

## Appendix 2

### WHISTLEBLOWING POLICY AND PROCEDURE

#### 1. INTRODUCTION

1.1 Gedling Borough Council is committed to ensuring that it, and the people working for it, complies with the highest standards of integrity, openness, honesty and accountability.

1.2 The term whistleblowing has a specific legal definition, i.e. a disclosure or allegation of serious wrongdoing made by an employee, and a wider public definition, i.e. any disclosure or allegation of serious wrongdoing made by anyone.

1.3 This policy seeks to cover both disclosures and allegations of serious wrongdoing made by employees and members of the public, and to this end, where this policy makes reference to a whistleblower; it refers to any individual (including Gedling Borough Council employees and/or members of the public) who is making a disclosure or allegation of serious wrongdoing.

1.4 Where any individual, irrespective of whether that individual is either a Gedling Borough Council employee, a worker for a Council contractor (including seconded Council employees) or a member of the public, is aware of any serious wrongdoing, such as:

- Breach of a legal obligation;
- Any criminal activity, including incitement to commit a criminal act;
- Fraud, bribery or corruption;
- A miscarriage of justice;
- A danger to the health or safety of any individual or damage to the environment;
- Abuse of power or authority;
- Failure to comply with professional standards, Council Constitution, policies or codes of practice/conduct;

committed by or related to the actions of:

- Gedling Borough Council employees;
- Members; and/or
- Contractors, agency staff, suppliers or consultants of Gedling Borough Council in the course of their work for the Council;

and reports it, the Council will investigate any such allegations and, where appropriate, take action. The Council is also committed to preventing any harassment, victimisation or unfair treatment of any person arising from their whistleblowing, and where appropriate, take disciplinary action against any member of staff responsible for such harassment, victimisation or unfair treatment against a whistleblower.

1.5 This policy seeks to set out how the Council will handle and respond to any such allegations, made either by Council staff or members of the public.

1.6 Whilst the whistleblowing legislation offers protection to employees, the Council

considers that any such allegations of serious wrongdoing should be investigated, whether they are made by an employee, a user of Gedling Borough Council services, or any member of the public.

1.7 This policy seeks to:

- a) encourage employees and members of the public and/or their representatives to feel confident in raising concerns or allegations in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation;
- b) give a clear message that allegations of serious wrongdoing or impropriety are taken seriously;
- c) ensure that where the disclosure proves to be well founded, the individuals responsible for such serious wrongdoing will be held accountable for their actions;
- d) set out what employees and members of the public can expect by way of confidentiality and protection when making a whistleblowing disclosure; and
- e) identify independent support for employees who wish to make a whistleblowing disclosure.

1.8 This policy is not designed to be used:

- a) for raising or reconsideration of matters that come under existing internal Gedling Borough Council procedures e.g. Grievance, Disciplinary, Capability, Dignity at Work or Gedling Borough Council's general complaints procedure;
- b) for raising or reconsideration of matters that come within the arrangements for dealing with complaints that a Member has breached the Council's Code of Conduct; or
- c) for allegations that fall within the scope of specific procedures (for example child or vulnerable adult protection) which will normally be referred for consideration under the relevant procedure, unless the employee has good reason to believe that the procedure is not being followed or will not be followed effectively; or
- d) as an appeal process from any complaint or grievance handled under any of the above procedures.

1.9 However, if an allegation made under either of the above complaints processes at (a) and (b) falls inside the scope of a "serious wrongdoing", the Council will investigate the allegation under this process.

1.10 Where a complaint made under this policy falls outside the scope of "serious wrongdoing", Gedling Borough Council will advise the whistleblower of this and consult with the whistleblower in respect of taking the complaint further. Wherever possible, the Council will comply with the views of the whistleblower, but there are situations where the Council is legally required to pass on details of allegations, without the consent of the whistleblower, such as in safeguarding matters, or where the allegations relate to serious criminal activity undertaken by individuals outside the Council.

- 1.11 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.12 An employee's concerns about malpractice may in this context include concerns about possible corruption, dangerous procedures risking health and safety, abuse of clients, evasion of statutory responsibilities, damage to the environment or other unethical conduct. The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.
- 1.13 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This procedure makes it clear that staff can do so without fear of reprisals. This Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.

It is in the interests of all concerned - Council, staff and anybody accused of failure that such disclosures are dealt with properly, quickly and appropriately.

- 1.14 This policy is aligned to other Council policies as follows:
- Counter Fraud and Corruption Strategy
  - Codes of Conduct and Declarations of Interests
  - Gifts and Hospitality Code of Practice for Members and Officers
  - Financial Regulations and Contract Standing Orders
  - Disciplinary Procedure
  - Arrangements for dealing with complaints of breach of the Members' Code of Conduct

## **2. AIMS AND SCOPE OF THIS POLICY**

- 2.1 Employees will be expected through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any suspicion of serious wrong doing or impropriety as defined in paragraph 1.4 above.
- 2.2 This Policy aims to explain how the Council will put that into practice.

It provides –

- avenues for you to raise concerns and receive feedback on any action taken
- allows you to take the matter further if you are dissatisfied with the Council's response, and

- reassures you that you will be protected from reprisals or victimisation for whistleblowing in good faith

2.3 The concern may relate to the actions of an officer or Member of the Council or an external contractor carrying out work on the Council's behalf for the Council.

2.4 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This whistleblowing policy is intended to cover concerns that fall outside the scope of other procedures.

### **3. SAFEGUARDS**

3.1 The Public Interest Disclosure Act 1998 makes it unlawful for the Council to dismiss anyone (or carry out any other form of reprisal) on the basis that they have made a protected disclosure.

3.2 A protected disclosure is one made in good faith by an employee who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed.

3.3 The Act has rules for making a protected disclosure:

- the disclosure must be in good faith
- the Whistleblower must believe an allegation to be substantially true
- the Whistleblower must not act maliciously or make false allegations
- the Whistleblower must not seek any personal gain

3.4 Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.

3.5 This does not mean that if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your whistleblowing.

3.6 Confidentiality

The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence. However strenuous efforts will be made to obtain independent evidence which will either excuse you from getting involved further, or where that is not possible corroborate your evidence.

### 3.7 Anonymous Allegations

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.

### 3.8 In exercising the discretion, the factors to be taken into account would include:

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

### 3.9 Untrue Allegations

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations then this will be investigated under the Council's Disciplinary Procedure, potentially as an act of gross misconduct.

## **4. HOW TO RAISE A CONCERN - EMPLOYEE**

4.1 As a first step, you should normally raise concerns with your immediate manager or their manager. You may also wish to seek advice and guidance from a member of the Personnel team. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you believe that management is involved, then you should directly approach the Head of Paid Service (Chief Executive), the Chief Financial Officer or Deputy (Deputy Chief Executive & Director of Finance or Service Manager, Financial Services), the Monitoring Officer or Deputy Monitoring Officer (Director of Organisational Development and Democratic Services or Service Manager, Legal Services) or the Service Manager, Organisational Development.

4.2 Concerns are better raised in writing. However, regardless of the form in which you decide to raise concerns you should set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.

4.3 The earlier you express the concern, the easier it is to take action.

4.4 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

4.5 Advice and guidance on how matters of concern may be pursued can be obtained from any of the officers set out in paragraph 4.1 above.

4.6 You may invite your trade union or other representative of your choice to raise a matter on your behalf.

## **5. HOW TO RAISE A CONCERN – MEMBERS OF THE PUBLIC/COUNCIL CONTRACTOR**

- 5.1 Unlike disclosures by employees, the Public Interest Disclosure Act does not cover disclosures by members of the public.
- 5.2 However, the Council considers that any disclosures or allegations made by members of the public in respect of serious wrongdoing should be handled in the same way as disclosures made by employees.
- 5.3 Once a disclosure from a member of the public has been received by the Council, it will be handled in the same way as a disclosure made by an employee under the Public Interest Disclosure Act.

## **6. ACTION TO BE TAKEN BY AN OFFICER RECEIVING A WHISTLEBLOWING ALLEGATION.**

- 6.1 Any officer who is informed of a potential problem through the Whistleblowing policy or suspects any irregularity must record the following:
  - Date Discovered
  - Discovery Method
  - Names of Contacts
  - Nature of Irregularity
- 6.2 Where any officer receives such a report, they must not embark on an investigation. The officer must immediately report details of the suspected irregularity to one of six nominated officers (detailed at paragraph 4.1 above) who will then convene a meeting to include at least three nominated officers to determine how the complaint will be handled.
- 6.3 If the allegation is one of monetary fraud then the Chief Financial Officer or Deputy must be involved in that meeting.

## **7. HOW THE COUNCIL WILL RESPOND**

- 7.1 The action taken by the Council will depend on the nature of the concern. The matters raised may:
  - be investigated internally using policies relevant to officers and Members as appropriate
  - be referred to the Police
  - be referred to the external Auditor
  - form the subject of an independent inquiry
- 7.2 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures will normally be referred for consideration under those procedures.

7.3 Some concerns may be resolved by agreed action without the need for investigation.

7.4 Within ten working days of a concern being received, the Council will write to you:

- acknowledging that the concern has been received
- indicating how it proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made, and
- telling you whether further investigations will take place, and if not, why not.

7.5 The amount of contact between the officer considering the issues and you, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

7.6 When any meeting is arranged, if you wish, you may be accompanied by a Trade Union representative or other person you nominate who is not involved in the area of work to which the concern relates.

7.7 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

7.8 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

## **8. HOW TO RAISE A CONCERN EXTERNALLY**

8.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If having pursued your complaint using the procedure outlined you believe that appropriate action has not been taken you may report the matter to the proper authority set out below.

8.2 The legislation sets out a number of bodies to which qualifying disclosures may be made. These include (the list is not exhaustive):

- HM Revenue & Customs;
- the Financial Conduct Authority;
- the Office of Fair Trading;
- the Health and Safety Executive;
- the Environment Agency;
- the Director of Public Prosecutions;
- the National Crime Agency;
- Police.

If you do take the matter outside the Council, you need to ensure that you do not disclose confidential information or that disclosure would be privileged. Check with the Monitoring Officer or Service Manager, Legal Services about that.

## 9. NOMINATED OFFICERS

9.1 Officers referred to in paragraph 4.1 make up the members of the Corporate Whistleblowing Team and have a collective responsibility for:

- Ensuring that all concerns raised under the Whistleblowing Policy are given initial consideration to determine (a) whether they fall within the remit of the Whistleblowing Policy; (b) if the concerns do fall within the remit of the Whistleblowing Policy, undertaking initial enquiries to determine whether an investigation is appropriate and if so what form it should take; (c) if the concerns do not fall within the remit of the Whistleblowing Policy, ensuring that the complainant is informed of the correct policy/procedure that applies and provided with advice in accordance with that policy/procedure;
- Ensuring that all matters relevant to the complaint are given full and proper consideration before any decisions are made;
- Ensuring that the rights of employees making a protected disclosure are observed and that a fair and proportionate process is followed;
- Appointing an appropriate Senior Officer to oversee the investigation process (where applicable).

9.2 In addition, members of the Corporate Whistleblowing Team have specific responsibilities as follows:

Monitoring Officer/Deputy - – to consider the legal implications of any allegations contained within a whistleblowing complaint, and provide guidance and advice to the receiving manager and the Team on:

- Compliance issues related to the complaint and measures that are required to rectify/ensure compliance;
- Legal consequences of the complaint if proven.

Chief Financial Officer/Deputy – overall responsibility for the process of managing the complaint in accordance with the Policy, to consider the financial implications of any allegations contained within a whistleblowing complaint, and provide guidance and advice to the receiving manager on:

- Measures to avoid or minimise loss or risk to the Council in both the immediate and longer term;
- Whether the allegations are a matter for investigation by external audit and the sourcing of an appropriate external auditor;
- The allocation of appropriate financial resources to fund any associated costs arising from the whistleblowing complaint.

Service Manager, Organisational Development – to consider the human resources implications contained within a whistleblowing complaint, and provide guidance and advice to the receiving manager and the Team on:

- Implications in terms of matters of discipline, suspension and/or capability;
- The appointment of an appropriate internal or external investigator (unless it is a matter for audit investigation);
- Appropriate communication with the complainant and subject of the complaint.

9.3 Although a number of officers have been identified as appropriate to approach, the Chief Financial Officer has overall responsibility for the maintenance and operation of

this policy. A record of concerns raised and the outcomes will be maintained by the Chief Financial Officer but in a form that does not endanger your confidentiality and will report as necessary to the Council.

## **10. MAINTENANCE OF THE POLICY**

10.1 The Policy will be reviewed by the Chief Financial Officer and updated in line with current legislation and best practice procedure.