

# TELFORD & WREKIN COUNCIL

## SPEAK UP POLICY DECEMBER 2011

### 1. INTRODUCTION

- 1.1 Employees, members, volunteers, school governors, partners, contractors and suppliers<sup>1</sup> are often the first to realise that there maybe something wrong within the Council. However, they may not express their concerns because they may feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, they may feel it easier to ignore their concerns rather than report what may just be a suspicion of malpractice.
- 1.2 The Council prides itself on having an open and honest culture and is committed to the highest possible standards of probity, accountability and transparency. In line with that commitment we encourage people raising concerns about any aspects of the Council's work to come forward and voice those concerns internally. The Council will take steps to try and minimise any difficulties experienced as a result of raising a concern (see paragraphs 4.7 and 5.3).
- 1.3 This policy supports the Council's Anti-Fraud and Corruption policy and makes it clear that concerns can be raised without fear of reprisals. It is intended to encourage and enable people raising concerns to raise them within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally.
- 1.4 This policy operates alongside other specific "Whistleblowing" investigation procedures developed for example in Child Protection.

### 2. WHO DOES THIS POLICY APPLY TO?

- 2.1. The Council's Speak Up Policy applies equally to all of the following groups:
- Council employees (including part time and temporary staff).
  - Agency staff working for the Council.
  - Members
  - School governors
  - Council contractors and suppliers.
  - Organisations working with the Council under partnership arrangements.
  - Volunteers

### 3. AIMS OF THIS POLICY

- 3.1 This policy is intended to provide you with an avenue to raise concerns **within** the Council. The policy aims to:
- \* Encourage you to feel confident in raising concerns and to question and act upon concerns about malpractice
  - \* Encourage you to raise these concerns as soon as they arise so that appropriate action can be taken
  - \* Provide avenues for you to raise those concerns within the Council and receive feedback on any action taken;

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<sup>1</sup> Defined for the rest of this policy as "people raising concerns".

- \* Allows you to take the matter further if you are dissatisfied with the Council's response; and
- \* Reassure you that we will endeavour to protect you from reprisals or victimisation for speaking up in good faith.

3.2 There are existing procedures in place to enable employees to lodge a grievance relating to their employment. As Local Government employees, each member of staff has a responsibility to report wrongdoing using the procedures designed to manage such information. It is important that employees recognise the distinction between work related issues and those external to their employment. Whilst the Speak Up process can be used to raise possible wrongdoing outside the employees immediate work area, it should not be used to promote particular campaigns. Similarly, if the process is activated employees should not publicise allegations to other elected members or officers as this may restrict investigation or be viewed as a malicious act.

3.3 If your concern relates to any internal procedure or act which affects your employment directly, then this should be raised through the Council's grievance procedure.

#### 4. AREAS COVERED BY THE POLICY

4.1 This policy is intended to cover concerns that fall outside the scope of other procedures as outlined in 1.4, 3.2 and 3.3. The types of concerns include:

- \* Conduct which is an offence or a breach of the law
- \* A failure to comply with a statutory or legal obligation (e.g. Race Relations (Amendment) Act, Data Protection Act etc.)
- \* Improper unauthorised use of public funds or other funds
- \* A miscarriage of justice
- \* Maladministration, misconduct or malpractice
- \* Endangering of an individuals health and safety
- \* Damage to the environment
- \* Possible fraud and corruption
- \* Sexual, physical or verbal abuse of clients/pupils
- \* Any other unethical conduct or improper conduct (including bullying or harassment).
- \* evasion of data/information security procedures
- \* Discrimination of any kind
- \* Deliberate concealment of any of the above

4.2 The overriding concern should be that it would be in the public interest for malpractice to be corrected and, if appropriate, sanctions applied. Therefore, you can report any concerns that you 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 under the Speak Up Policy. This may be about something that:

- Makes you feel uncomfortable in terms of known/established standards or the standards you have experienced and believe the Council subscribes to.
- Is against the Council's Constitution and policies.
- Amounts to improper conduct.

4.3 The policy is subject to any relevant legislation (including the Public Interest Disclosure Act 1998) and specifically will operate within the requirements of the Data Protection Act 1998, the Human Rights Act 1998, and the Regulation of Investigatory Powers Act 2000.

4.4 This policy provides a general outline of the governing legislation in this area for guidance purposes only and should not be regarded as a complete or authoritative statement of the law.

## 5. HOW TO RAISE A CONCERN

5.1 Employees, volunteers and partners should raise concerns within the Council with either:-

- Your Line Manager/Service Delivery Manager/appropriate member of the Senior Management Team
- Your Head of Establishment or Headteacher
- The Audit and Assurance Manager
- the Council's Monitoring Officer<sup>2</sup>
- Trade Union representative

5.2 School Governors should raise concerns with the Director of Children's Services, Assistant Director: Education & Skills, the Audit and Assurance Manager or the Monitoring Officer.

5.3 Contractors and suppliers should raise concerns with the Strategic Procurement Specialist, Audit & Assurance Manager or the Monitoring Officer.

5.4 Members' should raise concerns with the Monitoring Officer. If the concern is in respect to the action of a member under the Code of Conduct for Members, the concern raised maybe referred to the Standards Committee.

5.5 If the concern is in respect to professional conduct then the personnel outlined in 5.1, 5.2 and 5.3 should be contacted, as appropriate.

5.6 If the concern is connected with your direct line manager/supervisor your HR Officer will, if appropriate, be able to provide advice as to whom to direct your concerns.

5.7 Concerns are better raised in writing<sup>3</sup>. You will need to set out the background and history of the concern giving 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 an appropriate officer. The appropriate officer will make notes of any conversations with you in order that, if required, a proper investigation can be undertaken.

5.8 Alternatively, you can leave a message on the 24 hour Audit & Assurance answer phone (telephone number 383115). This service is confidential. You will not be asked to give your name if you do not wish to. This answer phone is kept in the Audit & Assurance Office and messages are checked by specified Audit staff.

5.9 The earlier you inform us of your concern and the more detail you give us; the easier it will be for action to be taken.

5.10 At this stage you are not expected to prove the allegation but you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

5.11 Advice and guidance on how matters of concern may be pursued can be obtained from:

- \* Your line manager, headteacher
- \* Human Resources

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<sup>2</sup> The Council's Monitoring Officer is the Assistant Director: Law, Democracy & Public Protection

<sup>3</sup> This can be written or by e-mail. If using e-mail you must consider the security and confidentiality aspects of this method.

- \* Audit & Assurance
- \* Trade union/professional association
- \* The Council's Monitoring Officer

5.12 You may prefer, in order to protect yourself or to maintain your anonymity, to invite your trade union or representative to raise a matter on your behalf. Your representative may be required to obtain additional information from you in order that a proper investigation can be undertaken.

5.13 Whilst anonymous allegations will be considered and action taken where appropriate, it is much more difficult to properly investigate matters raised anonymously. The Speak Up Policy is designed to protect those raising genuinely held concerns and the policy encourages them to identify themselves. Obviously, feedback relating to any investigation which has been undertaken can only be provided where contact details are known.

## 6. HOW THE COUNCIL WILL RESPOND

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

- \* Be investigated internally by an appropriately skilled and experienced officer, knowledgeable in the area concerned e.g. Manager, Audit & Assurance, Benefits Investigation Team, Human Resources, the Council's Monitoring Officer;
- \* Be referred to the Police;
- \* Be referred to the external Auditor or Ombudsman;
- \* Form the subject of an independent inquiry.

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 that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

6.3 Some concerns may be resolved by agreed action without the need for further investigation.

6.4 Within ten working days of a concern being received (excluding anonymous concerns), the individual with whom you raised the matter will confirm in writing:

- a) Acknowledging that the concern has been received;
- b) Indicating how it is proposed to deal with the matter;
- c) Confirmation that further investigations will take place and an estimate as to how long it will take to provide a final response; and
- d) If the matter is not to be investigated the reason why.

6.5 The level of contact between the officer(s) considering the issues and yourself will depend upon the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be requested from you. We will attempt to do this in as discreet a manner as possible.

6.6 When any meeting is arranged, you have the right, if you wish, to be accompanied by a trade union or other representative. The meeting can be off site, if requested.

6.7 The Council will take steps to minimise any difficulties, which you may experience as a result of raising a concern and provide any appropriate support including the Council's confidential Counselling Service. For instance, if you are required to give evidence in disciplinary or

criminal proceedings, the Council will advise you about the procedure. Within internal proceedings you will have the option of asking someone else to represent you.

- 6.8 The Council accepts that you need to be assured that the issues you have raised have been properly dealt with. We will therefore try, subject to any legal constraints, to keep you informed in connection with the outcome of any investigation. In addition you will be informed as to any action taken to rectify working practices where irregularities have been identified as a consequence of an investigation.
- 6.9 You may withdraw from the process at any stage, although your involvement may still be required in certain circumstances such as ongoing disciplinary or legal proceedings relating to the matter concerned. If you do wish to withdraw you or your representative must inform the person with whom you raised the initial concern and the investigating officer. You will be requested to provide a reason/(s) for your withdrawal.
- 6.10 If you withdraw from the process on-going investigations into the issues arising from your concern may continue dependent on the nature of the issues and the results of the investigation findings at that time.
- 6.11 The person against whom the concern has been raised will be informed following the initial investigations if it is considered that there is an issue to be investigated further, subject to current HR procedures. This person will be supported in an appropriate manner and will be informed, as appropriate, of the progress of the investigation.

## 7. SAFEGUARDS

### **Harassment or Victimisation**

- 7.1 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. The Council will not tolerate harassment or victimisation as outlined in its “Dignity at Work Policy” and will take action to protect you when you raise a concern in good faith.
- 7.2 This does not mean that if you are already the subject of disciplinary, capability or redundancy procedures, that those procedures will be halted as a result of speaking up. Equally any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you. There will be no come back if a disclosure has been made in good faith and the individual reasonably believes that the information disclosed is substantially true. Individuals will be listened to and, where necessary, given support.

### **Confidentiality**

- 7.3 The Council will endeavour to maintain confidentiality where possible, but this cannot be guaranteed. Depending on the nature of the concern in order to undertake proper investigation confidential information may have to be shared with a third party, including the party or parties’ subject of the concern. You will be informed if this is necessary.
- 7.4 In addition, depending on the nature of the concern the police or a regulator may need to be involved. Any statement made by you may be required as part of the evidence in internal or external proceedings and there may be circumstances where this could be submitted anonymously, if requested.

### **Anonymous Allegations**

- 7.5 The best way to raise a concern is openly and this policy encourages you to put your name to your concern. Generally we would recommend that concerns are not raised anonymously because:
- It is harder to investigate the concern effectively if follow up questions cannot be asked; and
  - It is easier for the Council to provide appropriate support, and if appropriate to get protection under the Public Interest Disclosure Act 1998, if the concern is raised openly.
- 7.6 However, concerns which are expressed anonymously will be considered.
- 7.7 In such circumstances the Council will take the following factors into account when establishing the scope and depth of the investigation:-
- \* The seriousness of the issues raised;
  - \* The credibility of the concern; and
  - \* The likelihood of confirming the allegation from recognised sources and information available.

### **Untrue Allegations**

- 7.8 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you.
- 7.9 If, however, as an employee, volunteer or partner you make malicious or vexatious allegations, action (including disciplinary<sup>4</sup>) may be taken against you.
- 7.10 Malicious or vexatious allegations made by contractors and suppliers will be dealt with by the appropriate member of the Senior Management Team and Procurement, in conjunction with the Council's Legal Advisors.
- 7.11 Malicious or vexatious allegations made by an elected member will be considered by the Monitoring Officer and will be dealt with under the appropriate procedures.
- 7.12 In addition, where an allegation is not confirmed, the employee(s) against whom the concern was raised will be supported by their manager and/or Human Resources. The employee(s) will also be able to use the Council's confidential Counselling Service if they wish to do so.

## **8. HOW THE MATTER CAN BE TAKEN FURTHER**

- 8.1 This policy is intended to provide you with a mechanism by which you can raise your concerns **within** the Council. The Council hopes you will be satisfied with the response you receive. If you are not satisfied with the response you receive you should contact the Managing Director with the reasons why.
- 8.2 If you feel it is right to take the matter outside the Council you should be aware of not disclosing confidential information<sup>5</sup>. The following are possible contact points:

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<sup>4</sup> If disciplinary action is taken then dependent upon the circumstances of the malicious/vexatious allegation a charge of gross misconduct may be deemed appropriate.

<sup>5</sup> Advice can be obtained from Information Governance or the Monitoring Officer.

- \* Your local Council member (if you are an employee or volunteer and live in the area of the Council) – if you are not sure who it is, you can contact Member Services on 380110 or use the Council's internet site.([www.telford.gov.uk](http://www.telford.gov.uk))
- \* The external auditor (KPMG) on 0121 335 2440
- \* Relevant professional bodies or regulatory organisations
- \* The Ombudsman – 01203 695999 ([www.lgo.org.uk](http://www.lgo.org.uk))
- \* The Health & Safety Executive
- \* Your solicitor
- \* The Police
- \* Public Concern at Work\* - 020 7404 6609 ([www.pcaw.co.uk](http://www.pcaw.co.uk))
- \* Trade Union/Professional Association – details are available from Human Resources

\* - Public Concern at Work is an independent charity which provides free advice for persons who wish to express concern about fraud and other serious malpractice.

## 9. THE RESPONSIBLE OFFICER

- 9.1 The Managing Director has overall responsibility for the maintenance and operation of this policy and will report, as necessary, through the Audit Committee, to the Council.
- 9.2 Other useful contacts with respect to this policy are the Audit and Assurance Manager, Monitoring Officer, your HR officer and your Trade Union or other representative.