



WHISTLEBLOWING POLICY (Protected Disclosure)

Revised January 2014

1. Policy Statement

The Public Interest Disclosure Act 1998 (the “Act”) places a legal responsibility on employers to ensure that matters of serious public concern can be addressed.

Northamptonshire County Council is committed to the highest standards of openness, probity and accountability. In line with this commitment the Council encourages individuals with serious concerns about an activity in the Council to voice those concerns. This also applies to concerns about the actions of employees and Councillors and external organisations in their dealings with the Council.

This policy is provided as a reference document to outline how issues can be raised internally, and if necessary, outside the management structure of the Council; it documents our assurance that concerns will be seriously considered and appropriate action taken. Additionally, it:

- provides the basis on which individuals can raise serious concerns they may have, and receive feedback on action taken,
- allows individuals to take the matter further if they are dissatisfied with the Council’s response, and
- outlines the protection from reprisals or victimisation for ‘whistle-blowing’

It should be noted that any clause within a worker’s contract of employment is void if it attempts to prevent an individual from making a protected disclosure under the Act. This code does not remove or diminish the existing contractual or statutory rights of employees.

2. Scope of the Whistleblowing Policy

This policy applies to all employees; however, the Act also covers those contractors working for the Council on its premises. It also covers suppliers and those providing services under a contract with the Council in their own premises. The term ‘individual’ used throughout this document is used to include all the above.

3. The principles of the policy

There are existing procedures in place to enable individuals to raise grievances about their own employment. This policy is intended to cover

concerns that fall outside the scope of individual grievances and relates to both employees and workers.

This policy is in addition to the Council's complaints procedure and other statutory reporting procedures, and seeks to encourage you to raise your concerns internally within the organisation.

If you are unsure whether or not to use this policy/procedure, or if you need independent advice at any stage, you can contact Public Concern at Work which is an independent charity which can give free confidential advice at any stage on how to raise a concern about serious malpractice at work. Please refer to Appendix 1 for further details.

A 'qualifying disclosures' is any disclosure of information that is made in the public interest and in the reasonable belief of the worker may show that one or more of the following is either happening at the present time, took place in the past or is likely to happen in the future:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach of any other legal obligation; or
- concealment of any of the above

An individual does not have to raise a grievance in order to make a 'protected disclosure'; however, if the employee intends to raise the matter as a grievance, this intention must be clearly stated.

4. Safeguards in place to protect whistleblowers

In making the disclosure, an individual must have a reasonable belief that the information disclosed shows one or more of the offences or breaches listed above. The belief need not be correct, but the individual must show that they held the belief and that it was a reasonable belief, in the circumstances, at the time of the disclosure.

Individuals are encouraged to come forward with genuine concerns in the knowledge that they will be taken seriously. The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisals from those responsible for the malpractice. As far as possible the Council will seek to respect the confidentiality and anonymity of the individual raising the concern and will seek to protect him/her from reprisals. In this regard, the Council will not tolerate any harassment or victimisation of the individual who has raised the concerns, nor will any attempt to prevent individuals from raising concerns be acceptable.

5. Confidentiality

The Council encourages individuals to put their name to allegations made. Concerns expressed anonymously are much less powerful as the ability of the Council to gather crucial information from the complainant is not possible. However, such complaints will be considered at the discretion of the Council; in exercising this discretion, the factors to be taken account of will include:

- the seriousness of the issue raised,
- the credibility of the concern,
- the likelihood of being able to confirm that the allegation is from attributable sources
- the ability to trace the source of unfounded or malicious allegations

The Council will endeavour to protect the identity of individuals who raise concerns and do not want their name to be disclosed. It must be appreciated, however, that the investigation and statements made by the individual(s) who raised the issue may reveal the source of the information.

6. Raising a concern with the Council?

The earlier concerns are expressed by individuals, the easier it is to take action. As a first step, the Council encourages individuals to initially raise concerns with their immediate supervisor, their supervisor's manager or their Assistant Director and to allow those in positions of responsibility and authority an opportunity to address the issue and seek an explanation for the behaviour or activity. This will depend on the nature of the concerns, the seriousness and sensitivity of the issues involved and who is alleged to be involved.

Individuals who feel that they cannot approach any of the managers within their own area should approach either:

- the Chief Executive (01604 367100); or
- the Corporate Directors/Assistant Directors; or
- the Council's Monitoring Officer (01223 727961); or
- For matters of fraud or malpractice, the Council's Head Audit and Risk Management should be contacted, by telephone 01604 367055 or by email at to fraudhotline-audit2@northamptonshire.gov.uk

To assist the implementation of this policy, the Council have commissioned the services of Expolink who provide an anonymous, confidential and free 24-hour telephone service related to 'protected disclosure' issues. Expolink can be contacted on 0800 731 6202.

If an employee so wishes, advice may also be sought from a Trade Union or Professional Association. The employee should consider who would be the most appropriate person to deal with the matter; however care is needed to

ensure that this will not result in a breach of confidentiality or the disclosure of exempt information.

Concerns raised under this policy should, where possible, be submitted in writing, setting out the background and history of the concern, giving names, dates and places, and the reason why the individual is concerned about the situation. Individuals who do not feel able to put their concerns in writing can telephone or meet the appropriate officer.

Individuals may invite their trade union or professional association to raise the matter internally on their behalf, but should take care that any disclosures are protected disclosures under the Act.

7. The Council's approach

The action taken by the Council will depend on the nature of the concern. The matters raised may for example:

- be investigated internally,
- be referred to the Police, or other appropriate body
- be referred to the External Auditor, or
- form the subject of an independent inquiry

In order to protect individuals, and the Council, initial enquiries will be made to determine 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, child protection or unlawful discrimination issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for further investigation.

The preliminary investigation may identify the need to involve third parties to provide further information, advice or assistance; for example, the involvement of other members of staff, legal or HR advisors, the police, or other appropriate external body.

Records will be kept of work undertaken and actions taken throughout the investigation. The investigating officer(s), will consider how best to report the findings and what (if any) corrective action needs to be taken. This may include some form of disciplinary action or third party referral.

Within 14 working days of a concern being received, a Council Officer will write to the worker, if known, and in accordance with the communications channel agreed with the worker, who raised the issue:

- acknowledging that the concern has been raised,
- indicating how it is proposed to deal with the matter,
- where possible, giving an estimate of how long it will take to provide a final response, and

- telling the individual whether further investigations will take place, and if not, why not.

The amount of contact between the officers considering the issue and the person who has raised the issue 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 the individual.

When any meeting is arranged with the individual, he or she will be given the right to be accompanied by a trade union or professional association representative or a work colleague who is not involved in the area of work to which the concern relates.

The Council accepts that individuals need to be assured that the matter has been properly addressed. Thus, subject to legal or contractual constraints, individuals will receive appropriate information about the outcomes of any investigations.

8. Dissatisfaction with a response

This policy is intended to provide individuals with an avenue to raise relevant concerns within the Council. If the individual is dissatisfied with the resolution of the matter, or has genuine concerns that the matter has not been dealt with appropriately, these concerns should initially be raised with the investigating officer.

Where the concern is of a particularly serious nature, the employee may feel that it is more appropriate to take the matter outside of the Council. If you would like independent advice about how to raise serious concerns constructively, then you should contact Public Concern at Work.

There are a number of bodies which have been prescribed by the Secretary of State for the purpose of receiving disclosures. Further details can be found on the GOV.UK website: www.gov.uk/whistleblowing.

Or in pdf format at:

https://gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowing-the-whistle-to-a-prescribed-person.pdf

The worker must believe that the information given and the allegations made are substantially true and ensure that they are not acting for personal gain.

If an individual does take the matter outside of the Council, they must ensure that they do not disclose confidential information which is unrelated to the issue being raised.

In making a disclosure outside of the Council to a prescribed body, individuals should be aware that the disclosure must be made to an appropriate

prescribed person or organisation and the individual must believe that the information disclosed and any allegations made are true.

9. Raising unfounded or malicious concerns

If an allegation is made but is not confirmed by the investigation, no action will be taken against the individual raising the concern and the Council will endeavour to protect the individual from reprisals or victimisation.

However, if an employee makes an allegation which – through the internal investigation process - is found to be malicious, mischievous or vexatious, or a disclosure made for personal gain, such actions will be considered as disciplinary offences and are likely to result in disciplinary action being taken against the employee.

Whistleblowers making untrue allegations may expose themselves to actions for libel or slander which together make up the civil wrong of defamation. This is a complex area of law. In essence a person puts themselves at risk of being sued for damages if, without justification, they publish or communicate a false statement about someone which may injure his or her reputation in the eyes of ordinary members of society.

However, a whistleblower will not generally be liable provided that they had a legal, moral or social duty or interest in making the statement to a person with a similar interest.

10. Responsible Officer

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That person maintains a record of concerns raised and the outcomes and will report as necessary to the Council.

11. Review of Procedure

This procedure shall be subject to periodic review and may be changed from time to time.

Appendix 1: ADVICE AND INFORMATION

Public Concern at Work

Public Concern at Work is an independent organisation which can provide guidance and training to employers on whistleblowing and can also offer free advice to employees unsure whether or how to raise a concern about workplace wrongdoing.

Public Concern at Work
3rd Floor, Bank Chambers
6-10 Borough High Street
London SE1 9QQ

Telephone (general enquiries and helpline): 020 7404 6609

Email UK enquiries: whilst@pcaw.co.uk
UK helpline: helpline@pcaw.co.uk
UK services: services@pcaw.co.uk

Advisory, Conciliation and Arbitration Service (ACAS)

ACAS operates a nationwide network of helplines which deal with queries about employment matters, including the rights and obligations arising out of employment law. The service is available to any individual or organisation free of charge. Any worker who contacts ACAS will wish to bear in mind the distinction between seeking information about the provisions of the Public Interest Disclosure Act 1998, and the requirements attached to making a protected disclosure.

Acas East Midlands

Apex Court, City Link, Nottingham, NG2 4LA.
Tel: 08457 38 37 36

General Helpline numbers 0845 474747

Customers with a hearing or speech impairment may prefer to contact Acas using the Text Relay service by dialling 18001 08457 474747.