

CESHIRE EAST COUNCIL WHISTLEBLOWING POLICY

1. INTRODUCTION

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Cheshire East Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees, and others who work with us, with serious concerns about any aspect of the Council's work to come forward and voice those concerns. This policy makes it clear that this can be done without fear of victimisation, discrimination or disadvantage.
- 1.3 This whistleblowing policy is intended to encourage and enable employees to raise serious concerns **within** the Council rather than overlooking a problem or 'blowing the whistle' outside as premature or unnecessary publicity may damage the Council's reputation, impede proper investigations, or hurt individuals unnecessarily.
- 1.4 The policy applies to all employees, Members, contractors, suppliers and consultants and provides them with a secure basis for reporting suspicions of impropriety, in the knowledge that if requested the matter will be treated confidentially.
- 1.5 The procedures contained within this policy are in addition to the Council's complaints process and any other statutory reporting procedure that applies within individual departments.
- 1.6 This policy has been discussed with the relevant trade unions and has their support.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 The Whistleblowing Arrangements Code of Practice Publicly Available Specification developed by the British Standards Institute and Public Concern at Work defines whistleblowing as;

The popular term used when someone who works for or in an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, shareholders, the public or the organisation's own reputation.

- 2.2 Whistleblowing can therefore be described in simple terms as a disclosure made by an employee who has concerns about a danger or illegality that has a public interest to it, usually because it threatens others.
- 2.3 A grievance or private complaint is, by contrast, a dispute about an employee's own employment position and has no public interest to it.
- 2.4 This Whistleblowing Policy has been developed in line with best practice as described in the code of practice and aims to:
- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
 - provide avenues for you to raise those concerns and receive feedback on any action taken
 - provide reassurance that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
- 2.5 The whistle-blowing policy is intended to cover major concerns that fall outside the scope of other procedures. These include:
- conduct which is an offence or a breach of law
 - health and safety risks, including risks to the public as well as other employees
 - damage to the environment
 - the unauthorised use of public funds
 - possible fraud and corruption
 - sexual or physical abuse of clients, or
 - other unethical conduct
- 2.6 If your concerns relate to your own employment then they do not fall under the scope of this policy and should be raised via the Grievance Procedure or Dignity at Work Policy.
- 2.7 This policy does not cover members of the public and any report received will be dealt with under the corporate comments, compliments and complaints policy or as a tip off via the Anti Fraud and Corruption Strategy.
- 2.8 Staff in schools should report any concerns that they may have through their school's own whistleblowing policy.

3. SAFEGUARDS

- 3.1 Cheshire East Council is committed to good practice and high standards and wants to be supportive of employees.
- 3.2 We recognise 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.
- 3.3 As a result, we will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.4 If someone is found to have subjected a bona fide whistleblower to any form of victimisation or harassment this will be dealt with under the council's disciplinary procedure.
- 3.5 Please be aware however, that should you already be the subject of disciplinary or redundancy procedures, the procedures will not be halted as a result of the whistleblowing report.

4. OPEN DISCLOSURES

- 4.1 The best culture is one where employees have sufficient faith in the whistleblowing arrangements and culture of the council to allow them the confidence to make open disclosures. This is where those involved know what the issues are along with who raised them.
- 4.2 This is the aim for Cheshire East Council and it is hoped that any employee with a whistleblowing concern will feel able to raise their issues openly
- 4.3 This openness makes it easier to assess the report, gather additional information and carry out an investigation.
- 4.4 It also allows any hidden agendas to be identified, helps to prevent witch hunts and reduces the risk of mistrust and paranoia developing within the area being investigated.

5. CONFIDENTIALITY

- 5.1 It is, however, recognised that some employees may not feel that they can make such a report. Where this is the case the policy provides the whistleblower with the option of requesting that their name remains confidential.
- 5.2 Where confidentiality is requested we will do our best to ensure that your name is not revealed. This cannot, however, be guaranteed as there are certain circumstances where the name of the whistleblower may be made known. For example:

- The report is found to be clearly false or malicious, or
- Disclosure is ordered by the courts.
- A formal statement is required as part of a police investigation.

5.3 Whilst it is possible to keep the name of a whistleblower confidential, it is not possible to prevent others from trying, often successfully, to work out the source of a report. This can lead to speculation and an unpleasant atmosphere that could have been avoided by making an open disclosure.

6. ANONYMOUS ALLEGATIONS

6.1 This policy encourages you to put your name to your allegation whenever possible and actively discourages anonymous reports.

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

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

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

6.4 Anonymous reports also raise a specific problem with regard to the legal requirement that personal data should only be collected fairly.

6.5 In addition, people making anonymous reports are not covered by the safeguards put in place to protect named whistleblowers.

7. UNTRUE ALLEGATIONS

7.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you.

7.2 If, however, you make malicious or vexatious allegations, then disciplinary action may be taken against you.

8. HOW TO RAISE A CONCERN

8.1 As a first step, you should normally raise concerns with your immediate manager or their superior. However, depending upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, this may not be appropriate.

- 8.2 Where this is the case the following officers are identified as appropriate contacts within this policy;
- The Chief Executive
 - The Borough Solicitor who is also the Monitoring Officer
 - The Internal Audit Manager
- 8.3 There are two ways to formally make a whistleblowing disclosure;
- Verbally, either face to face or by telephone, or
 - In writing, either by sending a letter to one of the named contacts or by emailing cheshireeastwhistleblowing.gov.uk.
- 8.4 It is preferable for concerns to be raised in writing and where this is the case the following details are requested;
- Your name and contact details
 - background information and history including details as to why you are concerned
 - whether the issue has already been reported to management and the outcome of this
 - whether you wish your name to remain confidential
 - whether you want feedback
 - the names and jobs of any other employees/Members who may support your concern.
- 8.5 Where reports are made verbally to one of the named officers they should attempt to ascertain the same information.
- 8.6 The earlier you express the concern the easier it is to take action.
- 8.7 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 8.8 Should you wish to obtain independent advice in relation to a potential whistleblowing report then Public Concern at Work operate a confidential helpline 02074046609. Further advice and guidance can also be found on their website www.pcaw.co.uk .
- 8.9 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 8.10 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

9. HOW THE COUNCIL WILL RESPOND

- 9.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 9.2 As part of this process contact will be made with you to clarify your concerns and obtain any further information that you may have. You will also be provided with details of who to contact should you require further support.
- 9.3 Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process
 - be referred to the police
 - be referred to the external auditor
 - form the subject of an independent inquiry.
- 9.4 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 9.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 9.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the officer will seek further information from you.
- 9.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 9.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange you to receive advice about the procedure.
- 9.9 The Council understands that you may wish to be assured that the matter has been properly addressed. Therefore, subject to legal constraints, if requested we will inform you of the outcome of any investigation.

10. THE RESPONSIBLE OFFICER

- 10.1 The Council's Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer will maintain a record of concerns raised and the outcome and will report as necessary to the Council.
- 10.2 If requested the Monitoring Officer will do everything that can lawfully be done to protect your identity but you should be aware that it may need to be disclosed to the police or courts as part of an investigation or subsequent prosecution.

11. HOW THE MATTER CAN BE TAKEN FURTHER

11.1 This policy is intended to provide you with an avenue to raise concerns within the Council and it is hoped that you will utilise it. However, should you feel unable to raise your concerns internally, the following are possible alternative contact points:

- Public Concern at Work 020 7404 6609
- the external auditor
- UNISON whistleblower's hotline 0800 597 9750
- Audit Commission whistleblower's hotline 0845 052 2646
- the police.

11.2 It is stressed that this list is not exhaustive and you are free to contact any organisation that you feel will be able to deal properly with your concerns. This may include;

- your local Councillor
- your solicitor
- other relevant professional or regulatory bodies.

You are encouraged, however, to take further advice before reporting an issue to a body other than those specified above to ensure that you are making a protected disclosure.

11.3 You will be protected under the Public Interest Disclosure Act 1988 if you raise your concerns with any of the above, provided that;

- you make the disclosure in good faith
- you reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- you do not make the disclosure for personal gain.

11.4 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

12. THE LAW

- 12.1 This policy has been written to take into account the Public Interest Disclosure Act 1988, which protects workers making disclosures about certain matters of concern, where those disclosures are made within the act's provisions. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concerns about, health and safety at work.

13. EQUALITY

- 13.1 Cheshire East Council will ensure that, when implementing the Whistleblowing Policy, no employee will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the Policy may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

14. MONITORING

- 14.1 Data relating to Whistleblowing cases will be collated and monitored regularly to ensure that the Policy is operating fairly, consistently and effectively. Issues that are identified from the data will be dealt with appropriately.

15. REVIEW

- 15.1 The policy will be reviewed in the light of operating experience and/or changes in legislation.