

# **WHISTLEBLOWING**

## **THE CONFIDENTIAL REPORTING CODE**

| Version history |            |                  |          |
|-----------------|------------|------------------|----------|
| Version         | Date       | Detail           | Author   |
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|                 |            |                  |          |

## **Derbyshire County Council**

### **Confidential Reporting Code**

#### **1 Introduction**

- 1.1 Confidential reporting is the disclosure or communication of information about possible malpractice by individuals or organisations. Disclosure can be either internal within the organisation or external to an outside authority.
- 1.2 This confidential reporting code is intended to enable individuals or organizations to disclose information about malpractice internally and to provide them with protection from subsequent victimisation, discrimination or disadvantage. This will assist in detecting and deterring malpractice and, by demonstrating the Council's accountability, maintain public confidence and the Council's good reputation.

#### **2 Purpose**

- 2.1 Employees are often the first to realise that there may be evidence of malpractice 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.
- 2.2 In line with the Council's commitment to high standards of openness, integrity and accountability, the Council expects employees who have a reasonable belief that malpractice is taking place within the Council to come forward and voice those concerns internally. This may be an awareness of suspected irregularity, wrongdoing or a failure of standards. This code provides the means for employees to make such disclosures.
- 2.3 An employee's concerns about malpractice may include a reasonable belief that one or more of the following has occurred or is likely to occur:
  - Conduct which is an offence or a breach of law,
  - Miscarriages of justice,
  - Health and safety risks, including risks to the public as well as other employees,
  - Damage to the environment,
  - The unauthorised use of public funds,
  - Fraud and corruption,
  - Sexual or physical abuse of clients,
  - Other unethical conduct.

- 2.4 Under this code employees should make disclosures about possible malpractice with:
- a) Their line manager
  - b) Where (a) is inappropriate, their Strategic Director, Director or senior manager in their department.
  - c) Where (a) and (b) are inappropriate, you should approach the Director of Legal Services, or,
  - d) if the concern is regarding financial irregularities or fraud then you should contact the Assistant Director of Finance (Audit).

It is recognised that most cases will have to proceed on a confidential basis.

- 2.5 It is in the interests of all parties that disclosures are dealt with properly, quickly and discreetly. The overriding consideration for the Council and the employee is that it would be in the public interest for any malpractice found to be corrected and, where appropriate, sanctions applied.
- 2.6 The code provides employees with a procedure to make disclosures of suspected irregularity or wrongdoing without fear of adverse treatment as a result. The Council will not tolerate any harassment or victimisation of employees making disclosures (including informal pressures) and will take action to protect employees when they make a disclosure that they reasonably believe is in the public interest.
- 2.7 The code addresses major concerns that fall outside the scope of other procedures and where the interests of others or of the Council are at risk. It has been developed within the following legislative and policy framework:
- It takes into account the requirements of the Public Interest Disclosure Act 1998.
  - It is complementary to the Council's Code of Conduct which makes clear the standards of propriety and good practice expected of employees.
  - It is complementary to the Council's Discipline, Grievance and Harassment Procedures. Together they form a framework which allows employees to be disciplined, to seek personal redress, to raise personal complaint and to disclose malpractice where appropriate.
  - The code is in addition to the Council's complaints procedures and other reporting procedures applying to some departments, for example child protection procedures.

### **3 Scope**

- 3.1 This code applies to all employees, including those employees within the Children's Services Department for whom the Local Education Authority is the relevant body but excluding teachers. It is also applicable to:

- a) contractors working for the Council on Council premises, for example, agency staff, builders, drivers.
- b) suppliers and those providing services under a contract with the Council in their own premises, for example care homes.

## **4 Procedure for Making A Disclosure**

### **4.1 Introduction**

4.1.1 This code provides you with a procedure for making disclosures internally about suspected wrongdoing, irregularity or a failure of standards within the Council. Its aims are:

1. To encourage you to feel confident in raising serious concerns and to question and act upon concerns about possible malpractice within the Council.
2. To provide a means for you to disclose those concerns and receive feedback on any action taken.
3. To ensure that you receive a response to your concerns and that you are aware of how to pursue them further if you are not satisfied.
4. To reassure you that you will be protected from possible reprisals or victimisation and from subsequent discrimination or disadvantage.

4.1.2 Any serious concerns that you have about an aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under this code. This may be about something that:

- a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to.
- b) is against the Council's Standing Orders and policies.
- c) falls below established standards of practice.
- d) amounts to improper conduct.

Examples of these are given in paragraph 2.3.

### **4.2 Confidentiality**

4.2.1 All disclosures will be treated in confidence and wherever possible, every effort will be made not to reveal your identity. However, you may need to come forward as a witness and you will be given every support from management at that time.

### **4.3 Anonymous Disclosures**

4.3.1 You should put your name to your disclosure whenever possible. Disclosures made anonymously will still be considered at the discretion of the Council.

However, it is helpful to have your name in case further information is required.

4.3.2 In exercising its discretion, the Council will take into account the:

- a) seriousness of the issues raised.
- b) credibility of the disclosure.
- c) likelihood of confirming what is alleged from attributable sources.

#### **4.4 Untrue Disclosures**

4.4.1 If you make a disclosure that you reasonably believe is in the public interest, but it is not confirmed by the investigation, no action will be taken against you. If however, your allegation is frivolous, malicious or for personal gain, you may be subject to disciplinary action.

#### **4.5 Employee Action**

4.5.1 As a first step, you should normally raise your concerns with your immediate line manager. If you believe your line manager is involved, you should approach your Strategic Director or another senior manager in your department. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If you believe that senior management is involved, you should approach the Director of Legal Services, or, if the concern is regarding financial irregularities or fraud then you should contact the Assistant Director of Finance (Audit).

4.5.2 You may raise your concern either verbally or in writing. The earlier you express the concern, the easier it is to take action. You should provide:

- a) details of your concerns, including the nature, dates and location of any relevant incidents.
- b) reasons why you feel concerned about the situation.

4.5.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

4.5.4 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 also discuss your concerns with your trade union representative.

4.5.5 You may invite your trade union or other representative to be present during any meetings or interviews in connection with the concerns you have raised.

4.5.6 The amount of contact between you and the officer considering the issues will depend on the nature of the matters raised, the potential difficulties

involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

## **4.6 Action Taken by the Council**

4.6.1 The Council will respond to your disclosure. Where appropriate, the matters raised may be:

- a) investigated by management, by Audit Services, or through the disciplinary process.
- b) referred to the Police.
- c) referred to the external auditor.
- d) the subject of an independent inquiry.

4.6.2 In order to protect individuals and those accused of possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The over-riding principle the Council will have in mind is the public interest. Disclosures for which there are other specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

4.6.3 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.

4.6.4 Within 10 working days of a concern being raised, you will receive a response:

- a) acknowledging that the concern has been received.
- b) telling you what initial enquiries have been made.
- c) indicating how the matter is going to be dealt with.
- d) giving an estimate of how long it will take to provide a final response.
- e) supplying you with information on staff support mechanisms.
- f) telling you why if there is to be no further investigation.

4.6.5 The Council will take steps to minimise any difficulties you may experience as a result of making a disclosure. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

4.6.6 You will need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will be informed of the outcomes of any investigation.

4.6.7 The Director of Legal Services has overall responsibility for the maintenance and operation of this code. A record of disclosures made and the outcomes is maintained (but in a form which does not endanger your confidentiality) and reports will be made as necessary to the Council.

## **4.7 How the Matter Can Be Taken Further**

4.7.1 This code is intended to provide you with a route within the Council to make disclosures of malpractice. The Council hopes you will be satisfied with any action taken. If you are not, and you believe the information you have disclosed is substantially true, possible contact points are:

- Public Concern At Work
- The external auditor
- Your trade union
- Your local Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- A relevant voluntary organisation
- The Police

4.7.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the officer dealing with your disclosure within the Council before divulging any information.

4.7.3 General advice and guidance on how matters of concern may be pursued can be obtained from the:

- a) Chief Executive,
- b) Director of Legal Services,
- c) Assistant Director of Finance (Audit).

**John McElvaney**  
**Director of Legal Services**  
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