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**SCARBOROUGH BOROUGH COUNCIL**

# **Whistleblowing Policy**

## DOCUMENT CONTROL

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<b>Owner</b>	Chief Executive
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## REVIEW HISTORY

<b>Date</b>	<b>Reviewed By</b>	<b>Version</b>	<b>Any Revisions?</b>
04/11/2015	Elaine Blades	0.2	Yes terminology only
30/11/2017	David Kitson	0.3	Amendments arising from external auditor report
28/11/2018	Elaine Blades	0.4	None
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## REVISION HISTORY (only required where changes made)

<b>Date</b>	<b>Revised By</b>	<b>Version</b>	<b>Description of Revision</b>
01/13/2009	Elaine Blades	0.1	Creation of Policy
04/11/2015	Elaine Blades	0.2	Terminology
30/11/2017	David Kitson	0.3	Amendments arising from external auditor report

## DOCUMENT REVISION APPROVALS

<b>Version</b>	<b>Approval</b>	<b>Date</b>
0.3	Cabinet	13/02/2018
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### **1.0 INTRODUCTION**

- 1.1 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, Scarborough Borough Council encourages employees and others with serious concerns about malpractices in the form of irregularity, wrongdoing or a serious failing in standards at work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a highly confidential basis and the Council wishes to make it clear that staff can do so without fear of reprisal.
- 1.2 The “Whistleblowing” Policy is intended to provide a framework to encourage and enable staff and other stakeholders to raise serious concerns internally within the Council. The overriding consideration should be that it would be in the public interest for the malpractices to be corrected and for any necessary sanctions to be applied. The Policy has been discussed with the relevant Trade Unions and professional organisations and has their support.
- 1.3 The following guidelines have been prepared to outline how serious concerns can be raised within the Council and the process for dealing with such matters.
- 1.4 The Council has appointed a Designated Whistleblowing Officer who is also the Council’s Monitoring Officer, and can be contacted by:-
- email: [whistleblowing@scarborough.gov.uk](mailto:whistleblowing@scarborough.gov.uk)
  - telephone: 01723 232335
  - post: Whistleblowing  
Scarborough Borough Council  
Town Hall  
St Nicholas Street  
Scarborough  
North Yorkshire  
YO11 2HG

### **2.0 WHO DOES THE POLICY APPLY TO?**

- 2.1 The principles set out within the policy apply to all employees, whether part-time or full-time, temporary or permanent and other stakeholders.



### 3.0 **"WHISTLEBLOWING" AND THE LAW**

3.1 The Public Interest Disclosure Act 1998 (PIDA) provides protection to people whom "blow the whistle" about malpractice at work. It covers all employees and most workers. The self-employed are excluded, as are volunteers, the Intelligence Services and the Army. There is no qualifying period of service and the following disclosures fall within the protection of the Act:-

- A crime.
- The breach of a legal obligation.
- A miscarriage of justice.
- Issues relating to health and safety.
- An environmental risk.
- An attempt to conceal any of the above.

3.2 To qualify for protection the employee or worker usually has to make a disclosure to their employer, a Government Minister, an outside regulator or legal adviser. However, employees and workers will still be protected if they make a wider disclosure, as long as they can show that they have made the disclosure in good faith; that they believe the information to be true; that they will not gain from it; and that it was reasonable to make the disclosure under the circumstances. Employees and workers can complain to a Tribunal if they feel their employer has penalised them for bringing the complaint. Compensation is unlimited.

### 4.0 **AIMS AND SCOPE OF THE COUNCIL'S POLICY**

4.1 The Policy aims to:-

- Provide avenues for an employee to raise concerns and receive feedback on any action taken.
- Allow an employee to take the matter further if he/she is dissatisfied with the Council's response.
- Reassure an employee that he/she will be protected from reprisals or victimisation for "Whistleblowing" in good faith.

4.2 There are existing procedures in place to enable an employee to lodge a grievance relating to his/her own employment. The "Whistleblowing" Policy is intended to cover concerns that fall outside the scope of other procedures, i.e. fraud, malpractice, discrimination, health and safety, environment, behaviour of Councillors, management issues, improper conduct, theft, computer misuse, drug misuse and sexual wrongdoings.

4.3 The "Whistleblowing" Policy will cover issues which:-



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## WHISTLEBLOWING POLICY

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- Are believed to be unlawful; or
- Are against the Council's Constitution, Standing Orders or Policy; or
- Fall below established standards of practice; or
- Amount to improper conduct.

4.4 Although not an exhaustive list, examples of when whistleblowing may be appropriate include:-

- A criminal offence of any unlawful act including fraud, bribery, corruption and theft;
- Endangering health and safety of employees, residents, or the public;
- Any irregularities involving accounting or other financial procedures;
- Improper conduct or unethical behaviour;
- Serious conflict of interest without disclosure;
- Abuse or neglect of vulnerable people; and
- Breach of financial regulations.

### 5.0 **SAFEGUARDS**

#### **Harassment or Victimisation**

- 5.1 The Council recognises its responsibility under the Public Interest Disclosure Act 1998 and employment legislation generally and will do everything within its powers reasonably to safeguard employees/stakeholders who "whistleblow". 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 an employee when a concern is raised in good faith.
- 5.2 This does not mean, however, that, if the particular employee is already the subject of Disciplinary or Redundancy Procedures, those Procedures will be halted as a result of his/her "Whistleblowing".

#### **Confidentiality**

- 5.3 The Council will do its best to protect an employee's identity when a concern is raised and there is a desire for his/her name not to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement may be required later from the employee as part of the evidence.



### **Anonymous Allegations**

- 5.4 The Policy encourages an employee to put his/her name to an allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising the discretion, the factors to be taken into account would include:-
- The seriousness of the issue raised.
  - The credibility of the concern.
  - The likelihood of confirming the allegation from attributable sources.
- 5.5 A telephone “hotline” and dedicated e-mail address has been established to encourage employees, workers and stakeholders to “whistleblow”.
- 5.6 The telephone “hotline” number is 01723 232335.
- 5.7 The dedicated email address is [whistleblowing@scarborough.gov.uk](mailto:whistleblowing@scarborough.gov.uk)

### **Untrue Allegations**

- 5.8 If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the employee concerned. If, however, malicious or vexatious allegations are made, possibly out of spite or in order to pursue a private vendetta or retribution, disciplinary action may be taken against the employee.

## **6.0 HOW TO RAISE A CONCERN**

- 6.1 As a first step, an employee should normally raise concerns with his/her immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved, and who is thought to be involved in the malpractice. For example, if it is believed that management is involved, an approach should be made to the Designated Whistleblowing Officer.
- 6.2 An employee will be required to record in writing the background and history of his/her concerns, giving names, dates and places, where possible, and to state the reasons why there are particular concerns about the situation. If the employee does not feel able to put his/her concerns in writing, he/she can telephone or meet the dedicated Whistleblowing Officer. Such a meeting can take place away from the workplace, if that is what is preferred.
- 6.3 The earlier the concern is expressed, the easier it is to take action.
- 6.4 Although the employee is not expected to prove the truth of the allegation, he/she will need to demonstrate to the person contacted that there are sufficient grounds for his/her concern.



- 6.5 Independent advice is available to employees who wish to raise or have raised concerns from the charity Public Concern at Work whose website is [www.pcaaw.org.uk](http://www.pcaaw.org.uk) and whose telephone number is 0207 404 6609.
- 6.6 Advice and guidance on how matters of concern may be pursued can be obtained from the Designated Whistleblowing Officer.
- 6.7 A Trade Union Organisation or Professional Association may be invited to raise a matter on behalf of a particular employee.

### **7.0 HOW THE MATTER CAN BE TAKEN FURTHER**

- 7.1 The policy is intended to provide an employee with an avenue to raise concerns within the Council. If there are concerns relating to anonymity, these should be discussed with the Human Resources Manager. Should this be the employee's preferred choice, special arrangements will be implemented, as far as it is reasonably practicable, to ensure that any information he/she is able to give in order to resolve a serious malpractice will not affect his/her employment with the Council. Employees are requested to pursue any area of concern through the appropriate internal procedures, in the first instance. The rights under the "Whistleblowing Policy" are in addition to any other rights, which might already exist.
- 7.2 If the employee does decide to take the matter outside the Council, he/she needs to ensure that he/she does not disclose confidential or privileged information.

### **8.0 IRREGULARITIES RESPONSE PLAN**

#### **Recording an Allegation/Dealing with an Irregularity**

- 8.1 Any officer who suspects or is informed of a "Whistleblowing" allegation or is notified of any other irregularity must record the following:-
- Date discovered.
  - Discovery method.
  - Names of contacts.
  - Nature of irregularity.
  - Whether the allegation has been made in confidence/anonymously and details of any documentation disclosed.
- 8.2 Where any officer receives such a report, they must not embark on an investigation. The Officer must immediately report details of the irregularity to the Council's Designated Whistleblowing Officer (or to another member of the Irregularity Response Team if there is a deemed conflict of interest) who will convene a meeting of the team as soon as possible.



## **WHISTLEBLOWING POLICY**

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- 8.3 Contact details for the Designated Whistleblowing Officer are set out at paragraph 1.4 of the Whistleblowing Policy.
- 8.4 The Designated Whistleblowing Officer (or another member of the Irregularity Response Team if there is a deemed conflict of interest) will ordinarily acknowledge receipt of such a report within 2 working days.
- 8.5 The Irregularity Response Team members are:-
- The Chief Executive (as Head of The Paid Service).
  - The Director (as Section 151 Officer).
  - The Director (as Monitoring Officer).
  - The Human Resources Manager.
  - The Audit and Fraud Manager.
  - The Designated Whistleblowing Officer.
  - *NB: In the event that a disclosure is made against a member of the Irregularity Response Team, then that person/person(s) will not form part of the investigation on that occasion.*

### **Initial Response of the Irregularity Response Team**

- 8.6 If (in the reasonable opinion of the Irregularity Response Team) insufficient information is provided with the initial report the person making the report may be asked to provide further information and the procedure may not continue until this has occurred. Once further information has been provided, a further meeting of the Irregularity Response Team will be convened as soon as possible thereafter.
- 8.7 The Irregularity Response Team will initially consider whether the report falls within its remit, and if not, the Designated Whistleblowing Officer (or another member of the Irregularity Response Team if there is a deemed conflict of interest) will ordinarily within 5 working days of the decision contact the person making the report to explain the situation, wherever possible making recommendations as to how the concerns can instead be taken forward using appropriate existing Council procedures (such as the corporate complaints process).
- 8.8 Should the report be deemed to fall within the remit of the Irregularity Response Team, the initial response will include:-
- An initial risk assessment, this will establish the plausibility of any fraud or irregularity and identify the possible implications to the Authority.
  - If necessary the Irregularity Response Team will provide advice to the Strategic Management Team member regarding minimising any future loss to the Council. If it is considered that a precautionary suspension may be required the Human Resources Manager must be consulted for advice.





## **WHISTLEBLOWING POLICY**

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- A decision as to who will carry out an investigation. The options for investigating include an internal investigation (Service, Counter Fraud Unit, HR or Internal Audit) or external investigation (Police or External Auditor).
- The formation of an 'Investigation Team' to handle an investigation (or provide a contact for an external investigation), this will consist of some or all of the Irregularity Response Team plus any other officers thought appropriate. The Irregularity Response Team should appoint a lead officer.
- A decision as to whether to plan a media response.
- The notification, if appropriate, to the External Auditor.
- The notification of the potential problem on a strictly confidential basis to the Leader of the Council and relevant Cabinet Member by the Chief Executive.
- An assessment of the implications of the Public Interest Disclosure Act must be considered if the potential problem has been notified via "Whistleblowing" arrangements.

8.9 Once a lead investigator has been appointed, they will be instructed to contact the person making the report at the first available opportunity and ordinarily within 10 working days from the date of their appointment, to advise them of the following:-

- The name of the investigator appointed to lead on the investigation;
- Arrangements for confidentiality;
- How the person making the report will be expected to contribute to the investigation;
- The outcome of any discussions which may have taken place over anonymity;
- An estimate of how long the investigation is likely to take;
- Any rights of an employee whistleblower to representation by a recognised trade union or work colleague at any meeting; and
- If they are a member of the public, to discuss whether it would be appropriate for them to bring support or representation to any meeting.



- 8.10 In any event the Council will arrange to keep the person making the report updated throughout the process, and wherever possible will seek to advise them of the outcome of the investigation. However, the Council is bound by data protection and human rights legislation in respect of allegations relating to individuals, and may not be able to disclose specific information in certain circumstances.

### **Preventing further loss or irregularity**

- 8.11 Where initial investigation provides reasonable grounds for suspecting fraud or irregularity the Irregularity Response Team will decide what action to take to minimise any future loss to the Council. If a suspected fraud or irregularity involves an employee this may require suspension of the suspect(s). The Chief Executive, Directors and Human Resources Manager are authorised to suspend an employee(s) under investigation.
- 8.12 It should not be assumed that suspension must follow automatically from an allegation of irregularity or that an investigation can only proceed in the absence of the employee who may have been responsible. Broadly, suspension need only be considered where the particular circumstances are such that an investigation is impeded by the presence of the individual, or where it appears that there is a danger of further irregularities occurring.
- 8.13 As an investigation proceeds the Officer leading an investigation will bring to the Irregularity Response Team's attention any information that might lead to a review of their decision as to the appropriateness of suspension. The precautionary suspension of an employee is not disciplinary action and carries no implication of guilt.
- 8.14 It is important that an individual who is being suspended is not given the impression that they are being dismissed or that any decision has yet been taken about their future. However, there may be cases, for example, where sites are functioning outside the Council's normal office hours, where it is not possible for a Manager to obtain advice even though they feel it is important that the individual should be immediately removed from their duties. In such cases the Manager should send the individual home and tell them to await further instructions. The Manager must inform the Chief Executive, the Directors and the Human Resources Manager at the earliest opportunity. The Human Resources Manager will ask the employee to return to work or inform the employee that they have been suspended.
- 8.15 It may be necessary to plan the timing of suspension to prevent the suspect from destroying or removing evidence that may be needed to support disciplinary or criminal action. In these circumstances the suspect should be approached unannounced. They should be supervised at all times before leaving the Council's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Council. Any security passes, keys to premises, offices and furniture should be returned. The possibility of



## **WHISTLEBLOWING POLICY**

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collusion between Officers must be considered and the merits of carrying out simultaneous suspensions evaluated.

- 8.16 The Information and Communications Technology (ICT) Manager must be instructed to withdraw without delay access permissions to the Council's computer systems.

### **Investigation Arrangements**

- 8.17 Internal investigations will normally be led by a member of the Irregularity Response Team or service management.
- 8.18 Where an investigation is led by a member of the Irregularity Response Team the relevant senior manager member may be asked to nominate a suitably independent officer to represent a service in an investigation. The senior management representative may be asked to assist in gathering information and/or interviewing staff.
- 8.19 No action under the Disciplinary Procedure should normally be commenced until after the investigation has been completed and a report submitted.
- 8.20 It is essential that the investigation should be a complete one and the officer to whom it is delegated is entitled to expect the fullest co-operation from all employees.
- 8.21 Where there is a need for an internal investigation Internal Audit and/or Officers from the Human Resources Service may be used. Human Resources and Internal Audit are trained to carry out investigations regarding wrongdoing/misconduct, fraud and irregularity.
- 8.22 As the outcome of any investigation may be that there has been no irregularity, the investigator will take every possible care, as far as is compatible with their task to avoid prejudicing the position of, or embarrassing, the employee involved.
- 8.23 As part of their fact finding it may be necessary for the investigator to interview employees suspected of irregularities, some of which may be of a criminal nature. Interviews may also be required with relevant staff that have a detailed knowledge of the operations of the Authority in the area in question. The precise form of the interview must, within certain constraints, remain a matter for the investigator's discretion but they will normally ensure that:-
- Another officer of the Council accompanies them.
  - They say nothing to the employee that might provide a basis for the individual to argue that they were forced to resign.



## **WHISTLEBLOWING POLICY**

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- Where a person does express a wish to resign they will be told that the investigator is not authorised to receive resignations and informed of the correct procedure for tendering resignations. No resignation will be accepted without consultation between the Chief Officers and the Human Resources Manager on the potential implications of a resignation. In certain circumstances it may be necessary to refuse the resignation.
- Where a person offers to repay money they will be told that the offer cannot as yet be accepted. Any such offer will be reported to the Section 151 Officer for consideration as a matter of urgency.
- These procedures are not designed to provide for interviews that comply with the Police and Criminal Evidence Act and where there is a possibility of criminal offence guidance should be sought from Legal Services or the Police.
- The interviewer and interviewee should sign interview notes, alternatively the tape recording of interviews may be considered with the agreement of both parties.

8.24 The extent of an enquiry will be a matter for the investigator's discretion but will be discussed with the relevant Chief Officer. There may be cases where the nature or extent of the offences revealed indicates that the facts should be reported to the Police before a report is completed. Referrals to the Police will be made with the agreement of the Chief Executive or the Section 151 Officer or the Monitoring Officer or the Human Resources Manager.

8.25 The interview does not form part of the disciplinary process but the employee will have a right to be represented, by a union steward or workplace colleague. Interview transcripts or summaries will not be made available to the employee being interviewed except where they form part of the overall investigation report. Outside discussion by the employee or representative of the contents of such an interview should be considered a disciplinary offence in its own right.

8.26 It is important that no disciplinary action should be taken before an investigation report has been completed. It will be crucial in justifying any subsequent disciplinary action to show that there has been a full and thorough investigation and it is important to establish the scale of the irregularity before any action is taken.

### **Investigation Progress Reports**

8.27 The Investigation Team must provide progress updates to the Irregularity Response Team to enable findings to be shared and facilitate different courses of action where appropriate. Update reports regarding internal investigations can facilitate the review of decisions to suspend employees or not and referring the matter to the Police.



### **Completion of Investigation**

- 8.28 When the full report is completed it will be sent to the Irregularity Response Team. The purpose of the full report is to set out facts and all the relevant circumstances as a basis on which the Chief Officer can consider whether disciplinary proceedings are appropriate or whatever other action needs to be taken arising from the findings in the report. All members of the Irregularity Response Team and the External Auditor will be informed of any report to the Police.
- 8.29 The Irregularity Response Team will consider whether the report indicates a need for disciplinary proceedings in accordance with the agreed disciplinary procedure, this decision will be taken following advice of the Human Resources Manager.
- 8.30 A copy of the investigation report will be made available to members of the Irregularity Response Team.
- 8.31 Any disciplinary action will be implemented in accordance with the Council's agreed Disciplinary Procedure.

### **Post Investigation Review**

- 8.32 The investigating officer will carry out a Post Investigation Review. The purpose of Post Investigation Review is to identify any system weaknesses and to recommend actions for improvement.
- 8.33 The Post Investigation Review will include a timetable for implementing any recommendations and will include a response from the relevant management.
- 8.34 Where a fraud or irregularity has occurred it is important that staff are made aware that action has been taken and procedures strengthened to minimise a future occurrence. It is important that staff working in an area that has been the subject of a "whistleblowing" complaint are aware of action as a result of bringing a concern to the attention of management.
- 8.35 A summary of findings and recommendations as a result of the irregularity should be presented to the Standards Committee as appropriate. If criminal proceedings are to follow the content of any report must be agreed with the Monitoring Officer.

## **9.0 SUPPORT**

- 9.1 Directors/Service Managers/Supervisors are required to provide ongoing support to all employees. Where appropriate, Directors/Service Managers/Supervisors should ensure that employees are made aware of the independent confidential counselling service that employees are able to access if they feel it would be beneficial. Should an employee wish to take up this service then Managers should contact the Human



## **WHISTLEBLOWING POLICY**

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Resources Manager in order to make the necessary arrangements.

### **10.0 THE RESPONSIBLE OFFICER**

10.1 The Chief Executive, as Head of Paid Service, has overall responsibility for the maintenance and operation of the Policy. The Chief Executive, through the Human Resources Manager, will maintain a record of concerns raised and their outcomes, in a form that does not endanger an employee's confidentiality, and will report to the Council as and when appropriate.

### **11.0 CHALLENGING THE PROCESS/A DECISION**

11.1 If an employee feels that a "whistleblowing" allegation or irregularity has been dealt with unfairly or unreasonably, they will have the right to pursue the matter further through the Council's Grievance Procedure.

### **12.0 FURTHER INFORMATION**

12.1 Further information on this Policy can be obtained from the Human Resources Service in the first instance.

12.2 Employees who are members of a Trade Union may also obtain further information from their Representative.