

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**20 APRIL 2006**

**REPORT OF  
CORPORATE  
MANAGEMENT TEAM**

### **COUNCIL DECISION**

**Corporate - Lead Cabinet Member - Councillor Coleman**

#### **CONFIDENTIAL REPORTING POLICY**

1. Summary  
This report presents Cabinet with a proposed revised Confidential Reporting Policy for consideration.
2. Recommendations  
It is recommended to Council that:-
  1. The proposed, revised Confidential Reporting Policy be agreed; and that
  2. Subject to this, the revised Policy be relaunched in order to publicise it to all employees and Members and to bring it to the attention of third parties involved in existing and proposed contractual relationships with the Authority.
3. Reasons for the Recommendations/Decision(s)  
To update and revise the Confidential Reporting Policy in accordance with best practice and to ensure that it is widely publicised.
4. Members Interests  
Members (including co-opted members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.  
  
Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 of the code of conduct).  
  
A Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held, whilst the matter is being considered; not exercise

executive functions in relation to the matter and not seek improperly to influence the decision about the matter (paragraph 12 of the Code).

**Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc.; whether or not they are a member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting, and if their interest is prejudicial, they must also leave the meeting room during consideration of the relevant item.**

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**SUMMARY**

This report presents Cabinet with a proposed revised Confidential Reporting Policy for consideration.

**RECOMMENDATIONS**

It is recommended to Council that:-

1. The proposed, revised Confidential Reporting Policy be agreed; and that
2. Subject to this, the revised Policy be relaunched in order to publicise it to all employees and Members and to bring it to the attention of third parties involved in existing and proposed contractual relationships with the Authority.

**DETAIL**

1. The current Confidential Reporting Policy was introduced in August 1998. It has remained unchanged since that time.
2. The Policy presently applies to the Council's employees and does not extend to third parties such as external providers, contractors and suppliers.
3. Other Local Authorities have taken the step of extending the scope of their policies to such external providers and their employees. This is regarded as best practice, given the increasing number of third parties involved in the local government sector.
4. The Council's Corporate Procurement Working Group supports the widening of the Policy's scope to the Council's formal contractual relationships with third parties.
5. In addition, the matter has been considered by the Members' Advisory Panel, who also supported the proposal.
6. The proposals have also been the subject of consultation with the Unions. Any comments which are made in that respect will be reported to the meeting.

7. A copy of the proposed, revised Policy is attached as an **Appendix** to the report. The changes to the existing Policy are highlighted in red.
8. If agreed, the revised Policy will be relaunched to publicise the changes to all employees and Members, and it will also be highlighted to third parties involved in existing and proposed contractual relationships with the Council.

## **FINANCIAL AND LEGAL IMPLICATIONS**

9. There are no financial or legal implications arising directly from this report, other than the costs of publicising the policy and any associated training which will be met from within existing budgets. Financial and legal implications could arise should the Policy and its related procedures not be followed correctly.

## **RISK ASSESSMENT**

10. There are risks that in the absence of a Policy, incidents will occur which will be potentially damaging to the Authority, its financial and legal position and to its reputation. The existence of the Policy and its correct application will significantly reduce such risk to a low/medium level.

## **COMMUNITY STRATEGY IMPLICATIONS**

11. The Confidential Reporting Policy is an integral part of the modernisation agenda and ethical framework.

## **CONSULTATION**

12. Nominated Officers, the Corporate Procurement Working Group and the Members' Advisory Panel have been consulted and their comments are reflected in the report where appropriate. The Unions have also been consulted and any comments which they may wish to make will be reported to the meeting.

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Background Papers Appendix attached to the report.

Ward(s) and Ward Councillors: Not Ward specific

Property Implications: N/A

## CONFIDENTIAL REPORTING POLICY

This policy has been introduced to enable employees, and other persons working for the Council on Council premises, together with suppliers and those providing services under a contract with the Council to confidentially voice serious concerns over alleged malpractice and alleged wrongdoing within the Council.

Officers have been nominated in each service for the purpose of dealing with concerns raised by employees or other persons under this policy. The Nominated Officers are currently as follows:-

Development & Neighbourhood Services  
Children, Education and Social Care  
Law and Democracy and Policy,  
Performance & Communications  
Resources

Sharon Lonergan and Sue Daniels  
Dave McMann and Tony Beckwith  
Nigel Hart

Judi Asquith and Colin Ward

# **CONFIDENTIAL REPORTING POLICY**

## **1. INTRODUCTION**

- 1.1 Employees are sometimes 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; or they may fear harassment, victimisation or other reprisals. In these circumstances it may be easier to ignore the concern rather than report what may be just a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards in the delivery of its services, and for full accountability for those services. In line with that commitment employees are encouraged to come forward and voice any serious concerns they may have about the Council's work. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that you can do so without fear of reprisals. This policy is intended to encourage and enable you to raise serious concerns within the Council rather than overlooking a problem or "blowing the whistle" outside.
- 1.3 The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.

## **2. AIMS AND SCOPE OF THIS POLICY**

- 2.1 This policy aims to:
- a. provide avenues for **you** to raise concerns and receive feedback on any action taken;
  - b. allow **you** to take the matter further if **you** are dissatisfied with the Council's response to the concerns expressed; and
  - c. reassure **you** that **you** will be protected from possible reprisals or victimisation.
- 2.2 Service Comments, Commendations and Complaints systems are already in place to provide a mechanism for you to complain about the standard of service, action or lack of action by the Council or its employees, which affect our services to the public. There are also existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Policy is intended to cover concerns that fall outside the scope of these procedures eg malpractice or wrongdoing.
- 2.3 Thus any serious concern that you may have regarding the suspicion of malpractice or wrongdoing in any aspect of service provision or the conduct of Officers or Members of the Council (although complaints about Members' conduct may need to be forwarded to the Standards Board for England) or others acting on behalf of the Council can and should be reported under this policy. Employees are expected to report malpractice and wrongdoing and may be liable to disciplinary action if they knowingly and deliberately do not disclose information relating to malpractice or wrongdoing in any aspect of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council.

### 3. WHAT IS MALPRACTICE OR WRONGDOING?

3.1 Malpractice and wrongdoing may be about something which:-

- is unlawful; or
- against the Council's Standing Orders or policies; or
- is not in accordance with established standards of practice; or
- amounts to improper conduct by an employee or a Member.

The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions to be applied.

The following are examples of issues which could be raised under this policy. It is not intended to be an exhaustive list and there may be other matters which could be dealt with under this policy:

- a. any unlawful act or omission, whether criminal or a breach of civil law
- b. maladministration, as defined by the Local Government Ombudsman
- c. breach of any statutory code of practice
- d. breach of, or failure to implement or comply with any policy determined by the Council, the Cabinet or any of the Council's Committees
- e. failure to comply with appropriate professional standards or other established standards of practice
- f. corruption or fraud
- g. actions which are likely to cause physical danger to any person, or give rise to a risk of significant damage to property
- h. failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income, to the Council or would otherwise seriously prejudice the Council
- i. abuse of power, or the use of the Council's powers and authority for any unauthorised or ulterior purpose
- j. unfair discrimination in the Council's employment or services
- k. dangerous procedures risking health and safety
- l. abuse of clients
- m. damage to the environment
- n. other unethical conduct

## 4. SAFEGUARDS

### 4.1 HARASSMENT OR VICTIMISATION

The Council recognises 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 or from the Council as a whole. The Council will not tolerate any harassment or victimisation and will take appropriate action in order to protect you if you raise a concern in good faith. In addition you are protected by law by the Public Interest Disclosure Act, which gives employees protection from detriment and dismissal where they have made a protected disclosure, provided the legal requirements of the Act are satisfied.

This does not necessarily mean that if you are already the subject of disciplinary procedures that those procedures will be halted as a result of a concern being raised under this policy.

### 4.2 CONFIDENTIALITY

It will be easier to follow up and to verify complaints if complainants are prepared to give their names. However, wherever possible the Council will protect **those** who do not want their names to be disclosed. It must be appreciated that any investigation process may reveal the source of the information and a statement from you may be required as part of the evidence.

### 4.3 ANONYMOUS ALLEGATIONS

Concerns expressed anonymously are much less powerful, but they will be treated with caution and considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:

- a. the seriousness of the issues raised;
- b. the credibility of the concern; and
- c. the likelihood of obtaining the necessary information and confirmation of the allegation.

### 4.4 DELIBERATELY FALSE OR MALICIOUS ALLEGATIONS

The Council will view very seriously any deliberately false or malicious allegations it receives, and will regard the making of any deliberately false or malicious allegations by any employee as a serious disciplinary offence which could result in dismissal.

If you make an allegation in good faith but it is not confirmed by the investigation, no action will be taken against you.

The Council will try to ensure that the negative impact of either a malicious or unfounded allegation about any employee is minimised. However, it must be acknowledged that it may not be possible to prevent all of the repercussions potentially involved.



## 5. HOW DO I RAISE A CONCERN?

5.1 If you suspect wrongdoing in the workplace:

- **do not** approach or accuse the individuals directly
- **do not** try to investigate the matter yourself
- **do not** convey your suspicions to any one other than those with the proper authority but **do** something!

5.2 As a first step, you should normally raise concerns with your immediate manager or supervisor. However, the most appropriate person to contact will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that senior management is involved in the matter of concern, or the normal channels of communication are inappropriate for some reason, **as an employee of the Council** you should approach your service's Nominated Officer (an Officer who has been nominated for the purpose of dealing with concerns under this policy). If you feel that this would be inappropriate in the light of the particular matter concerned, **or if you are not a Council employee**, you can contact **any of the Nominated Officers specified in the Policy**.

5.3 Concerns may be raised verbally but are better raised in writing. You are invited to set out the background and history of the concern giving relevant names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing you can telephone or meet the appropriate Officer.

5.4 The earlier a concern is expressed, the easier it is to take appropriate action.

5.5 Although you are not expected to prove the truth of an allegation that is made, it will be necessary for you to demonstrate to the person contacted that there are sufficient grounds for concern.

5.6 Advice and guidance on how matters of concern may be pursued can be obtained within the Council from Human Resources.

5.7 Alternatively, you may wish to seek advice from your trade union or professional association.

## 6. HOW THE COUNCIL WILL RESPOND

6.1 The action taken by the Council will depend on the nature of the concern. 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
- need to be the subject of a referral to the Standards Board for England
- form the subject of an independent enquiry

6.2 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example allegations of breaches of the Council's Code of Conduct, child protection or discrimination issues) will normally be referred for consideration under these procedures.

- 6.3 Some concerns may be resolved by agreed action without the need for investigation.
- 6.4 Within 14 calendar days of a concern being raised under this procedure the **relevant** Nominated Officer will write to you:
- a. acknowledging that the concern has been received;
  - b. indicating how it is proposed to deal with the matter;
  - c. giving an estimate (so far as reasonably practicable) as to how long it will take to provide a final response;
  - d. telling you whether any initial enquiries have been made; and
  - e. telling you whether further investigations will take place and if not, why not
- 6.5 The amount of contact between you and the Officers considering the issues will depend on the nature of the matters raised; the potential difficulties involved; and the clarity of information provided. If necessary, further information will be sought from you.
- 6.6 Where any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- 6.7 The Council will take appropriate steps to minimise any difficulties you may experience as a result of raising a concern. For example, if you are required to give evidence in criminal or disciplinary proceedings the Council will advise you about the procedure.
- 6.8 The Council accepts that you need to be assured that the matter has been properly addressed. Therefore, subject to any legal restraints, you will receive as much information as possible about the outcomes of any investigation.

## **7. HOW CAN I TAKE THE MATTER FURTHER?**

- 7.1 This policy is intended to provide employees **and other persons** with an avenue to raise concerns **within** the Council and it is hoped that **you** will take this option in the first place. The Council hopes you will be satisfied. If you are not, and you feel it is right to take the matter outside the Council, then depending upon the nature of the issue involved, the following are possible contact points:
1. the District Auditor
  2. relevant professional bodies or regulatory organisations
  3. the Police
  4. the Local Government Ombudsman
  5. the Standards Board for England (although complaints submitted to the Council about Members' conduct may need to be forwarded to the Standards Board in any event)
  6. Public Concern at Work
  7. an independent legal adviser within the meaning of the Public Interest Disclosure Act 1998
  8. a regulatory body designated for the purposes of the Public Interest Disclosure Act
- 7.2 If you do wish to take the matter outside the Council, you must first ensure that you do not disclose confidential information. Check with **a** Nominated Officer or Human Resources about that. In addition, if you wish to secure the protections afforded by the Public Interest Disclosure Act, you must ensure that your disclosure is protected within the meaning of the Act and that it complies with a set of specific conditions

which vary according to whom the disclosure is made. Again please check with a Nominated Officer or Human Resources about these matters.

## **8. RESPONSIBILITY FOR THE POLICY**

- 8.1 The responsibility for the effectiveness and efficiency of this policy rests with the Director of Law and Democracy. That Officer will be advised about and maintain records of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.