



AGENDA

NOTE: In the case of non-members, this agenda is for information only

- Committee** - **STANDARDS COMMITTEE**
- Date & Time** - TUESDAY, 6TH MAY, 2008 AT 2.15 pm
- Venue** - ANGLIA ROOM, CONFERENCE SUITE,
ELIZABETH HOUSE, WALPOLE LOKE,
DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Committee Members

Mr. M. Eveling JP (<i>Independent</i>)	Mr. B. Rayner (<i>Parish</i>)
Mrs. J. Jenkins (<i>Independent</i>)(<i>Chairman</i>)	Mr. G. Ridgway (<i>Independent</i>)
Mr. D. Myers (<i>Breckland</i>)	Mr. F. Sharpe (<i>Breckland</i>)
Mrs. M. Oechsle JP (<i>Parish</i>)	Mr. M. Whittley (<i>Parish</i>)
	Mr. D. Williams JP (<i>Breckland</i>)

Persons attending the meeting are requested to turn off mobile telephones

Committee Services
Elizabeth House, Walpole Loke,
Dereham Norfolk, NR19 1EE

Date: Thursday, 24 April 2008

PART A
ITEMS OPEN TO THE PUBLIC

	<u>Page(s)</u> <u>herewith</u>
1. <u>MINUTES</u>	1 - 4
To confirm the minutes of the meeting held on 15 April 2008.	
2. <u>APOLOGIES</u>	
To receive apologies for absence.	
3. <u>URGENT BUSINESS</u>	
To note whether the Chairman proposes to accept any item as urgent business pursuant to Section 100(B)(4)(b) of the Local Government Act 1972.	
4. <u>DECLARATION OF INTEREST</u>	
Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Members' Code of Conduct requires that declarations include the nature of the interest and whether it is a personal or prejudicial interest.	
5. <u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u>	
To note the names of any non-members wishing to address the meeting.	
6. <u>WHISTLE-BLOWING POLICY</u>	5 - 17
Report of the Chief Accountant.	
7. <u>MEMBERS' CODE OF CONDUCT</u>	
As requested at the last meeting, the Standards Consultant will give a briefing on the provisions of the Code of Conduct for the benefit of new Members of the Committee.	
8. <u>ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND - UPDATE</u>	18 - 20
To consider the new Regulations and Guidance on the new standards committee powers as provided for under Part 10 of the Local Government and Public Involvement in Health Act 2007. A copy of the Explanatory Notes to the new Regulations is attached. The Regulations will come into effect on 8 May 2008.	

9. SUB-COMMITTEES OF STANDARDS COMMITTEES

To consider whether, for the purposes of conducting the new functions of Standards Committees, a structure of sub-committees should be established.

The Standards Consultant will report further at the meeting.

10. LOCAL ASSESSMENT PROCEDURES

The Standards Consultant will give a briefing on the procedures for conducting local assessment of complaints. A number of example cases provided by the Standards Board for England for training purposes will be put to the Committee.

11. NEXT MEETING

To note the date of the next meeting on Tuesday, 27 May 2008 at 2.15 p.m. in the Norfolk Room, Conference Suite, Elizabeth House, Dereham.

BRECKLAND COUNCIL

At a Meeting of the

STANDARDS COMMITTEE

**Held on Tuesday, 15 April 2008 at 2.15 pm in
Norfolk Rooms, Conference Suite, Elizabeth House, Walpole Loke, Dereham**

PRESENT

Mrs J. Jenkins	Mr B.D Rayner
Mr D.S. Myers	Mr F.J. Sharpe
Mrs M. Oechsle JP	Mr M. Whittley
Mr M.D. Eveling JP	Mr G. Ridgway

In Attendance

Susan Allen	- Standards Officer
John Chinnery	- Solicitor & Standards Consultant
Helen McAleer	- Committee Officer

Action By

17/08 CHAIRMAN (AGENDA ITEM 1)

In the absence of the Chairman the Solicitor and Standards Consultant explained that the changes brought about under Part 10 of the Local Government and Public Involvement in Health Act 2007, which came into force on 1 April 2008, lead to a requirement to elect a new Independent Chairman for the ensuing year.

Mrs Joan Jenkins was nominated and seconded. No other nominations were made.

RESOLVED that Mrs Jenkins be elected Chairman for the ensuing year.

Mrs Jenkins assumed the Chair. She immediately suggested that Item 7 be taken as the next item.

18/08 NEW MEMBER (AGENDA ITEM 7)

Mr George Ridgway was welcomed as a new independent lay Member of the Committee. All Committee members introduced themselves.

19/08 MINUTES (AGENDA ITEM 2)

The minutes of the meeting held on 4 March 2008 were confirmed as a correct record and signed by the Chairman.

20/08 APOLOGIES (AGENDA ITEM 3)

Apologies for absence were received from Mr D Williams.

21/08 DECLARATION OF INTEREST (AGENDA ITEM 5)

The following declaration was made:-

Action By

Mr D Myers – personal interest in regard to Agenda Item 10 on the grounds that he knew the Member of Watton Town Council who had been subject to the investigation and also the circumstances of that case.

22/08 SEVENTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES (AGENDA ITEM 8)

The Chairman explained that she had attended the Assembly twice and had found it very useful. Although it was quite costly at approximately £700 per person, it was money well spent.

It was felt that new members of the Committee in particular would benefit from attending the Assembly.

Now that the number on the Committee had increased from four to nine it was suggested that the number of places available should be increased. Previously two members had attended each year, which had represented 50% of the Committee.

Concerns were expressed about the possibility of finding funding for more than two attendees. However, the Solicitor & Standards Consultant considered that now that there was a corporate budget for training, funding might be available.

The Standards Officer agreed to investigate resources to finance the three other members who wished to attend. The Solicitor & Standards Consultant said that with the introduction of the new system it was important for an officer to attend.

RESOLVED that the two new independent members, Mr Eveling and Mr Ridgway would take precedence and be nominated to attend this year but that three other Member places would be allocated if funding was available.

23/08 ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND - UPDATE (AGENDA ITEM 9)

The Solicitor & Standards Consultant advised the Committee that he had still not received the orders. He believed that the new system would come into effect on 1 May 2008 and that there was a need to publicise everything and sort out how to deal with the sub-committees, etc.

According to the evidence received, there would be standard forms in the forthcoming Guidance and he would try and get hold of a draft copy to avoid duplication of effort.

Members asked if there was anything in the pipeline that they might have to deal with in the first few weeks of May and were advised that there was nothing known of at this stage. The Solicitor & Standards Consultant explained that they would have 20 days to deal with complaints.

Action By

It was agreed that an extra meeting would have to be arranged early in May to discuss the new regulations as the papers should have been received by then. If they had not been received, the meeting would be cancelled.

Members then raised the subject of training in general.

A Member mentioned that he had intended to raise the issue of training for Parish and Town Clerks in connection with agenda item 10, as during the Adjudication Panel proceedings it had been mentioned that advice had been sought from the Watton Town Clerk.

The Standards Officer suggested that she could write to all the Clerks asking them what training they needed.

The Solicitor & Standards Consultant advised that he had intended to arrange more training but was waiting for the new regulations to be up and running. He had spoken to the Watton Town Clerk concerned in Agenda Item 10 offering training and that Watton Town Council was to discuss this at its next meeting.

In general discussion it was felt that there was a wide discrepancy in the standards of Parish and Town Clerks but that it was difficult to address this. Training was available, but there were no powers to force Clerks to attend and some were reluctant to accept change.

There were associations such as the National Association of Parish and Town Councils (NAPTC) and the National Association of Local Councils (NALC) which offered advice and training session and had websites for easy access.

The Standards Officer suggested that the Clerks could be invited for a 'get together' to meet each other, exchange ideas and to discuss best practice. Because of the size of the district it might be necessary to hold more than one event, but if they were arranged as social meetings, giving clerks the opportunity to talk through their issues/problems informally, it was hoped that they might be well attended.

It was agreed to include training as an item on the next agenda.

**24/08 STANDARDS BOARD FOR ENGLAND: ADJUDICATION PANEL:
APPEALS TRIBUNAL DECISION: COUNCILLOR J.P.
MCCARTHY, WATTON TOWN COUNCIL (ITEM FOR
INFORMATION)(AGENDA ITEM 10)**

The Solicitor & Standards Consultant explained the delay mentioned in the decision. The Appellant's letter to the Adjudication Panel had actually been sent to the wrong address as it had been assumed that the Panel were based in the same place as the Standards Board. As this had occurred over the Christmas period it had compounded the delay.

There was some discussion about how the decision had been publicised. The Standards Officer advised that the Standards Board

should pay to have a public notice put in the press but this had not been seen. However there had been an article in the Eastern Daily Press and in the Watton & Swaffham Times about this case.

It was also mentioned that the decision was available to view on the Adjudication Panel's website, but not on the Standard Board's website.

25/08 NEXT MEETING (AGENDA ITEM 11)

It was agreed that an extra meeting was required to consider the new Regulations and Guidance for Standards Committees. The Solicitor & Standards Consultant believed that this would be received by the end of April.

An additional meeting was therefore arranged to be held on Tuesday 6 May 2008 at 2.15pm in the Anglia Room, Conference Suite, Elizabeth House, Dereham.

Action By

The meeting closed at 2.57 pm

CHAIRMAN

BRECKLAND COUNCIL**Report of the Chief Accountant to the
GENERAL PURPOSES COMMITTEE – 23 April 2008 and
STANDARDS COMMITTEE – 6 May 2008****Whistleblowing Policy****1. Purpose of Report**

- 1.1 To approve the Whistleblowing policy, that aims to ensure that the staff and public can raise concerns without worrying about being victimised or discriminated against.

2. Recommendations

It is recommended that the Committee:

- 2.1 Approves the Whistleblowing Policy

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3. Information, Issues and Options**3.1 Background**

- 3.1.1 At its meeting on 4th December 2007 the Local Joint Consultative Committee considered the draft Whistleblowing Policy. It made a number of suggested amendments. The policy and recommended amendments were put before Cabinet on 8th January 2008, who approved the revisions, subject to approval by General Purposes Committee

- 3.1.2 The revised policy and guidelines are appended to this report.

3.2 Issues

- 3.2.1 This policy aims to ensure that any concerns can be raised with confidence and without any worry on the part of the whistleblower about being victimised, discriminated against or disadvantaged in any way as a result.
- 3.2.2 This policy is intended to deal with serious or sensitive concerns about inappropriate behaviour concerning a range of activities from suspected fraud to health and safety matters. The complete range is set out in section three of the policy.
- 3.2.3 The policy sets out the procedures reporting concerns as well as the measures that the Council has in place to protect the person raising the concern. It also sets out how the authority will deal with allegations and who will deal with them.
- 3.2.4 Guidance for officers is set out in appendix 1 of the policy and guidance for managers in appendix 2. These set out the actions officers should take if made aware of concerns of inappropriate behaviour. Employees can get independent advice or support from a charitable organisation called Public Concern at Work. Contact details are provided in the policy.
- 3.2.5 The policy and guidelines will be communicated to staff and will be placed on the intranet. It will also form part of the induction pack for new members of staff and the

Members Information Pack. The policy will also be placed on Breckland's website to ensure that external stakeholders know about the procedures for reporting a concern.

3.3 Options

3.3.1 To approve the Whistleblowing Policy

3.3.2 Not to have a Whistleblowing Policy

3.4 Reasons for Recommendation

3.4.1 The Whistleblowing policy aims to ensure that the staff and public can raise concerns without worrying about being victimised or discriminated against.

4. **Risk and Financial Implications**

4.1 Risk

4.1.1 No additional risks arise as a result of replacing the Confidential Reporting Code with this Whistleblowing Policy

4.2 Financial

4.2.1 None

5. **Legal Implications**

5.1 Public Interest Disclosure Act 1998

6. **Other Implications**

- a) Equalities: No - implicit within process
- b) Section 17, Crime & Disorder Act 1998: Reporting of potential fraudulent activities may result in criminal proceedings
- c) Section 40, Natural Environment & Rural Communities Act 2006: None
- d) Human Resources: None
- e) Human Rights: None
- f) Other: None

7. **Alignment to Council Priorities**

7.1 The nature of the policy covers the full range of council services and priorities

8. **Ward/Community Affected**

8.1 All

Lead Contact Officer:

Name/Post: Mark Finch, Chief Accountant

Telephone: 01362 656870

Email: Mark.finch@breckland.gov.uk

Appendices attached to this report:

Whistleblowing Policy

BRECKLAND COUNCIL

WHISTLEBLOWING POLICY

Contents

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 - 5. PROTECTING THE WHISTLEBLOWER**
 - 6. ANONYMOUS ALLEGATIONS**
 - 7. UNTRUE ALLEGATIONS**
 - 8. HOW TO RAISE A CONCERN**
 - 9. HELP FOR THE WHISTLEBLOWER**
 - 10. THE COUNCIL'S RESPONSE**
 - 11. THE OFFICER RESPONSIBLE FOR THIS WHISTLEBLOWING POLICY**
 - 12. WHAT IF A CONCERN INVOLVES OFFICERS INVOLVED IN THE WHISTLEBLOWING POLICY?**
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- APPENDIX 1 – GUIDANCE FOR EMPLOYEES – HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR**
- APPENDIX 2 GUIDANCE FOR MANAGERS – HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR**

1. WHAT IS WHISTLEBLOWING?

- 1.1 Public Concern at Work (a charity which provides independent advice and information on whistleblowing) draws the following distinction between whistleblowing and pursuing a complaint.

“When someone blows the whistle they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern - they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.”

2. STATEMENT OF INTENT

- 2.1 Employees, councillors and others who deal with the Council may be the first to spot things that may be wrong or inappropriate within the Council. However, they might not say anything because they think this would be disloyal, or they might be concerned that their suspicions are unjustified or might turn out to be so after enquiry. They may also be worried that they or someone else might be victimised, or are unclear with whom to raise their concern.
- 2.2 Members of the public may also have concerns, but be unsure how and when to express them.
- 2.3 Breckland Council has produced this Whistleblowing Policy to help
- councillors
 - employees (including temporary and agency staff)
 - others with whom the Council has dealings (e.g. contractors, suppliers and voluntary organisations), and
 - members of the public
- to understand how and when to contact the Council with their concerns.
- 2.4 The Council is committed to maintaining an open culture with the highest standards of honesty and accountability. It takes all inappropriate behaviour very seriously and is committed to investigating any genuine concerns raised with it.
- 2.5 This policy aims to ensure that any concerns can be raised with confidence and without any worry on the part of the whistleblower about being victimised, discriminated against or disadvantaged in any way as a result.
- 2.6 The Council’s aim is that the situation and career of any member of staff should not be harmed or hindered in any way as a result of his or her disclosure, provided the reporting was done in good faith and in accordance with the guidance in Appendix 1.

3. WHAT TYPES OF ACTION ARE COVERED BY THE POLICY?

- 3.1 This policy is intended to deal with serious or sensitive concerns about inappropriate behaviour, such as the following.
- any criminal offence, particularly fraud or corruption
 - unauthorised use of Council money *

- a failure to comply with a legal obligation
- the endangering of an individual's health and safety
- unnecessary damage to the environment (for example, by pollution)
- a person abusing their position for any unauthorised purpose or for personal gain*
- a person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Strategy to help fight Fraud and Corruption, the Officer's or Members' Code of Conduct)*
- a person failing to meet appropriate professional standards*
- deliberate concealment of information relating to any of the above.

*These are additional categories beyond those referred to in the Public Interest Disclosure Act 1998.

- 3.2 An employee has a duty to report, when certain or even reasonably aware of, an occurrence included in the above list of disclosures
- 3.3 Failure by an employee to notify the Council internally before reporting concerns externally, without good cause, is also regarded as misconduct.
- 3.4 Concerns may be about conduct of councillors, employees, people who work for the Council in some other capacity, suppliers, or people who provide services to the Council, relating to issues that are occurring now, which took place in the past or are likely to happen in the future.

4. WHAT IS NOT COVERED?

- 4.1 This policy is not for matters that are covered by other procedures, such as:
- employees' complaints about their terms and conditions of employment. These matters are dealt with through the Grievance Procedure.
 - complaints from members of the public about the Council's services. These are dealt with through the Council's Complaints Procedure.

5. PROTECTING THE WHISTLEBLOWER

- 5.1 In accordance with the Public Interest Disclosure Act 1998, Breckland Council undertakes to protect, as best it can, an employee who blows the whistle, from personal claims, victimisation, harassment or bullying as a result of his or her disclosure and will not initiate any disciplinary action against them so long as the disclosure was:
- made in good faith
 - reasonably believed to be substantially true, and
 - not made for personal gain
- 5.2 Any employee or councillor taking any reprisal or similar action against a whistleblower because he or she has made a protected disclosure under this policy, will be subject to disciplinary action by the Council.
- 5.3 The Council will, at the request of the whistleblower, keep the nature of concerns confidential. It will not reveal names or positions without permission, unless it has to by law, or an enquiry results in a criminal investigation in which the whistleblower might be

required as a witness. Whistleblowers should be aware, however, that the fact that enquiries are being made might, of itself, result in their identity becoming known.

- 5.4 All these things will be explained at the time a concern is raised so the whistleblower can decide whether or not to proceed. The Council will also keep the whistleblower informed if the situation significantly changes.
- 5.5 Where an employee acts in a malicious way (for example by leaking information to the press or before the Council has had a chance to investigate and put the matter right), the protection outlined above will not apply and the employee may be subject to disciplinary action, which could result in summary dismissal for gross misconduct.

6. ANONYMOUS ALLEGATIONS

- 6.1 The Council encourages whistleblowers to give their name when making an allegation. It will do all it can to protect the whistleblower. Concerns raised anonymously tend to be far less effective and if, for example, the Council does not have enough information, it may not be able to investigate the matter at all.
- 6.2 Also, from a practical point of view, it is impossible to provide protection to a person whose identity is unknown and more difficult to judge whether the concern is made in good faith or maliciously.
- 6.3 If whistleblowers feel that they cannot give their name, the Council will make a judgement on whether or not to consider the matter depending upon such things as:
- the seriousness of the issue
 - whether the concern is believable; and
 - whether it can carry out a sufficient investigation based on the information provided

7. UNTRUE ALLEGATIONS

- 7.1 If a whistleblower makes an allegation which they believe is true, but it is not confirmed by an investigation, the Council will not take any action against them.
- 7.2 However, if a whistleblower makes a deliberately false or malicious allegation which they know is untrue, the Council will take appropriate disciplinary or legal action against them. Allegations of this nature are not protected by the Public Interest Disclosure Act 1998.

8. HOW TO RAISE A CONCERN

- 8.1 Whistleblowers should not attempt to investigate any concern themselves, but raise their concern using one of the avenues shown below.
- 8.2 A Council employee should first raise a concern with their manager or director. Guidance to employees on how to proceed is contained in the document "**Guidance for employees - How to react to concerns of inappropriate behaviour**" – see Appendix 1.
- 8.3 Guidance to managers on how to deal with a concern is contained in the document "**Guidance for Managers – How to react to concerns of inappropriate behaviour**" – see Appendix 2.
- 8.4 If the employee feels that it is inappropriate to raise a concern with their manager or director given the person involved and/or the seriousness or sensitivity of the matter, contact should be made with one of the following officers
- South Norfolk Council's Audit Manager

- Chief Accountant (as the section 151 officer)
- Deputy Chief Executive (as the Council's Whistleblowing Officer and the Monitoring Officer)
- Human Resources Manager
- The Head of Environmental Health (as the senior officer responsible for environmental matters)

These officers are not listed in any preferential order of contact

8.5 People who do not work for the Council can contact the Council's Whistleblowing Officer direct in any of the following ways.

- by writing to the Whistleblowing and Monitoring Officer at: Breckland Council, Elizabeth House, Walpole Loke, Dereham, Norfolk NR19 1EE. Please write 'Private and Confidential' on your envelope

8.6 Whistleblowers are encouraged to raise concerns promptly, in writing, giving as much information as possible, such as relevant background, names, dates, places and the reason for their concern. However, concerns can be raised by telephone or by meeting the appropriate officer. The earlier a concern is raised, the easier it will be to take effective action.

8.7 Although it will not be necessary to prove beyond doubt that an allegation is true, a whistleblower will be expected to demonstrate that there are reasonable grounds for voicing their concern.

8.8 Any whistleblower will be asked to declare any personal interest they may have in the concern being raised.

8.9 In matters concerning the health, safety and welfare of those on our premises (whether members of staff, contractors or visitors) anyone, including an elected safety representative, who becomes aware of a hazard (actual or potential) or dangerous occurrence should immediately notify the Health and Safety Advisor, before contacting any outside body, to ensure that immediate action can be taken if necessary to deal with the hazard. Contact can be made by telephone, email or the sending of a written report as appropriate to the situation.

9. HELP FOR THE WHISTLEBLOWER

9.1 People who do not work for the Council might want to discuss their concern with a friend or colleague first. They may then find it easier to raise a concern if others share the same experiences or concerns.

9.2 For employees, trade union representatives can give general support and advice, or act on their behalf if this would help. This could be useful, particularly if the employee wishes to remain anonymous, to the extent that is possible.

10. THE COUNCIL'S RESPONSE

10.1 The Council will treat concerns seriously and sensitively and take action consistent with the information provided. If possible, immediate steps will be taken to remedy the situation. Otherwise, the Council will make initial enquiries to decide whether an investigation is appropriate and, if so, what form it should take.

- 10.2 Investigation may be carried out by the Council's management, its internal auditors, or through the disciplinary process, or it may:
- be referred to the police
 - be referred to the Council's external auditor; or
 - form the subject of an independent enquiry.
- 10.3 If the concern or allegation should be handled under any other procedure or policy, it will be passed on to the relevant person and the whistleblower advised accordingly.
- 10.4 Within 10 working days of a concern being raised, the officer dealing with the matter (the relevant officer) will write to the whistleblower to:
- acknowledge receipt of the concern and confirm the details of the concern if it was given verbally;
 - explain how the concern will be handled;
 - detail any initial enquiries that have been made;
 - state whether further investigation will take place and, if not, why not;
 - give an estimate of how long it will take to provide a final answer if further investigation is to be done, and
 - advise what support is available to the whistleblower.
- 10.5 The amount of further contact with the relevant officer will depend on the nature of the concern, the potential difficulties involved, and how clear the information is which has been given.
- 10.6 Meetings with the relevant officer will normally take place at the Council's offices but can be arranged elsewhere. At any meetings, the whistleblower can be accompanied by a friend or a representative from a trade union or professional association.
- 10.7 The Council will take steps to reduce any difficulties that may be experienced as a result of raising a concern. For instance, if the whistleblower needs to give evidence in criminal or disciplinary proceedings, the Council will provide support and advice on the procedures.
- 10.8 The Council will give feedback to the whistleblower on the outcome of any investigation to the extent the law permits and with consideration for any personal issues involved. If no action is taken by the Council, the whistleblower will be told why.

11. THE OFFICER RESPONSIBLE FOR THIS WHISTLEBLOWING POLICY

- 11.1 The Deputy Chief Executive is the Council's Whistleblowing and Monitoring Officer and a senior officer in the Council who can take an independent view of any concerns raised.
- 11.2 All concerns raised and the outcomes will be reported to the Overview and Scrutiny Commission annually in a form that does not endanger confidentiality.

12. WHAT IF A CONCERN INVOLVES THE OFFICER INVOLVED IN THE WHISTLEBLOWING POLICY?

12.1 If a concern involves one of the officers listed at paragraph 8.4 and 8.5 above, or if the whistleblower believes such officer may be biased, the matter should be referred directly to the Chief Executive.

12.2 If a concern involves the Chief Executive, the matter should be referred to the Monitoring Officer.

13. TAKING MATTERS TO AN EXTERNAL BODY

13.1 If a whistleblower feels unable or is unwilling to raise their concerns directly with the Council, they could contact:

- the Audit Commission's dedicated telephone hotline for receiving disclosures – 0845 0522 646
- the local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- the Environment Agency
- Public Concern at Work (see contact details below)
- the police (if it is potentially a criminal matter)
- the Health and Safety Executive.

13.2 Alternatively, if a whistleblower, having raised a concern directly with the Council, is not satisfied with the outcome, they can also contact any of the above organisations.

13.3 Before taking matters to an external body, the Council would advise the whistleblower to seek independent legal advice.

13.4 If the whistleblower decides to take the matter outside the Council, they should ensure that they do not disclose information about a third party, e.g. a company or private individual, which may be covered by a duty of confidentiality. Independent legal advice should address this matter.

14. INDEPENDENT ADVICE FOR EMPLOYEES

14.1 Employees can get independent advice or support from a charitable organisation called Public Concern at Work. Their address is:

Suite 301
16 Baldwin Gardens
London
EC1N 7RJ
Tel: 020 7404 6609
Fax: 020 7404 6576
Email: whistle@pcaw.co.uk

Appendix 1

GUIDANCE FOR EMPLOYEES

HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action you take when you suspect inappropriate behaviour may have happened, or be about to happen, can be crucial. Inappropriate behaviour is described in the Council's Whistleblowing Policy as:

- Any criminal offence, particularly fraud or corruption
- Unauthorised use of Council money
- A failure to comply with a legal obligation
- The endangering of an individual's health and safety
- Unnecessary damage to the environment (for example, by pollution)
- A person abusing their position for any unauthorised use or for personal gain
- A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Strategy to help fight Fraud and Corruption, the Officers' or Members' Code of Conduct)
- A person failing to meet appropriate professional standards
- Deliberate concealment of information relating to any of the above.

Following these simple rules should help the Council in carrying out enquiries into any concerns you have.

DO

- ✓ **Make an immediate note of your concerns.**
Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.
- ✓ **Convey your suspicions to someone with the appropriate authority and experience in accordance with the Council's Whistleblowing Policy.**
- ✓ **Deal with the matter promptly if you feel your concerns are warranted.**
Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

DON'T

- ✗ **Do nothing.**
- ✗ **Be afraid of raising your concerns.**

You will not suffer any recrimination from the Council as a result of voicing a reasonably held suspicion. The Council will treat the matter sensitively and

confidentially, and will take reasonable steps to protect anyone who raises a well intentioned concern.

✘ Approach or accuse any individuals directly.

✘ Try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence. Any attempt to gather evidence by people who are unfamiliar with these rules may weaken or destroy any future prosecution should that be thought appropriate.

✘ Convey your suspicions to anyone other than those indicated in the Council's Whistleblowing Policy.

The Public Interest Disclosure Act 1998 - will protect you from any reprisals as long as you meet the rules set out in the Act. The rules are:

- **You must disclose the information in good faith**
- **You must believe it to be substantially true**
- **You must not seek any personal gain**

Appendix 2

GUIDANCE FOR MANAGERS

HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action you take when you identify, or are made aware of, suspected inappropriate behaviour can be crucial in determining the success of any subsequent enquiries. Inappropriate behaviour is described in the Council's Whistleblowing Policy as:

- Any criminal offence, particularly fraud or corruption
- Unauthorised use of Council money
- A failure to comply with a legal obligation
- The endangering of an individual's health and safety
- Unnecessary damage to the environment (for example, by pollution)
- A person abusing their position for any unauthorised use or for personal gain
- A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Strategy to help fight Fraud and Corruption, the Officers' or Members' Code of Conduct)
- A person failing to meet appropriate professional standards
- Deliberate concealment of information relating to any of the above.

Following these simple rules will help to ensure that matters are properly handled.

As a manager you should familiarise yourself with both the Council's Strategy to help fight Fraud and Corruption and its Whistleblowing Policy

DO✓ **Be responsive to employees' concerns.**

As part of the Council's anti-fraud and corruption culture, you should encourage employees to voice any reasonably held suspicion. As a manager you should treat all employees' concerns seriously and sensitively.

✓ **Note details.**

Get as much information as possible from the employee reporting the suspicion and encourage them to record this in writing. If the employee has made any notes, request access to these.

Note any documentary evidence which may exist to support the allegations made, but do not interfere with this evidence in any way.

✓ **Evaluate the allegation objectively**

Before you take the matter further determine whether any suspicions appear to be justified.

Be objective when evaluating the issue. Consider the facts as they appear based on information you have to hand.

If in doubt, report your suspicions anyway.

If you consider that no further action is necessary, you should still record your decision and inform the Monitoring Officer of the original notification details.

✓ **Advise the appropriate person**

If you feel that a suspicion is justified advise an appropriate officer in accordance with the Council's Whistleblowing Policy

✓ **Deal with the matter promptly if you feel your concerns are warranted.**

Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

DON'T

✗ **Ridicule suspicions raised by employees**

The Council cannot operate an effective anti-fraud and corruption culture or Whistleblowing Policy if employees are reluctant to pass on their concerns to management due to fear of ridicule or recrimination.

You need to ensure that all employee concerns are given a fair hearing. You should reassure employees that they will not suffer recrimination by raising any reasonably held suspicion.

✗ **Approach or accuse any individuals directly**

✗ **Convey your suspicions to anyone other than those indicated in the Council's Whistleblowing Policy**

✗ **Try to investigate the matter yourself**

Investigations by employees who are unfamiliar with the requirements of evidence are highly likely to jeopardise a successful outcome. They may also alert the suspect and result in the destruction of evidence.

Your primary responsibility is to report the issue and all associated facts to the appropriate officer, wherever possible.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 53 of the Local Government Act 2000 (“the Act”) requires relevant authorities in England and Wales (defined in section 49(6) of the Act) to establish standards committees to exercise functions conferred under Part 3 of the Act. Section 57A of the Act, (inserted with sections 57B to 57D, and section 58) by section 185 of the Local Government and Public Involvement in Health Act 2007 enables people to make a written allegation to the standards committee of a relevant authority in England that a member or co-opted member (or former member or former co-opted member) of the authority has failed to comply with the authority’s code of conduct. These Regulations make provision for dealing with such allegations and confer powers on the monitoring officer of the relevant authorities concerned to carry out investigations. They also make provision for standards committees to reach decisions on allegations and to impose sanctions, and for appeals to tribunals of members of the Adjudication Panel for England (“appeals tribunals”).

Regulations 1 to 3 contain citation, commencement and interpretation provisions. Regulation 4 requires standards committees to consist of at least 25% independent members and restricts the number of members of the executive of authorities operating executive arrangements who may be members of the committee. Where an authority is responsible for parish councils it is a requirement that at least two members of the standards committee are parish councillors who are not also members of the responsible authority.

Regulation 5 makes provision as to the appointment to standards committees of independent members and parish councillors. The effect of paragraphs (3) and (4) is to permit standards committees to appoint persons who are independent members of the standards committees of other authorities for specified periods of time, or to sit on a committee or sub-committee considering a particular allegation or set of allegations.

Regulations 6 and 7 require standards committees to establish sub-committees, each chaired by an independent member, to undertake the initial assessment of allegations under section 57A of the Act. Differently constituted sub-committees, chaired by different independent members, must also be established to consider any request under section 57B of the Act to review decisions to take no action in respect of allegations made under section 57A of the Act. Standards committees may decide to establish sub-committees to consider reports or hold hearings, which must also be chaired by an independent member. At least three of its members must be present at meetings of a standards committee, or sub-committee of a standards committee, which must include at least one elected member of the authority. If a meeting is convened to consider an allegation against a parish councillor, the committee or sub-committee must include a parish councillor drawn from any of the parish councils for which the authority is responsible who is not also a member of the responsible authority.

Regulation 8 makes provision as to public access to meetings and documents of standards committee proceedings. Where a sub-committee of a standards committee is considering an allegation against a member under section 57A of the Act or a request under section 57B of the Act to review a decision to take no action, there is no public right of access to the meetings or documents. The sub-committee is required to produce a written summary of its consideration of those matters, which is to be made available to the public. Otherwise, the proceedings of standards committees and sub-committees of standards committees are to be open to the public in a manner similar to that in which other proceedings of local authorities are made open (see Part 5A of the Local Government Act 1972 (c. 70)). Standards committees of responsible authorities are required to supply certain information and documents to the parish councils for which they are responsible.

Regulation 10 requires standards committees to publicise the address or addresses to which written allegations of misconduct should be sent and to keep published details up to date.

Regulation 11 modifies the duty otherwise applicable to standards committees to give a written summary of an allegation to the subject of that allegation in situations where it would be contrary to the public interest or would prejudice an investigation to provide that summary. In circumstances where a standards committee is not required to provide a written summary of an allegation at the time it receives the allegation, it must provide a written summary to the subject of the allegation before any hearing is convened under regulation 17 or 18 to consider any report on the allegation.

Regulation 12 prohibits monitoring officers from disclosing information they have obtained either through their investigation, or which has been supplied to them by an ethical standards officer, otherwise than for the purposes set out in section 63 of the Act, as modified by regulation 12. The modification authorises disclosure of information obtained for the purpose of enabling a standards committee, sub-committee of a standards committee or an appeals tribunal drawn from the Adjudication Panel for England, to perform any of their functions under Part 3 of the Act or Regulations made under that Part.

Regulation 13 makes provision in respect of cases where a sub-committee of a standards committee or ethical standards officer refers a matter to a monitoring officer with a direction to take steps other than carry out an investigation. A direction may require the monitoring officer to arrange for a member to attend a training course, to engage in a process of conciliation or to take such other steps as appear appropriate. The monitoring officer must report back to the standards committee or ethical standards officer and the regulation makes provision as to the steps they must take when they receive such a report.

Regulation 14 makes provision for monitoring officers to carry out an investigation into an allegation that a member or co-opted member (or former member or former co-opted member) has failed to comply with an authority's code of conduct. It makes provision as to who must receive notice that the matter has been referred for investigation, and confers powers on the monitoring officer to request information or an explanation of matters from any person and to require authorities to provide advice and assistance. The monitoring officer may apply to refer a matter back to the ethical standards officer who originally referred it and the ethical standards officer must notify the monitoring officer whether the referral back is accepted. Following an investigation, the monitoring officer must submit a report to the standards committee indicating whether in the opinion of the monitoring officer the person who is the subject of the report has failed to comply with the authority's code of conduct.

Regulation 15 requires a monitoring officer to send a copy of a report received from an ethical standards officer following an investigation, to the person who is the subject of the report and to refer the report to the standards committee for consideration under regulation 17.

Regulation 16 sets out the circumstances in which a monitoring officer may refer a matter back to the standards committee for reconsideration as to how an allegation that a person has failed to comply with an authority's code of conduct should be dealt with. The circumstances are:

- (a) the receipt of new evidence or information that leads the monitoring officer to form the opinion that the matter is more (or less) serious than may have appeared to the standards committee and that the standards committee would have made a different decision if the evidence or information had been available to them;
- (b) the death or serious illness of the person against whom the allegation was made; and
- (c) the resignation of that person from the authority concerned.

Regulation 17 deals with a standards committee's consideration of reports received from monitoring officers. The committee must make one of the following findings:

- (a) that it accepts the monitoring officer's findings that there has been no failure to comply with an authority's code of conduct;

- (b) that the matter should be considered at a hearing under regulation 18; or
- (c) that the matter should be referred to the Adjudication Panel for England for determination.

The regulation also imposes requirements as to notification and publication of its findings.

Regulation 18 deals with the procedure for the holding of a hearing. At any time before the conclusion of a hearing, a standards committee may, where the case under consideration has been investigated by an ethical standards officer, ask that ethical standards officer to take it back for further investigation. If the ethical standards officer does not agree to the referral the standards committee must continue with the hearing.

Regulations 19 and 20 make provision as to the findings available to a standards committee following a hearing, the sanctions which it may impose on a person if it finds that the person has failed to comply with an authority's code of conduct and the manner in which those findings are to be notified and publicised.

Regulation 21 allows a person against whom a failure to comply with an authority's code of conduct has been made to seek permission from the president or deputy president of the Adjudication Panel for England to appeal against the finding and any sanction imposed, and to apply for the suspension of any sanction.

Regulations 22 to 25 deal with the conduct of appeals, the composition of appeals tribunals, the procedure to be followed and the notification of, and publicity to be given to, decisions of appeals tribunals.

Regulation 26 and the Schedule to the Regulations amend the Relevant Authorities (Standards Committee) Regulations 2001 (SI 2001/2812) and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (SI 2003/1483). The effect of the amendments is to disapply those Regulations in respect of English authorities. They continue to apply to police authorities in Wales.