

Somerset County Council

A Quick Reference Guide to the Whistleblowing Policy

1 What is Whistleblowing?

1.1 Whistleblowing is when an employee raises a concern within the Council in relation to an alleged wrongdoing, including suspected misconduct, illegal acts or a failure to act.

1.2 Whistleblowing is a positive act that can make a valuable contribution to the Council's efficiency and success. It is not viewed as disloyal to colleagues or to the Council to speak up in respect of concerns.

1.3 To be considered as whistleblowing, the employee making the disclosure must reasonably believe two things;

- a) They are acting in the public interest
- b) That the whistleblowing tends to show past, present or likely future wrongdoing falling into one of the following categories;
 - Criminal offences
 - Failure to comply with an obligation set out in law
 - Miscarriages of justice
 - Endangering of someone's health and safety
 - Damage to the environment
 - Covering up wrongdoing in any of the above categories

2 What is the aim of the policy and this initial quick guide?

2.1 This quick guide sets out the key elements of the full policy which can be found on the Council's website and staff intranet pages. The intention is that you can raise a concern under 1.3 b) above without fear of victimisation, discrimination, disadvantage or dismissal.

2.2 If you are concerned about your own treatment as an employee, you should raise this under the Council's grievance procedures. These can be found under the HR section of the intranet.

3 What protection is there for the whistleblower?

3.1 The Council's policy reflects the Public Interest Disclosure Act 1998, which protects workers making such disclosures, when these disclosures are made in accordance with the provisions of the 1998 Act and are made in good faith (this means where you reasonably believe the allegations to be true, as

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opposed to where the allegations are frivolous, malicious or for your personal gain). It is unlawful for the Council to dismiss anyone, or allow them to be victimised or discriminated against, on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

3.2 All concerns will be treated in confidence and every effort will be made not to reveal your identity, if this is your wish. In certain matters you may be asked to come forward as a witness, if you agree to this you will receive support and advice. In certain circumstances, such as serious safeguarding disclosures or criminal matters, it may not be possible to protect your anonymity or avoid you being called as a witness.

4 How do I raise a concern?

4.1 You can raise concerns with the officers listed below. If your concerns relate to your line manager or a senior officer in your directorate, there are other officers to whom you can report your concerns as set out below.

- Your Line Manager
- A member of the Senior Leadership Team (who you don't think is involved);
- The Finance and Performance Director;
- The HR and Organisational Development Director;
- The Strategic Manager - Finance Governance,

4.2 You may also raise a concern confidentially with the Chairman of the Standards Committee, as a point of entry into the Whistleblowing policy.

4.3 If these channels have been followed but you continue to have concerns or believe that those listed above are implicated, then you should approach one of the following:

- The Chief Executive;
- The Strategic Manager – Governance and Democratic Services (who is also the Council's Monitoring Officer);
- The County Solicitor (who is also the Council's Deputy Monitoring Officer).

4.4 You can raise a concern by telephone, in person or in writing. A written record is recommended in order that you can fully reflect the nature of your concern and why you believe it to be true and to give a background and history of the concern with relevant dates if possible.

5 How the Council will respond to your concern?

5.1 The Council will respond to your concerns as quickly as possible. The overriding principle for the Council is that of the public interest. Initial inquiries

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will lead to a decision as to whether an investigation is appropriate and if so, what form it should take. The amount of contact between you and the officers considering the issues in the matter will depend on the nature of the issues involved.

5.2 The Council will obviously do what it can to minimise any difficulties that you may experience. You can expect that the Council will feedback the results of its inquiries and any subsequent investigation, subject to any legal limitations on disclosing any information or outcome

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Introduction

Somerset County Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we wish to encourage employees, and other workers within the Council, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

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 malpractice.

This policy is intended to encourage and enable employees to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. The policy makes it clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage. The Council is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly.

The policy applies to all employees and individuals working for the Council on our premises, for example agency staff, trainees on vocational/work experience, consultants, builders, and drivers. Council employees can also

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use the policy to raise concerns about suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.

The policy is in addition to the Council's Complaints Procedure and other statutory reporting procedures applying to some service areas.

There is a Grievance Procedure in place for employees to raise a concern relating to their own employment. The policy is based on the Department for Business Innovation & Skills: Guidance for Employers and Code of Practice and has been discussed with the relevant trade unions and professional organisations and has their support.

In addition to the Council's commitment to protect employees who raise concerns, the Public Interest Disclosure Act 1998 provides a worker with potential protection from detriment and dismissal for making a 'qualifying disclosure'. The Act encourages workers to raise matters internally with employers and where an internal Whistleblowing Policy exists, it steers the worker to use this. (Please note: there are legal requirements for 'qualifying disclosures' to be protected under the Act). In addition, an employee who raises a concern under this policy and reasonably believes the disclosure is in the public interest, will be protected from any claim of defamation by the Council's insurance policy.

Aims and Scope of the Policy

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 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;
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure you have made to be in the public interest.

This policy is intended to cover major concerns reasonably believed to be in the public interest in one or more of the following categories:

- Criminal offences, for example, fraud, theft, physical or sexual abuse
- Failure to comply with an obligation set out in law
- Miscarriages of justice

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- Endangering of someone's health and safety
- Damage to the environment
- Covering up wrongdoing in the above categories

Thus, serious concerns which you have about any aspect of service provision or the conduct of employees or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders, Financial Regulations and policies; or
- falls below established professional standards of practice; or
- amounts to improper conduct.

How to Raise a Concern

As a first step, you should normally raise concerns with your immediate manager or their line manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management (a member or members of the Senior Leadership Team) is involved, you should approach one of the following:

- a member of the Senior Leadership Team (who you don't think is involved); or
- the Director of Finance; or
- the HR and Organisational Development Director.

You may also raise a concern confidentially with the Chair of the Constitution and Standards Committee who will act as a point of entry into the Whistleblowing scheme. The Chair will record the concern and refer the matter to the most appropriate nominated officer. In such circumstances, the investigating officer will report progress to the elected member as well as to the nominated officer.

If these channels have been followed but you continue to have concerns or believe that those listed above are implicated then you should approach one of the following:

- The Chief Executive; or

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- The Strategic Manager – Governance and Democratic Services (who is also the Council's Monitoring Officer); or
- The County Solicitor (who is also the Council's Deputy Monitoring Officer).

Concerns may be raised by telephone, in person or in writing. Making and submitting a written record of the concern is recommended as details of the background and history of the concern (including names, dates, etc) are necessary in order to investigate a concern together with the reason why you are particularly concerned about the situation. When raising a concern, you must declare any personal interest you have in the matter.

The earlier you express the concern, the easier it is to take action.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate that there are reasonable grounds for a concern. However, you must not attempt to investigate a concern or accuse individuals directly.

Advice and guidance on how to pursue matters of concern may be obtained from:

- HR Advisory Service;
- Officers within Internal Audit (Southwest Audit Partnership), Finance (01823 355299);
- The County Solicitor (01823) 355022; or
- Your trade union/professional association representative.

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.

You may invite your trade union/professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns you have raised. Meetings can be arranged off-site if you wish.

How the Council will Respond

The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:

- be investigated by management or internal audit;
- be referred to the Police;

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- be referred to an external auditor;
- form the subject of an independent inquiry;
- be dealt with under a more appropriate Council procedure.

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 Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues or financial irregularities) will normally be referred for consideration under those procedures.

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.

Within ten working days, the officer with whom you raised the concern will write to you:

- acknowledging that the concern has been received;
- indicating how they 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
- telling you whether further investigations will take place, and if not, why not.

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, further information will be sought from you.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For example, if you are required to give evidence the Council will arrange for you to receive advice about the procedure from a nominated officer, usually someone from HR or legal.

The Council accepts that you need to be assured that the matter has been properly addressed and you will be informed of the final outcome of the investigation. In some circumstances, however, it may not be possible to reveal the full details where this relates to personal issues involving a third party or legal constraints.

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If you make an allegation that you reasonably believe is in the public interest but it is not confirmed by the investigation, no action will be taken against you.

How the Matter can be taken Further

This policy is intended to help you raise concerns you may have within the Council. Hopefully, you will be satisfied with any action taken. If you are not, there are other people you can contact and these are:

- the External Auditor;
- your trade union/professional association;
- relevant professional bodies or regulatory organisations (for example Health and Safety Executive) there is a list of prescribed persons and bodies on the HR Extranet site;
- the Police;
- your own solicitor.

If you do take the matter outside the Council, you should ensure that you do not misuse confidential information. The person you contact should be able to advise you on this.

The policy, in line with the legislation, provides protection for employees who raise concerns internally. It is inconsistent with the satisfactory operation of the policy to pursue such concerns with the media (newspapers, TV, radio, etc) and employees who do so are unlikely to be protected by the provisions of the Public Interest Disclosure Act, and may be subject to disciplinary action.

Anonymous Allegations

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously or through a third party are much less powerful and may not be possible to investigate. The officer to whom the concern is initially reported will discuss it with the Council's Monitoring Officer, and it will be at their joint discretion as to whether the concern will be considered further.

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

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

Harassment or Victimisation

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The Council recognises that the decision to report a concern can be a difficult one to make. However, you have a responsibility to the Council and to those for whom you are providing a service to raise serious concerns using the approach outlined in this policy.

The Council will not tolerate any harassment or victimisation (including informal pressures) and will take action to protect you when you raise a concern where you reasonably believe the disclosure is in the public interest.

Disciplinary action will be taken against an employee if they try to stop you from raising a concern or if an employee is responsible for any act of retribution against you for raising a concern.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated, however, that the investigation process may reveal the source of the information, and that a statement may be required as part of the evidence and/or you may be asked to come forward as a witness at the appropriate time. In certain circumstances, depending on the nature of the disclosure, the Council cannot guarantee that your identity can remain anonymous.

False Allegations

If an allegation is knowingly made frivolously, maliciously or for personal gain, disciplinary action may be taken.

The Responsible Officer

The Monitoring Officer has overall responsibility for monitoring the policy and will report annually to the Council's Standards Committee on the operation of the policy.

Review

The policy will be kept under review and as a result may be subject to amendment.

Whistleblowing Policy Contact Officer:

Scott Wooldridge

Monitoring Officer

Somerset County Council

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