

CONFIDENTIAL REPORTING

Policy

prepared by: human resources

date: July 2015

for review: July 2018

this page is left intentionally blank.

POLICY STATEMENT ON CONFIDENTIAL REPORTING

Employees are often the first to realise that there may be something seriously wrong within an organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimization. In these circumstances it may be easier to ignore the concern rather than to report what may be a suspicion of malpractice.

Chesterfield Borough Council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the council's work to come forward and voice those concerns. It is recognized that most cases will have to proceed on a confidential basis.

This policy makes it clear that all can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. The confidential reporting 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.

The policy applies to all employees and those contractors working for the council on council premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the council in their own premises.

1.0 Introduction

- 1.1 This policy makes it clear that all can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. The confidential reporting 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.
- 1.2 The policy applies to all employees and those contractors working for the council on council premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the council in their own premises. Therefore the global term worker will be used throughout the policy.
- 1.3 These procedures are in addition to the council’s complaints procedures and other statutory reporting procedures (e.g. The grievance procedure; the anti-fraud and corruption strategy; the Safeguarding policy and procedures and the anti-harassment / bullying policy and procedure).
- 1.4 This policy has been discussed with the relevant trade unions and has their support.

2.0 Aims and scope of this policy

- 2.1 The policy aims to:
 - encourage individuals to feel confident in raising serious concerns about activities, procedures or practices related to the Council.
 - provide avenues for individuals to raise those concerns and receive feedback on any action taken.
 - ensure that individuals receive a response to concerns raised and that they are aware of how to pursue them if they are not satisfied.
 - reassure individuals who raise a concern that they will be protected from possible reprisals or victimization if they have a reasonable belief that they have made any disclosure in good faith.
- 2.2 There are existing procedures in place to enable employees to lodge a grievance relating to employment and to report harassment and bullying. The confidential reporting policy is intended to cover major concerns that fall outside the scope of such procedures.

2.3 The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about specific matters. These are called “qualifying disclosures”. A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that:

- a criminal offence
- a miscarriages of justice;
- an act creating a risk to health and safety, including risks to the public as well as other employees;
- 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.

2.4 The Counter Terrorism and Security Act 2015 places a duty on all authorities to have due regard to prevent people from being drawn into terrorism. If you have concerns about a colleague please discuss your concerns confidentially with the Community Safety Officer who can then arrange referral to the Counter Terrorism Channel programme via Derbyshire County Council.

2.5 There are some disclosures that can’t be qualifying disclosures. You won’t be protected for ‘whistleblowing’ if:

- you break the law when making a disclosure (for example if you signed the Official Secrets Act as part of your employment contract)
- the information is protected under legal professional privilege (e.g. the information was disclosed to you when someone wanted legal advice).

2.6 The earlier the concern is raised the easier it is to take action.

2.7 This policy does not replace, but rather complements the corporate complaints procedure, the anti-fraud and corruption strategy, the Safeguarding policy and procedures and the anti-harassment / bullying policy and procedure.

3.0 Safeguards

- 3.1 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.
- 3.2 No worker will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because he/she has raised a legitimate concern.
- 3.3 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.
- 3.4 If misconduct is discovered as a result of any investigation under this procedure the council's disciplinary procedure will be used, in addition to any appropriate external measures. Maliciously making a false allegation is a disciplinary offence.
- 3.5 An instruction to cover up a wrongdoing is in itself a disciplinary offence. If an individual is told not to raise or pursue any concern, even by a manager, workers should not agree to remain silent and should report this matter to a senior manager.

4.0 Anonymous allegations

- 4.1 This policy encourages an informant to put their name to an allegation whenever possible as confidentiality and protection from victimisation are inherent in the process.
- 4.2 Concerns expressed anonymously are much less powerful but will be fully investigated.

5.0 Raising a concern

- 5.1 As a first step an employee should normally raise concerns with his/her immediate manager. This depends, however, on the seriousness of the issues involved and who is suspected of the malpractice. For example, if it is believed that management is involved, the employee should inform either his/her corporate manager, the chief executive, the monitoring officer (with the advice of the council's external HR specialist advisors if appropriate), the head of internal audit consortium or the council's external auditor (details on the council's web-site).
- 5.2 Concerns may be raised verbally or in writing. Workers who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates) and
 - the reason why he/she is particularly concerned about the situation.
- 5.3 To enable monitoring of this policy to take place, the worker should make it clear to the manager to whom the report is being made that the issue is being raised under the confidential reporting policy. The manager receiving the concern will submit a confidential summary to the monitoring officer (with the advice of the council's external HR specialist advisors if appropriate) to enable a central record of all issues raised to be maintained (see section 9.1).
- 5.4 Although an informant is not expected to prove beyond doubt the truth of an allegation, he/she will need to demonstrate to the person contacted that there are reasonable grounds for the concern.

To obtain further advice / guidance on how to pursue matters of concern the following internal or external sources can be contacted:

Internal

- The line manager
- The corporate manager
- The chief executive (345305)
- Monitoring Officer (345309)
- The head of internal audit consortium (345468)
- The Health and Safety Advisor (345297)
- An employee's local Trade Union Representative

External

- The Council's external auditor – contact details can be found on the Council's website
Telephone: 01246 504300
- Public Concern at Work – the independent charity Public Concern at Work on 020 7404 6609 or at www.pcaaw.co.uk . Their lawyers can give free confidential advice at any stage about how to raise a concern about serious malpractice at work.

- 5.5 An employee may wish to consider discussing a concern with a colleague first and they may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns.

5.6 The employee is entitled to be accompanied by a representative during any meetings or interviews in connection with the concerns they have raised.

6.0 How the council will respond

6.1 The Council will respond to all concerns raised. It should be noted that investigating concerns is not the same as either accepting or rejecting them.

6.2 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 external auditors; or
- form the subject of an independent inquiry.

6.3 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, harassment, bullying or discrimination issues) will normally be referred for consideration under those procedures.

6.4 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.

6.5 Within ten working days of a concern being raised, the manager to whom information has been provided will write to the informant:

- acknowledging that the concern has been received;
- indicating how the council proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- advising whether initial enquiries have been made;
- supplying information on staff support mechanisms (where the complainant is an employee), and
- if it is possible at this stage, advising whether further investigations will take place and if not, why not.

6.6 The amount of contact between the manager(s) considering the issues and the informant will depend 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 from the informant.

- 6.7 Where any meeting is arranged this can be off-site and / or out of normal working hours, if appropriate and the complainant so wishes and the complainant may be accompanied by a representative if they are an employee.
- 6.8 The council will take steps to minimise any difficulties which a worker may experience as a result of raising a concern. For instance, if he/she is required to give evidence in criminal or disciplinary proceedings, the council will arrange for them to receive advice about the procedure.
- 6.9 The council accepts that a worker needs to be assured that the matter has been properly addressed. Therefore, subject to legal constraints, we will inform them of the outcome of any investigation.

7.0 The responsible officer

- 7.1 Whilst the chief executive has overall responsibility for the maintenance and operation of this policy, the monitoring officer (or a nominated representative) will act as 'the responsible officer' and will undertake the following activities in relation to this policy:
- Receive a written confidential report from any manager who receives a report of a concern raised under this policy.
 - Monitor that the relevant manager sends an interim response within ten days of the issue being raised.
 - Monitor that the relevant manager sends a final report to the employee detailing the outcome of any investigation.
 - Maintain a record of any concerns raised and the outcome (in a form that does not endanger confidentiality) and report this at six monthly intervals to the corporate management team (CMT) and to the Leader/Deputy and to the council as necessary.

8.0 How the matter can be taken further

- 8.1 This policy is intended to provide individuals with an avenue within the council to raise concerns. The council hopes any individual raising a concern will be satisfied with any action taken. If they are not, and if they feel it is right to take the matter outside the council, the legislation provides that workers can report this matter to the following bodies:
- HM Revenue & Customs

- The Financial Conduct Authority (formerly the Financial Services Authority)
- The Competition and Markets Authority
- The Environment Agency
- The Independent Police Complaints Commission
- The Serious Fraud Office

8.2 If the matter is taken up outside the Council, an employee should ensure that they do not disclose confidential information.