

HAMBLETON DISTRICT COUNCIL

WHISTLEBLOWING POLICY

INTRODUCTION

Hambleton District Council (HDC) is committed to the provision of the highest standard of services. By delivering these services, HDC is consequently also committed to ensuring openness, probity and accountability. Whilst the Council has in place rules, regulations, quality standards and procedures, irregularities, wrongdoing or serious failures in standards sometimes may occur and people working within organisations are often the first to identify this. Whilst every employee is expected not to disclose confidential information about their employer's affairs, where an employee discovers information which they believe shows malpractice/wrongdoing within the Council then this information should be disclosed without fear of reprisal. In most situations, reporting concerns direct to Line Managers will be sufficient to prevent malpractice but employees may report concerns independently where they have concerns that Line Management will not take their concern seriously or may be involved in the malpractice.

HDC encourages employees and others working at or for the Council who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. HDC have adopted this policy to enable individuals to raise any concerns about such malpractice at an early stage and in the right way. If something is of cause for concern to an individual which they think the Council should know about or look into, then this policy should be used.

The Whistleblowing policy is primarily for concerns where the interests of others or of the organisation itself are at risk. This Whistleblowing policy is therefore intended as a clear statement that any malpractice by Members, employees or third parties (including contractors) reported to the Council will be swiftly and thoroughly investigated. The Council will also look at ways to ensure that such malpractice or wrongdoing can be prevented.

SCOPE OF THE POLICY

This Policy provides all employees, agency workers, contractors and Members of the Council with:

- avenues to raise concerns and receive feedback on any actions taken
- reassurances that they will be protected from reprisals or victimisation for whistleblowing

This Whistleblowing policy is primarily intended for people to raise concerns that are in the public interest and where the interests of others or of the organisation itself are at risk. If an individual has a concern about financial misconduct or fraud, please see HDC's Anti-Fraud and Corruption Policy.

This policy is intended to supplement, rather than to replace, the existing Grievance Procedure whereby employees of the Council may already raise complaints or matters of genuine concern relating to their own employment. It is instead designed to provide a channel for those instances where the person reporting the matter feels that, for any reason, they cannot make use of those existing complaints procedures. If, however, an individual is aggrieved about their personal position, they should use the Grievance Procedure.

BACKGROUND

The Employment Rights Act 1996, Public Interest Disclosure Act 1998, Enterprise and Regulatory Reform Act 2013 provide statutory protection for the disclosure by a worker of information within a wide category of qualifying disclosures provided it is a protected disclosure made in accordance with statutory requirements.

A qualifying disclosure is one made in the public interest by a worker 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. It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed, a reasonable belief is sufficient. The worker has no responsibility for investigating the matter - it is the Council's responsibility to ensure that an investigation takes place.

ISSUES THAT CAN BE RAISED UNDER THIS POLICY

Below is a list of issues which may be considered as malpractice or wrongdoing and can be legitimately raised under this Whistleblowing Policy:

- any unlawful act, whether criminal or a breach of civil law, failure to comply with legal obligations or where a miscarriage of justice has occurred, is occurring or is likely to occur
- maladministration as defined by the Local Government Ombudsman
- breach of any statutory Code of Practice
- breach of, or failure to implement or comply with any policy or procedure rules determined by the Council
- failure to comply with appropriate professional standards
- corruption or fraud including obtaining money (e.g. grants) without entitlement
- misuse of assets, including equipment, vehicles, buildings, computer hardware and software
- endangering the health and safety of any individual with actions which are likely to cause physical danger, or to give rise to a risk of significant damage to property
- failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income, to the Council or would otherwise seriously prejudice the Council
- corrupt practices, the abuse of power, or the use of the Council's powers and authority for any unauthorised or ulterior purpose
- unfair discrimination in the Council's employment or services
- causing damage to the environment
- the deliberate falsification of information or data
- the deliberate concealment of information in relation to any of the items on this list

MAKING A DISCLOSURE

HDC encourages employees to raise their concerns under this policy in the first instance. If an employee is not sure whether or not to raise a concern, they should discuss the issue with their Line Manager, Trade Union representative or Public Concern at Work.

An employee who makes a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. If an individual makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against that individual. The Council and Chief Executive are committed to this policy and as such if an individual raises a genuine concern under this policy they will not be at risk of losing their job or suffering any form of retribution as a result. Provided they are acting in good faith it does not matter if they are mistaken.

The Council will not tolerate any recriminations, victimisation or harassment. If anyone who has made a valid complaint feels that they have been victimised as a

result of raising concerns they can raise the matter directly with the relevant Head of Service (or in the event that they are involved) then with the relevant Executive Director, who will take appropriate action. Heads of Service are:

- **Steve Lister – Head of Service Leisure and Environment (Ext 7033)**
- **Mark Harbottle – Head of Service Economy and Planning (Ext 7115)**
- **Hannah Heinemann – Head of Service Commercial and Programme Management (Ext 7144)**

An instruction to cover up wrongdoing is in itself a disciplinary matter. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees should not agree to remain silent. They should report the matter directly with the relevant Head of Service (or in the event that they are involved) then with the relevant Executive Director, who will take appropriate action.

If, however, the individual makes malicious or vexatious allegations, disciplinary action may be taken. If the individual is a Contractor, supplier or is employed by another organisation but working on behalf of the Council and they make an allegation maliciously or for personal gain, this may result in them being removed from the approved list of contractors or the Council may discontinue using their services.

INDEPENDENT ADVICE

If the individual is unsure whether to use this procedure or if they want independent advice at any stage, they may contact:

- their **Trade Union**
or
- Free, confidential advice on how to raise a concern about malpractice at work can be sought from the independent charity **Public Concern at Work** on 020 7404 6609.

All individuals are also strongly advised to seek independent advice before they raise any issue outside the Council. The Council would rather an individual raised a matter with the appropriate regulator than not at all. Provided they are acting in good faith and they have evidence to back up their concern, they can also contact:

- **Local Government Ombudsman (01904 380200)**
- **North Yorkshire Police (101)**
- **Chartered Institute of Public Finance and Accountancy (020 7543 5600)**
- **Law Society (020 7320 5650)**

HOW THE COUNCIL WILL HANDLE THE MATTER

Once an individual has informed the Council of their concern, HDC will look into it to assess initially what action should be taken. The action taken by the Council will depend on the nature of the concern and the matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to the External Auditor; and/or
- form the subject of an independent inquiry.

Some concerns may be resolved by agreed action without the need for investigation. If misconduct is discovered as a result of any investigation under this policy, the Council's Disciplinary Policy and Procedure may be invoked (in addition to any appropriate external measures).

When someone raises the concern, they may be asked how they think the matter might best be resolved. If the person making the complaint has any personal interest in the matter, the Council do ask that they tell them at the outset. If their concern falls more properly within the Grievance Procedure, the Council will advise them accordingly.

The Council will inform the individual as to who will be handling the matter, how they can be contacted and whether the individual may be required to provide further assistance. If the individual requests, the Council will write to them summarising their concern and setting out how the Council propose to handle it.

The Council as far as practicably possible will give the individual as much feedback as they properly can. However, the Council may not be able to tell the individual the precise action that they take where this would infringe on a duty of confidence owed by the Council to someone else.

CONFIDENTIALITY

If an individual asks the Council not to disclose their identity, the Council will not do so without the individual's consent unless required by law. The Council will respect (so far as it can legally) the confidentiality of any whistleblowing complaint received, however the individual should understand that there may be times when the Council is unable to resolve a concern without revealing the person's identity, for example where their personal evidence is essential. In such cases, HDC will discuss with them whether and how the matter can best proceed. There will be circumstances where information must be disclosed for legal reasons, or to enable legal steps to be taken, e.g. there may be an obligation to disclose under the Freedom of Information

provisions, or if the circumstances amount to a serious crime there may be circumstances where information will have to be passed to senior officers or to external agencies such as the Police or External Auditors or if the situation arises where it is not possible to pursue the concern without revealing the individual's identity (e.g. the need to give evidence in court or at a disciplinary hearing).

ANONYMOUS ALLEGATIONS

The Council encourages individuals to put their name to their allegation. If they do not tell HDC who they are, it will be much more difficult for the Council to look into the matter or to protect their position or to give them feedback.

HOW TO RAISE A CONCERN - INTERNALLY

If an individual has a concern about malpractice, the Council hopes that they will, in the first instance be able to raise the matter with their immediate manager or their Line Manager's Line Manager. Concerns may be raised verbally and/or in writing.

The Council recommends that the information that is included in the letter contains: the background and history (giving relevant dates) and give the reason why the individual is particularly concerned about the matter. The individual may also wish to seek advice from their Trade Union representative (if applicable) at this stage. If they are personally involved in the matter that is being raised, they should tell the Council at the outset.

However, if the individual feels unable to raise the matter with their Line Manager due to the seriousness and sensitivity of the issues involved, or if they believe that their senior manager may be involved, or they are not an employee and do not have a line manager within the Council, they should raise the matter with Directors:

- **Mick Jewitt – Deputy Chief Executive (Ext: 7053)**
- **Helen Kemp – Director of Economy and Planning (Ext 7204)**
- **Louise Branford-White – Director of Finance (s151 officer) (Ext 7024)**
- **Gary Nelson – Director of Law and Governance (Monitoring Officer) (Ext 7043)**
- **Paul Staines – Director of Leisure and Environment (Ext 7045)**

The individual should state if they want to raise the matter in confidence so that the appropriate arrangements can be made.

If the individual feels that the matter is so serious that they cannot discuss it with any of the above, then they should contact:

- **Dr Justin Ives Chief Executive (Ext: 7001)**
or
- **Internal Audit (Veritau) (Ext: 7098)**

All of the above staff are based at the **Civic Centre, Stone Cross, Northallerton DL6 2UU.**

If an individual has followed these channels and they still have concerns or they feel unable to discuss the matter with any of the nominated officers listed above, please contact:

- **Gary Nelson – Director of Law and Governance (Monitoring Officer) (Ext 7043)**

If the individual is a member of staff they may invite their trade union or a work colleague to be present during any meetings or interviews (which may be arranged away from the normal workplace if they so wish) in connection with the concerns they have raised.

RAISING A CONCERN - EXTERNALLY

Whilst it is hoped that this policy gives an individual the confidence to raise their concerns with the Council, it is recognised that there may be circumstances where individuals may report matters to outside authorities.

Legislation sets out a number of bodies to which qualifying disclosures may be made. An employee can make a disclosure (and still retain protection under the Employment Rights Act 1996) to a non-prescribed person if certain conditions are met, namely: the worker reasonably believes the information is substantially true, the worker is not making the disclosure for personal gain and in all the circumstances, it is reasonable for the worker to make the disclosure. The employee must also reasonably believe that he or she would be subject to a detriment by the employer if he or she made the disclosure directly to the employer or a prescribed person, reasonably believe that the employer would conceal or destroy evidence if the disclosure were put directly or have previously made the same disclosure to the employer or a prescribed person to no avail.

IF THE INDIVIDUAL REMAINS DISSATISFIED

If the individual is unhappy with the Council's response, they should remember that they can go to the other levels and bodies detailed in this Policy. Whilst the Council cannot guarantee that it will respond to all matters in the way that the individual might wish, the Council will try to handle the matter fairly and properly.