

Whistleblowing Policy

Issue details																																																							
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Issue and version number:	Issue 3																																																						
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Officer responsible:	Monitoring Officer	
Authorisation by:	Audit & Governance	
Authorisation date:	January 2022	
Review date:	January 2025	

Whistleblowing Policy

1. Previous Policy

This Policy was reviewed in January 2022 by the Monitoring Officer. Previously it was reviewed in January 2019.

2. What is whistleblowing?

- 2.1. Someone 'blows the whistle' when they tell their employer, a regulator, customers, the police or the media about a dangerous or illegal activity that they are aware of through their work.
- 2.2. Whistleblowing can inform those who need to know about health and safety risks, potential environmental problems, fraud, corruption, deficiencies in the care of vulnerable people, cover ups and many other problems. Often, it is only through whistleblowing that this information comes to light and can be addressed before real damage is done.

3. Purpose and scope of the Policy

- 3.1. The Council takes malpractice and wrongdoing in relation to the organisation's procedures and actions very seriously. It is our aim to ensure that as far as possible, our employees are able to blow the whistle and tell us about any wrongdoing at work which they believe has occurred or is likely to occur.
- 3.2. The Council upholds the seven principles of public life and conducts its business with these in mind (see Appendix 1). The Council is committed to the highest possible standards of openness, probity and accountability and this is reflected in the Council's value of being '*open, clear and transparent*'.
- 3.3. It expects all employees (including any agency staff) to maintain these standards in everything they do. Employees, and others that we deal with (so including suppliers and those providing services to the Council), are therefore encouraged to report any wrongdoing by the Council or its employees that falls short of these principles (i.e. they are encouraged to 'blow the whistle').
- 3.4. The Public Interest Disclosure Act 1998 and Enterprise and Regulatory Reform Act 2013 protects employees who report wrongdoing within the workplace. So, any employee or worker who makes a report under this procedure in the reasonable belief that the disclosure they are making is in the 'public interest' will not be subject to any detriment.
- 3.5. We recognise that employees may not always feel comfortable about discussing their concerns within the Council, especially if they believe the Council itself is responsible for the wrongdoing. The aim of this policy is to ensure that employees are confident that they can raise the matter with the Council with the knowledge that it will be taken seriously, treated as confidential and that they will not be the subject of victimisation,

subsequent discrimination or disadvantage for having reported their concerns, irrespective of the outcome.

- 3.6. You are encouraged to use the procedure set out in this policy if you have any concerns at all about wrongdoing at work which could comprise:
- any criminal offence,
 - a failure to comply with our legal obligations (such as our Standing Orders or Financial Procedure Rules) or any other unlawful action,
 - improper conduct,
 - malpractice or acting against established practice / policies,
 - a miscarriage of justice,
 - a health and safety danger,
 - a risk of environmental damage, or
 - concealment of any of the above.

The list is not exhaustive but is intended to illustrate the range of issues which could be raised under this policy.

- 3.7. This policy aims to ensure that the Council investigates and deals with disclosures fairly, promptly and properly.

4. What is the difference between making a complaint and blowing the whistle?

4.1. When someone blows the whistle they are raising a concern about danger or illegality that affects others (for example customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern – they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.

4.2. This is very different from a complaint or grievance. When someone complains or raises a grievance, they are saying that they have been personally treated poorly. This poor treatment could involve a breach of their individual employment rights or bullying and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and for this reason, is expected to prove their case.

4.3. For these reasons, it is not in anyone's interest if an individual uses this policy to pursue a personal grievance. For personal complaints or grievances, please use the Grievance Policy and Procedure instead.

5. Safeguarding whistleblowers and dealing with malicious allegations

5.1. In line with the Employment Rights Act 1996 and Enterprise and Regulatory Reform Act 2013, the Council undertakes that no employee who makes a report under this procedure and who has a reasonable belief

that the disclosure they are making is in the 'public interest' will be subjected to any detriment as a result. The fact that there needs to be 'reasonable belief' does not mean that their belief must be correct for the protection to apply.

- 5.2. This means the Council will not tolerate any harassment or victimisation (including any informal pressures) nor any attempt to apply a sanction or any other detriment to a person who has reported any serious and genuine concern that they have of any apparent malpractice. Anyone who victimises a 'whistleblowing' colleague will personally be liable as the affected 'whistleblower' can directly bring a claim against the culprit. Further the employee can refer their case to an industrial tribunal.
- 5.3. In the event that you believe you are being subjected to a detriment by any person within the Council, as a result of your decision to invoke the procedure, you must inform the Monitoring Officer or the Strategic Lead (Organisational Development) immediately and appropriate action will be taken to protect you from any reprisals.
- 5.4. The Council encourages you to put your name to your allegation as this gives weight to the case and helps with the investigation of the issue. However, you may seek to remain anonymous if you wish. All information you provide is held in the strictest confidence and the Council will seek to protect the identity of any employee as far as possible.
- 5.5. It is important to note that if your allegation is of such a serious nature, it may be necessary for your identity to be revealed. This may be because of the need for the identity to be revealed as part of the evidence. Moreover, if the matter is brought to court, a judge may order a name to be divulged. However the Council will do everything possible to protect your anonymity before this stage is reached and will discuss with you before embarking on any course of action whereby your identity will be disclosed. Please note though that once action is initiated, notwithstanding your desire for anonymity and the Council's aim of protecting that anonymity, it may simply not be possible to achieve this.
- 5.6. You may bring a friend or colleague to any meeting arranged in connection with the concern you have raised as long as the friend or colleague is not involved in the matter and agrees to maintain confidentiality. Additionally, if you wish, you may be accompanied by your trade union representative. It will be up to you to arrange this.
- 5.7. It is emphasised that you have nothing to fear by raising your concerns. Provided you are acting in reasonable belief that you are acting in the public interest, it does not matter if you are mistaken. However, disciplinary action may be taken against any member of staff who is discovered to have made allegations frivolously, falsely or maliciously, for example to pursue a personal grudge against another employee.
- 5.8. The Council will try to ensure that any negative impact of either a malicious or unfounded allegation about a person is minimised.

6. Procedure

Background

- 6.1. As a first step, you should normally raise concerns with your 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. If you prefer (for whatever reason) or if you believe that management is involved, you could approach one of the individuals in section 6.3.
- 6.2. The earlier you express the concern, the easier it is to take action. You should not wait until you have proof. Although you are not expected to prove the truth of the allegation, you will need to demonstrate to the person contacted that there are grounds for your concern.

N.B. If an employee has any personal interest in the matter this should be disclosed at the outset.

- 6.3. If you do have a concern, whether as a member of staff or a member of the public, and however small, where you don't feel comfortable discussing such a sensitive issue with a close colleague or other officers within the Council, you can discuss the matter with any of the following:

Melanie Wellman, Monitoring Officer

Email: melanie.wellman@eastdevon.gov.uk

Tel: 01395 571688

Write to: Blackdown House, Border Road, Heathpark Industrial Estate, Honiton EX14 1EJ

Anita Williams, Deputy Monitoring Officer

Email: awilliams@eastdevon.gov.uk

Tel: 01395 571556

Write to: Blackdown House, Border Road, Heathpark Industrial Estate, Honiton EX14 1EJ

Simon Davey, Section 151 Officer

Email: sdavey@eastdevon.gov.uk

Tel: 01395 517490

Write to: Blackdown House, Border Road, Heathpark Industrial Estate, Honiton EX14 1EJ

Jo Fellows, Corporate Lead – Human Resources

Email: jfellows@eastdevon.gov.uk

Tel: 01395 515616

Write to: Blackdown House, Border Road, Heathpark Industrial Estate, Honiton EX14 1EJ

Lisa Fryer, Assistant Director for SWAP Internal Audit Services

Email: lisa.fryer@swapaudit.co.uk

Tel: 07720 312465

Write to: Abbey Manor Business Centre, Preston Road, Yeovil, BA20 2EN

- 6.4. Alternatively, you may contact the East Devon District Council Fraud Line number which is 01395 517494.
- 6.5. An informal approach to any of these officers will be treated as completely confidential and will not result in any report to anyone within the Council unless you agree.
- 6.6. In the event that you are unsure whether you should raise an issue under this policy or you need advice, free confidential advice is available from Public Concern at Work (0207 404 6609) www.pcaaw.co.uk, a charity with the objective of promoting compliance with the law and good practice.

Process (a flowchart of the process is contained at Appendix 2)

- 6.7. Initial concerns may be raised orally or in writing, although normally it is preferable to put your concern in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. There is an example report form in Appendix 3 of this Policy which you are encouraged to use to formally report a concern.
- 6.8. In order to protect the individual and the Council, an initial investigation will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take. The initial investigation may be carried out internally or the Council may ask another body (e.g. SWAP) to carry it out. Concerns or allegations, which fall within the scope of specific Policies (for example fraud, theft and corruption) will normally be referred for consideration under the procedures in those Policies.
- 6.9. Following the initial investigation, it may be that some concerns can be resolved by agreed action without the need for a full investigation. If urgent action is required, this would be taken before any full investigation is completed.
- 6.10. Within ten working days of a concern being raised, and following the initial investigation, the Monitoring Officer will write to the person raising the concern;
 - acknowledging that the concern has been received,
 - indicating the initial findings and how he/she proposes to deal with the matter; and
 - giving an estimate of how long it will take to provide a final response.

If it is impossible for the initial investigation to be completed within ten working days, or where urgent action is required, the situation will be explained in the letter of acknowledgement. Where a decision is made that a full investigation will take place, the reasons for this will be provided.

- 6.11. If a full investigation is required this will be carried out by the Council internally or the Council may ask another body (e.g. SWAP) to carry it out. Following the full investigation the Council will either resolve by agreed action or take appropriate further action. This further action could be:
 - Agreed steps such as disciplinary process,

- Referral to the Police,
- An independent enquiry

6.12. The amount of contact between the officers considering the issues and the employee raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern. Notwithstanding the initial acknowledgement, you will be kept informed of the progress and outcome of the action and reasons for any decisions, subject to any legal constraints there may be.

6.13. The Council will take appropriate steps to minimise any difficulties, which an employee may experience as a result of raising a concern. For example, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will need to inform them and consider what steps are required to provide support.

6.14. The Council recognises that there may be matters that cannot be dealt with internally and external authorities will need to become involved. Where this is necessary the Council reserves the right to make such a referral without your consent.

7. Further steps

7.1. This Policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not satisfied with the outcome of your confidential allegation you can write to the Chief Executive and ask for the investigation and outcome to be reviewed. If you remain dissatisfied and you feel it is right to take the matter outside the Council, you may wish to take advice from your trade union, your local Citizens Advice Bureau, any of the external agencies listed in section 7.4 below, or your legal advisor on the options that are available to you.

7.2. Another option is that you may wish to rely on your rights under the Public Interest Disclosure Act 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public interest. The provisions are quite complex and include a list of prescribed persons outside of the Council who can be contacted in certain circumstances. You should seek advice on the effect of the Act from the Monitoring Officer.

7.3. If you do take the matter outside the Council, you need to ensure that you do not disclose information where you owe a duty of confidentiality to persons other than the Council (e.g. service users) or where you would commit an offence by making such disclosures. This is something that you would need to check with one of the officers mentioned in Section 6.3.

7.4. External Contacts

If for any reason you do not wish to use the internal arrangements set out above, or require additional support and advice, a list of some of the prescribed people and bodies to whom you can make a disclosure and

whose functions have particular relevance to councils work are given below.

- The Certification Officer (www.certoffice.org)
- Her Majesty's Revenue and Customs (HMRC) (www.hmrc.gov.uk)
- Serious Fraud Office Confidential (www.sfo.gov.uk)
- The Health & Safety Executive (www.hse.gov.uk)
- The Environment Agency (www.environment-agency.gov.uk)
- The Food Standards Agency (www.food.gov.uk)
- The Homes and Communities Agency (HCA) (www.homesandcommunities.co.uk)
- Relevant professional bodies or regulatory organisations
- A solicitor or legal advisor
- The Police
- The Local Government Ombudsman (www.lgo.org.uk)
- The Council's External Auditors (KPMG)(www.kpmg.com/uk)

8. Initial Policy Consultation

- 8.1. Strategic Management Team, Staff Joint Forum and South West Audit Partnership

9. Assessments and Appraisals

- 9.1. This Policy has had an equality analysis

10. Policy Review

- 10.1. The Monitoring Officer will review this policy in the light of any legislative changes and in any event in January 2025 to consider whether any changes are required.

11. Related Policies and Strategies

- Grievance Policy and Procedure
- Anti-Fraud, Theft and Corruption Policy
- Financial Regulations
- Financial Operating Procedures
- Contract Standing Orders

Appendix 1 - The Seven Principles of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

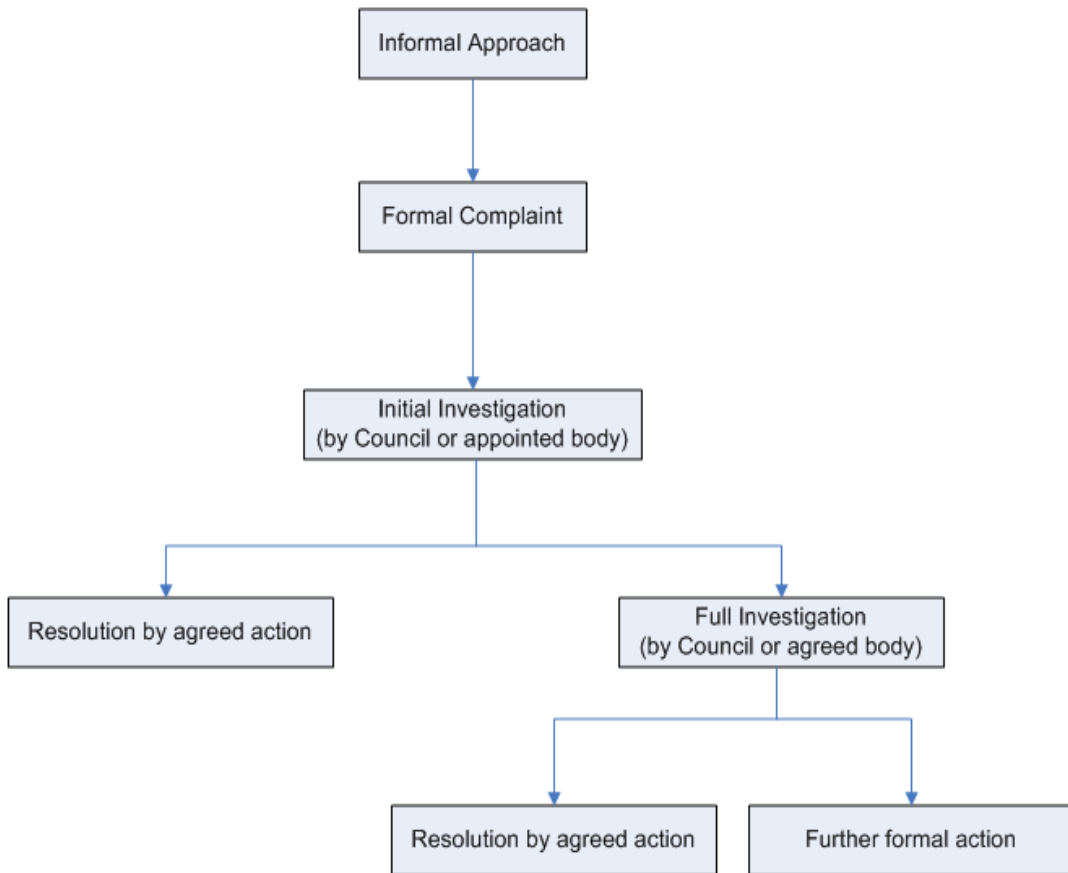
Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Appendix 2 – Process flowchart



Appendix 3 - Report form for whistleblowing complaints

EDDC is committed to the highest possible standards of openness, professionalism and accountability. In line with that commitment we expect employees, partners, members of the public 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.

Description of the concern

Where possible include:

- Dates of incidents
- Who was involved
- Why this is a concern
- What the result was
- Whether there were any other witnesses
- Whether you have tried to raise this with your/a manager

You are encouraged to put your name to this report. Concerns expressed anonymously are much harder to investigate but will be considered at the discretion of the Monitoring Officer.

Name:		Service (if staff member):	
Address:		Your telephone number:	
Date:		Signature:	