who is not involved in the area of work to which the concern relates.
- 5.7 The Council will take steps to minimise any difficulties that staff may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.
- 5.8 The Monitoring Officer will report on the outcome of any investigation to the Standards Committee who will monitor the implementation of the recommendation of the investigation.

6. How the matter can be taken further

- 6.1 This policy is intended to provide staff with an avenue to raise concerns **within** the Council. The Council hopes staff will be satisfied. If they are not, and feel that it is right to take the matter outside the Council, the following are possible contact points:
- Local Council member (if staff member lives in the area of the Council)
 - Chair or any member of the Standards Committee
 - The External Auditor (Grant Thornton: tel. no. 0117 305 7600)
 - Relevant professional bodies or regulatory organisations
 - Solicitor
 - The Police
 - NSPCC helpline to raise a concern about how child protection issues are being handled
 - Ofsted
 - Public Concern at Work (tel. no. 020 7404 6609). If staff do take this matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. Staff should check with the contact point about that.

7. Relationship with other Council policies

- 7.1 This policy should be read in conjunction with the Council's Anti-Fraud and Bribery Strategy, the Fraud Response Plan, the Disciplinary Procedure, the Code of Conduct and other relevant policies.

8. The Monitoring Officer

- 8.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy, and he will liaise as necessary with the Head of Internal Audit and Chair of Standards Committee.
- 8.2 The Monitoring Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger staff confidentiality) and will report as necessary to the Standards Committee.

9. The Law

- 9.1 This policy and procedure has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions as amended by the Enterprise and Regulatory Reform Act 2013.
- 9.2 The Act is incorporated into the Employments Rights Act 1996, which also already protects employees who take action over, or raise concerns about health and safety at work. For the avoidance of doubt, financial issues are covered by Section 151 Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, The Local Government and Housing Act 1989, and Accounts and Audit Regulations 2015.

10. Review

- 10.1 This policy and procedure will be reviewed periodically by the Director of Law and Democratic Services and the Head of Internal Audit. The outcome of the review will be reported to the Council's Standards Committee.