

## **A “WHISTLEBLOWING” POLICY**

### **1.0 INTRODUCTION**

- 1.1** The Public Interest Disclosure Act 1998 was enacted to ensure a climate of greater frankness between employers and workers so that irregularities can be identified and addressed quickly and to strengthen employment rights by protecting responsible workers who blow the whistle about wrongdoing or failures in the work place. The policy set out in this document applies those statutory provisions to the administration of the County Council.
- 1.2** This policy also applies to LA schools and where appropriate “Governing Body” should be substituted for Council and “headteacher” for “line manager”.
- 1.3** Employees are often the first to realise that something wrong may be happening within the Council. However, they may not express their concerns either because they feel that speaking up would be disloyal to their colleagues or to the Council or because they fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern than to report what may just be a suspicion of malpractice.
- 1.4** The Council is committed to the highest possible standards of openness, probity and accountability as is shown in its’ separate Policy Statement of the Proper Conduct of Business (Good Practice Guide). In line with that commitment it encourages employees and others with serious concerns about any aspect of the Councils work to come forward and voice those concerns. It recognises that certain cases will have to proceed on a confidential basis. This policy makes it clear that staff can do so without fear of reprisal and is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or publicly disclosing the matter.
- 1.5** This policy has been discussed with the relevant trade unions and professional organisations and has their support. Seeking advice from, and being represented by, your trade union may be the best course of action to raise any issue under this policy. The Council recognises and endorses the role which trade unions and their officers play in this process.

### **2.0 Aims and Scope of this Policy**

- 2.1** This policy aims to:
  - provide avenues for you to raise concerns
  - provide mechanisms for you to receive updates and feedback on any action taken

- provide a mechanism for you to receive a written response detailing the outcome of the process
- allows you to take the matter further if you are dissatisfied with the Council's response.

**2.2** This policy covers concerns that fall outside the scope of other procedures. It is not intended as recourse against financial or business decisions made by the Council or its committees under procedures set out in the constitution. Nor is it an alternative to well-established disciplinary or grievance procedures. It may however overlap with other corporate policies for dealing with complaints, with Member or Officer Codes of Conduct and with protocols for good working relationships within the Authority.

Concerns raised under the Whistleblowing Policy should be about something that is in the public interest and is or may be:

- unlawful or a criminal offence; or
- a breach of a legal obligation (but not a personal contractual breach unless such breach involves a matter of public interest); or
- a miscarriage of justice; or
- mistreatment or abuse of a client or a member of the public for whom the Council has a responsibility; or
- likely to endanger the health and safety of an individual; or
- seeking undue favour over a contractual matter or a job application; or against the Council's Financial Regulations; or
- amounts to improper conduct or unauthorised use of public funds;
- has led to or could lead to damage to the environment; or
- deliberately covers up information tending to show any of the above.

### **3.0 Safeguards**

#### **3.1 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 take action to protect you when you raise a concern in good faith. It will not tolerate any resulting harassment or victimisation (including informal or indirect pressures) and will treat this as a serious disciplinary offence which will be dealt with under the appropriate procedures.

**3.2** Any investigation into an allegation of malpractice will not influence or be influenced by any disciplinary or redundancy procedures which already affect you. If allegations of malpractice arise during a disciplinary or redundancy procedure

those allegations will be investigated at the same time as the disciplinary procedure.

### **3.3 Confidentiality**

All concerns will be treated in confidence and the Council will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation which is sufficiently serious to warrant disciplinary action or police involvement then your evidence may be important. Your name will not however be released as a possible witness until the reasons for its disclosure at this stage have been fully discussed with you.

### **3.4 Anonymous Allegations**

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful but they will be considered at the discretion of the Council against the following criteria.

- the seriousness of the issues raised
- the likelihood of confirming the allegation from attributable sources
- the County Councils' best interests
- the protection of the Councils' assets.

**3.5** You should also bear in mind that if you do choose to raise a concern anonymously it will be more difficult for the matter to be investigated and for you to be provided with feedback. For this reason, where you wish to raise your concerns anonymously, this may best be done through your trade union.

### **3.6 Untrue Allegations**

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

## **4.0 How to Raise a Concern**

**4.1** Initially, you should raise your concerns, by discussing the matter with either:

- for corporate staff, with your immediate manager or their superior.
- for school staff, with the headteacher or a governor

If this is not appropriate due to the nature of your concerns you should initially raise them with:

- with a Head of Service or
- a member of the Corporate Leadership Team.

**4.2** To ensure that allegations are considered consistently your concerns should then be progressed to one of four officers:

- Director of Legal and Democratic Services (Monitoring Officer)
- Head of Human Resources
- Head of the Devon Audit Partnership
- Director of Finance and Public Value

These Lead Officers will then liaise to ensure that the concern is properly investigated. If the allegations arise from a disciplinary matter, they will be investigated as part of the disciplinary investigation.

**4.3** Alternatively, if your complaint is that something seriously wrong is occurring at a senior management level within the Council you may prefer to approach the Chief Executive.

**4.4** Concerns can be raised orally but it is good practice for the concern to be recorded in writing at an early stage to ensure that all the details are correctly understood.

**4.5** A written allegation should set out the background and history of the concern (giving names, dates and places where possible) and the reason why you are particularly concerned about the situation. It is preferable for you to record this in writing yourself. However, where the person to whom you voice your concerns writes these down, a copy will be sent to your home address or via your representative (paragraph 4.8) to give you an opportunity to agree this as a correct record.

**4.6** The earlier you express the concern, the easier it is to take action.

**4.7** Although you are not expected to prove the truth of your allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

**4.8** You may of course wish to seek advice from your trade union representative on how best to raise your concern. Where you wish to raise your concern anonymously this may be done through your trade union.

## **5.0 How the Council will respond**

**5.1** The action taken by the Council will depend on the nature of the concern. After initial enquiries to assess the seriousness of the matter it may be investigated internally (employing specific procedures where these are applicable – for example in child safeguarding issues) or referred to the Care Quality Commission

or the Police or to the District Auditor to be examined externally. Thereafter it may form the subject of an independent inquiry or a reference to the Council's own Standards Committee if it concerns a member of the Council. There are however specific rules to be followed if you wish to complain about a Councillor. In the first instance you must contact the Director of Legal and Democratic Services.

- 5.2** If urgent action is required in response to a concern this may well be taken before a full investigation is conducted.
- 5.3** Some concerns may be resolved by action agreed with you without the need for investigation or it may be that an investigation can be completed without the person or persons under investigation being aware of the process.
- 5.4** In any event within five working days of a concern being received, the Council will write to you at your home address:
  - acknowledging that the concern has been received
  - indicating how it proposes to deal with the matter
  - giving an estimate of how long it will take to provide a final response
  - telling you whether any initial enquiries have been made, and
  - telling you whether further investigation will take place, and if not, why not
  - naming an independent Support Officer to support you during any investigation.
- 5.5** This named Support Officer, will be a trained Designated Officer and, will make contact with you immediately, deal with all confidentiality issues, agree frequency of contact and explain their role to you, which is to:
  - keep you informed about the progress of the investigation
  - inform the Investigating Officer of any further issues you may have
  - raise any concerns you may have about the conduct of the investigation
  - take appropriate steps to support you in the workplace
  - support you if you are required to give evidence at any criminal or disciplinary proceedings that arise from your concern.
- 5.6** If you wish to retain your anonymity you will need to nominate a representative to whom correspondence may be directed in order to keep you informed.

- 5.7** The amount of contact between Investigating Officers and you 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 you.
- 5.8** When any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union or professional association representative or a friend (who need not be associated with the County Council).
- 5.9** The Council accepts that you need to be assured that the matter has been properly addressed. Accordingly, subject to legal constraints, the Lead Officer will ensure that you are provided with information about the outcome of any investigations and/or proceedings.

## **6.0 Detriment**

The Council is committed to ensuring that an employee who makes an allegation in good faith suffers no detriment from doing so.

## **7.0 How the matter can be taken further**

- 7.1** This policy is intended to provide you with a way to raise concerns within the Council. The Council hopes you will be satisfied by its response. If you are not you may wish to raise the matter with your local County Councillor, if you live in the area of the Council.
- 7.2** Alternatively, you may feel it is right to take the matter outside the Council and, if so, the following are possible contact points:
- the District Auditor
  - relevant professional bodies or regulatory organisations
  - your trade union
  - your solicitor or legal adviser
  - the Police
  - the Local Government Ombudsman
  - the Health and Safety Executive
  - 'Public Concern at Work' – Registered Charity

## **8.0 The Monitoring Officer**

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. They ensure that a central record is kept in such a way as to not endanger your confidentiality and it is their duty to ensure that the County Council acts lawfully.

The Monitoring Officer will ensure that, throughout the process and when the process is completed:

- a record of all concerns raised under this policy is maintained
- the outcomes of any investigations are communicated to you by the Lead Officer,
- the outcome is reported to the Council as necessary.