

BRECKLAND COUNCIL

WHISTLEBLOWING POLICY

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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 Failure by an employee to report, when certain or even reasonably aware of, an occurrence included in the above list of disclosures is regarded by the Council as misconduct
- 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.

9.3 The Council will encourage the trade unions to support any member of staff who raises a concern with them.

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 [???? **Which 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.