

**BRECKLAND COUNCIL**

**WHISTLEBLOWING POLICY**

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## The Whistleblowing Policy

**THIS POLICY SHOULD BE READ IN CONJUNCTION WITH THE COUNCIL'S DISCIPLINARY POLICY AND PROCEDURES, STAFF AND MEMBER CODES OF CONDUCT.**

### INTRODUCTION TO THE POLICY

#### 1. What is Whistleblowing?

1.1 Whistleblowing is the raising of a significant concern. These concerns may cover issues of fraud, misconduct, or illegality, and this policy is designed to ensure that people know how to raise a genuine concern, and can do so in the knowledge that they will not face reprisal for their action.

1.2 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. What is the purpose of the Whistleblowing Policy

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, partners, 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.
- 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.

## **AIMS AND SCOPE OF THE POLICY**

### **3. What types of concern are covered by the policy?**

- 3.1 This policy is intended to deal with serious or sensitive concerns about inappropriate behaviour. The Public Interest Disclosure Act 1998 outlines that a “protected” disclosure of a concern is one which demonstrates one or more of the following:
- A criminal offence has been committed, or is likely to be committed
  - Disclosures related to a miscarriage of justice
  - 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)
  - Deliberate concealment of information relating to any of the above.
- 3.2 Beyond the legal context above, the Council would encourage employees, members of the public, and any other interested parties to raise any significant concerns that they may have, as soon as they are reasonably aware of them. These concerns could be about any aspects of the Council’s activities, e.g. with reference to Council employees, Members, or suppliers acting on behalf of the Council, and relate to issues that are either occurring now or likely to happen in the future.

### **4. What is not covered by the Policy?**

- 4.1 The Council has a number of policies and procedures to address other matters, for example:
- Employees’ complaints about their terms and conditions of employment. These matters are dealt with through the Grievance Procedure.
  - Instances of bullying and harassment of Council’s employees are dealt with through the Harassment and Bullying Prevention Policy.
  - Complaints from members of the public about the Council’s services. These are dealt with through the Council’s Complaints Procedure.
  - Concerns with reference to members should be referred to the Monitoring Officer and / or the Standards Committee

## **SAFEGUARDS**

### **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. This assurance is not extended to someone who maliciously raises a matter they know is untrue; such instances may be subject to the Council's disciplinary procedures.
- 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. Where possible, the Council will make you aware if your identity is likely to be compromised through investigation.
- 5.4 All these matters 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.

### **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. Assurances to third parties**

- 7.1 The assurances provided to employees raising concerns set out in section 5 above cannot be given in the same way to third parties. For example, the Council cannot guarantee protection to employees of third party (contractor) organisations. However,

we expect that all contractors are aware of the Council's whistleblowing procedures, and act in accordance with these.

- 7.2 Further, with regard to members of the Public, whilst they are not afforded statutory protection in the same way as employees, the Council is committed to treating all citizens fairly. Raising a concern under this policy will not affect the rights of any council citizens as set out within the Council's Constitution.

## **8. Untrue Allegations**

- 8.1 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.
- 8.2 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.

## **HOW TO RAISE A CONCERN**

### **9. Guidance for Members of the Public, Contractors, Councillors and Partners**

- 9.1 Members of the Public, Contractors and Councillors and those involved with partner organisations who suspect a Council Employee, another Councillor, Organisational Partners or other Contractors (in their dealings with the Council) of impropriety or illegality should contact one of the following:
- The Chief Executive
  - The Deputy Chief Executive (who acts as the Monitoring Officer)
  - Any other Council Director
  - Head of Internal Audit
  - If your concern relates to one of the above officers, you should contact the Audit Commission, as the Council's External Auditor.

All contact details are included within **Appendix 1** of this policy.

### **10. Guidance for Employees**

- 10.1 Whistleblowers should not attempt to investigate any concern themselves, but raise their concern using one of the avenues shown below.
- 10.2 A Council employee should first raise a concern with their manager or Head of Service. 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 2**.
- 10.3 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 3**.

- 10.4 If the employee feels that it is inappropriate to raise a concern with their manager given the person involved and/or the seriousness or sensitivity of the matter, contact should be made with one of the following officers
- The Chief Executive
  - Deputy Chief Executive
  - Officers in the Council's Management Team
  - Assistant Director, Finance
  - HR Manager
  - Legal Manager
  - Head of Internal Audit
- 10.5 If your concern relates to any of the Officers above, this should be referred to the Chief Executive. If your concern relates to the Chief Executive, then this matter can be raised with the Leader of the Council (or the Deputy Leader of the Council if the Leader is unavailable) or the Audit Commission, as the Council's External Auditors.
- 10.6 Whistleblowers are encouraged to raise concerns promptly and where possible 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.
- 10.7 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.
- 10.8 Any whistleblower will be asked to declare any personal interest they may have in the concern being raised.
- 10.9 The Council has developed procedures as to how whistleblowing concerns should be reviewed and investigated. It is recommended that anyone who raises a concern refers to these to identify the next course of action that will be taken in response to the issue raised.
- 10.10 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.

## **11. Sources of support for the whistleblower**

- 11.1 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.

- 11.2 For employees who are members of a union, 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.
- 11.3 The Council will encourage the trade unions to support any member of staff who raises a concern with them.
- 11.4 The Council further welcomes any member of staff to consult with Public Concern at Work if they are not sure about whistleblowing. Public Concern at Work are an independent charity who provide confidential support and advice to whistleblowers through a telephone helpline and the internet. Further details for Public Concern at Work are included in **Appendix 1**.

## **12. Raising issues with an external party**

- 12.1 Concerns are most readily addressed where they are raised internally in the first instance. However, there may be situations where you feel it is inappropriate to raise the concern internally, or unable to do so. Alternatively, you may have already raised a concern and are dissatisfied with the outcome. In these situations, there are a number of other parties to whom you may turn:
- The Audit Commission's dedicated telephone hotline for receiving disclosures
  - Relevant Regulatory Organisations (e.g. the Environment Agency, Health and Safety Executive or Local Government Ombudsman)
  - The Police (where a criminal matter is involved)
  - Public Concern at Work
- Contact details for all parties are included within **Appendix 1**.
- 12.2 Before consulting an external party, the Council recommends that the whistleblower seeks independent legal advice (disclosure to a legal advisor is protected by law). The law most readily protects disclosures that are seen to be "reasonable", i.e. disclosures that are made within the Council, or to an appropriate regulator at an early stage. If the matter is taken outside of the Council, the whistleblower should ensure they do not disclose information about a third party that may be covered by a duty of confidentiality (e.g. commercially sensitive information or personal, private data).

## **RESPONSIBILITY FOR WHISTLEBLOWING**

### **13. Responsible Officer for Whistleblowing**

- 14.1 The Council's Deputy Chief Executive (as Monitoring Officer) is the Senior Officer in the Council who can take an independent view of any concerns raised.
- 14.2 All concerns raised will be handled in line with the Whistleblowing Procedural Guidance.

#### **14. Responsibility for the Whistleblowing Policy**

- 14.1 All concerns raised and the outcomes will be reported to the Accounts and Audit Committee and the Standards Committee annually in a form that does not endanger confidentiality.
- 14.2 This policy is to be reviewed at least every 3 years (or more frequently if required by changes to statutory legislation) and approved by the Audit Committee. Subsequent to any approval, the following parties shall be consulted:
- Senior Council Officers responsible for receiving whistleblowing concerns
  - Joint Consultative Committee
  - General Purposes Committee
  - Standards Committee
  - Audit Committee
- 14.3 On an annual basis, **Appendix 1** of the policy, which provides details of the key parties responsible for whistleblowing, shall be reviewed by the Deputy Chief Executive and Head of Internal Audit to ensure that details remain relevant and up-to-date. This review will not require re-endorsement of the policy.

**Contacts for Whistleblowing****Raising concerns internally**

<u>Chief Executive</u>	<u>Terry Huggins</u> <a href="mailto:chief.executive@breckland.gov.uk">chief.executive@breckland.gov.uk</a>
<u>Deputy Chief Executive</u>	<u>TBC</u>
<u>Business Development Manager</u>	<u>TBC</u>
<u>Commissioning Director</u>	<u>TBC</u>
<u>Monitoring Officer</u>	<u>TBC</u>
<u>Head of Internal Audit</u>	<u>Sandra King</u> <a href="mailto:scking@s-norfolk.gov.uk">scking@s-norfolk.gov.uk</a> <u>01508 533863</u>
<u>Assistant Director, Finance</u>	<u>TBC</u>
<u>Legal Manager</u>	<u>TBC</u>
<u>Human Resources Manager</u>	<u>TBC</u>

## **Raising Concerns Externally**

<p><b><u>Public Concern at Work</u></b> - <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a></p> <p>For support with how to raise concerns, and action to take</p>	<p>Public Concern at Work 3<sup>rd</sup> Floor Bank Chambers 6-10 Borough High Street London SE1 9QQ</p> <p><u>020 7404 6609</u> <a href="mailto:helpline@pcaw.co.uk">helpline@pcaw.co.uk</a></p>
<p><b><u>Audit Commission Complaints Investigation Officer</u></b> - <a href="http://www.audit-commission.gov.uk">www.audit-commission.gov.uk</a></p> <p>For issues relating to financial probity and governance</p>	<p>1<sup>st</sup> Floor, Millbank Tower Millbank London SW1P 4HQ</p> <p><u>0845 0522646</u></p>
<p><b><u>The Local Government Ombudsman</u></b></p> <p>The Commission for Local Administration in England</p> <p>For Complaints against Councils – will cover all complaints</p>	<p>The Oaks No 2. Westwood Way Westwood Business Park Coventry CV4 8JB</p> <p><u>0845 6021983</u></p>
<p><b><u>Norfolk Constabulary</u></b></p> <p>For all breaches of the law (except as noted below)</p>	<p>Operations and Communications Centre Jubilee House Falconers Chase Wymondham Norfolk NR18 OWW <u>0845 456 4567</u></p>

<p><b><u>Serious Fraud Office – <a href="http://www.sfo.gov.uk">www.sfo.gov.uk</a></u></b></p> <p>Fraud and Corruption issues</p>	<p>Elm House 10-16 Elm Street London WC1X 0BJ</p> <p><u>0207 239 7388</u></p>
<p><b><u>Serious Organised Crime Agency – <a href="http://www.soca.gov.uk">www.soca.gov.uk</a></u></b></p> <p>For Money Laundering Issues</p>	<p>PO Box 8000 London SE11 5EN</p> <p><u>0370 496 7622</u></p>
<p><b><u>The Health and Safety Executive – <a href="http://www.hse.gov.uk">www.hse.gov.uk</a></u></b></p>	<p>Lakeside 500 Old Chapel Way Broadland Business Park Norwich Norfolk NR7 0WQ</p> <p><u>0845 345 0055</u></p>
<p><b><u>The Environment Agency – <a href="http://www.environment-agency.gov.uk">www.environment-agency.gov.uk</a></u></b></p> <p>For environmental crimes</p>	<p>National Customer Contact Centre PO Box 544 Rotherham S60 1BY</p> <p><u>0800 80 70 60</u></p>

**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 Counter Fraud Strategy, the Employees' 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 reasonably believe it to be substantially true**
- **You must not seek any personal gain**

## 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 Counter Fraud Strategy, the Employees' 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 also 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.**