

STANDARDS COMMITTEE

Venue: Town Hall, Moorgate
Street, Rotherham. S60
2TH

Date: Thursday, 16 July 2015

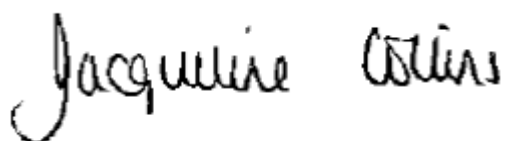
Time: 2.00 p.m.

A G E N D A

1. Apologies for Absence.
2. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
3. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
4. Minutes of the previous meeting held on 11th June, 2015 (herewith) (Pages 1 - 5)
5. Review of the Standards Committee (report herewith) (Pages 6 - 8)

Additional Item:-

6. Review of the Whistleblowing Policy (report herewith) (Pages 9 - 34)
7. Date and Time of Next Meeting - Thursday, 10th September, 2015 at 2.00 p.m.



J. COLLINS,
Director of Legal and Democratic Services.

STANDARDS COMMITTEE**11th June, 2015**

Present:- Beck (in the Chair); Councillors Alam, Finnie, Hughes, Pitchley, Bates and Rowley and also Ms. A. Dowdall, Mr. P. Edler and Mrs. C. Saltis.

Apologies for absence were received from Councillor Beaumont, Fleming, Taylor and Swann and I. Daines and Porter.

1. DECLARATIONS OF INTEREST

There were no Declarations of Interest to report.

(THE CHAIRMAN AUTHORISED CONSIDERATION OF THE FOLLOWING INFORMATION IN ORDER TO SHARE KEY DETAILS WITH THE STANDARDS COMMITTEE)**2. FUTURE ROLE OF THE STANDARDS COMMITTEE**

The Chairman shared details of a meeting that had taken place between himself and Commissioner Sir Derek Myers relating to a number of issues, including the future of the Standards Committee.

The Commissioners were keen for Elected Members and Officers to demonstrate high standards of conduct and firmly believed the Standards Committee had a prominent role in the delivery and promotion of a healthy culture.

A review was, therefore, proposed to be undertaken on the Standards Committee looking specifically at its areas such as role, terms of reference, whistleblowing procedure and membership.

A scoping meeting would be arranged following today's meeting with the Monitoring Officer, which would also involve Independent Members and Parish Councillors.

Clarification was sought on the detail regarding the role and membership of the Standards Committee, given the review that had taken place in 2012 following the implementation of the Localism Act 2011 and the limited powers now available to Standards Committees across England.

The Chairman emphasised the need for a more robust process and a detailed look at procedures in order to assist the Council moving forward following the period of intervention. The timeframe was tight as it was anticipated that the work involving the Standards Committee would feed into the quarterly reports as part of the Council's Improvement Plan submitted by the Commissioners to the Secretaries of State.

STANDARDS COMMITTEE - 11/06/15

The Monitoring Officer also pointed out that the Confidential Reporting Code was to be presented to the Standards Committee on an annual basis and this would be submitted for consideration at a future meeting.

The Committee were in agreement that every opportunity should be taken to look to strengthen the powers of the Standards Committee.

3. SENIOR OFFICERS DISCIPLINARY PANEL

Jacqueline Collins, Monitoring Officer, drew attention to the new legislation relating to the dismissal of the Monitoring Officer, Section 151 Officer and the Chief Executive and the new arrangements which had been approved by Full Council.

The membership of the Senior Officers Disciplinary Panel would comprise the Chairman and Vice-Chairman of the Standards Committee, Leader of the Opposition and the two appointed Independent Persons.

Resolved:- That the information be noted.

4. MINUTES OF THE PREVIOUS MEETING HELD ON 12TH MARCH, 2015

Resolved:- That the minutes of the previous meeting of the Standards Committee held on 12th March, 2015 be approved as a correct record

5. MONITORING OFFICERS UPDATE ON COMPLAINTS

Consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which provided the Committee with an update with regard to the handling of complaints of breaches of the Code of Conduct and the steps taken to consider and respond to allegations that the Code of Conduct for Elected Member had been breached. Specific cases referred to were:-

1. At the previous meeting of the Committee a report was submitted stating that a Parish Councillor had complained that another Parish Councillor had disclosed confidential information.
2. Also at the previous meeting there was a complaint that the same Parish Councillor had not treated fellow Councillors with respect.
3. A complaint by a voluntary organisation that a Parish Councillor had used his position to stop funding for a project.
4. A complaint by a Parish Councillor that another Parish Councillor had prevented him from raising a concern at a Parish Council meeting.

5. A complaint by a staff member of Rotherham Metropolitan Borough Council that a Member of Rotherham Metropolitan Borough Council had made inappropriate comments.
6. A complaint by a member of the public that a member of Rotherham Metropolitan Borough Council had failed to respond to correspondence.
7. A complaint by a Parish Councillor that another Parish Councillor had called her a liar and called the Standards Committee a 'shambles and 'kangaroo court'.

The Standards Committee considered the complaints as submitted.

An investigation had now been completed in respect of complaint Nos. 1 and 2 and nominations were sought from the Standards Committee to consider the outcome.

Resolved:- (1) That the report be received and its contents noted.

(2) That the actions that have been taken to resolve the complaints be noted.

(3) That a Panel comprising Councillors Finnie and Pitchley and Parish Councillor Rowley be convened to consider the investigation relating to complaint Nos. 1 and 2 above.

6. UPDATE ON ANSTON PARISH COUNCIL

Consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which provided an update about issues arising at Anston Parish Council.

Members decided to put the matter 'on hold' and review after the election and to ask Mr. Phil Beavers, Independent Person, to attend the first meeting of the newly elected Anston Parish Council and report his findings back in due course.

In terms of the present position the Parish Council Elections were uncontested and, therefore, the persons mentioned in the report were automatically re-elected. Two longstanding members of the Parish Council resigned.

Since the last meeting of the Standards Committee there have been two further complaints about Anston Parish Council members. One complaint was not considered to be a breach of the Code and the other one arose out of a previous hearing of a complaint by the Hearings and Assessment Sub-Committee.

STANDARDS COMMITTEE - 11/06/15

The suggestion of offering dispute resolution 'intervention' to the Parish Council which was agreed at the last meeting of the Standards Committee was put to the Parish Council meeting on 16th March, 2015. However, no decision had been minuted in this regard.

Phil Beavers, Independent Person, gave an update on his involvement with the Parish Council, which had previously been highly politically driven, but now had more independent representation.

The sanctions recommended by the Standards Committee which had been considered prior to the election had initially been taken forward with the Parish Councillor being removed from all Committees. However, since the election, the Parish Councillor concerned had become Vice-Chairman and his representations on various membership and bodies restored.

At this moment in time there was little merit in further intervention. Councillor Jepson, Independent, was now Chairman and taking matters forward. It was unclear whether the hostility that was around prior to the election was still evident. Assistance would, therefore, be offered to the Monitoring Officer should there be any further cause for concern.

Councillor Hughes, Vice-Chairman, provided a further update and explained about his historical involvement with Anston Parish Council previously. He pointed out that residents in the area were paying the highest precept charges and may wish to consider looking at a community governance review to consider whether a Parish Council was warranted.

The Committee again raised the issue of what powers and sanctions they had been afforded arising from the Localism Bill 2011, but hoped that the change in membership of the Parish Council would now allow them to concentrate on matters in the community.

Resolved:- (1) That Mr. Phil Beavers, Independent Person, be thanked for the tremendous amount of work and effort he had put into Anston Parish Council.

(2) That no further action in respect of Anston Parish Council be undertaken at present, but the matter be kept under review.

7. REPORT OF A PROSECUTION UNDER THE LOCALISM ACT 2011

Consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which detailed a recent conviction of a Councillor under the provisions of the Localism Act 2011 for an offence relating to a failure to declare a pecuniary interest.

The Councillor received a six month conditional discharge and was ordered to pay £930 costs.

Resolved:- That the conviction be noted.

THE CHAIRMAN AUTHORISED CONSIDERATION OF THE FOLLOWING URGENT ITEM IN ORDER TO SHARE THE DETAILS AND RECOMMENDATIONS FROM AN ADVISORY PANEL OF INDEPENDENT MEMBERS)

8. EXCLUSION OF THE PRESS AND PUBLIC

Resolved:- That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act (as amended March, 2006) (information relates to an individual).

9. STANDARDS COMMITTEE ADVISORY PANEL OF INDEPENDENT MEMBERS

Jacqueline Collins, Monitoring Officer, reported on the Advisory Panel of Independent Members which had met earlier today to consider whether or not to recommend that the Standards Committee should direct an investigation of a complaint relating to a breach of the Code of Conduct.

The members of Advisory Panel explained how the Panel had considered the details of the complaints.

The Panel were unanimous in their decision on whether to refer the allegations to the Standards Committee for further investigation.

Resolved:- That the recommendation to the Standards Committee be to investigate the allegations about a breach of the Code of Conduct be noted.

10. DATE AND TIME OF NEXT MEETING

Resolved:- That the next meeting of the Standards Committee take place at the Town Hall, Rotherham on Thursday, 10th September, 2015, commencing at 2.00 p.m.

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| ROTHERHAM BOROUGH COUNCIL |
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| 1. | Meeting: | Standards Committee |
| 2. | Date: | 16 th July 2015 |
| 3. | Title: | Review of the Standards Committee |
| 4. | Directorate: | Resources |

5. Summary:

- 5.1 This report outlines suggestions relating to the review of the Standards Committee's role and Terms of Reference in the light of recent reports of Alexis Jay and Louise Casey and the Government intervention in the Council.
- 5.2 The arrival of the Commissioners has meant that the Standards regime needs to be examined to ensure that it contributes to the improvement of the Council. Commissioners wish to introduce improvements to ensure healthy democratic leadership and accountability. A fresher more prominent standards committee will contribute to the development of this healthier culture.
- 5.3 Various options for improvement are discussed and members will of course have their own suggestions to make. It is suggested that a working group be established to consider options in depth and report back to the Standards Committee in September 2015.

6. Recommendations

- 6.1 That the Committee approves:-
- That a working group be established to advise the Standards Committee on any possible improvements that could be made to the Standards Committee.
 - That members put forward any ideas they have for re-vitalising the Committee
 - That members agree the membership of the working group.

7. Proposals and details

- 7.1 The terms of reference of the Standards Committee have not been considered since the introduction of the Localism Act 2011. Since then there has been considerable change within the Council, including the publication of the Jay and Casey reports and the intervention in the Council by the Secretary of State.

7.2 It is appropriate therefore that the Standards Committee should re-examine its focus and consider how it can best help take the Authority forward. Several suggestions for improvement have been made and these include;

a) Changing the name and membership of the Committee.

This may include considering whether to have an independent Chair or Vice Chair, and perhaps updating the name of the Committee to reflect the priorities of the Council, e.g. The Standards and Ethics Committee.

b) Extending or changing the Terms of Reference for the Committee.

This may include monitoring other Council procedures, for example reports from the Ombudsman or looking at legal challenges to the Council and advising on how procedures could be improved

c) Formalising and publicising the work of the Committee

This could be achieved by agreeing on a work plan for the Committee at a point in the year, presumably after the Committee have decided what they wish to concentrate on and producing an annual report demonstrating the challenges and achievements of the Committee in the past year.

The report could include figures on work undertaken and comparisons on the previous years' figures.

d) Looking at the Code of Conduct.

The Council's Code of Conduct is based upon the national code although it does have some differences based on local circumstances. This could be re-examined and adapted to reflect the Council's priorities.

e) Checking the 'ethical health' of the Council.

Some time ago ethical audits were suggested for Councils as part of the useful to look at areas within the Council and form a view as to the 'ethical health' of the council.

f) Other issues

Other issues that could be looked at include whether the Committee should have a mission statement or vision and if so what form that would take and whether the Officer Code of Conduct should be updated

g) The Working Group

It is suggested that a working group is formed to carry out this discreet piece of work and report back to the Standards Committee in September.

It is suggested the membership should include the Chair , the Vice Chair, an Independent member, a parish Councillor ,a member of the opposition and an Independent Person.

8. Finance

8.1 There would no financial consequences of establishing this working group.

9. Risks and Uncertainties

9.1 There is a risk that the standards and ethical heath of the Council could suffer if the procedures in place are not reviewed and if appropriate updated, regularly.

10. Policy and performance Agenda Implications

10.1 The Council has a duty to promote ethical standards.

10.2 Ethical Framework and Standards

11. Background Papers and Consultation

11.1 Ethical Governance Audit – IDEA

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| ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS |
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|-----------|---------------------|--|
| 1. | Meeting: | Standards Committee |
| 2. | Date: | 16th July 2015 |
| 3. | Title: | Review of Whistleblowing Policy |
| 4. | Directorate: | Resources |

5. Summary

The Standards Committee is responsible for establishing and monitoring the operation of the Council's Whistleblowing Policy.

The Policy was reviewed in June 2014, however following the findings of the Jay and Casey reports and the publication of Whistleblowing Guidance for Employers and Code of Practice by the Department for Business Innovations and Skills (BIS), it has been identified as part of the Council's Improvement process that it is appropriate for the current Whistleblowing Policy be reviewed again.

6. Recommendations

It is recommended that the Standards Committee:

- i) Note that a revised draft Policy will be prepared initially for consideration by the Working Party of the Standards Committee, which is being established.
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7. Proposals and Details

The Standards Committee Terms of Reference include responsibility for establishing and monitoring the operation of the Council's Whistleblowing Policy. Otherwise known as the Confidential Reporting Code, the Whistleblowing Policy was reviewed and revised by the Standards Committee in June 2014. This review of the Policy carried out in accordance with British Standards PAS 1998:2008 "Whistleblowing Arrangements Code of Practice".

However following the findings of the Jay and Casey reports and the publication of Whistleblowing Guidance for Employers and Code of Practice by the Department for Business Innovations and Skills (BIS), in March 2015 it is appropriate for the current Whistleblowing procedure to be reviewed and revised again.

A copy of the current Whistleblowing Policy is attached at **Appendix 1**.

A copy of the BIS Whistleblowing Guidance for Employers and Code of Practice is attached at **Appendix 2**.

As this is the start of the review and revision process, members of the Standards Committee are asked to consider and comment on the following in respect of the current arrangements:

1. Percived strengths and weaknesses of the current policy
2. Knowledge of good practice elsewhere
3. Suggestions in respect of specific areas of concern
4. External contacts/helpline
5. Where whistleblowing complaints are reported to and regularity of reporting
6. Suggestions for Improvements to the processes/Policy
7. Suggestions for raising awareness of Policy
8. Suggestions for improving organisational culture in respect of whistleblowing
9. Suggestions/comments in general

Members comments/suggestions/proposals will be fed into the review & revision of the policy.

8. Finance

Review and revision of the policy will be met within current resources.

9. Risks and Uncertainties

There is a risk that if an appropriate whistleblowing policy is not implemented and promoted to employees, serious matters whereby an alert should be raised, may not be reported.

10. Policy and Performance Agenda Implications

Standards Committee – Responsibility for promoting and maintaining high standards of conduct.

Whistleblowing Policy – Highlights the importance of workers being able to pass on information concerning wrongdoing.

11. Background Papers and Consultation

Whistleblowing Policy ie Confidential Reporting Code
BIS Whistleblowing Guidance for Employers and Code of Practice
ACAS Guidance re Whistleblowing
Various local authority Whistleblowing Policies
NHS Guidance following Francis report

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LEGAL AND DEMOCRATIC SERVICES
June 2014

**Reviewed and updated in line with the British Standards PAS1998:2008
“Whistleblowing Arrangements Code of Practice”**

Confidential Reporting Code

1. **Introduction**
2. **Aims and Scopes of this Policy**
3. **Anonymous Allegations**
4. **Confidentiality**
5. **Safeguards**
6. **Untrue Allegations**
7. **How to raise a concern**
8. **How the Council will respond**
9. **The Responsible Officer**
10. **How the matter can be taken further**

Appendix 1: Anti – Fraud Strategy – Statement and Procedures

1. INTRODUCTION

- 1.1 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within the Council and have a duty to report such matters. 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. However, employees should not simply ignore their concerns.
- 1.3 This policy document makes it clear that employees can come forward and express their concerns without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting policy is intended to encourage and enable employees to raise serious concerns **within** the Council. Employees will be commended for raising concerns within the Council rather than overlooking a problem or "blowing the whistle" outside.

- 1.4 Managers should take in to account the translation and interpretation needs of the individual. This Code can be made available in other languages and formats on request.
- 1.5 The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers. It also covers suppliers and those providing services under a contract with the Council.
- 1.6 These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some Departments.
- 1.7 This policy has been discussed with the relevant trade unions and has their support.

2. AIMS AND SCOPE OF THIS POLICY

2.1 This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment including any breach of the Council's Equal Opportunities Policies or bullying and harassment. Any disclosure relating to your own contract of employment, is not covered by the this Code, unless that disclosure can be said to be in the public interest. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures relating to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damage to the environment
- the unauthorised use of public funds
- possible fraud and corruption¹
- sexual or physical abuse of clients, or
- other unethical conduct.²

Confidential Reporting Code

- 1 ¹The Council's policy statement on fraud is appended.
2 ²Employees should make themselves familiar with the Code of Practice on Official Conduct.

2.3 Thus, any serious concerns that you have 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 be reported under the Confidential Reporting Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

3. **ANONYMOUS ALLEGATIONS**

3.1 This policy encourages you to put your name to your allegation whenever possible.

3.2 Concerns expressed anonymously are much less powerful and more difficult to investigate, however, these will still be considered but will be assessed on the:

- seriousness of the issues raised
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

4. **CONFIDENTIALITY**

4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5. **SAFEGUARDS**

5.1 **Harassment or Victimisation**

5.2 The Council is committed to good practice and high standards and wants to be supportive of employees.

5.3 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is in the public interest, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

Confidential Reporting Code

- 5.4 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in the public interest.. Colleagues or agents acting on behalf of the Council should not harass or victimise you because you have made a disclosure.
- 5.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any other employment procedures that already affect you.
- 5.6 The Public Interest Disclosure Act 1998 gives legal protection to employees who disclose information, in the public interest, about alleged wrongdoing.

6. UNTRUE ALLEGATIONS

- 6.1 If you make an allegation in the public interest and with reasonable grounds,, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. HOW TO RAISE A CONCERN

- 7.1 You should raise concerns with the Director of Legal & Democratic Services, Director of Human Resources or the Chief Executive. Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format:
- please mark envelope “to be opened by addressee only”
 - the background and history of the concern (giving relevant dates);
 - the reason why you are particularly concerned about the situation.
- 7.2 The earlier you express the concern the easier it is to take action.
- 7.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.4 Obtain advice/guidance on how to pursue matters of concern from the Director of Human Resources, Director of Legal & Democratic Services, the Chief Executive or the Chairman of the Standards Committee.
- 7.5 You may wish to consider discussing your concern with a colleague or your trade union first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 7.6 You may invite your trade union, professional association representative, work colleague or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

Confidential Reporting Code

8. HOW THE COUNCIL WILL RESPOND

- 8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process
 - be investigated by the Council's Standards Committee if the complaint concerns an Elected Member
 - be referred to the police
 - be referred to the external auditor
 - form the subject of an independent inquiry
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection issues) will normally be referred for consideration under those procedures.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5 Within ten working days of a concern being raised, the person to whom it is expressed will write to you:
- acknowledging that the concern has been received
 - indicating how we propose 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
 - supplying you with information on staff support mechanisms, and
 - telling you whether further investigations will take place and if not, why not.
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union, professional association representative, work colleague or a friend.
- 8.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required

Confidential Reporting Code

to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will keep you informed of developments every twenty-eight days and the outcome of any investigation.

9. THE RESPONSIBLE OFFICER

- 9.1 The Director of Legal & Democratic Services has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council. All officers dealing with concerns raised under this procedure will submit reports on these concerns and of the outcomes to the Director of Legal & Democratic Services.

10. HOW THE MATTER CAN BE TAKEN FURTHER

- 10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, then you can request the Director of Legal & Democratic Services to refer the matter for consideration by the Council's Standards Committee. If, having exhausted all internal processes, you feel it is necessary to take the matter outside the Council, the following are possible contact points:

- KPMG (see footnote 1 below)
- your trade union
- your local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police

- 10.2 You are advised that disclosure to the press is not encouraged and will not normally be legally protected.

Footnotes

1. KPMG can be contacted by post, telephone or email:

Stephen Clark or Rashpal Khangura
KPMG (Regional Office)
St. James Square
Manchester

Telephone 0161 2464281 or 0113 2313396

Confidential Reporting Code

e-mail: Stephen.clark@kpmg.co.uk
or Rashpal.Khangura@KPMG.co.uk

Confidential Reporting Code

Appendix 1

ANTI-FRAUD STRATEGY - STATEMENT & PROCEDURES

The Council is committed to the proper accountability of public funds and condemns all actions that are of a fraudulent and corrupt nature. As part of this commitment to public accountability the Council expects that :-

1. Members

Shall fulfil their duties in accordance with the requirements of "the Council's Code of Conduct for Members and Co-opted Members".

2. Employees

Act in accordance with the Code of Official Conduct as issued to employees and contained in the Local Conditions of Service

Declare to their line manager any other form of employment in addition to their function within the Council. The details are to be entered in the "Departmental Register of Interests Declared by Employees", copies of which are held in each Department.

3. Members and Employees

Protect public interest and confidence as the over-riding factor when decisions are to be made in relation to matters that involve an element of private interest. Where doubt exists over the correct procedure, advice should be sought from the appropriate Director.

When making decisions regarding public appointments or recommending individuals for awards or benefits, both monetary and otherwise, that the decision taken is based purely on merit in accordance with defined guidelines.

Be accountable to the public for their decisions and actions including subjecting themselves to whatever scrutiny is appropriate to their office. To openly give reasons for their decisions and actions except in cases where the wider public interest requires a restriction of such information.

Declare any private interest which is relevant to their public duties by making an appropriate entry in the Register of Interests. Private interest is defined as both of a monetary and non-monetary nature, where the interest might be perceived by the public to influence the decision making process.

Make decisions solely in pursuance of the Council's statutory functions and declared policies at the exclusion of private and personal interest.

Comply with the Financial Regulations and the Standing Orders of the Council at all times.

Confidential Reporting Code

Award contracts in accordance with the Council's Financial Regulations and Standing Orders and that successful tenderers are selected in accordance with defined guidelines relating to the evaluation of contracts.

Avoid placing themselves under any obligation to external individuals or organisations that may influence, or be perceived to influence them, in the performance of their duties.

Accept offers of hospitality and gifts only in cases where it can be readily justified on the basis that by accepting the offer the Council will derive direct benefit from such actions. All offers of hospitality and gifts that are accepted must be entered in the Register of Gifts, Legacies and Hospitality.

(Reviewed June 2014)



Department
for Business
Innovation & Skills

WHISTLEBLOWING

Guidance for Employers and
Code of Practice

MARCH 2015

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What is whistleblowing?

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. In this guidance, we call that “making a disclosure” or “blowing the whistle”. The wrongdoing will typically (although not necessarily) be something they have witnessed at work.

To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

The second thing that a worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone’s health and safety
- damage to the environment
- covering up wrongdoing in the above categories

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have ‘blown the whistle’.

What are an employer’s responsibilities in regards to whistleblowing?

As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer’s commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. This is also demonstrated by the following:

Recognising workers are valuable ears and eyes: Workers are often the first people to witness any type of wrongdoing within an organisation. The information that workers may uncover could prevent wrongdoing, which may damage an organisation's reputation and/or performance, and could even save people from harm or death.

Getting the right culture: If an organisation hasn't created an open and supportive culture, the worker may not feel comfortable making a disclosure, for fear of the consequences. The two main barriers whistleblowers face are a fear of reprisal as a result of making a disclosure and that no action will be taken if they do make the decision to 'blow the whistle'. There have been a number of high profile cases, including evidence collated by the Mid-Staffordshire NHS Foundation Trust Public Inquiry¹, the Freedom to Speak Up Independent Review into creating an open and honest culture in the NHS²; and the Parliamentary Commission on Banking Standards³ that confirm many workers are scared of speaking up about poor practice. Making sure your staff can approach management with important concerns is the most important step in creating an open culture. Employers should demonstrate, through visible leadership at all levels of the organisation, that they welcome and encourage workers to make disclosures.

Training and support: An organisation should implement training, mentoring, advice and other support systems to ensure workers can easily approach a range of people in the organisation.

Being able to respond: It is in the organisation's best interests to deal with a whistleblowing disclosure when it is first raised by a worker. This allows the organisation to investigate promptly, ask further questions of a worker and where applicable provide feedback. A policy should help explain the benefits of making a disclosure.

Better control: Organisations that embrace whistleblowing as an important source of information find that managers have better information to make decisions and control risk. Whistleblowers respond more positively when they feel that they are listened to.

Resolving the wrongdoing quickly: There are benefits for the organisation if a worker can make a disclosure internally rather than going to a third party. This way there is an opportunity to act promptly on the information and put right whatever wrongdoing is found.

¹ <http://www.midstaffspublicinquiry.com/>

² <https://freedomtospeakup.org.uk/the-report/>

³ <http://www.publications.parliament.uk/pa/jt201213/jtselect/jtpcb/98/98.pdf>

Communicate policy and procedure

Having a policy is a good first step to encourage workers to blow the whistle but each organisation needs to let its workers know about the policy and make sure they know how to make a disclosure. Some organisations choose to publicise their policy via their intranet or through a staff newsletter. If an organisation recognises a trade union it might develop a policy in consultation with them. It is a good idea for organisations to share the information with all staff regularly to make sure they are all reminded of the policy and procedures and to inform any newcomers. Providing training at all levels of an organisation on the effective implementation of whistleblowing arrangements will help to develop a supportive and open culture.

How? When someone blows the whistle an organisation should explain its procedures for making a disclosure and whether the whistleblower can expect to receive any feedback. Often a whistleblower expects to influence the action the organisation might take, or expects to make a judgement on whether an issue has been resolved – such expectations need to be managed.

Has the issue been resolved? It is for the organisation to be satisfied that the disclosure has been acted upon appropriately and that the issue has been resolved. There should be clear and prompt communications between the whistleblower and the organisation. It is best practice for organisations to provide feedback to whistleblowers, within the confines of their internal policies and procedures. Feedback is vital so that whistleblowers understand how their disclosure has been handled and dealt with. If a whistleblower is unhappy with the process or the outcome it will make them more likely to approach other individuals and organisations to ‘blow the whistle’, such as a “prescribed person”.

Disclosure or grievance?

Sometimes an employee believes they are blowing the whistle when, in fact, their complaint is a personal grievance. Workers who make a disclosure under an organisation’s whistleblowing policy should believe that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law. It is important that any policy, procedures and other communications make this clear.

An organisation may want to direct workers to the Government’s guidance for whistleblowers to verify the position that a personal grievance is not generally regarded as a protected disclosure. Workers can also contact the Advisory, Conciliation and Arbitration Service (Acas) for guidance on whistleblowing and grievances. Useful information can be found at: www.acas.org.uk/grievances, [add link to whistleblowing page](#)

Is there a standard whistleblowing policy?

There is no one-size-fits-all whistleblowing policy as policies will vary depending on the size and nature of the organisation. Some organisations may choose to have a standalone policy whereas others may look to implement their policy into a code of ethics or may have 'local' whistleblowing procedures relevant to their specific business units.

A large organisation may have a policy where employees can contact their immediate manager or a specific team of individuals who are trained to handle whistleblowing disclosures. Smaller organisations may not have sufficient resources to do this.

Any whistleblowing policies or procedures should be clear, simple and easily understood.

Here are some tips about what a policy should include:

- An explanation of what whistleblowing is, particularly in relation to the organisation
- A clear explanation of the organisation's procedures for handling whistleblowing, which can be communicated through training
- A commitment to training workers at all levels of the organisation in relation to whistleblowing law and the organisation's policy
- A commitment to treat all disclosures consistently and fairly
- A commitment to take all reasonable steps to maintain the confidentiality of the whistleblower where it is requested (unless required by law to break that confidentiality)
- Clarification that any so-called 'gagging clauses' in settlement agreements do not prevent workers from making disclosures in the public interest
- An idea about what feedback a whistleblower might receive
- An explanation that anonymous whistleblowers will not ordinarily be able to receive feedback and that any action taken to look into a disclosure could be limited – anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymised email address
- A commitment to emphasise in a whistleblowing policy that victimisation of a whistleblower is not acceptable. Any instances of victimisation will be taken seriously and managed appropriately
- An idea of the time frame for handling any disclosures raised
- An idea of the time frame for handling any disclosures raised
- Clarification that the whistleblower does not need to provide evidence for the employer to look into the concerns raised
- Signpost to information and advice to those thinking of blowing the whistle, for example the guidance from the Government, Acas, Public Concern at Work or Trade Unions
- Information about blowing the whistle to the relevant prescribed person(s)

Promoting a policy and making sure it is easily accessible

It's no good having a policy in place if no one knows about it. Actively promoting a policy shows the organisation is genuinely open to hearing concerns from its staff. Managers and leaders in the organisation can also promote a policy in the way they behave at work. Conduct and written policies will help to create an open culture, which will increase the likelihood of a worker speaking up about any wrongdoing they come across.

Written policies are not enough. Training should be provided to all staff on the key arrangements of the policy. Additional training should be provided to those with whistleblowing responsibilities, such as managers or designated contacts, so they are able to provide guidance confidently to workers. Managers should also lead by example and ensure they are committed to creating an open culture where disclosures are welcome. It is also a good idea to include handling whistleblowing disclosures as part of discipline and grievance training for managers and staff. Training should be offered at regular points to make sure it stays fresh in managers' minds and to capture any newcomers to the organisation.

Here are some ideas about how to promote a policy:

- Hold a staff session or in larger organisations require managers to hold smaller, consistent team meetings
- Make the policy accessible on the staff intranet
- Appoint a whistleblowers' champion to drive the commitment to valuing whistleblowing and protecting whistleblowers within the organisation
- Use promotional posters around the building
- Include the policy within induction packs for newcomers
- Set the policy out in staff handbooks and contracts

Deciding how to deal with the whistleblowing disclosure

Where a worker feels able to do so they may make a disclosure to their immediate manager who will be able to decide whether they can take forward the disclosure or whether it will require escalation. An organisation will need to equip managers with the knowledge and confidence to make these judgements. A whistleblowing policy and training can help with this.

Larger organisations may have a designated team who can be approached when workers make a disclosure. Although this may not be possible for smaller organisations, it is

considered best practice that there is at least one senior member of staff as a point of contact for individuals who wish to blow the whistle. This is particularly helpful in cases where the immediate line management relationship is damaged or where the disclosure involves the manager. Alternatively, there are commercial providers who will manage a whistleblowing process on the employer's behalf.

Dealing with disclosures

Once a disclosure has been made it is good practice to hold a meeting with the whistleblower to gather all the information needed to understand the situation. In some cases a suitable conclusion may be reached through an initial conversation with a manager. In more serious cases there may be a need for a formal investigation. It is for the organisation to decide what the most appropriate action to take is.

It is important to note that if an investigation concludes that the disclosure was untrue it does not automatically mean that it was raised maliciously by a worker.

When dealing with disclosures, it is good practice for managers to:

- Have a facility for anonymous reporting
- Treat all disclosures made seriously and consistently
- Provide support to the worker during what can be a difficult or anxious time with access to mentoring, advice and counselling
- Reassure the whistleblower that their disclosure will not affect their position at work
- Document whether the whistleblower has requested confidentiality
- Manage the expectations of the whistleblower in terms of what action and/or feedback they can expect as well clear timescales for providing updates
- Produce a summary of the meeting for record keeping purposes and provide a copy to the whistleblower
- Allow the worker to be accompanied by a trade union representative or colleague at any meeting about the disclosure, if they wish to do so
- Provide support services after a disclosure has been made such as mediation and dispute resolution, to help rebuild trust and relationships in the workplace

It will be useful to document any decisions or action taken following the making of a disclosure by a worker.

It is also good practice for organisations to:

- Record the number of whistleblowing disclosures they receive and their nature
- Maintain records of the date and content of feedback provided to whistleblowers
- Conduct regular surveys to ascertain the satisfaction of whistleblowers.

What happens when a worker blows the whistle to someone other than their employer?

Ideally workers will feel able to make a disclosure to their organisation. Good policies and procedures for handling whistleblowing will help encourage this. However, there may be circumstances where they feel unable to. There are other ways, some of which are set out in law, that a worker may make a disclosure without losing their rights under whistleblowing law. One option for external disclosures of this type is prescribed persons. Prescribed persons are mainly regulators and professional bodies but include other persons and bodies such as MPs. The relevant prescribed person depends on the subject matter of the disclosure, for example a disclosure about wrongdoing in a care home could be made to the Care Quality Commission.

A complete list of prescribed persons can be found [here](https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2). (<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>)

Prescribed persons have individual policies and procedures for handling concerns and complaints. Generally these will be accessible on their websites.

Alternatively, a worker might choose to approach the media with their concerns. If a worker goes to the media, they can expect in most cases to lose their whistleblowing law rights. It is only in exceptional circumstances that a worker can go to the media without losing their rights. They must reasonably believe that the information they disclose and any allegation contained in it are substantially true. They cannot be acting for personal gain. Unless the wrongdoing is exceptionally serious, if they have not already gone to their employer or a prescribed person, they must reasonably believe that their employer will subject them to “detriment” or conceal or destroy evidence if they do so. And even then, their choice to make the disclosure must be reasonable.

What happens if a whistleblower believes they have been unfairly treated?

If a whistleblower believes that they have been unfairly treated because they have blown the whistle they may decide to take their case to an employment tribunal. The process for this would involve attempted resolution through the Advisory, Conciliation and Arbitration Service (Acas) early conciliation service.

Information can be found at: www.acas.org.uk/conciliation and the Acas helpline can provide further advice.

The Acas helpline details are:

Telephone: 0300 123 1100

Textphone: 18001 030 0123 1100

Monday to Friday, 8am to 8pm

Saturday, 9am to 1pm

Confidentiality

There may be good reasons why a worker wishes their identity to remain confidential. The law does not compel an organisation to protect the confidentiality of a whistleblower. However, it is considered best practice to maintain that confidentiality, unless required by law to disclose it. Managers dealing with whistleblowing concerns should be briefed to ensure they understand how to handle the disclosure and protect personal information.

It will help to manage the expectations of whistleblowers if the risk that some colleagues may still speculate about who has raised the concern is explained to them.

Anonymous information will be just as important for organisations to act upon. Workers should be made aware that the ability of an organisation to ask follow up questions or provide feedback will be limited if the whistleblower cannot be contacted. It may be possible to overcome these challenges by using telephone appointments or through an anonymised email address.

Workers should be made aware that making a disclosure anonymously means it can be more difficult for them to qualify for protections as a whistleblower. This is because there would be no documentary evidence linking the worker to the disclosure for the employment tribunal to consider.

Whistleblowing Code of Practice

It is important that employers encourage whistleblowing as a way to report wrongdoing and manage risks to the organisation. Employers also need to be well equipped for handling any such concerns raised by workers. It is considered best practice for an employer to:

- Have a whistleblowing policy or appropriate written procedures in place
- Ensure the whistleblowing policy or procedures are easily accessible to all workers
- Raise awareness of the policy or procedures through all available means such as staff engagement, intranet sites, and other marketing communications
- Provide training to all workers on how disclosures should be raised and how they will be acted upon
- Provide training to managers on how to deal with disclosures
- Create an understanding that all staff at all levels of the organisation should demonstrate that they support and encourage whistleblowing
- Confirm that any clauses in settlement agreements do not prevent workers from making disclosures in the public interest
- Ensure the organisation's whistleblowing policy or procedures clearly identify who can be approached by workers that want to raise a disclosure. Organisations should ensure a range of alternative persons who a whistleblower can approach in the event a worker feels unable to approach their manager. If your organisation works with a recognised union, a representative from that union could be an appropriate contact for a worker to approach
- Create an organisational culture where workers feel safe to raise a disclosure in the knowledge that they will not face any detriment from the organisation as a result of speaking up.
- Undertake that any detriment towards an individual who raises a disclosure is not acceptable
- Make a commitment that all disclosures raised will be dealt with appropriately, consistently, fairly and professionally

- Undertake to protect the identity of the worker raising a disclosure, unless required by law to reveal it and to offer support throughout with access to mentoring, advice and counselling
- Provide feedback to the worker who raised the disclosure where possible and appropriate subject to other legal requirements. Feedback should include an indication of timings for any actions or next steps



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