



St Albans
City & District Council



INVESTORS
IN PEOPLE

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WHISTLE BLOWING POLICY

JUNE 2023

St. Albans City and District Council

Whistle Blowing Policy

1. Introduction

- 1.1 Whistleblowing is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. Councillors, officers, casual and agency workers, self-employed workers at the Council, contractors or members of the public (hereafter referred to collectively as “potential whistle blowers”) may be the first to notice something which is wrong in connection with the Council and its activities or in the wider public domain. 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.
- 1.3 It is recognised that some cases will have to be dealt with on a confidential basis and this document makes it clear that matters can be raised confidentially (including by staff) without fear of reprisal.
- 1.4 This policy is intended to encourage serious concerns to be raised rather than overlooking or ignoring a problem.

2. Types of Action Covered by the Policy

- 2.1 Examples of types of whistleblowing concerns are something that;
 - i. is unlawful;
 - ii. is a health and safety risk including risks to the public and/or other employees;
 - iii. causes damage to the environment;
 - iv. is an unauthorised use of public funds;
 - v. is possible fraud and/or corruption;
 - vi. is unethical conduct or improper conduct;
 - vii. makes employees feel uncomfortable in terms of known standards, personal experiences or the standards the Council subscribes to.
 - viii. is against the Council’s Standing Orders and policies; and
 - ix. falls below established standards of practice.

3. Confidential Reporting Procedure

- 3.1 Any suspicion of fraud or other wrongdoing will be treated seriously and will be reviewed and analysed in accordance with the Public Interest Disclosure Act (1998), the Human Rights Act, the Council’s Anti- Money Laundering Policy, the Council’s Anti-Fraud, Bribery and Corruption Policy and the Council’s Safeguarding Policy.

- 3.2 Potential whistle blowers should be aware that they have statutory protection against victimisation and dismissal under the Public Interest Disclosure Act 1998, if they speak out genuinely against corruption and malpractice at work.
- 3.3 It is essential for all concerned that disclosures of wrongdoing or irregularity are dealt with properly, quickly and discreetly. This is in the interests of the Council, its employees, and any persons who are the subject of such allegations, as well as the person making the disclosure.
- 3.4 Confidential reporting is the disclosure or communication of information about possible wrongdoing by individuals or organisations, either internally or externally, to an organisation, in this case, the Council.
- 3.5 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we expect all organisations that deal with us who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will proceed on a confidential basis to protect the confidentiality of the parties involved while matters are investigated.
- 3.6 This policy makes it clear that concerns can be raised without fear of victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable serious concerns to be raised with the Council rather than ignoring a problem or 'blowing the whistle' to external sources.
- 3.7 The procedure applies to all potential whistleblowers, as per paragraph 1.2 above.

4. Aims and Application

- 4.1 This policy aims to:
- i. Encourage a person considering making a report to feel confident in raising serious concerns;
 - ii. Provide avenues to raise those concerns and receive feedback on any action taken;
 - iii. Ensure that a response to any concerns and how to pursue them to the person making a report is made;
 - iv. Reassure the person making the report that they will be protected from possible disadvantage, reprisal or victimisation if they have a reasonable belief and made any disclosure in good faith.
- 4.2 For officers there are existing procedures in place to enable them to lodge a grievance relating to their own employment. For officers and members of the public there is also a Complaints Policy which can be used to raise a complaint. Complaints about councillors should be raised with the Council's Monitoring Officer. The Whistle Blowing Policy is intended to cover concerns that fall outside the scope of the Grievance and Complaints Policies. Any serious concern that anyone has about any aspect of service provision, officers of the Council or others acting on behalf of the Council can and should be reported under this policy.

5. Anonymous Allegations

- 5.1 The best way to raise a concern is to do so openly. Therefore whistleblowers will be encouraged to give their name when they raise a concern. Openness makes it easier for the Council to investigate the matter and obtain further information.
- 5.2 If the whistleblower does not wish their name to be disclosed the Council will protect identities when concerns are raised, unless a disclosure is required by law.
- 5.3 Where someone chooses to report their concerns anonymously this will be respected. All concerns raised will be treated in confidence. However, it should be noted that concerns expressed anonymously are less powerful and will only be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:
- i. the seriousness of the issues raised;
 - ii. the credibility of the concern; and
 - iii. the likelihood of confirming the allegation from attributable sources.
- 5.4 It should be noted that if an allegation suggests criminal activity and the case is to be pursued by police, the identity of the person reporting the details may be important at a later date if criminal proceedings are to be pursued effectively.
- 5.5 It should be noted that in some instances, the Council may not be able to proceed with an internal investigation without being able to disclose the name of the complainant. Should the need arise, the individual will be asked if they wish to remain anonymous.

6. False or Malicious Allegations

- 6.1 The Enterprise and Regulatory Reform Act 2013 (The Act) states that a person cannot be dismissed from their employment if their disclosure meets certain requirements. These are called 'qualifying disclosures'. They include when someone reports:
- that someone's health and safety is in danger
 - damage to the environment
 - a criminal offence
 - that an organisation is not obeying the law (like not having the right insurance)
 - that someone is covering up wrongdoing.
- 6.2 The Act provides protection to the following people:
- employees
 - casual and agency workers
 - people who are training with an employer, but not employed
 - self-employed workers, if supervised or working off-site.

- 6.3 The Act states that a whistleblower should also believe that their disclosure is in the public interest.
- 6.4 Therefore, if an allegation is made in good faith and the person making the report has a reasonable belief in the truth of the allegation, but this is not confirmed by the investigation, there will be no action taken against them.
- 6.5 If, however, an allegation is made frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person if they are a member of Council staff.
- 6.6 The Act states that a worker dismissed for whistle blowing can bring a case against their employer at an Employment Tribunal. If the tribunal decides the employee has been unfairly dismissed, it will order that they are:
- reinstated (get their job back)
 - paid compensation.
- 6.7 From 25 June 2013 a tribunal judge can reduce any compensation awarded by 25% if they find the person has acted dishonestly.
- 6.8 A whistleblower who is bullied at work will also be able to bring a claim to the Employment Tribunal against their employer or co-workers.

7. How to Raise a Concern

- 7.1 Initially, concerns should be raised internally with immediate line managers or their manager, who will pass the issue on to the appropriate person. However, this depends of course on the seriousness and/or sensitivity of the matters causing concern and who might be involved in the malpractice, e.g., if it is believed that management may be involved, the Chief Executive, the Section 151 Officer, the Monitoring Officer or the Council's Head of Internal Audit should be approached.
- 7.2 If you feel unable to approach your line manager (or their line manager) your concern can be made to the following:

Head of Internal Audit - Sarah Marsh - 07973 733332
Chief Executive – Amanda Foley 01727 819308
Strategic Director, Customer Business and Corporate Support and Section 151 Officer – Suzanne Jones 01727 751825
People and Organisational Development Manager – Jane Pearce 01727 819349
Assistant Director Finance – Linda Parker 01727 819215
Monitoring Officer and Solicitor to the Council – Charles Turner 01727 819507
National Audit Office (NAO) - 020 7798 7999

- 7.3 It is more helpful if concerns are presented in writing. This will provide the opportunity to set out the background and history of the concern giving as many details as possible e.g., names, dates and places and the reasons why there are particular concerns about the situation. However, if concerns cannot be put in writing, a meeting can be requested with whichever of the officers are considered appropriate.

- 7.4 The sooner a concern is expressed the easier it will be for the Council to take any appropriate action.
- 7.5 Although whistle blowers will not be expected to prove the truth of an allegation, they will be expected to demonstrate to whom they reported the issue that there are sufficient grounds for concerns.
- 7.6 Trade unions, professional association representatives or a friend can be invited to be present during any meetings or interviews in connection with the concerns raised.
- 7.7 Cases or concerns over the exploitation or abuse of vulnerable adults or children should be reported through to the Council's Safeguarding Lead – the Principal Emergency Planning and Community Safety Officer:
- i. Telephone – 01727 819416;
 - ii. Via the Community Safety webpage on the Council's Internet site;
 - iii. Email – communitysafety@stalbans.gov.uk

Further information about safeguarding can be found at:
<https://www.stalbans.gov.uk/safeguarding-concerns-and-support>

8. How the Council will Respond

- 8.1 Any action taken by the Council will depend on the nature of the concern raised. Any potential investigation may be:
- i. conducted by Internal Audit or through the disciplinary process;
 - ii. referred to the police;
 - iii. referred to the External Auditor;
 - iv. referred to the National Audit Office (NAO);
 - v. referred to the Hertfordshire Safeguarding Children's Board (HSCB) or the Hertfordshire Safeguarding Adults Board (HSAB). These Boards have been established by and are the lead responsibility of Hertfordshire County Council; and
 - vi. form the subject of an independent enquiry.
- 8.2 In order to protect identities and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.
- 8.3 It may be possible to resolve some concerns by agreed action without the need to carry out an investigation.
- 8.4 However, if this is not the case then, within ten working days of a concern being raised, the person to whom the concern has been forwarded will write to:
- acknowledge that the concern has been received;
 - indicate how the matter will be dealt with and potential timescales;
 - give an estimate of how long it will take to provide a final response;
 - report on what initial enquiries have been made, if any; and
 - inform whether further investigations will take place and if not, why not.

- 8.5 The amount of contact between the officers considering the issues and whistle blowers depends on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information.
- 8.6 At any meetings arranged, which can be off-site if desired, it is possible to be accompanied by a union or professional association, representative or a friend.
- 8.7 The Council will take steps to minimise any difficulties experienced as a result of raising a concern. For instance, if evidence in criminal or disciplinary proceedings is required the Council will arrange for advice to be provided about the procedure.
- 8.8 The Council fully understands that if a complaint has been raised, the whistleblower will need to be reassured that it has been properly addressed. Therefore, unless legal constraints prevent it, the whistleblower will be informed about the outcome of any investigation which is carried out.
- 8.9 If allegations are found to be proven against an officer and there has been a breach of Council policy or the Code of Conduct for Employees then the Council will deal with this in accordance with the relevant internal disciplinary policy.
- 8.10 If allegations are found to be proven and a criminal act has been committed, then the Council will contact the police who will deal with this in accordance with the law. This is not mutually exclusive of 8.9 above and the Council may instigate disciplinary procedures alongside any police action.
- 8.11 If the allegations are found to be unproven, then the Council will write to those who made the accusation (where they have identified themselves) to notify them of this outcome, and the officer who has been accused if they have been informed about the accusation.

9. How the matter can be taken further.

- 9.1 If the outcome is not considered to be satisfactory the matter can be raised with the Council's Monitoring Officer, in the first instance.
- 9.2 If it is not possible for concerns to be reported within the Council, there is a legal framework to make a disclosure about matters in the following categories, provided there is a reasonable belief for it to be in the public interest:
- criminal offences
 - failure to comply with legal obligations
 - miscarriages of justice
 - dangers to health and safety
 - dangers to the environment
 - deliberate concealment of the above.
- 9.3 Concerns can be reported to a 'prescribed person' if there is a reasonable belief the information and allegation are substantially true. Examples of prescribed persons include:
- The Health and Safety Executive
 - The NAO (National Audit Office)

- The Environment Agency
- The Commissioners for HM Revenues and Customs
- The Information Commissioner
- The Financial Reporting Council
- The Pensions Regulator
- The Food Standards Agency

9.4 The Comptroller and Auditor General, (C&AG), National Audit Office (NAO) is a prescribed person under the Act, to whom external persons can make disclosures relating to the proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally-funded public services.

9.5 The contact telephone number is; 020 7798 7999 or write to:

The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London SW1W 9SP

9.6 Under certain circumstances, employees could make a wider disclosure to other persons or bodies, however certain conditions have to apply to make such wider disclosures protected including:

- The concern must be an exceptionally serious failure
- It is reasonable to make the disclosure in the circumstances
- The disclosure must not be for personal gain.

9.7 If the conditions above do apply, a wider disclosure can be made to:

- The Police
- Your trade union
- Non prescribed persons (e.g. Unison whistleblowers web page www.unison.org.uk/get-help/knowledge/disputes-grievances/whistleblowing or the Protect website (formally known as Public Concern at Work and is a whistleblowing charity) www.protect-advice.org.uk

10. The responsible officer

10.1 The Solicitor to the Council, as the Council's appointed Monitoring Officer, has overall responsibility for the maintenance and operation of this Policy. They will maintain a record of all concerns raised and their outcomes (but in a form which will not endanger confidentiality) and will report as necessary to the Council.

10.2 The annual Internal Audit report to the Audit and Governance Committee will contain details of any concerns raised under this policy. It will also provide updates on whistleblowing arrangements as necessary.

10.2.1 Additional information about PIDA (Public Interest Disclosure Act) can be obtained from the whistleblowing charity Protect (formally known as Public Concern at Work): www.protect-advice.org.uk

11. Monitoring/Review

- 11.1 The Solicitor to the Council will review this policy annually in conjunction with the Head of Internal Audit.