



# Policy and Procedure for confidential reporting of concerns (“Whistleblowing”)

Working in Partnership with



Update: June 2016

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## **1. INTRODUCTION**

West Dorset District Council, Weymouth & Portland Borough Council and North Dorset District Council are committed to the highest possible standards of openness, probity and accountability. In line with that commitment we wish to encourage employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. This process is commonly referred to as "Whistleblowing".

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 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.

This policy is intended to encourage and enable employees and members of the public to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. This policy makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Council is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly. There is also statutory protection from any disclosures made by staff. We would rather the matter be raised when it is just a concern, the message we wish to get across is "if in doubt, raise it".

This policy applies to all employees (including those contractors working for the Council on Council premises, for example agency staff etc) and also covers suppliers and those providing services under a contract with the Council in their own premises. The Council will seek to ensure that as part of its procurement processes this policy is brought to the attention of such external contractors, suppliers and service providers.

This policy has been discussed with the relevant Trade Unions and complies with the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013.

## **2. AIMS AND SCOPE OF THIS POLICY**

### **2.1 This policy aims to:**

- Provide avenues for employees to raise concerns and receive feedback on any action taken
- Allow employees to take the matter further if they are dissatisfied with the Council's response to the concerns expressed
- Reassure employees that they will be protected from possible reprisals or victimisation

### **2.2 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This policy is intended to cover concerns that fall outside the scope of the grievance procedure. Thus any serious concern that a member of staff has 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 and should be reported under this policy.

This concern may be about something that is:

- unlawful
- against the Council's Standing Orders, Financial Procedure Rules and policies
- against established standards of practice
- improper conduct
- amounts to malpractice
- posing a danger to the health and safety of individuals
- likely to cause damage to the environment
- other conduct that gives you cause for concern

Please note that this is not a comprehensive list but is intended to illustrate the range of issues which might be raised under this Code.

### **3. 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 reprisals from those who may be guilty of malpractice or from the Council as a whole. The Council will not tolerate any harassment or victimisation (including informal pressures). The Council will not tolerate any attempt on the part of any employee, Councillor, Council contractor or supplier to apply any sanction or detriment to any person who has reported to the Council any serious and genuine concern that they may have of any apparent malpractice. Anyone who victimises a "Whistleblowing" colleague will personally be liable as the affected "Whistleblower" can directly bring a claim against the culprit.

There is no longer a requirement for a disclosure to be made "in good faith" for claimants bringing a "Whistleblowing" claim against the Council as updated in the Enterprise and Regulatory Reform Act 2013.

In order for protection against recriminations, victimisation or harassment to apply, the person making the disclosure should have a reasonable belief that the disclosure they are making is in the "public interest". Their belief need not be correct for protection to apply.

In addition employees have statutory protection against reprisals under the Public Interest Disclosure Act 1998 and can refer their case to an Industrial Tribunal.

#### **3.2 Confidentiality**

As far as possible, the Council will protect the identity of any employee who raises a concern and does not want his/her name to be disclosed but this confidentiality cannot be guaranteed. It must be appreciated that any investigation process may reveal the source of the information and a statement by the person reporting the concern may be required as part of the evidence. Where an employee has requested that their identity not be revealed, the Council will discuss the matter

with them before embarking on any course of action whereby their identity will need to be disclosed.

### 3.3 Anonymity

Concerns expressed anonymously will be considered at the discretion of the Council although it must be appreciated that it is inherently difficult to investigate concerns expressed this way. It is hoped that the guarantees contained in this policy will provide sufficient reassurance to staff to enable them to raise concerns in person. However in exercising the discretion, the factors to be taken into account would include:

- The likelihood of obtaining the necessary information;
- The seriousness of the issues raised;
- The specific nature of the complaint;
- The duty to the public.

### 3.4 False and Malicious Allegations

The Council will protect itself and its employees from false and malicious expressions of concern by taking disciplinary action where appropriate. In addition, a concern, which, is genuinely believed may prove to be unfounded on investigation. The Council will try to ensure that the negative impact of either a malicious or unfounded allegation about any person is minimised.

## 4. **HOW TO RAISE A CONCERN**

- 4.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you prefer (for whatever reason) or if you believe that management is involved, you could approach one of the individuals in section 4.4.
- 4.2 Concerns may be raised orally or in writing. Normally it is preferable to put your concern in writing. You are invited to 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. To assist in the notification process the Council has set up an arrangement for a confidential answer phone service with the South West Audit Partnership (01935 462381) or alternatively there is a confidential email address ([confidential@southwestaudit.co.uk](mailto:confidential@southwestaudit.co.uk)).
- 4.3 The earlier you express the concern, the easier it is to take action. You should not wait until you have proof. Although you are not expected to prove the truth of the allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

**N.B. If an employee has any personal interest in the matter this should be disclosed at the outset.**

4.4 If you do have a concern, however small and you don't feel comfortable discussing such a sensitive issue with a close colleague, the following officers can provide advice and guidance:

- Assistant Director (SWAP) – Joanne George ([jo.george@southwestaudit.co.uk](mailto:jo.george@southwestaudit.co.uk))
- Section 151 Officer – Jason Vaughan ([jvaughan@dorset.gov.uk](mailto:jvaughan@dorset.gov.uk))
- Assistant Chief Executive & Monitoring Officer – Stuart Caundle ([SCaundle@dorset.gov.uk](mailto:SCaundle@dorset.gov.uk))

4.5 Alternatively employees may wish to get confidential advice from their trade union or professional association. They can also contact the independent charity Public Concern at Work (020 7404 6609) [www.pcaaw.co.uk](http://www.pcaaw.co.uk) or email [helpline@pcaaw.co.uk](mailto:helpline@pcaaw.co.uk) who have lawyers who can give independent advice at any stage about how to raise a concern about serious malpractice at work.

4.6 Employees may invite their trade union or professional association 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. Where appropriate, the matters raised may:

- Be investigated by senior management, internal audit (SWAP) or through the disciplinary process;
- Be referred to the police;
- Form the subject of an independent inquiry.

5.2 In order to protect the individual and the Council, an initial investigation will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take (see Appendix 1). Concerns or allegations, which, fall within the scope of specific procedures (for example fraud, theft and corruption) will normally be referred for consideration under those procedures.

5.3 It should be noted that some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this would be taken before any investigation is completed.

5.4 Within ten working days of a concern being raised, the Assistant Director (SWAP) will write to the person raising the concern;

- acknowledging that the concern; has been received,
- indicating how he/she proposes to deal with the matter; and
- giving an estimate of how long it will take to provide a final response.

If it is impossible for initial inquiries to be completed within ten working days, the situation will be explained in the letter of acknowledgement. Where a decision is made that no investigation will take place, the reasons for this will be provided.

- 5.5 The amount of contact between the officers considering the issues and the employee raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.
- 5.6 Where any meeting is arranged, employees have the right, if they so wish, to be accompanied by a union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- 5.7 The Council will take appropriate steps to minimise any difficulties, which an employee may experience as a result of raising a concern. For example, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will need to inform them and consider what steps are required to provide support.
- 5.8 The Council accepts that employees raising a concern need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the person raising the concern will receive as much information as possible about the outcomes of any investigation.

## **6. HOW THE MATTER CAN BE TAKEN FURTHER**

- 6.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not satisfied with the outcome of your confidential allegation you can write to the Chief Executive and ask for the investigation and outcome to be reviewed. If you remain dissatisfied and you feel it is right to take the matter outside the Council, you may wish to take advice from your trade union, your local Citizens Advice Bureau, any of the external agencies listed in section 6.4 below, or your legal advisor on the options that are available to you.
- 6.2 Another option is that you may wish to rely on your rights under the Public Interest Disclosure Act 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public interest. The provisions are quite complex and include a list of prescribed persons outside of the Council who can be contacted in certain circumstances. You should seek advice on the effect of the Act from the Deputy Chief Executive (Monitoring Officer).
- 6.3 If you do take the matter outside the Council, you need to ensure that you do not disclose information where you owe a duty of confidentiality to persons other than the Council (e.g. service users) or where you would commit an offence by making such disclosures. This is something that you would need to check with one of the officers mentioned in Section 4.4.
- 6.4 External Contacts

If for any reason you do not wish to use the internal arrangements set out above, or require additional support and advice, a list of some of the prescribed people and bodies to whom you can make a disclosure and whose functions have particular relevance to the council's work:

- The Certification Officer ([www.certoffice.org](http://www.certoffice.org))

- Her Majesty's Revenue and Customs (HMRC) ([www.hmrc.gov.uk](http://www.hmrc.gov.uk))
- Serious Fraud Office Confidential ([www.sfo.gov.uk](http://www.sfo.gov.uk))
- The Health & Safety Executive ([www.hse.gov.uk](http://www.hse.gov.uk))
- The Environment Agency ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk))
- The Food Standards Agency ([www.food.gov.uk](http://www.food.gov.uk))
- The Homes and Communities Agency (HCA) ([www.homesandcommunities.co.uk](http://www.homesandcommunities.co.uk))
- Relevant professional bodies or regulatory organisations
- A solicitor or legal advisor
- The Police
- The Local Government Ombudsman ([www.lgo.org.uk](http://www.lgo.org.uk))
- The Council's External Auditors (KPMG) (<http://www.kpmg.com/UK>)

## **7. RESPONSIBILITY FOR IMPLEMENTING**

7.1 The responsibility for ensuring that the Council adheres to this Policy rests with the Management Team.

## **8. REVIEW**

8.1 This Policy will be regularly reviewed in line with future changes and developments and at least every two years.

## **APPENDIX 1**

### **INVESTIGATION ARRANGEMENTS**

All allegations should also be passed to the Section 151 Officer, Deputy Chief Executive (Monitoring Officer), and the Assistant Director (SWAP) irrespective of who was contacted in the first instance.

All allegations will be investigated by the South West Audit Partnership. The Deputy Chief Executive (Monitoring Officer) will advise on the legal implications and will:

- Arrange support and counselling for the employee who reported the concern
- Advise on any necessary disciplinary action.

The investigation carried out by the South West Audit Partnership will adopt the following good practice points: -

- Deal promptly with the allegation or concern;
- Contact the Police and other agencies as appropriate at an early stage and keep them and the employee who reported the concern informed of progress;
- Prepare a background or objectives statement; consider the likely outcome, i.e. prosecution and/or internal disciplinary action;
- Record all evidence received, ensure that it is sound, adequately supported and kept secure;

- Notify the Council's insurers where appropriate;
- Notify and liaise with the Deputy Chief Executive;
- Identify actions required, systems weaknesses and lessons learnt.