



East
Northamptonshire
Council

Policy and Resources Committee – 5 December 2011

Revised Whistle-Blowing Policy

Purpose of report

This report presents a revised Whistle Blowing Policy for adoption as part of the council's policy framework. It has been the subject of a review which included consideration of the implications of the 2010 Bribery Act and 2011 Localism Act.

Attachment(s)

Appendix A - Revised Whistle Blowing Policy

1.0 Background

- 1.1 The Council's current Whistle Blowing Policy was adopted in November 2008. The policy provides important reassurance to staff that if they have concerns about matters relating to the council that these will be treated seriously by someone in a position to investigate their concerns. The policy outlines who to approach and what process will be followed.
- 1.2 The policy also helps reduce the risk to the council of inappropriate or illegal activity resulting in loss to the council or legal action being taken against the council.
- 1.3 The policy was due for review in November 2009. However this review was delayed because of the then imminent publication of what became the 2010 Bribery Act and then again because of the potential changes proposed by what has become the 2011 Localism Act (in relation to the Code of Conduct for Councillors).

2.0 Key changes

- 2.1 The draft revised Whistle Blowing Policy attached at Appendix A no longer features the names of key post-holders or their contact details. Instead it focuses on their job title, and particularly for the benefit of external people who might want to use the Policy such as contractor's employees, how their current contact details may be obtained. This approach has been taken to avoid having to revise the Policy each time a key post-holder changes.
- 2.2 The 2010 Bribery Act not only consolidates existing legislation in respect of criminal offences in relation to individuals taking or receiving bribes but creates a new criminal offence of corporate failure to prevent bribery. The policy has been revised to include reference to the Act to highlight that it is also appropriate to raise concerns that may relate to this area.
- 2.3 A reference has also been made to encourage to raising concerns at the earliest possible opportunity so the council is aware of any potential problems and can act swiftly to prevent any continuation of inappropriate activity.

3.0 Risk implications

- 3.1 The Whistle Blowing Policy is part of the mitigation framework that reduces the risk of fraud, bribery or other illegal activity taking place in the first place by creating an open culture or, if that fails, by ensuring that any inappropriate activity is highlighted so that action can be taken to stop it.

4.0 Legal implications

4.1 There are no additional legal implications other than those noted in the Policy itself.

5.0 Financial implications

5.1 There are no financial implications arising from the adoption of the revised Whistle Blowing Policy

6.0 Corporate outcomes

8.1 The Whistle Blowing Policy assists in the delivery of the Corporate Plan by assisting effective management of the council and reducing the risks that resources will be misused or inappropriate activity take place.

9.0 Recommendation

9.1 Members are asked to resolve to recommend approval of the revised Whistle Blowing Policy

(Reason: to put an up to date policy in place to reduce risks to the council.)

Legal	Power: Local Government Act 2000				
	Other considerations: Public Interest Disclosure Act 1998 Employment Rights Act 1996 2010 Bribery Act 2011 Localism Act				
Background Papers: None					
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Date: 21 November 2011					
CFO		MO		CX	

(Committee Report Normal Rev. 22)



East Northamptonshire Council

Whistle blowing

CONFIDENTIAL



Document Version Control

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Change History

Issue	Date	Comments
0.1	9.10.08	ML/BJD/EJ agreed for PSTB session
0.2	16.10.08	HoS
0.3	04.11.08	PSTB Comments (including Unison)
0.4	11.11.08	Final BD comments
1.0	24.11.08	Signed off by Standards Board
2.0	21.11.11	Monitoring Officer revisions

NB: Draft versions 0.1 – final published versions 1.0

Consultees

Internal	External
eg Individual(s)/Group/Section	eg Stakeholders/Partners/Organisation(s)
PSTB	E N Standards Board for consideration
Xchange	

Distribution List

Internal	External
eg Individual(s)/Group/ Section	eg Stakeholders/Partners/Organisation(s)

Links to other documents

Document	Link
Code of Conduct	
Bullying and Harassment Policy	
Anti-fraud and Corruption Policy	
Children, Young People and Vulnerable Adults Policy	

Additional Comments to note

2011 Review to include consideration of relationship between 2010 Bribery Act and 2011 Localism Act

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1.0 Introduction

- 1.1 Whistle Blowing encourages and enables employees to raise serious concerns **within** the Council rather than overlooking a problem or 'blowing the whistle' outside. The purpose of this policy is to make clear that employees can report their concerns without fear of victimisation, discrimination or disadvantage.
- 1.2 You may be the first to realise that something is wrong in the workplace; employees often are. But you may not feel able to express your concerns in case speaking up would be disloyal to your colleagues, or to the Council. You may be worried about being harassed or victimised and sometimes it seems easier to ignore the concern rather than report what may just be a suspicion that something's wrong.
- 1.3 The Council believes in the highest possible standards of conduct and values openness, honesty, integrity and accountability. In line with our Knowledge, Skills and Behaviours framework we expect employees, or partners, who have concerns about any aspect of the Council's work, to come forward and voice their concerns without fear of reprisal. We recognise that most cases will proceed on a confidential basis.
- 1.4 This policy takes account of the Public Interest Disclosure Act 1998, which gives legal protection to workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action or raise concerns about health and safety at work.
- 1.5 This policy forms part of this Council's response to the 2010 Bribery Act under which individuals may be convicted of bribery or the Council may be prosecuted for failing to prevent bribery taking place.

2.0 Outcomes

- 2.1 This policy is intended to encourage and enable employees to raise serious concerns within the workplace rather than overlooking a problem or seeking to address concerns externally. It aims to achieve:
- Confident employees
 - Effective management
 - Sound, ethical governance
 - Open communications
- 2.2 The policy applies to all East Northamptonshire Council employees and to employees of contractors working for the Council on Council premises or providing council services in the District, for example, for example those managing the Council's Leisure Centres or cleaning the offices, agency staff, consultants and private contractors. The policy is designed to give them protection and confidence in reporting concerns about anything they may witness on Council premises.
- 2.3 There are already established procedures in place to enable employees to lodge a grievance or raise concerns relating to their own employment or the Council's employment policies and this policy is not intended to cover those matters.

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3.0 Aims of Policy

3.1 This policy aims to:

- encourage you to feel confident about raising serious concerns and to question and act on concerns about malpractice or bribery
- encourage you to report concerns at the earliest opportunity
- provide reassurance that you will be protected from possible reprisal or victimisation so long as your disclosure is made in good faith;
- reassure you that any matter reported will be taken seriously and treated in confidence as far as practicable;
- provide channels for raising concerns in the workplace and for feeding back on any action taken;
- ensure concerns are dealt with and that you know how to pursue them if you're not satisfied.

3.2 This policy covers major concerns that fall outside the scope of other procedures. This could be about:

- conduct which is an offence or illegal;
- miscarriages 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;
- possible fraud and corruption including benefit fraud;
- sexual or physical abuse of colleagues or clients;
- bullying, intimidation or other unethical conduct.

3.3 Employees and Members of the Council are bound by published codes of conduct. These codes form Part 5 of the Council's constitution. Any serious concerns that you may have about any aspect of service provision, the conduct of colleagues, Members or others acting on behalf of the Council can be reported under this Whistle Blowing Policy. It might be something that:

- makes you feel uncomfortable in terms of proper behaviour, your previous experience or our Knowledge, Skills and Behaviours framework; or
- is against the Council's constitution and policies; or
- falls below established standards or practice; or you think amounts to improper conduct.

3.4 This policy does not replace the corporate complaints procedure. It does not replace the procedure for complaints about alleged breaches of the Councillors Code of Conduct. It may however start complaints which are better made under either.

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3.5 This policy complements the Council's Benefit Counter Fraud Strategy and associated policies ([Benefits Counter Fraud Strategy](#)), and our Children, Young People and Vulnerable Adults Policy and Procedure.

4.0 Safeguards against harassment and victimisation

4.1 The Council is committed to good practice and high standards and wants to be supportive of employees. Managers recognise that the decision to report something can be difficult to make, for fear of reprisal from those responsible for the matter(s) reported. But no one who reasonably believes that what they're reporting is true, should have any reason to fear.

4.2 The Council will not tolerate harassment or victimisation (including informal pressures) and will do all it lawfully can to protect employees who raise a concern in good faith. The Council's Bullying and Harassment Policy and Procedure sets out the steps that we will take to prevent and manage any bullying or harassment in the workplace. ([Bullying & Harassment Policy and Procedure](#)). Victimising employees or others, or deterring them from raising a concern is a disciplinary offence.

4.3 This does not mean that if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your 'whistle blowing'.

5.0 Confidentiality

5.1 The Council will do its best to ensure that your concerns are treated in confidence and appropriate arrangements will be made to safeguard your identity. Depending on the nature or severity of the allegation, it may be necessary for a statement to be taken from you as part of the evidence, for example if the external auditors or the Police become involved. In some circumstances, in order to take effective action, the Council will need proper evidence which may later be required to stand up to examination in court or at a tribunal.

5.2 Where required, additional support may be offered by Peter Piranti & Associates (see section 9.8 for further information and contact details).

6.0 Anonymous Allegations

6.1 Employees are encouraged to put their name to an allegation whenever possible. This is because concerns expressed anonymously are much less powerful; anonymous complaints will be considered as far as possible, at the discretion of the person to whom the complaint is made.

6.2 Factors to be taken into account in responding to anonymous reports include:

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

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7.0 Allegations

7.1 If an allegation made in good faith is not confirmed by an investigation, no action will be taken against the person who reported it. However, frivolous or malicious allegations, allegations made for personal gain or to cause trouble or annoyance without good reason will be investigated to decide whether disciplinary action is required.

8.0 How to raise a concern

8.1 The earlier you raise your concerns, the easier it is to take action. In the first instance, you should contact either:

- any Head of Service;
- the Council's Monitoring Officer
- the Chief Finance Officer/S151 officer

Or, if for any reason you feel unable to speak to the above please contact:

- The Chief Executive
- The Council's Internal Audit Manager ([currently provided by the Welland Internal Audit Partnership](#))

If you do not know how to contact any of the above please look at the Council's website or contact the Customer Services Centre on 01832 742000.

Who you contact in the first instance depends on the seriousness and sensitivity of the issues involved and who you're concerned about. [As a general guide you should talk to the person in the list above who manages the highest level person you believe may be involved. If you believe that there are financial implications please talk to the Chief Finance Officer. If you believe Councillors are involved then please contact the Monitoring Officer. Finally if you do not feel it appropriate to speak to the Chief Executive, Monitoring Officer or Chief Finance Officer, then please refer to Section 11 of this policy.](#)

Deleted: If you believe that management is involved you should contact the Monitoring Officer or the Chief Executive.

8.2 It's best if your concerns are put in writing. There is a form you can use if you want to, ([Whistle Blowing - Reporting Form](#)) but a letter or email is okay too. Set out the background and history of what's troubling you, giving names, dates and places where possible, and the reasons why the situation is a particular concern. Alternatively, speak to [one of the above](#) in person; they will take your worries seriously, listen to you and give you advice about how to proceed.

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8.3 Someone making an allegation is not expected to prove beyond doubt the truth of the matter but you need to demonstrate that there are reasonable grounds for concern.

9.0 How the Council will respond

9.1 It's important to remember that investigating your concerns is not the same as either accepting or rejecting the validity of the allegation. Where appropriate, the matters raised might:

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- be investigated by a senior manager, internal audit, or through the disciplinary process;
- be referred to the Police;
- be referred to the external auditor;
- be the subject of an independent inquiry; or
- be reported to the Council.

9.2 In order to protect you, the Council, 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 the Council will follow is to establish the facts and to protect employees and the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, discrimination, bullying or harassment issues), will normally be dealt with under those procedures.

9.3 Some concerns may be resolved by agreed action without the need for an investigation. If urgent action is required, it will be taken before any investigation is conducted.

9.4 Within five working days of raising your concern, the person you contact will write to you to acknowledge that the matter has been received and to let you know how the matter will be dealt with.

9.5 The amount of contact between the person making an allegation and the officer(s) considering it depends on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought.

9.6 When a meeting is arranged, you can be accompanied by a trade union representative or colleague. Meetings can be held off-site if you so wish.

9.7 The Council will take steps to minimise any difficulties which anyone may experience as a result of raising a concern. For instance, the Council would provide legal advice to one of its employees who is asked to give evidence in criminal or disciplinary proceedings at a court or tribunal hearing on the Council's behalf. The advice would cover the preparation of witness statements, on the procedures before the court and the responsibilities as a witness.

9.8 Any employee involved in a whistle blowing allegation should be advised of the Council's free and confidential counselling service, provided by Peter Piranti & Associates, who can be contacted on 01604 259770.

9.9 We recognise that you need to be assured that the matter has been properly dealt with and will endeavour to keep you informed on a regular basis as matters progress. We will tell you when the investigation is completed, but you may not necessarily be told the outcome of the investigation; this is because it may involve confidential employment matters or be subject to legal constraints.

10.0 The Responsible Officer

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10.1 The Monitoring Officer is responsible for maintaining and operating the policy. The Monitoring Officer will maintain a record of concerns raised and records of the outcomes in a form which does not prejudice your confidentiality or the confidential nature of any investigation.

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11.0 How the matter can be taken further

11.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes 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 Council, the following are possible contact points:

- your trade union;
- The Council's External Audit Manager (Currently the Audit Commission - contact details from the Council's website or contact the Customer Services Centre on 01832 742100,
- relevant professional bodies or regulatory organisations;
- North Northamptonshire Police,
- Public Concern at Work (www.pcaw.co.uk). This is a charity set up to support whistle blowing.

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email: y-geen@audit-commission.gov.uk

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This policy has been discussed with the local Unison representative and our auditors and has their support.

12.0 Monitoring and Review

12.1 This policy will be reviewed by the Monitoring Officer and the Council's Standards Committee (the East Northamptonshire Standards Board) at least every 3 years to ensure that the policy is appropriate and that it continues to provide accurate advice on the reporting options open to employees.

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Appendix 1 – Example Whistle Blowing scenarios

Example 1

You are working in a service area which regularly engages outside contractors. You have noticed that one which is a supplier we often use doesn't deliver on time or to budget. Your Head of Service, who is very friendly with one of the employees in the contracting firm, doesn't appear to share your concerns, and is quick to make excuses for them. You suspect your Head of Service may be receiving gifts and hospitality from the contractor. What should you do?

Report the suspicion to the Monitoring Officer or to the Chief Finance Officer.

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Example 2

You work in the finance team processing monthly accounts and notice that the Executive Director has used a corporate procurement card to purchase new clothing. What would you do?

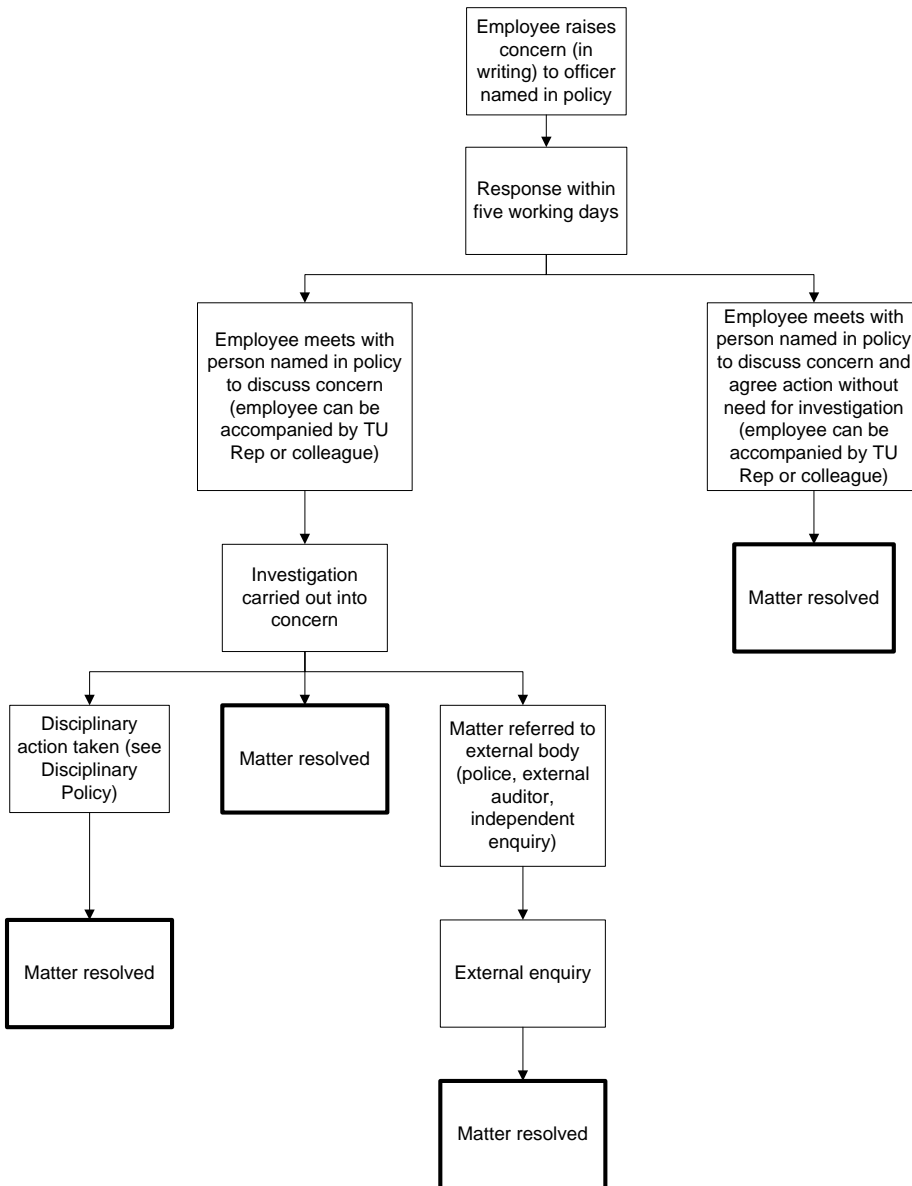
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Report the matter to the Chief Executive or our Internal Audit Manager.



Appendix 2

Action Flowchart – Whistle Blowing Policy and Procedure



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