
Confidential Reporting Policy

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1. INTRODUCTION

1.1 The word “whistleblowing” in this Policy refers to the protected disclosure internally or externally by employees of malpractice. Section 43A of the Employment Rights Act 1996 provides protection for workers who make a "protected disclosure", which is defined in the Act as follows:

"...any disclosure of information which, in the reasonable belief of the worker making the disclosure is made in the public interest and, tends to show one or more of the following-

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed."

1.2 The council is committed to creating and maintaining a culture whereby any individual who seeks to express concerns and suspicions may do so without fear of victimisation, subsequent discrimination or disadvantage and in the knowledge that the information will be treated confidentially and will be investigated fully and rigorously.

1.3 The aim of this Policy is to encourage employees and others (e.g. members, those working with or for other external bodies, the public etc.) who believe that there may be something wrong within the council or who may have concerns about any aspect of the council's work to come forward and voice those concerns.

1.4 This policy and procedure has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures (“whistleblowing”) about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act is incorporated into the Employment Rights Act 1996, which also already protects employees who take action over, or raise concerns about, health and safety at work.

2. THE POLICY

POLICY STATEMENT

Erewash Borough Council is committed to the prevention, deterrence, detection and investigation of fraud, theft, corruption and malpractice in all forms. It encourages individuals both internal and external to the council who have serious concerns about any aspect of its work, including matters of health and safety, to voice those concerns.

Preamble

- 2.1 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 the council. They may also fear harassment or victimisation. In these circumstances it may seem easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 2.2 The council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it expects employees, and others that it deals with, who have serious concerns about any aspect of the council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 2.3 This policy document makes it clear that this may be done without fear of victimisation, subsequent discrimination or disadvantage. Whilst it is primarily intended to encourage employees to raise serious concerns within the council rather than overlooking a problem or 'blowing the whistle' outside, the policy is intended to enable others who become aware of wrongdoing in the council to report their concerns and therefore also applies to:
- members
 - agency staff and consultants
 - employees of contractors working for the council
 - employees of suppliers
 - those providing services under a contract or other agreement with the council and
 - voluntary workers working with the council

3. AIMS AND SCOPE OF THIS POLICY

- 3.1 This "whistleblowing" policy aims to:
- encourage you to feel confident in raising concerns and to question and act upon your concerns
 - provide avenues for you to raise those 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 in the public interest
- 3.2 The policy is not intended to replace the council's existing procedures and other statutory reporting procedures which apply, for example:
- if your concern relates to your own treatment as an employee then there are existing procedures in place to enable you to lodge a grievance.

- if a member of the public has a concern about services provided to him/her, it should be raised as a complaint to the council.

The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of these other policies and procedures and includes:

- conduct which is an offence or a breach of law
- disclosures related to 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
- possible fraud, theft and/or corruption
- sexual or physical abuse of clients or
- other unethical conduct

3.3 Thus, any serious concerns that 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 Confidential Reporting 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 Financial Regulations, Contract Procedure Rules or other policies; or
- falls below established standards of practice; or
- amounts to improper conduct

4. SAFEGUARDS – HARASSMENT OR VICTIMISATION

4.1 The council is committed to good practice and high standards and wants to be supportive of employees and others who express concerns.

4.2 The council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

4.3 The council will not tolerate any harassment or victimisation (including informal pressures) and it will take appropriate action to protect you when you raise a concern in the public interest.

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

5. CONFIDENTIALITY

5.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

6. ANONYMOUS ALLEGATIONS

- 6.1 This policy encourages you to put your name to your allegation whenever possible.
- 6.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Monitoring Officer. 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

7. UNTRUE ALLEGATIONS

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

8. HOW TO RAISE A CONCERN

- 8.1 You should approach the council's Monitoring Officer, the Head of Law and Corporate Governance, on 0115 9072244 Ext. 3621 or in his absence the Deputy Monitoring Officer, the Legal Services Manager, on 0115 9072244 Ext. 3626 who will make appropriate arrangements for your complaint to be investigated.
- 8.2 Concerns may be raised verbally or in writing. Those who wish to make a written report are invited to use the following format:
- the background and history of the concern (giving relevant dates);
 - the reason why you are particularly concerned about the situation.
- 8.3 The earlier you express the concern the easier it is to take action.
- 8.4 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.
- 8.5 Advice and guidance on how to pursue matters of concern may be obtained from the council's nominated contact points who are:
- Monitoring Officer/Head of Law and Corporate Governance
 - Deputy Monitoring Officer/Legal Services Manager
 - Chief Executive (Head of the Paid Service)
 - Director of Resources (S151 Officer)
 - Internal Audit Manager
 - Head of Personnel

- 8.6 You may wish to consider discussing your concern with a friend or 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.
- 8.7 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised. The council recognises that employees may wish to seek advice and be represented by their Trade Union(s) officers when using the provisions of this policy, and acknowledges and endorses the role Trade Union officers play in this area.

9. HOW THE COUNCIL WILL RESPOND

- 9.1 The council will respond to your concerns through the Monitoring Officer. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 9.2 Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process
 - be referred to the police
 - be referred to the external auditor
- 9.3 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 should it 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, misconduct or discrimination issues) will normally be referred for consideration under those procedures.
- 9.4 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.
- 9.5 Within seven working days of a concern being raised, the Monitoring Officer will write to you:
- acknowledging that the concern has been received
 - indicating how we 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
 - telling you whether further investigations will take place and if not, why not
 - advising on the appropriate route or process for further action (as appropriate)
- 9.6 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, the responsible officer will seek further information from you.

- 9.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 9.8 The council will take steps to minimise any difficulties which you may experience as a result of raising a concern. 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.
- 9.9 The council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

10. THE RESPONSIBLE OFFICER

- 10.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the council.

11. HOW THE MATTER CAN BE TAKEN FURTHER

- 11.1 This policy is intended to provide you with an avenue within the council to raise concerns. The council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the council, the following are possible contact points:

- the council's external auditor
- your trade union:
UNISON Whistleblowing Hotline Telephone **0800 597 9750**
- your local Citizens Advice Bureau/Law Centre:
See the Erewash Borough Council website www.erewash.gov.uk for nearest bureau and opening times
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police

Further advice or guidance can be obtained from Public Concern at Work:
Telephone **020 7404 6609** or visit the website: www.pcaaw.org.uk

(Public Concern at Work is an independent charity that provides free confidential advice to people concerned about crime, danger or wrongdoing at work)

- 11.2 If you take the matter outside the council, you should ensure that you do not disclose confidential information. Check with one of the council's nominated contact points about that. (See 8.5)