

*Working together*



# **South Hams District Council And West Devon Borough Council**

## **Confidential Reporting Policy**

# **“Whistle-blowing”**

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## **1. INTRODUCTION**

- 1.1 The Public Interest Disclosure Act 1998 protects workers from the consequences, actual or feared, of raising concerns about serious misconduct or malpractice such as fraud, cheating, or unsafe practices where they work.
- 1.2 The Act applies to “workers”, a much broader category than “employees”. It covers all employees and those contractors or agency staff working for the Councils on Council premises. It also covers suppliers and those providing services under a contract with the Councils from their own premises. No minimum period of service is required to receive the protection of the Act.
- 1.3 Workers are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.4 The Councils are committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect workers, and other people that we deal with, who have serious concerns about any aspect of the Councils’ work to come forward and voice those concerns.
- 1.5 This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within the Councils rather than overlooking a problem or 'blowing the whistle' outside. It makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage.
- 1.6 This policy is in addition to the Councils’ complaints procedures, its procedures for staff to raise grievances and other statutory reporting procedures. Group Managers are responsible for making individual workers aware of its existence.
- 1.7 This policy has been discussed with the relevant trade unions and has their support.

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### 2. AIMS AND SCOPE OF THE CONFIDENTIAL REPORTING POLICY

2.1 This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for you to raise those concerns and receive feedback on any action taken;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
- Reassure you that you will be protected from possible reprisals or victimisation if you reasonably believe that you are making any disclosure in good faith.

2.2 The Confidential Reporting Policy is intended to cover major concerns which affect or threaten other people and which fall outside the scope of other procedures. These concerns could be:

- Conduct which is an offence or a breach of the law;
- A miscarriage of justice;
- Health and safety risks, including risks to the public as well as other employees;
- Damage to the environment;
- The unauthorised use of public funds;
- Fraud or corruption; and
- Sexual, physical or mental abuse, or other unethical conduct.

2.3 Thus, any serious concerns that you have about any aspect of service provision, or the conduct of officers or members of the Councils, or others acting on behalf of the Councils that;

- Make you feel uncomfortable because it doesn't comply with known standards, or with your experience of the standards you believe the Councils subscribes to; or
- Is against the Councils' Standing Orders and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct;

can be reported under this Confidential Reporting Policy.

2.4 There are other procedures in place to enable you to;

- Lodge a grievance relating to your own employment where your concerns are about your own position, rather than the protection of the public, use the employees' **Grievance Procedure**;

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- Make a complaint about a decision of the Councils which has affected you or somebody else as a user of the service, use the **Complaints Procedure**; or
- Complain about the conduct of a councillor, use the procedure for **Making a Complaint about a Member**.

You should not use this policy for those concerns.

### **3. SAFEGUARDS: HARASSMENT OR VICTIMISATION**

- 3.1 The Councils are committed to good practice and high standards and want to be supportive of its workers.
- 3.2 The Councils recognise that it can be difficult to make a decision to report a concern. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.3 The Councils will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.

### **4. CONFIDENTIALITY AND ANONYMOUS ALLEGATIONS**

- 4.1 This policy encourages you to put your name to your allegation whenever possible. We will not reveal your name without your consent unless the law so requires, but we can't stop people trying to work out who you are.
- 4.2 You should bear in mind that concerns expressed anonymously are much less powerful because they are much harder to investigate. They will though be considered at the discretion of the Councils.

In exercising this discretion the factors to be taken into account would include:

- The seriousness of the issues raised;
  - The credibility of the concern;
  - The likelihood of confirming the allegation from attributable sources; and
  - The possibility of victimisation from peers / colleagues that would be difficult to control.
- 4.3 But at the appropriate time, you may need to come forward as a witness, either in internal proceedings within the Councils or in a court. In those cases we may not be able to maintain your anonymity. It is a basic principle of human rights that a person should know who is accusing him or her. However, in those rare cases where you may be afraid of violence we will try to make

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arrangements to secure your personal safety. In appropriate cases we will enlist the help of the Police or victim support groups.

#### **5. UNTRUE ALLEGATIONS**

- 5.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make a false allegation frivolously, maliciously or for personal gain or revenge, disciplinary action may be taken against you.
- 5.2 Any investigation into your allegation of potential malpractice will be investigated separately from, and will neither influence nor be influenced by, any disciplinary, grievance or redundancy procedures that already affect you.
- 5.3 If you blow the whistle under this policy where you participated in the malpractice you are complaining about, you cannot escape appropriate disciplinary action for misconduct or gross misconduct (see the Councils' Disciplinary procedure).

If you did participate in malpractice, and later own up to it, it may reduce the penalty that you face. This will depend on all the circumstances.

#### **6. HOW TO RAISE A CONCERN**

- 6.1 As a first step, you should normally raise concerns with your immediate manager who will normally refer the matter to the Councils' Monitoring Officer. Where the subject of your concern is your immediate manager then it is likely to be more appropriate to raise the concern with the Monitoring Officer direct.
- 6.2 In any event the Monitoring Officer should always be advised of potential malpractice within the authority as she has statutory duties and responsibilities in relation to matters of illegality or maladministration (potential or actual). The Monitoring Officer will be responsible for advising the Section 151 Officer (who has responsibilities relating to financial probity) and the Executive Directors (as the Head of Paid Service), depending on the Monitoring Officer's view as to the seriousness of the allegation.
- 6.3 Concerns may be raised orally (face to face) or in writing. If you make a written report you are invited to set out:
  - The background and history of your concern, giving the dates of relevant events and explaining their consequences; and
  - The reason why you are particularly concerned about the situation.
- 6.4 The earlier you express concern the easier it is to take action.

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- 6.5 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 6.6 Advice/guidance on how to pursue matters of concern may be obtained from:
- The Monitoring Officer;
  - The S.151 Officer;
  - The Executive Directors; or
  - Internal Audit.
- 6.7 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 6.8 You may invite your trade union, professional association representative or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised.

### **7. HOW THE COUNCILS WILL RESPOND**

- 7.1 The Councils will acknowledge your concerns and will tell you know what will happen next. You may feel that you are not believed straight away. This is because senior officers need to be sure that they clearly understand what you are saying. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 7.2 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 the external auditor; or
  - Form the subject of an independent inquiry.
- 7.3 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 Councils will have in mind is the public interest.
- 7.4 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.
- 7.5 Within ten working days of a concern being raised, the Monitoring Officer will write to you:

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- Acknowledging that the concern has been received;
- Indicating how we propose to deal with the matter;
- Giving an estimate of how long it will take to provide a final response;
- Telling you whether any initial enquiries have been made;
- Supplying you with information on staff support mechanisms; and
- Whether further investigations will take place and if not, why not.

7.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Councils will seek further information from you.

7.7 Where any meeting is arranged, which can be off-site if you so wish, you can be accompanied by a union or professional association representative or a work colleague.

7.8 The Councils will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Councils will arrange for you to receive advice about the procedure.

7.9 The Councils accept that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **8. THE RESPONSIBLE OFFICER**

8.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. He/she maintains a record of concerns raised and the outcomes (but in a form which where appropriate does not endanger your confidentiality) and will report as necessary to the relevant Council.

## **9. HOW THE MATTER CAN BE TAKEN FURTHER**

9.1 This policy is intended to provide you with an avenue within the Councils to raise concerns. The Councils hope you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Councils, the following are possible contact points:

- The external auditor;
- Your trade union;
- Your local Citizens' Advice Bureau;
- Relevant professional bodies or regulatory organisations; and
- The Police.

9.2 If you do take the matter outside the Councils you should ensure that you do not disclose confidential information. Check with the contact point about that.

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#### **10. CONCLUSION**

- 10.1 An important element in the maintenance of probity in local government is the ability for employees to be able to raise concerns where they perceive wrongdoing or malpractice. Individuals, both local government employees and other interested parties, need to know that their concerns will be taken seriously and investigated.
- 10.2 The Confidential Reporting Policy is only one aspect of measures to ensure the transparent delivery of services. As part of the government's ethical framework there is a code of conduct for elected members and a similar code for Council employees.
- 10.3 The Councils have reviewed this policy from time to time, since it was implemented in 1999, and annually monitors the effectiveness of the policy.