



WHISTLEBLOWING POLICY: THE CONFIDENTIAL REPORTING CODE

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For review:

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SECTION 1: GENERAL GUIDING PRINCIPLES

POLICY STATEMENT

1. 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 internally. This code provides the means for employees to make such disclosures and how those concerns will be dealt with.
2. 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 victimisation.
3. This whistleblowing policy and confidential reporting code is intended to enable individuals to disclose information about malpractice internally and to provide them with protection from subsequent victimisation, discrimination or disadvantage. This will assist in detecting and deterring malpractice and demonstrate the Council's accountability, maintain public confidence and the Council's good reputation.

SCOPE

4. The policy applies to all employees and those contractors working for the council or 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.
5. The policy aims to:
 - Encourage employees to feel confident in raising serious concerns about activities, procedures or practices related to the Council.
 - provide avenues for employees to raise those concerns and receive feedback on any action taken.
 - ensure that employees receive a response to concerns raised and that they are aware of how to pursue them if they are not satisfied.
 - reassure employees who raise a concern that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure in good faith.

6. The law provides protection for employees 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 one or more of the following has occurred, or is likely to occur:
 - A criminal offence;
 - A miscarriage 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;
7. This policy does not replace, but rather complements and addresses concerns that fall outside the scope of the following existing policies and reporting procedure that are in place:
 - The corporate complaints procedure;
 - Anti-fraud and corruption strategy;
 - Safeguarding policy and procedures;
 - Bullying and harassment policy;
 - Employee code of conduct
 - Member code of conduct
 - Grievance policy

PRINCIPLES

8. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
9. Any matter raised under this procedure will be investigated thoroughly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.
10. Any investigation that takes place under this policy may involve access to sensitive or personal data or records. In all cases those who access records will deal with it in accordance with the data protection principles. The information will only be used for the purpose of the investigation and not used for any other purpose.

11. No employee 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 employee will not be prejudiced because they have raised a legitimate concern.
12. Victimisation of an employee for raising a qualified disclosure will be a disciplinary offence.
13. 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.
14. If an employee makes a disclosure that they reasonably believe is in the public interest but is not confirmed by the investigation, no action will be taken against the employee. If however, an allegation is malicious or for personal gain the employee may be subject to disciplinary action.
15. 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, employees should not agree to remain silent and will be fully supported throughout the process. Employees should report their concern to a senior manager.
16. All disclosures will be treated in confidence and wherever possible every effort will be made not to reveal the identity of the informant. However, they may need to come forward as a witness and they will be given full support from management at that time.
17. 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.
18. Concerns expressed anonymously will still be considered but are much less powerful.
19. An employee is entitled to be accompanied by a trade union representative or work colleague during any meetings or interviews in connection with the concerns they have raised.
20. The Public Interest Disclosure Act (PIDA) means it is unlawful to subject someone to a detriment or to dismiss them because they have raised a whistleblowing concern in the workplace. PIDA is now part of the

Employment Rights Act 1996. An employee will have to show three things to claim PIDA protection:

- That they made a disclosure;
- That they followed the correct disclosure procedure;
- That they were dismissed or suffered a detriment as a result of making the disclosure.

It is vital that the employee retains their own proof of the disclosure, even if they made the disclosure anonymously.

SECTION 2: PROCEDURE

RAISING A CONCERN – EMPLOYEE ACTION

21. As a first step an employee should normally raise concerns with their immediate line manager. If you believe your line manager is involved you should approach your Service Director or another senior manager in your department. This depends, however, on the seriousness of the issues involved and who is suspected of the malpractice. If you believe that senior management is involved you should approach the chief executive, the monitoring officer, the head of internal audit consortium or the council's external auditor. (See Appendix A for detailed information)
22. Concerns may be raised verbally or in writing as soon as they arise without undue delay. The earlier concerns are expressed the easier it is to take action.
23. Employees should provide:
 - Details of their concerns including any background information, dates and location of any relevant incidents;
 - the reason why they are concerned about the situation.
24. Although employees are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for the concern.
25. 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. Employees may also wish to discuss concerns with their trade union representative.

26. Further advice and guidance on how to pursue matters of concern are detailed in Appendix A.

ACTION TAKEN BY THE COUNCIL

27. 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.

28. 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.

29. 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.

30. 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.

31. Within five 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;
- confirm a timescale of how long it will take to provide a final response. This is usually within ten working days but could take longer depending on how complex the matter is;
- if the complaint can't be completed within ten working days then this will be communicated accordingly, explaining reasons why
- advising whether initial enquiries have been made;

- supplying information on employee support mechanisms, and
 - if it is possible at this stage, advising whether further investigations will take place and if not, why not.
32. The amount of contact between the manager 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 manager will seek further information from the informant and keep them updated throughout the investigation.
33. Where any meeting is arranged this can be at a neutral site and out of normal working hours, if appropriate and the complainant so wishes.
34. The council will take steps to minimise any difficulties which an employee may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the council will arrange for them to receive advice about the procedure.
35. The Council accepts that a worker needs to be assured that the matter has been properly addressed. Therefore, subject to legal constraints, they will be informed of the outcome of any investigation.

RESPONSIBLE OFFICER

36. The Monitoring Officer has overall responsibility for the maintenance and operation of this policy and they, 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 the investigation report, any concerns raised and the outcome in a form that does not endanger confidentiality and report on this to the corporate leadership team (CLT), the Leader/Deputy Leader, Standards and Audit Committee / to the council as appropriate.

HOW THE MATTER CAN BE TAKEN FURTHER

37. 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 employees 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

38. The Serious Fraud Office

If the matter is taken up outside the Council, an employee should discuss the matter with the Investigating Officer or the Monitoring Officer to ensure that they do not disclose confidential information to external bodies e.g. the press.

REVIEW

39. This policy will be reviewed every three years, or when legislation changes, whichever is sooner.

APPENDIX A - FURTHER ADVICE AND GUIDANCE

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

Internal contacts

- The line manager
- A service director
- An executive director
- The chief executive
- The monitoring officer
- The head of internal audit consortium
- The corporate health and safety advisor
- An employee's local Trade Union Representative – UNISON, GMB or UNITE
- A member of the HR team

External contacts

- The Council's external auditor – contact details can be found at <https://www.chesterfield.gov.uk/your-council/the-council/external-auditors.aspx>
- Protect (formerly known as Public Concern at Work) - the UK's whistleblowing charity who aim to stop harm by encouraging safe whistleblowing at <https://protect-advice.org.uk/> They offer a free, confidential **Advice Line** to support whistleblowers who have seen malpractice, risk or wrongdoing in the workplace.
- The ACAS website for free, impartial advice on workplace rights, rules and best practice at <https://www.acas.org.uk/>
- The gov.uk website for advice at <https://www.gov.uk/whistleblowing>