

Whistleblowing Policy and Procedure HR Services

Malvern Hills District Council and Wychavon
District Council

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Section A – General Information

1. Introduction

- 1.1. Employees 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 wrongdoing. However, this is not a culture that the council wishes to encourage.
- 1.2. We are committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that staff can do so without fear of reprisals and is intended to encourage and enable employees and other workers to raise serious concerns within the council rather than overlooking a problem or blowing the whistle outside.
- 1.3. This policy applies to all workers of the council, that is; employees, casual workers, temporary and agency staff, trainees and work experience placements. Further details on the application of this policy in respect of contractors can be found towards the end of this policy.

2. Aims and scope of this policy

- 2.1. This policy aims to:
 - Provide confidential avenues for you to raise concerns and receive feedback on any action taken;
 - Allow you to take the matter further if you are dissatisfied with the council's response; and
 - Reassure you that you will be protected from reprisals or victimisation for whistleblowing in good faith.
- 2.2. This whistleblowing policy is intended to cover concerns about wrongdoing that fall outside the scope of other procedures (such as the Grievance Policy and Procedure, or Bullying and Harassment Policy and Procedure) and is not intended to replace them.

3. Examples of wrongdoing

In order for you to be protected by the Public Interest Disclosure Act, the disclosure needs to fall under one (or more) of the following:

- A criminal offence has been committed, is being committed or is likely to be committed.
- A person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject.
- A miscarriage of justice has occurred, is occurring, or is likely to occur.
- The health and safety of an individual has been, or is being, or is likely to be endangered.
- The environment has been, is being, or is likely to be damaged.

- Information tending to show any matter falling within any one of the proceeding paragraphs has been, is being, or is likely to be deliberately concealed.

Examples of wrongdoing include:

- Unlawful behaviour by an individual or a collective body;
- Corrupt or fraudulent behaviour;
- A breach of the council's Standing Orders or Financial Regulations;
- A breach of agreed procedures;
- Discrimination on grounds of sex, race or disability;
- Harassment, including sexual harassment, or victimisation;
- An unsafe working practice.

4. Safeguards

4.1. Harassment or Victimisation

We recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. We will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.

Any complaint of bullying or harassment will be treated seriously and dealt with quickly and fairly in a confidential, sensitive and supportive manner under the council's Bullying and Harassment Policy and Procedure.

4.2. Confidentiality and Support

The council will do its best to protect your identity when you raise a concern and do not want this to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence (albeit that it may be presented anonymously).

We will do all that we reasonably can to support you once you have taken the decision to voice your concern. You are encouraged to talk to the person with whom you have raised your concern, or with any of the nominated people within this document, at any time whilst your concern is being dealt with.

4.3. Anonymous Disclosures

You are strongly encouraged to put your name to your allegation. Where anonymous disclosures are received, the council will take the following factors into account when determining how best to deal with the disclosure:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

4.4. Untrue Allegations

If you make an allegation in good faith, and any allegation that it contains is not substantiated, no action will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you.

5. How to raise a concern

- 5.1. As a first step, you can raise concerns with your Line Manager or Service Unit Manager, or SMT member. Alternatively, you may, if you wish, contact anyone from the list below:
 - Monitoring Officer (currently Legal Services Manager) or Deputy Monitoring Officer (Policy and Governance Manager, MHDC; or Customer Services Manager, WDC)
 - Chief Executive/Managing Director
 - Deputy Managing Director (WDC) / Deputy Chief Executive (MHDC)
 - S151 Officer (who is also the Deputy Managing Director (WDC)/Deputy Chief Executive (MHDC)
 - HR Services Manager
 - Council Leader
 - Head of Internal Audit
- 5.2. You may raise the concern in writing, by telephone or through a direct meeting with any of the people referred to in paragraph 5.1 above. You may wish to set out the background to the concern in writing and provide supporting documents. Alternatively, you may prefer to explain the reasons for your concern verbally. A note of this conversation will be taken. You will be asked to agree to or amend this written note, which may be used as evidence in any subsequent investigation of the matter you have disclosed.
- 5.3. Although you are not expected to prove the truth of an allegation, you will need to clearly demonstrate reasonable grounds for your concern. If in doubt, you may contact one of the officers or members named above and talk to them about the situation before formally making the allegation.
- 5.4. If you wish, you may ask your trade union, professional association or solicitor to raise a matter on your behalf. They will have an equal right to contact the officers named above on the same terms as you.

6. How the council will respond

- 6.1. Any action taken by the council will depend on the nature and scale of the alleged wrongdoing and the evidence that is available.
- 6.2. The matters raised may:
 - be investigated internally
 - be referred to the Police
 - be referred to the external Auditor
 - form the subject of an independent inquiry
 - any combination of these avenues
- 6.3. In order to protect individuals and the council, initial enquiries will be made by the individual to whom the disclosure has been made, to decide whether an investigation is appropriate and, if so, what form it should take. Allegations or concerns which fall within the scope of specific procedures (for example, harassment or fraud/corruption) will normally be referred for consideration under those procedures.
- 6.4. Some matters may be resolved without the need for formal action.
- 6.5. Within ten working days of an allegation or concern being received, the Council will write to you:

- acknowledging receipt of the allegation or concern
 - indicating how it proposes to deal with the matter
 - telling you whether any initial enquiries have been made
 - telling you whether further investigations will take place, and if not, why not
 - with an estimate of how long it is likely to take to provide a full response where the matter is to be dealt with internally
- 6.6. During any investigation, the amount of contact between yourself and the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary you may be asked for further information. Depending on the circumstances of the allegation or concern, you may be asked to maintain confidentiality.
- 6.7. You may be accompanied at any meetings by a trade union representative, a professional association representative, a solicitor or a work colleague; such a person must respect any confidentiality that applies.
- 6.8. We 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 council will advise you about the procedure.
- 6.9. The council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcome of any investigation, which may still remain confidential.

7. How the matter can be taken further

- 7.1. This policy is intended to provide you with an avenue to raise concerns within the Council.
- 7.2. If you are not satisfied with the council's response and feel it is necessary to take the matter outside the council, the following are possible contacts:
- the external Auditor
 - relevant professional bodies or regulatory organisations
 - the Police
 - the Charity Commission (see Gov.uk guidance on the Public Interest Disclosure Act for further information).
- 7.3. If you do take the matter outside the council, you need to take care with regard to the possible disclosure of confidential information. If you are in any doubt as to your position, you should check with your external adviser, trade union representative, or the Council's Monitoring Officer.
- 7.4. You are strongly advised not to refer concerns to the press whilst the matter is being investigated because you may be in breach of your contract of employment, liable to disciplinary action and may lose your right to statutory protection against whistleblowing, but if you do, you should make certain that:
- (a) you have exhausted all the avenues described above;
 - (b) you do not disclose confidential information;
 - (c) you do not make false allegations which could result in libel proceedings;

8. Councillors

- 8.1. Allegations or concerns about possible wrongdoing by Councillors should be discussed with the council's Monitoring Officer (currently the Legal Services Manager).
- 8.2. All Councillors are subject to a Code of Conduct. Any breaches of this code are potentially liable to formal investigation and reporting regulations.

9. Persons working for council contractors, partners and agents

- 9.1. The principles and procedures set out above apply, so far as possible, to employees and others working for council contractors on council work.
- 9.2. Concerns may be raised about possible wrongdoing by:
 - Council officers;
 - Councillors; or
 - Colleagues or other workers engaged in performing works or services for the council.
- 9.3. If individuals working for council contractors have concerns, they are encouraged to contact either their manager or the council's Monitoring Officer in the first instance.
- 9.4. The Monitoring Officer will follow the same approach and endeavour to provide the same safeguards as would apply to a concern expressed by a council employee.

10. Public interest disclosure act 1998

- 10.1. The Public Interest Disclosure Act 1998 gives statutory protection to persons who raise concerns in good faith about possible wrongdoing. Provisions are also included in the Employment Rights Act 1996 regarding "protected disclosures" and the rights of employees not to suffer detriment through making such disclosures.
- 10.2. This Whistleblowing Policy is intended to complement the statutory protection now given to employees. For the avoidance of doubt, an employee's statutory rights will not be affected in any way by the Whistleblowing Policy.

11. What happens if you are the subject of a concern raised under this policy?

- 11.1 We believe that everyone has the right to be treated fairly and in accordance with the principles of natural justice, and therefore will apply these principles to you if you are the subject of an allegation or complaint received under this policy.
- 11.2 We will ensure that:
 - You are informed of the concern both verbally and in writing, and will be encouraged to seek the advice of your trade union, solicitor or professional association.
 - You are assigned an officer or member of the council who will be responsible for advising you at regular intervals on how the investigation is proceeding.

- You are advised of the outcome of the investigation and how this may impact upon your employment with the council as soon as possible, once the investigation has been concluded.

11.3 You may be suspended from work on full pay during the investigative process but this will not be regarded as a punitive measure. It may be used in circumstances where, for example, public interest is likely to be high, such that your presence at work may cause significant disruption or distress to yourself or others; or where there are reasonable grounds for determining that your presence at work is likely to hamper the progress of the investigation.

12. Review

SMT will review this policy on a regular basis to ensure it remains relevant.