

# LITTLEHAMPTON TOWN COUNCIL

## Whistle Blowing Policy

### 1. Introduction

- 1.1 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.
- 1.2 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 serious 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.
- 1.3 The policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistle Blowing Policy is intended to encourage and enable employees to raise serious concerns **within** the Council rather than overlooking a problem or 'blowing the whistle' outside.
- 1.4 The Public Interest Disclosure Act 1998 protects employees who raise legitimate concerns about specified matters from being dismissed or from being subjected to detrimental treatment or victimised as a result, provided certain criteria are met.
- 1.5 The Act makes provision about the kinds of disclosure which may be protected and the circumstances in which disclosures are protected. These rules are therefore intended to comply with the Act by encouraging employees to make disclosures about fraud, misconduct or wrongdoing to the Council, without fear of reprisal, so that problems can be identified, dealt with and resolved quickly.
- 1.6 Employees are protected provided they reveal information of the right type, known as a "qualifying disclosure", and they reveal that information to the right person and in the right way, known as making a "protected disclosure".
- 1.7 The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises.

- 1.8 These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures. Managers are responsible for making service users aware of the existence of these procedures.

## **2. Aims and Scope of this Policy**

- 2.1 This policy aims to:

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

## **2.2 Qualifying Disclosures**

Certain kinds of disclosure qualify for protection. These are disclosures of information which are made in good faith and which an employee reasonably believes tend to show one or more of the following relevant failures is either currently happening, took place in the past, or is likely to happen in the future:

- i) A criminal offence.
- ii) The breach of a legal obligation.
- iii) A miscarriage of justice.
- iv) A danger to the health and safety of any individual.
- v) Damage to the environment.
- vi) Deliberate concealment of information tending to show any of the above five matters.

- 2.3 Only disclosures of information that fall within one or more of these six categories qualify for protection under the Public Interest Disclosure Act 1998.

- 2.4 The Council also considers the following to be covered under this policy

- The unauthorised use of public funds
- Possible fraud and corruption
- Sexual or physical abuse
- Other unethical conduct

- 2.5 Thus, any serious concerns that staff 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 Whistle Blowing Policy. This may be about something that:

- makes someone feel uncomfortable in terms of known standards, their experience or the standards they 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.

2.6 This policy does **not** replace the Council's Grievance Procedure.

2.7 The employee's belief must be reasonable, but it need not be correct. It might be discovered subsequently that they were, in fact, wrong or mistaken in their belief, but they must be able to show that they held the belief in good faith and that it was a reasonable belief to hold in the circumstances at the time of disclosure. Note that it is not the employee's responsibility to investigate the matter. That is the Council's responsibility.

### **3. Protected disclosures**

3.1 For a qualifying disclosure to be a protected disclosure, you need to make it to the right person and in the right way. There are a number of methods by which you can make a protected disclosure, but the Council always encourages all employees to raise any disclosure internally in the first instance. Qualifying disclosures must be made in good faith to be protected, i.e. with honest intent and without malice or an ulterior motive.

3.2 You are protected if you make a qualifying disclosure to either:

- i) the Council, or
- ii) where you reasonably believe that the relevant failure relates solely or mainly to the conduct of a person other than the Council or any other matter for which a person other than the Council has legal responsibility, to that other person.

3.3 You are encouraged to raise any qualifying disclosures that you may have by following the disclosure procedure set out below.

3.4 If your concern relates to a breach of your own contract of employment, you should use the Council's grievance procedure.

3.5 An employee can choose whether to raise a concern about wrongdoing in the workplace as a grievance or separately as a protected disclosure.

### **4. Safeguards**

#### **4.1 Harassment or Victimisation**

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

4.1.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, 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.

4.1.3 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 good faith.

4.1.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

## **4.2 Confidentiality**

4.2.1 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.

## **4.3 Anonymous Allegations**

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

4.3.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

4.3.3 In exercising this discretion the factors to be taken into account would include:

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

## **4.4 Untrue Allegations**

4.4.1 If you make an allegation in good faith, 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.

## **5. The disclosure procedure**

5.1 As a first step, you should raise concerns with your immediate Line Manager or if this is not appropriate the Town Clerk or Finance & Resources Manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.

5.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation;
- the earlier you express the concern the easier it is to take action.

- 5.3 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.
- 5.4 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

## **6. How the Council will respond**

- 6.1 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.
- 6.2 All disclosures will be treated seriously. The disclosure will be promptly investigated and, as part of the investigatory process, you will be interviewed and asked to provide a written witness statement setting out the nature and details of your disclosure and the basis for it. Confidentiality will be maintained during the investigatory process to the extent that this is practical and appropriate in the circumstances. However, in order to effectively investigate a disclosure, the Council must be able to determine the scope of the investigation and the individuals who should be informed of or interviewed about the disclosure. The Council reserves the right to arrange for another manager to conduct the investigation other than the manager with whom you raised the matter.
- 6.3 Once the investigation has been completed, you will be informed in writing of the outcome and the Council's conclusions and decision as soon as possible. The Council is committed to taking appropriate action with respect to all qualifying disclosures which are upheld.
- 6.4 You will not be penalised for raising a disclosure even if it is not upheld, unless the complaint was both untrue and made in bad faith.
- 6.5 Once the Council's conclusions have been finalised, any necessary action will be taken. This could include either reporting the matter to an appropriate external government department or regulatory agency and/or taking internal disciplinary action against relevant members of staff. If no action is to be taken, the reasons for this will be explained to you.
- 6.6 Where appropriate, the matters raised may:
- be investigated by management, the Internal Auditor, or through the disciplinary process
  - be referred to the police
  - be referred to the external auditor
  - form the subject of an independent inquiry.
- 6.7 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 or discrimination issues) will normally be referred for consideration under those procedures.

- 6.8 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.
- 6.9 Within ten working days of a concern being raised, the responsible person will write to you:
- acknowledging that the concern has been received
  - indicating how the Council 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
  - explaining whether further investigations will take place and if not, why not.
- 6.10 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.
- 6.11 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 6.12 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 to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 6.13 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **7. The Responsible Officer**

- 7.1 The Town Clerk has overall responsibility for the maintenance and operation of this policy. That Officer maintains a record of concerns raised and the outcome (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

## **8 General principles**

- 8.1 Be aware of the importance of eliminating fraud or wrongdoing at work.
- ii) Report anything that you become aware of that is illegal or unlawful.
  - iii) You will not be victimised, subjected to a detriment or dismissed for raising a protected disclosure under this procedure.

- iv) Victimisation of an employee for raising a protected disclosure under this procedure will be a disciplinary offence and will be dealt with under the Council's disciplinary procedure.
- v) Covering up someone else's wrongdoing is also a disciplinary offence.
- vi) Never agree to remain silent about a wrongdoing, even if told to do so by a person in authority, such as your line manager.
- vii) Your right to make a protected disclosure under this procedure overrides any confidentiality provisions in your contract of employment.
- viii) Finally, maliciously making a false allegation is a disciplinary offence.

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

- 9.1 If, on conclusion of the above stages, you reasonably believe that appropriate action has not been taken, you may then report the matter externally to the proper authority in good faith in accordance with the provisions of the Act. The Act sets out a number of prescribed external bodies or persons to which qualifying disclosures may be made. However, the Council always encourages all employees to raise their concerns directly in the first instance, rather than externally. This enables issues to be dealt with promptly and speedily.
- 9.2 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, and if you feel it is right to take the matter outside the Council, the following are possible contact points:
- Public Concern at Work (tel: 020 7404 6609), a registered charity whose services are free and strictly confidential
  - the external auditor
  - your trade union
  - your local Citizens Advice Bureau
  - relevant professional bodies or regulatory organisations
  - a relevant voluntary organisation
  - the police.
- 9.3 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.