



MENDIP DISTRICT COUNCIL

~~GOVERNANCE, ASSETS AND PUBLIC SPACES~~ LAW AND GOVERNANCE

Whistleblowing Policy

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Constitution Appendix Q Whistleblowing Policy

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1. INTRODUCTION

Mendip District Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we wish to encourage Officers, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. This process is commonly referred to as "Whistleblowing".

Whilst this policy primarily covers Officers and people working for Mendip District Council, the Council would also like to encourage Members and members of the Public who have concerns to raise them in the knowledge that they will be taken seriously and dealt with appropriately. Members and members of the Public may wish to consult the separate Anti-Fraud and Corruption Policy which can be found on the Council's external website.

Officers 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. However, every Officer has a responsibility to report suspected wrongdoing wherever it occurs within the Council.

This policy is intended to encourage and enable Officers to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. This policy makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Council recognises that most cases will have to proceed on a confidential basis unless the Council is required to report or provide information to the police as part of an investigation. The Council is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly. There is also statutory protection from any disclosures made by Officers.

This policy applies to all Officers (including those contractors working for the Council on Council premises, for example agency staff etc) and also covers suppliers and those providing services under a contract with the Council in their own premises. The Council will seek to ensure that as part of its procurement processes this policy is brought to the attention of such external contractors, suppliers and service providers.

This policy has been discussed with the relevant Trade Unions.

2. AIMS AND SCOPE OF THIS POLICY

2.1 This policy aims to:

- Encourage Officers to feel confident in raising concerns and to question and act upon concerns about practice.
- Provide avenues for Officers to raise concerns and receive feedback on any action taken.
- Allow Officers to take the matter further if they are dissatisfied with the Council's response to the concerns expressed.
- Reassure Officers that they will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable Officers to lodge;

- a grievance relating to their own employment under the Grievance Procedure with Human Resources.
- a complaint about bullying or harassment under the Bully or Harassment Procedure with Human Resources.
- a complaint about discrimination under the Equal Opportunities Policy with Human Resources.
- a complaint about the way an Officer carries out their role or a service is provided under the Corporate Complaints Policy with Customer Services.
- a concern about a health and safety issue under the Health and Safety Policy/Procedure with the Health and Safety Officer.
- a concern relating to the actions of an elected member under the Members Code of Conduct with the Monitoring Officer.

2.3 This policy is intended to cover concerns that fall outside the scope of the procedures. Thus any serious concern that Officers have about any aspect of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can and should be reported under this policy.

This concern may be about something that is:

- unlawful
- against the Council's Constitution, Financial Procedure Rules and policies
- against established standards of practice
- improper or unethical conduct
- amounts to malpractice
- posing a danger to the health and safety of individuals

- unauthorised use of public funds
- possible fraud corruption, bribery or money laundering
- likely to cause damage to the environment
- other conduct that gives you cause for concern
- deliberate concealment of any of the above

Please note that this is not a comprehensive list but is intended to illustrate the range of issues which might be raised under this Code.

3. SAFEGUARDS

3.1 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 reprisals from those who may be guilty of malpractice or from the Council as a whole. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action in order to protect a person who raises a concern in good faith even if they were mistaken. In addition Officers have statutory protection against reprisals under the 1998 Public Interest Disclosure Act and can refer their case to an Employment Tribunal. The Council will be supportive of Officers raising concerns.

3.2 Confidentiality

As far as possible, the Council will protect the identity of any Officer who raises a concern and does not want his/her name to be disclosed but this confidentiality cannot be guaranteed. It must be appreciated that any investigation process may reveal the source of the information and a statement by the person reporting the concern may be required as part of the evidence. Where an Officer has requested that their identity not be revealed, the Council will discuss the matter with them before embarking on any course of action whereby their identity will need to be disclosed.

3.3 Anonymity

Concerns expressed anonymously will be considered at the discretion of the Council although it must be appreciated that it is inherently difficult to investigate concerns expressed this way. It is hoped that the guarantees contained in this policy will provide sufficient reassurance to Officers to enable them to raise concerns in person and confidentially. However, in exercising the discretion, the factors to be taken into account would include:

- The likelihood of obtaining the necessary information;
- The seriousness of the issues raised;
- The specific nature of the complaint;

- The duty to the public.

3.4 False and Malicious Allegations

The Council will protect itself and its Officers from false and malicious expressions of concern by taking disciplinary action where appropriate. If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the Officer making the allegation. If however an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken. The Council will try to ensure that the negative impact of either a malicious or unfounded allegation about any person is minimised.

N.B. If an Officer has any personal interest in the matter this should be disclosed at the outset.

4. HOW TO RAISE A CONCERN

- 4.1 As a first step, concerns should normally be raised with the immediate ~~manager-supervisor~~ or ~~Group-Corporate~~ Manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. Alternatively, if it is preferred (for whatever reason) or if it is believed that management is involved, one of the individuals in section 4.5 could be approached.
- 4.2 ~~Managers-Supervisors~~ and ~~Corporate-Group~~ Managers should take concerns raised seriously. They must report these to the Monitoring Officer or Section 151 Officer.. They must not make enquiries or investigate any allegation themselves. This could jeopardise the case. The Monitoring Officer will keep a confidential written record of all such concerns for monitoring and audit purposes.
- 4.3 Concerns may be raised orally or in writing. It is preferable to put concerns in writing. The background and history of the concern should be set out, giving names, dates and places where possible, and the reason why concerns have arisen about the situation.
- 4.4 The earlier concerns are expressed the easier it is to take action. Delay should not occur whilst proof has been obtained. Although the Officer raising the concern is not expected to prove the truth of the allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for their concern.
- 4.5 If concerns arise, however small, the following Officers can provide advice and guidance:
 - Monitoring Officer
 - Section 151 Officer

5. HOW THE COUNCIL WILL RESPOND

5.1 The ~~Manager~~ Supervisor or ~~Corporate~~ Group Manager, with whom concerns are raised, will refer them to the Monitoring Officer or Section 151 Officer. They will take action on behalf of the Council. The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:

- Be investigated by senior management, internal audit (South West Audit Partnership) or through the disciplinary process;
- Be referred to the police;
- Form the subject of an independent inquiry.

5.2 In order to protect the individual and the Council, initial enquiries will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take (see Appendix 1). Concerns or allegations, which, fall within the scope of specific procedures (for example fraud, theft and corruption) will normally be referred for consideration under those procedures.

5.3 It should be noted that some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this would be taken before any investigation is completed.

5.4 Within ten working days of a concern being raised, the Monitoring Officer or Section 151 Officer (whichever one assumes lead on a particular complaint) will write to the person raising the concern;

- acknowledging that the concern has been received,
- indicating how he/she proposes to deal with the matter; and
- giving an estimate of how long it will take to provide a final response.

If it is impossible for initial inquiries to be completed within ten working days, the situation will be explained in the letter of acknowledgement. Where a decision is made that no investigation will take place, the reasons for this will be provided.

5.5 The amount of contact between the Officers considering the issues and the Officer raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.

5.6 Where any meeting is arranged, off site if required, Officers have the right, if they so wish, to be accompanied by a union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

- 5.7 The Council will take appropriate steps to minimise any difficulties, which an Officer may experience as a result of raising a concern. For example, if Officers are required to give evidence in criminal or disciplinary proceedings, the Council will need to inform them and consider what steps are required to provide support.
- 5.8 The Council accepts that Officers raising a concern need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the person raising the concern will receive as much information as possible about the outcomes of any investigation.

6. HOW THE MATTER CAN BE TAKEN FURTHER

- 6.1 This policy is intended to provide Officers with an avenue to raise concerns within the Council. The Council hopes any Officer raising concerns will be satisfied with any action taken. If however an Officer raising a concern is unhappy with the outcome they can write to the Chief Executive and ask for the investigation and outcome to be reviewed. If they remain dissatisfied and they feel it is right to take the matter outside the Council, they may wish to take advice from their trade union, or local Citizens Advice Bureau, any of the external agencies listed in section 6.4 below, or your legal advisor on the options that are available to you.
- 6.2 Another option is reliance on the rights provided under the Public Interest Disclosure Act 1998. This Act gives a person raising a concern protection from victimisation if they make certain disclosures of information in the public interest. The provisions are quite complex and include a list of prescribed persons outside of the Council who can be contacted in certain circumstances. Advice on the effect of the Act can be obtained from the Monitoring Officer.
- 6.3 If the matter is taken outside the Council, information must not be disclosed where an Officer owes a duty of confidentiality to persons other than the Council (e.g. service users) or where an Officer would commit an offence by making such disclosures. This is something that the person raising the concern would need to check with one of the Officers mentioned in Section 4.5.

6.4 External Contacts

If for any reason you do not wish to use the internal arrangements set out above, or require additional support and advice, a list of possible external agencies is given below.

- The Health & Safety Executive (www.hse.gov.uk)
- Environment Agency (www.environment-agency.gov.uk)
- Trade Union, relevant professional bodies or regulatory organisations
- A Solicitor or Legal Advisor

- The Police
- The Local Government Ombudsman (www.lgo.org.uk)
- South West Audit Partnership on (01935 462381) or (confidential@southwestaudit.gov.uk)
- Independent Charity Public Concern at Work on (020 7404 6609) or (www.pcaaw.co.uk)
- The Information Commissioner (www.ico.org.uk)
- Equality and Human Rights Commission (www.equalityhumanrights.com)

7. REGISTER OF CONCERNS

A register of all concerns raised will be maintained by the ~~Section 151~~ **Monitoring** Officer. All ~~managers-supervisors and Group Managers~~ will notify the ~~Section 151~~ **Monitoring** Officer within 2 days of a concern being raised so that it may be included in the corporate register.

The information recorded will include;

- The date the concern was received.
- Summary of the concern including the individuals concerned.
- Reason if no investigation undertaken.
- The date the investigation commenced.
- The investigating Officer appointed.
- Outcome of the investigation and summary of steps taken.
- The date the individual raising the concern was notified of the outcome.

8. EQUALITIES STATEMENT

- 8.1 The Council is committed to equality and fairness and aims to ensure that all groups and individuals within Mendip are treated fairly and given fair chances. No service user, Officer, contractor, sub-contractor, consultant, agency officers or Member will be discriminated against on any ground because of their age, race, disability, ethnicity, gender, sexual orientation, religion or belief, marital status or level of income.
- 8.2 This commitment extends to how this policy is applied both to those under investigation and those making their concerns known regarding fraud or corruption.

9. RESPONSIBILITY FOR IMPLEMENTING

The responsibility for ensuring that the Council adheres to this Policy rests with the Audit Committee.

10. REVIEW

This Policy will be regularly reviewed in line with future changes and developments and at least every two years by the ~~Corporate Support Manager~~Group Manager Law and Governance.

APPENDIX 1

INVESTIGATION ARRANGEMENTS

All allegations should also be passed to the Monitoring Officer or Section 151 Officer – irrespective of who was contacted in the first instance.

- Be investigated by senior management, internal audit (South West Audit Partnership) or through the disciplinary process;
- Be referred to the police;
- Form the subject of an independent inquiry.

The Monitoring Officer or Section 151 Officer will liaise with the Strategic Human Resources Advisor who will then:

- (a) Arrange support and counselling for the Officer who reported the concern
- (b) Advise on any necessary disciplinary action.

The investigation carried out will adopt the following good practice points:-

- Deal promptly with the allegation or concern;
- Contact the Police and other agencies as appropriate at an early stage and keep them and the Officer who reported the concern informed of progress where possible;
- Prepare a background or objectives statement; consider the likely outcome, i.e. prosecution and/or internal disciplinary action;
- Record all evidence received, ensure that it is sound, adequately supported and kept secure;
- Notify the Council's insurers where appropriate;
- Notify and liaise with the Strategic Human Resources Advisor
- Identify actions required, systems weaknesses and lessons learnt.