

Taunton Deane Borough Council

Corporate Governance Committee – 19 May 2014

Whistleblowing Policy

Report of the Strategic Finance Officer

(This matter is the responsibility of Executive Councillor Mrs Vivienne Stock-Williams)

1. Summary

1.1 This report includes the updated whistleblowing policy.

1.2 The Corporate Governance Committee is asked to approve the revised policy.

2. Background

2.1 Taunton Deane Borough Council has a Whistleblowing policy which is published on our website.

2.2 It was last updated in 2011 and is now due for a review.

3. Updated Policy

3.1 Following new legislation (The Enterprise and Regulatory Reform Act 2013) the policy needed to be revised to ensure it complied.

3.2 It is important that an up to date policy is maintained so that employees and members of the public know how to report any concerns and what protection they have. The main change from the previous policy is in the protection offered to a whistleblower. The previous legislation and policy stated that a person who raises a concern in **good faith** would be protected even if they were mistaken. This has changed so that any person raising a concern **where they reasonably believe that the disclosure they are making is in the public interest** even if they are mistaken will be protected.

3.3 The revised Whistleblowing policy is attached to this report.

4. Finance Comments

4.1 There are no financial implications of this report.

5. Legal Comments

- 5.1 The Whistleblowing policy is an important part of the authority's governance arrangements and thus need to be regularly reviewed to ensure they comply with all current legislation. The legal framework for Whistleblowing is contained within the Public Interest Disclosure Act 1998 as revised by the Enterprise and Regulatory Reform Act 2013.

6. Links to Corporate Aims

- 6.1 There are no Corporate Aim implications of this report.

7. Environmental and Community Safety Implications

- 7.1 There are no environmental and community safety implications of this report.

8. Equalities Impact

- 8.1 There are no equality impacts of this report.

9. Risk Management

- 9.1 Having a Whistleblowing policy reduces the risk that employees and members of the public do not feel able to raise concerns about the council.

10. Partnership Implications

- 10.1 The South West Audit Partnership is a contact point for members of the public to raise concerns. They have a confidential e-mail address and a telephone number for the public to use to report concerns.

11. Recommendations

- 11.1 That the Corporate Governance Committee approves the updated Whistleblowing policy.

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Policy and Procedure for confidential reporting of concerns ("Whistleblowing")

**Don't turn a blind eye
Stay calm
Know you are protected
Remember and note key details
Do not investigate the issue yourself
Follow the Council's Whistleblowing policy**

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Revised date May 2014

Review date May 2016

1. Introduction to raising a concern with the Council

Taunton Deane Borough Council is committed to the highest possible standards of openness and accountability. In line with that commitment **we expect both employees and members of the public, who have serious concerns about any aspect of the Council's work to come forward and voice their concerns.**

Whether you are an employee or a member of the public, you might be the first to realise that there may be something seriously wrong within the Council.

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.

This policy also explains how you can raise a concern without fear of victimisation, subsequent discrimination or disadvantage.

Who can use this policy?

- All members of the public
- All Employees (including Contractors, Agency and Temporary staff)
- External Contractors
- Suppliers
- Service providers

What is included in the policy?

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 or a member of the public 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.

2. **Safeguards**

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) and will take appropriate action in order to protect a person who raises a concern where they reasonably believe that the disclosure they are making is in public interest, even if they were mistaken. In addition employees have statutory protection against reprisals under the Public Interest Disclosure Act 1998 as revised by the Enterprise and Regulatory Reform Act 2013 and can refer their case to an Industrial Tribunal.

Confidentiality

As far as possible, the Council will protect the identity of any employee or member of the public 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 or member of the public 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.

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.

False and Malicious Allegations

The Council will not tolerate the making of malicious or vexatious allegations. Acts of this nature will be treated as serious disciplinary offences. Disciplinary action, including summary dismissal for serious offences, will be taken against any employee found to have made malicious or vexatious claims.

In line with the TDBC Complaints Procedure examples of vexatious allegations are persistently complaining about a variety or number of different issues; persistently making the same complaint but not accepting the findings of any properly conducted investigation and/or seeking an unrealistic outcome.

In addition, a concern, which is genuinely believed, may prove to be unfounded on investigation – in which case no action will be taken against the person who raised the concern.

The Council will try to ensure that the negative impact of either a malicious or unfounded allegation about any person is minimised.

3. How to raise a concern

If you are a member of the Public

You can raise your concern(s) with any of the following officers;

- Section 151 Officer – Shirlene Adam
(s.adam@tauntondeane.gov.uk)
- Human Resources Manager – Martin Griffin
(m.griffin@tauntondeane.gov.uk)
- Monitoring Officer – Bruce Lang (bdlang@westsomerset.gov.uk)
- Director of Quality – Ian Baker
(ian.baker@southwestaudit.co.uk)

The Council has set up an arrangement for a confidential answer phone service with the **South West Audit Partnership** (01935 462381).

You can also email them at; confidential@southwestaudit.co.uk

If you are an employee of the Council

You should normally raise your concern(s) 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 can contact one of the individuals listed above;

The Council has set up an arrangement for a confidential answer phone service with the **South West Audit Partnership** (01935 462381).

You can also email them at; confidential@southwestaudit.co.uk

Alternatively you can get confidential advice from your trade union or professional association. There is an independent charity called **Public Concern at Work (020 7404 6609) www.pcaw.co.uk** who have lawyers who can give independent advice at any stage about how to raise a concern about serious malpractice at work.

You can also invite your **trade union or professional association** to raise a matter on your behalf.

Members of the Public and Employees

Concerns can either be raised orally or in writing. Normally it is preferable to put your concern in writing.

What you need to include

It would be helpful to us if you could provide the following information

- **background**
- **the history**
- **reason for your concern**
- **names**
- **dates**
- **places**

See **Appendix A** Flowchart on 'How to Raise a Concern'

4. How the Council will respond

The action taken by the Council will depend on the nature of the concern. Where appropriate, the concern(s) raised will be;

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

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. This investigation will be carried out by the most appropriate office. 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.

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.

Within ten working days of a concern being raised, the Director of Quality will write to you;

- 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.

The amount of contact between the officers considering the issues and you 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.

Where any meeting is arranged, you have the right, if you so wish, to be accompanied by a union or professional association representative, relative or a friend who is not involved in the area of work to which the concern relates.

The Council will take appropriate steps to minimise any difficulties, which you may experience as a result of raising a concern. For example, if as an employee you 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.

The Council accepts that by raising a concern, you will need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive as much information as possible about the outcomes of any investigation.

See **Appendix B** for flowchart on 'How the Council will respond'

5. How the Concern can be taken further

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 Appendix A, or your legal advisor on the options that are available to you.

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 Monitoring Officer.

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 3.

6. The Role of the Monitoring Officer

The Monitoring Officer is responsible for ensuring that the Council adheres to this Policy and the officer's contact details are documented in this policy should you have any concerns with it. The Monitoring Officer is also responsible for reporting to the Council on any findings of improper or unlawful conduct following an investigation.

7. Review of policy

This Policy will be regularly reviewed in line with future changes and developments and at least every two years. Next Review date planned: 1st May 2016.

How to raise your concern

You can raise your concern on paper or contact anyone listed on this page by telephone or e-mail

Contact one of the following external contacts for support and advice:

Public Concern at Work
(www.pcaaw.co.uk tel 020 7404 6609)

The Audit Commission (www.audit-commission.gov.uk)

The Health & Safety Executive
(www.hse.gov.uk)

Environment Agency
(www.environment-agency.gov.uk)

Relevant professional bodies or regulatory organisations

A solicitor or legal advisor

The Police

The Local Government Ombudsman

A trade Union

If you are an employee you can raise your concern with your immediate manager, or your manager's manager

You can arrange to have an informal conversation or raise your concern with the following contacts if you prefer:

The Section 151 Officer

HR Manager – Martin Griffin

Monitoring Officer – Bruce Lang

Audit Manager – Alastair Woodland

APPENDIX B

