

Borough Council of
**King's Lynn &
West Norfolk**



WHISTLEBLOWING POLICY

Page 1 of 8

Date of Adoption: 09/01/17
Next review: January 2020

Contents

| | |
|---|----------|
| 1. Introduction | 3 |
| 2. Aims and Scope of this Policy..... | 3 |
| 3. Safeguards | 4 |
| 4. Reporting Suspicions..... | 5 |
| 5. How the Council will respond | 6 |
| 6. How the matter can be taken further | 8 |
| 7. Monitoring Officer | 8 |
| 8. The Law | 8 |

1. Introduction

- 1.1 Employees and Members 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 (including contractors) and Members with serious concerns about any aspect of the Council's work to come forward and voice those concerns. This policy document also makes it clear that employees can do so without fear of reprisals.
- 1.3 This Whistleblowing Policy has been produced in accordance with the provisions of the Public Interest Disclosure Act 1998.
- 1.4 This policy supports the Council's Anti-Fraud and Anti-Corruption Strategy. It is intended to encourage and enable employees and Members to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally. Similarly, anyone else who has a genuine concern about the conduct of an employee is encouraged to report their concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 1.5 This policy does not replace the Corporate Complaints Procedure, the Harassment Policy or the Disciplinary Procedure, nor is it concerned with complaints about the conduct of Councillors. Complaints about the conduct of Councillors will normally be dealt with using the Guidance "How to make a complaint about a Member of the Borough Council of King's Lynn & West Norfolk or members of Town and Parish Councils in the Borough" procedure as published on the Council's website.

2. Aims and Scope of this Policy

- 2.1 There are existing procedures in place to enable employees to make complaints about service quality or lodge a grievance relating to their own employment. This Whistleblowing Policy is intended to cover concerns that fall outside the scope of those procedures, including concerns by Council Members.
- 2.2 That concern may be about something that:
 - Is unlawful;
 - Is contrary to the Council's Standing Orders or policies;
 - Falls below established standard 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;
- Disregard for legislation, particularly in relation to health and safety at work;
- Breach of Financial Regulations, Contract Standing Orders, ICT Security Policy;
- Showing undue favour over a contractual matter or to a job applicant;
- Falsification or manipulation of financial records;
- A breach of any code of conduct or protocol;
- Information on any of the above has been, is being, or is likely to be concealed;
- Falsifying of job application details.

2.3 The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

2.4 The earlier concerns are raised, the easier it is to take action. Anyone with a concern about an employee's conduct but is unsure whether a particular practice is unacceptable to the Council is encouraged to ask either the Chief Executive, the Executive Director, Finance Services (s151 Officer), the relevant Executive Director, the Personnel Services Manager, the Monitoring Officer or the Audit Manager in case their concerns are unfounded or fall within another Council policy or strategy.

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 (including informal pressures) and will take action to protect employees when they raise a concern in good faith. The Council will treat any claims of harassment or victimisation seriously and will investigate the complaint in accordance with the Council's Policy Statement on Harassment at Work, which could lead to disciplinary proceedings.

3.2 This does not mean that if, where an employee is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of their whistleblowing.

Confidentiality

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

Anonymous Allegations

- 3.4 This policy encourages whistleblowers to put their name to their allegation whenever possible. 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 being able to independently confirm the allegation.

Untrue Allegations

- 3.6 If an employee or Member makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, an allegation is found to be malicious, frivolous or vexatious, or gives personal gain to the whistleblower as a result of the allegation, disciplinary action may be taken against them (if such an allegation is made by a Member, the Standards Committee may investigate the matter).

4. Reporting Suspicions

- 4.1 Anyone wishing to raise a concern that falls 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. Employees will still receive protection as detailed in this policy.
- 4.2 If an employee/member has a concern they should not:
- Do nothing;
 - Be afraid to raise the concerns – they will not suffer any recriminations from the Council as a result of raising a legitimate concern;
 - Directly approach or accuse individuals they have concerns about;
 - Try to investigate the matter themselves. There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by anyone not familiar with these rules could destroy the case;
 - Convey their concerns to anyone not in the list below (there is a duty to maintain the confidentiality of the matter under investigation). However an employee may invite a trade union representative or work colleague to raise the matter on their behalf. Members may wish to consult with their party Leader before raising the matter.
 - Raise vexatious concerns or concerns they know to be untrue – they could be disciplined if they do;
- 4.3 If fraud or corruption is suspected, then the matter should be reported without delay. Employees should report to their Executive Director. If it is thought that the Executive Director may be involved, or that there may be a conflict of interest, the matter should be reported directly to or to one of the following:

- Chief Executive;
 - Executive Director, Finance Services (S151 Officer);
 - Executive Director, Central and Community Services;
 - Audit Manager
- 4.4 Any Councillors, contractors or other person should inform either the Chief Executive or the Executive Director, Finance Services (S151 Officer) of their concerns.
- 4.5 If possible, concerns should be raised in writing, to ensure those conducting investigations properly understand and investigate the allegations. Written allegations should include the background, history and nature of the concern (including names and relevant dates and locations, where applicable) and the reason why the author is particularly concerned about the situation
- 4.6 If it is not possible to put a concern in writing, the concern can be raised either by telephone or by meeting the appropriate officer as set out in Section 4.3 above. The earlier a concern is raised, the easier it is to take action.
- 4.7 Although whistleblowers 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.
- 4.8 If in doubt, Public Concern at Work (www.pcaw.co.uk) will give confidential free and totally independent advice on how to proceed (contact whistle@pcaw.org or telephone 020 7404 6609).
- 4.9 Concerns can also be raised anonymously (by letter or telephone), although these are normally given less weight than those concerns raised formally.
- 4.10 Alternatively, whistleblowers can contact the Council's External Auditor (Ernst & Young) on 01223 394400 who is likely to liaise with any of the above.
- 4.11 Suspected fraud relating to Council Tax Support, Council Tax and Business Rates exemptions and discounts should be referred either by completing the Fraud Referral Form on the website <http://www.west-norfolk.gov.uk/default.aspx?page=21676> or by using the fraud hotline 0800 281879.

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;
- Investigated internally;
- Referred to the police or another investigating agency;
- Referred to the external auditor.

5.2 As soon as a fraud or act of corruption is reported, the Executive Director receiving the concern will:

- Obtain a written record of the concerns from the person making the allegations. This should include:

- Background details and nature of the suspicions (including relevant names, dates and locations);
- Details of the job and areas of responsibility of the individuals implicated;
- Why the person raising the matter is concerned;
- Action taken to date, if any;
- A description of the systems, controls and procedures that should be operating within the area where the fraud is alleged to be taking place.

- Take care, at this stage, to ensure that the suspect(s) are not alerted to the potential investigation and the confidentiality of informants is not compromised;
- Seek guidance from the Executive Director, Finance Services (s151 Officer), Executive Director Central and Community Services and the Audit Manager as appropriate before taking any action, including interviewing, or observing suspects in connection with the suspected act(s). This is to ensure that evidence is collected in a way that complies with relevant legislation and does not compromise the investigation and/or subsequent disciplinary procedures/prosecutions.

5.3 The case will be discussed by the Executive Director, Finance Services (s151 Officer), Executive Director, Central and Community Services, and Audit Manager plus either the Personnel Services Manager (regarding allegations concerning employees) or Monitoring Officer (regarding allegations concerning Councillors) and the relevant Executive Director (i.e. the Executive Director responsible for the work area in which the suspect works) to decide what action needs to be taken to investigate the allegation. The discussion will need to consider whether there needs to be an initial covert investigation. In order to initiate disciplinary/criminal proceedings against suspected financial misconduct, it is essential that evidence is secured in a legally admissible form, without alerting suspects at the outset of the investigation.

There are two main reasons for this:

- Evidence may be hidden or removed;
- To avoid wrongly damaging the reputation of anyone suspected but subsequently found innocent of wrongful conduct.

5.4 Following this discussion and if it is decided that further information is required, the relevant Executive Director should appoint one or more Investigating Officers. The role of the Investigating Officer(s) is to:

- Identify the issues;
- Establish the facts (e.g. Who, Why, Where, What, When and How?);
- Decide whether there is a case to answer.

5.5 If an investigation is required, the relevant Executive Director will advise the Chief Executive. The Executive Director will also write to the whistleblower:

- Acknowledging that an investigation will be carried out, giving details as to who the investigating officer(s) will be;
- Give an estimate of how long it will take to provide a final response;
- Telling them whether any initial enquiries have been made;
- Advising them that the investigation will be carried out in the strictest confidence.
- If there is to be no investigation, give the reasons as to why not

6. How the matter can be taken further

6.1 This policy is intended to provide an avenue to raise concerns **within** the Council. The Council hopes that any whistleblower 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:

- The Leader of the Borough Council or the whistleblower's Ward Councillor (if the whistleblower lives in the Borough Council's area);
- The External Auditor;
- Relevant professional bodies or regulatory organisations;
- A Solicitor;
- The police;
- Public Concern at Work.

If a Member or employee does take this matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. The Member or employee should check with the contact point about that.

7. The Monitoring Officer

7.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy and will liaise as necessary with the Chief Executive; the Deputy Chief Executive; the Executive Director, Central and Community Services; the Executive Director, Finance Services (s151 Officer), the Personnel Services Manager or the Audit Manager, as necessary.

8. The Law

- 8.1 This policy 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.
- 8.2 The Act is incorporated into the Employments Rights Act 1996, which already protects employees who take action over, or raise concerns about health and safety at work. 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 2003 (as amended).