

## **NORTH NORFOLK DISTRICT COUNCIL WHISTLEBLOWING POLICY**

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## **WHISTLEBLOWING POLICY**

### **1.0 INTRODUCTION TO THE POLICY**

- 1.1 The Whistleblowing Policy is intended to provide a local framework for disclosing concerns about unacceptable conduct with the public interest in mind. The Public Interest Disclosure Act 1998 provides statutory protection to any person who raises any concerns in good faith about a possible wrongdoing. However, as the Committee on Standards in Public life observed:

“The statutory framework is a helpful driver but must [not be seen] as a substitute for cultures that actively encourage the challenge of inappropriate behaviour”.

This policy and associated procedures have been developed in the spirit of this observation.

- 1.2 Employees are often the first to realise that there may be actions or activities that are wrong or unacceptable within the Council. However, they may not be confident about expressing 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 seem easier to ignore the concern rather than report what may just be a suspicion of malpractice. However, if the Council has the chance to deal with a potentially serious problem at the earliest opportunity this can minimise the risks before serious damage can be caused to persons, property or reputation.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council expects employees, councillors, organisational partners, contractors and members of the public to raise concerns about any impropriety or illegality in the Council's work. It is recognised that most cases will have to proceed on a confidential basis.
- 1.4 It is also expected that contractors will be required to have their own whistleblowing policies and arrangements established in accordance with thresholds set in the Council's contract conditions through the tendering process. Where a contractor does not have its own policy, it is expected that the principles and arrangements of the Council's policy and associated procedures will apply.
- 1.5 This policy document makes it clear that employees, councillors, organisational partners, contractors and members of the public can raise such matters in good faith without fear of subsequent victimisation, discrimination or disadvantage by the Council as a result of their allegation.

- 1.6 This policy and associated procedure is intended to encourage and enable employees and others to raise concerns about impropriety or illegality within the Council rather than overlooking the problem or 'blowing the whistle' outside the Council. If they decide that the matter needs to be taken up outside, then they should be aware of this policy and ensure that they do not disclose confidential information. The Public Interest Disclosure Act 1998 encourages people to raise concerns within the Council in the first instance, and does not offer the same protection to those who raise concerns to outside parties inappropriately. Therefore, if they are concerned information may be confidential, they should seek advice from the Responsible Officer(s).
- 1.7 The procedures accompanying this policy document are in addition to the Council's complaints procedures and other statutory reporting procedures. Directors are responsible for ensuring their managers and staff are aware of the existence of this policy and procedures and managers and relevant employees are responsible for making organisational partners and contractors aware through the procurement and contract process. The Council is responsible for promoting awareness of this policy and procedures amongst members of the public through a range of media, including the Council magazine. This policy and procedures can be accessed directly through the North Norfolk District Council website.
- 1.8 Where it is deemed necessary or appropriate, to ensure all individuals are equally able to raise concerns under this policy, the Council will make provision for:
- An interpreter or relevant support mechanisms to ensure a fair and consistent level of understanding
  - Flexibility in scheduling meetings to accommodate caring responsibilities or similar commitments
  - Suitable rooms with easy access or facilities for those with disabilities
  - Flexibility in scheduling meetings to accommodate religious days and beliefs.

## **2.0 AIMS AND SCOPE OF THIS POLICY**

- 2.1 This policy aims to:
- encourage employees and others to feel confident in raising serious concerns and to question and act upon concerns about practice and procedures;
  - provide avenues for employees and others to raise their concerns, receive a response to their concerns and to be aware of how to pursue them if they are not satisfied;
  - reassure employees and others that they will be protected from reprisals or victimisation if they have made any allegation or disclosure in good faith.

- 2.2 There are existing procedures in place to enable employees to raise matters relating to their own employment, including grievances, bullying and harassment. This policy is intended to cover concerns of impropriety and illegality that fall outside the scope of such employment procedures.
- 2.3 A concern raised through this policy may be about something that makes the individual think that the behaviours or actions of others are contrary to the Council's adopted policies and procedures; or fall below established standards of practice; or amount to improper conduct, and can include:
- conduct which is an offence or a breach of law (e.g. theft, false claims)
  - disclosures related to miscarriages of justice
  - health and safety risks, including risks to the public as well as other employees
  - dangerous issues or working practices
  - conduct which has led or could lead to damage to the environment (for example, inappropriate disposal of waste)
  - the unauthorised use of public funds
  - possible fraud and corruption
  - sexual, physical or verbal abuse of clients, employees, members of the public or others
  - improper or other unethical conduct
  - showing undue favour over a contractual matter or to a job applicant
  - information on any of the above that has been, or is being, or is likely to be concealed.

Please note this list is not exhaustive.

### **3.0 SAFEGUARDS**

- 3.1 The Council is committed to good practice and high standards and wants to be supportive of individuals when raising concerns.
- 3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what an individual is saying is true or reasonably believed to be true, they have nothing to fear. In these circumstances, the individuals will be doing their duty to their employer, the Council and those for whom they are providing a service.
- 3.3 The Council will not tolerate any harassment or victimisation, including informal pressures, of whistleblowers or witnesses, and will take appropriate action to protect the individual when they raise a concern in good faith.
- 3.4 If an individual is found to have been victimised, harassed or disadvantaged as a result of raising a concern, the Council will take the following action against the perpetrators:
- (a) An employee will be subject to the Council's disciplinary process;
  - (b) A councillor will be the subject of a Standards inquiry;

- (c) A contractor or supplier will be considered to be in breach of contract and will be required to stop such behaviour. This may have serious implications for existing and future contract relations, up to and including termination of the contract;
- (d) A customer or service user may be considered to be in breach of the conditions of service. This may make it necessary to modify or discontinue the service provided.

3.5 If an individual is being considered under the Council's Disciplinary, Staff Adjustment or other dispute resolution procedures, this will not affect their right to raise a concern under this procedure.

#### **4.0 CONFIDENTIALITY**

4.1 All concerns will be treated in confidence and every effort will be made not to reveal the individual's identity if they so wish. However, it may become evident that in order to investigate an allegation, the confidentiality of the whistleblower may be compromised. The Responsible Officer will endeavour to notify the whistleblower where this is likely to arise. Further, having completed any investigation or enquiries, it may be necessary for them to come forward as a witness or provide a statement as part of the evidence.

4.2 The Responsible Officers (see 7.0 below) will do all they reasonably can to support the individual once they have taken the decision to voice their concerns, including providing the individual with access to:

- internal support through the Responsible Officers, Human Resources team, trades union representatives and managers, as appropriate; or
- external, confidential advice such as Public Concern at Work or the Council's Employee Assistance Programme.

4.3 If confidentiality is compromised and this creates a tension between the whistleblower and their manager, the subject of the allegation or other employees, it may be necessary to make provision to mitigate associated difficulties. Depending on the nature of the allegations, this may include mediation, counselling, retraining or redeployment.

#### **5.0 ANONYMOUS ALLEGATIONS**

5.1 This policy encourages individuals to put their name to their allegation whenever possible.

5.2 Concerns expressed anonymously are more difficult for the Council to investigate and resolve as there is no opportunity to discuss the issue and relevant information with the whistleblower. In addition, those individuals who make anonymous allegations are not protected by the provisions of the Public

Interest Disclosure Act 1998. Therefore, concerns expressed anonymously will be considered at the discretion of the Responsible Officers.

- 5.3 In exercising this discretion, the factors taken into account when reviewing anonymous allegations include:
- the seriousness of the issues raised
  - the quality of any documentary evidence
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources.

## **6.0 UNTRUE ALLEGATIONS**

- 6.1 If an individual makes an allegation in good faith, which is not confirmed by the investigation, no action will be taken against the individual. However, if an individual makes an allegation for personal advantage, disciplinary action may be taken against them.

## **7.0 THE RESPONSIBLE OFFICERS AND PROCESS INTEGRITY**

- 7.1 For the purposes of this policy, there are three Responsible Officers with specific and shared responsibilities. Those officers are the Monitoring Officer, the Chief Executive and the Head of Internal Audit, or their nominated deputies.
- 7.2 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a confidential record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality unless you choose to waive this protection) and will report to the Chief Executive, Audit Committee, Standards Committee and Full Council as necessary and appropriate. This policy is subject to annual review and update where appropriate.
- 7.3 The Whistleblowing Evaluation Panel (the "Panel"), composed of all three Responsible Officers, will have joint responsibility for the efficient and effective handling of whistleblowing allegations. The Panel will determine whether an investigation will take place or whether an alternative course of action would be appropriate. Furthermore, at the end of the investigation the Panel will adjudicate on what has been found and determine what, if any, action is required.
- 7.4 In addition, the Council will annually nominate a Cabinet member as a point of contact for the Panel and members of the Audit Committee will be responsible for satisfying themselves that the whistleblowing policy and procedures are effective.

- 7.5 The integrity of the Whistleblowing process is critical for individuals to be confident in coming forward with their concerns. The process must be robust, independent and ensure all relevant contributions are considered. The judgement of the Panel will not be allowed to be fettered by representations made by staff, councillors or any third party. Any officer or councillor with a personal interest in the whistleblowing matter will be excluded in order to preserve the integrity of the process.

## **WHISTLEBLOWING PROCEDURES**

### **INTERNAL ALLEGATIONS PROCEDURE**

#### **8.0 HOW TO RAISE A CONCERN**

- 8.1 As a first step, you should normally raise your concerns with your immediate manager. If you are unable to do so for any reason, you should go to any other member of the management team in whom you have confidence. The important issue is to raise the matter with a manager with whom you feel comfortable, bearing in mind the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.
- 8.2 Concerns may be raised verbally or, preferably, in writing. Individuals who submit their concerns in writing are invited to use the following format:
- the background and history of the concern (giving relevant dates);
  - details of any evidence that supports the concern;
  - the reason why you are particularly concerned about the situation.
- 8.3 If your concern is raised verbally with a Responsible Officer, they will confirm with you in writing the nature of the allegation to ensure there is a full and accurate understanding of the matter. You will be asked to agree this is a correct account of your allegation.
- 8.4 The earlier you express the concern the greater the likelihood that an appropriate intervention may be made, to minimise the risk, impact or continuation of the concern in question.
- 8.5 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. However, it is important to note that your responsibility under this policy is to report your concerns; you are not expected to investigate them.
- 8.6 Advice and guidance on how your specific matters of concern may be pursued can be obtained from:
- The Monitoring Officer,
  - The Chief Executive
  - The Head of Internal Audit
  - Trades Union Representatives
  - Public Concern at Work 020 7404 6609 ([www.pcaw.co.uk](http://www.pcaw.co.uk)).
- Further details about the role of Public Concern at Work can be found at Appendix 'B'. Please note that Public Concern at Work are most effective when consulted before raising whistleblowing concerns rather than afterwards.
- 8.7 You may wish to consider discussing your concern with a colleague first or your trades union representative and you may find it easier to raise the matter

together with a colleague if there are two (or more) of you who have had the same experience or concerns.

- 8.8 You may invite your trades union representative, another employee of the Council or another person previously agreed with the Monitoring Officer to be present during any meetings or interviews in connection with the concerns you have raised.
- 8.9 Having considered the nature of the issue that gives you cause for concern, and having taken advice or guidance, as necessary, it will be a matter for you to decide to which of the Responsible Officers (Monitoring Officer, Chief Executive or Head of Internal Audit) you will submit your allegation.

## **9.0 HOW THE COUNCIL WILL RESPOND**

- 9.1 Having decided to raise your concerns under this Whistleblowing Policy, and in order to protect individuals and those accused of possible misdeeds or malpractice, the Responsible Officer(s) will make initial enquiries with you to establish whether or not:
- your concerns should be considered under this policy;
  - your concerns can be allayed satisfactorily without invoking a formal whistleblowing investigation;
  - no further investigation is necessary;
  - your concerns may be resolved by other mechanisms or action, e.g. mediation, training or review; or
  - there is sufficient substance behind your concerns to trigger an investigation.
- 9.2 Depending on the nature of the allegation and your preferences, it will be possible to conduct all communication through either the Responsible Officer with whom you had your first point of contact or through more than one member of the Whistleblowing Evaluation Panel (composed of the Monitoring Officer, Chief Executive and Head of Internal Audit, or their nominated deputies). However, it will be for the panel to make a collective decision about how to proceed.
- 9.3 Where concerns or allegations fall within the scope of other specific procedures (for example, discrimination issues) they will be normally referred for consideration under those procedures.
- 9.4 Some concerns may be resolved by agreed action without the need for investigation. Where this is the case, the Whistleblowing Evaluation Panel will make a record of the outcome agreed with you as the whistleblower.
- 9.5 Where the Whistleblowing Evaluation Panel concludes that no further investigation is required, they will make and retain a confidential record of the concern for future reference in the event of further concerns arising and

advise you accordingly. Any confidential records retained will be kept securely by the Monitoring Officer for a period of 12 months and then destroyed.

- 9.6 It is expected that the subject of the allegation will be told about the matters raised but there may be exceptional circumstances where this is not appropriate. The decision to tell the subject of the allegation will be informed by a risk assessment, which will consider the consequences of disclosing or not disclosing the information.
- 9.7 Testing out your concern is not the same as either accepting or rejecting it. Where it is agreed that your concern needs further formal investigation, and depending on the nature of your concerns, the matters raised may:
- be investigated by management or internal audit;
  - be referred to the Standards Committee
  - be referred to the police;
  - be referred to the external auditor;
  - form the subject of an independent inquiry.
- 9.8 If the allegation relates to both a councillor and an officer it will be necessary to conduct a joint investigation. In the event that the investigation finds that there are matters requiring action against the councillor, this would be conducted through the Standards Committee; if action is required against the officer, this would be conducted through the Council's disciplinary procedure.
- 9.9 If, having undertaken a risk assessment, it is clear that the nature of the whistleblowing concern requires urgent action, this will be taken immediately to reduce or remove the risk to individuals, assets and property, and to protect staff and councillors. Urgent matters may include theft or fraud that could result in the Council bearing financial losses, or health and safety failings that could result in serious injury or loss of life.
- 9.10 Where the Whistleblowing Evaluation Panel decides that an investigation should be carried out, the Panel will meet to:
- (i) confirm who will be responsible for managing the investigation (the Investigation Manager);
  - (ii) identify and authorise the resources required to undertake the investigation effectively (which may include budgets, internal audit staff (see Appendix A) or external investigators);
  - (iii) agree the steps needed to progress the investigation (including interviews, document reviews and data analysis) along with indicative timescales
  - (iv) ensure that the investigation manager and investigators have the appropriate competencies to discharge their responsibilities.
- 9.11 In the event that the concern relates to the Chief Executive, the Monitoring Officer or the Head of Internal Audit, then they will not be permitted to participate in any pre-investigation meetings or the investigation itself. In this situation the Leader of the Council will be advised of the situation and invited

- to participate in the pre-investigation meeting with those officers not implicated by the whistleblower, or their nominated deputies. Where more than one of these officers is implicated in the whistleblowing concern it may be necessary to commission an independent inquiry.
- 9.12 Within five working days of being authorised to undertake a whistleblowing investigation, the Responsible Officer(s), will write to you:
- (a) acknowledging that your concern has been received and allocated for action;
  - (b) indicating how it is proposed to deal with the matter;
  - (c) giving an estimate of how long it will take to provide a final response;
  - (d) supplying you with information on where you can get further advice and support (e.g. trades union or the Employee Assistance Scheme), as appropriate; and
  - (e) advising you of any other relevant issues concerning the investigation.
- 9.13 Depending on the nature of the concern, the Investigation Manager may undertake the investigation or may manage the work of others (e.g. internal audit staff).
- 9.14 The Investigation Manager or other investigator may need to arrange a meeting with you and if you so wish you may be accompanied by your trades union representative or another employee.
- 9.15 The Responsible Officer(s) will give you as much feedback as possible during the course of the investigation but will not be able to infringe any duty of care or confidence owed to someone else. If it is apparent that the investigation will not be completed within 28 days of authorising the investigation, the Responsible Officer(s) (your original point of contact) will advise you of progress to date and any revised timeframe. You can expect to be updated at least every four weeks thereafter until the investigation is complete.
- 9.16 The Responsible Officer(s) will take steps to minimise any difficulties you may experience as a result of raising your concern. However, depending on the findings, it may be necessary to convene additional meetings with you or to require you to give evidence in criminal or disciplinary proceedings. In such circumstances the Responsible Officer(s) will arrange for you to receive relevant advice or support.
- 9.17 Once the Investigation Manager has completed their investigations, they will produce a written report that sets out:
- (a) the background to the whistleblowing concern;
  - (b) the findings of fact and associated evidence;
  - (c) the decision and reasons for the decision;
  - (d) the recommendations and associated action plan.
- 9.18 The Council accepts that you need to be assured that the cause of your concern has been properly investigated and addressed. Upon conclusion of the investigation the Responsible Officer(s) will arrange to meet with you to

ensure this is the case. Subject to legal constraints or other reasonable limitations, the outcomes of any investigation will be shared with you.

- 9.19 If for any reason you are not satisfied with the conduct of the investigation you may decide it is still appropriate to take your concerns outside the Council. While it is hoped a satisfactory outcome can be achieved internally, details of how you may take your concerns further are set out in section 11.0 below.
- 9.20 At the end of each whistleblowing investigation, the Whistleblowing Evaluation Panel will meet to review the investigative process. That review will consider:
- (a) whether the Policy has been properly followed and that the whistleblower's confidentiality was not compromised;
  - (b) the extent to which the whistleblower's concerns have been addressed based on the facts of the matter and the evidence gathered;
  - (c) the adequacy of an action plan for issues arising from the investigation and report;
  - (d) the extent to which the draft report and action plan should be circulated internally;
  - (e) whether any other bodies should be informed of the outcomes (e.g. the Police or the Audit Commission);
  - (f) whether the report outcomes and action plan should be reported to the Audit Committee, Standards Committee or Overview and Scrutiny Committee.

## **10.0 WITHDRAWING YOUR ALLEGATION**

- 10.1 You do of course have the right to withdraw any allegation previously made under this Procedure. You should think very carefully before taking this course of action, bearing in mind an investigation may have started and you may need to explain your change of heart.
- 10.2 If you wish to withdraw your allegation you will need to write to the Responsible Officer(s). However, even though you have asked for your allegation to be withdrawn, it may be the case that the subject of the allegation is already aware of, or has discovered, the matter(s) of concern. In such circumstances, this could create a tension between you and the subject of the allegation, which may make it necessary to provide appropriate support to address potential difficulties. Depending on the nature of the allegations, this may include mediation, counselling, retraining or redeployment.

## **EXTERNAL ALLEGATIONS PROCEDURE**

### **11.0 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.
- 11.2 However, if you decide not to use the internal Whistleblowing Procedure set out in the sections above, or you are dissatisfied with the outcome, you are at liberty to make a complaint externally at any time to the appropriate independent organisation. A list of those external agencies which may be used are set out in Appendix C. The telephone numbers are general contact numbers so you will need to explain the nature of your concern and ask to be put through to the appropriate Department and/or person.
- 11.3 You will then need to follow the instructions and procedures of the relevant independent organisation should they decide to investigate your complaint.
- 11.4 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. If you want to do this then you may need to check with the Responsible Officer(s) about whether your information is confidential. Depending on the nature of the information, it may be confidential to North Norfolk District Council, commercially sensitive to a third party or personal and private to an individual.

### **12.0 WITHDRAWING YOUR ALLEGATION**

- 12.1 As with the internal Whistleblowing Procedure, you do of course have the right to withdraw any allegation previously made under this Procedure. You should think very carefully before taking this course of action bearing in mind an investigation may have started and you may need to explain your change of heart.
- 12.2 If you use this Procedure it will be up to the Independent Organisation to whom the allegation has been referred as to how you should do this and you will need to take their advice.

### **13.0 PROCEDURE FOR THE PUBLIC**

- 13.1 Members of the Public who suspect a council employee, councillors, organisational partners or contractors (in their business dealings with the Council) of impropriety or illegality should contact the District Council's Chief Executive, Monitoring Officer or Head of Internal Audit.

- 13.2 If your suspicion is about the Chief Executive, Monitoring Officer or Head of Internal Audit then you should contact either the External Auditor (PriceWaterhouseCoopers on 01603 883321) or the Audit Commission Complaints and Public Information Disclosure Act Manager on 0845 052 2646 (confidential public interest disclosure line).
- 13.3 All allegations are treated as confidential and will be thoroughly investigated and reported appropriately. The identity of the whistleblower will only be disclosed with their express permission.
- 13.4 For confidential advice about how to proceed with a suspicion anyone can contact Public Concern at Work on 020-7404-6609.

## **HANDLING WHISTLEBLOWING ALLEGATIONS**

### **14.0 INTRODUCTION**

- 14.1 This manual explains how whistleblowing allegations are processed at North Norfolk District Council and accompanies the Council's Whistleblowing Policy which can be found in Section 2.2 of Part 5 of the Constitution. The Policy and process manual were adopted by Council on 16 December 2009 and are subject to annual review and update where appropriate.
- 14.2 The manual is a guide to those involved in evaluating, investigating and determining the validity of whistleblowing allegations. It has been written to support the publication of the Council's revised Whistleblowing Policy and draws upon our experience of handling whistleblowing allegations. It has been designed to address the shortcomings associated with the earlier policy and to avoid inconsistent decision-making. It addresses those issues on which we were previously silent.
- 14.3 The overriding aims of the revised Policy and of this guidance are to ensure that whistleblowing allegations are handled within a context of best practice, that they are processed and determined in an efficient and effective manner, and that they inspire confidence amongst staff in knowing that genuine concerns raised through this channel will be dealt with fairly and appropriately, that confidentiality will be maintained throughout, and that there will be no recriminations affecting job security, or any other aspects of the relationship between the whistleblower and the Council.

### **15.0 RECEIVING THE WHISTLEBLOWING ALLEGATION(S)**

- 15.1 A whistleblowing allegation may originate from within or outside the Council and will be received by any or all of the following three nominated staff:
- The Monitoring Officer (MO)
  - The Chief Executive (CEX)
  - The Head of Internal Audit (HIA)
- 15.2 The Whistleblowing Evaluation Panel will be convened as soon as possible. The Panel comprises the CEX, the MO and the HIA, or their nominated deputies. In the event of the long-term absence of any of these individuals, or a post being vacant, then any two of the three members of the Panel can act as the full Panel.
- 15.3 The roles of councillors in the whistleblowing process are described in subsection 20.0, and include the nomination of a member of the Cabinet other than the Leader, referred to below as the nominated Cabinet member.
- 15.4 In the event of an allegation concerning one of the Council's statutory officers, namely the Head of Paid Service (the Chief Executive), the MO and the

Section 151 Finance Officer, or concerning the Internal Audit Service, different arrangements for the initial Panel meeting will be made as follows:

- If the allegation is against or implicates the **MO**, the Panel will comprise the CEX, the Deputy CEX (DCEX), HIA, the Leader of the Council and the nominated Cabinet member.
- If the allegation is against or implicates the **CEX**, the Panel will comprise the DCEX, MO, the HIA, the Leader of the Council and the nominated Cabinet member.
- If the allegation is against or implicates the **Section 151 Officer**, the Panel will comprise the CEX, the MO, the HIA, the Leader of the Council and the nominated Cabinet member.
- If the allegation is against or implicates **more than one statutory officer** member of the Panel, appropriate alternative arrangements will be made by the remaining members including the DCEX and will involve the Leader of the Council and the nominated Cabinet member.
- In all of the exceptions listed above, a separate protocol will be triggered for the investigation and determination of the allegation(s). This is described later in paragraph 19.2. If the allegation concerns the **Internal Audit Service**, the Panel will comprise the CEX, DCEX and the MO and will agree an appropriate course of action.

## **16.0 AGREEING THE COURSE OF ACTION TO BE TAKEN**

- 16.1 The Panel will review the content and nature of the allegation and will refer to the Whistleblowing Policy for guidance. A member of the Panel will be nominated as the whistleblower's point of contact and will arrange a meeting with the whistleblower where his/her identity is known, to explore the detail of the allegation. The whistleblower will be assured of the Panel's commitment to maintaining confidentiality and will be advised of the process to be followed, what feedback and communication from the Panel can be expected and when it will be received.
- 16.2 If it is apparent that the nature of the whistleblowing concern requires urgent action (see paragraph 9.9) or would benefit from immediate reference to other parties (such as the Police) the Panel may wish to seek guidance from relevant third parties before meeting to evaluate the allegation.
- 16.3 The Panel will assess the credibility of any allegation that is submitted to them, regardless of how they are raised. In all cases, in deciding what if any action to take, the Panel will be responsible for considering whether the allegation or concern raised was done so for personal advantage.

## **17.0 NO INVESTIGATORY ACTION TO BE TAKEN**

- 17.1 If the Panel decides that the allegation should not be or is incapable of being investigated, a conclusion of *no action* will be determined and recorded. Any confidential records retained will be kept securely by the Monitoring Officer for a period of 12 months and then destroyed. There will be no cross reference to the subject employee's or employees' personal file(s). If their identity is known, the whistleblower will be advised of the outcome. If the Panel believes that the allegation was made vexatiously or with malicious intent, they will decide if disciplinary action should be taken where the whistleblower is a member of staff. If disciplinary action is pursued, it will be undertaken as a management action, not within the remit of the Whistleblowing Policy. Where the whistleblower is a member of the public, the Panel will decide whether any other form of further action is appropriate and practical – a clear intended outcome must be stated and the benefit which the Council will derive must justify taking such action.
- 17.2 The nominated Cabinet member will be notified by the Monitoring Officer that a whistleblowing allegation was received and that no investigatory action is being taken.
- 17.3 The Panel will decide on the merits of advising the subject(s) of the allegations about what was alleged and what has happened. This decision must be informed by a risk assessment. Consideration for the subject(s) of malicious allegations is discussed in subsection 21.0.

## **18.0 INVESTIGATORY ACTION TO BE TAKEN**

- 18.1 If the Panel decides that the allegation(s) should be investigated, an Investigation Manager will be appointed. Except where the allegation would deem it inappropriate, the DCEX will be the Investigation Manager and will be briefed on the allegation and agree with the Panel the terms of reference and course of action to be taken, including the possibility of involving the Police and/or the Council's external auditors. If the DCEX is unavailable, the role of Investigation Manager will be allocated to a Strategic Director.
- 18.2 The nominated Cabinet member will be advised by the Monitoring Officer that a whistleblowing allegation has been received and that it is being investigated. A headline summary of the allegation will be provided without breaching confidentiality or compromising the course of the investigation.
- 18.3 Where it is expected that the investigation will be handled internally, it will be commissioned by the DCEX and normally undertaken by Internal Audit. If it is necessary to engage external expertise, eg because of the technical nature of the subject matter, the DCEX will oversee the procurement and related budget management. The Panel and the DCEX will set an indicative timescale for the investigation to be completed as soon as possible.

Depending upon the anticipated time span, agreement will be reached to provide the whistleblower (if known) and the nominated Cabinet member with progress reports as the investigation proceeds.

18.4 When the investigation is complete, the Investigation Manager will report with recommendations to the Panel and a collective decision will be taken on what actions to pursue. The Panel will have the power to accept or reject the investigation findings, or partially accept or reject them, and the responsibility for providing reasons for conclusions reached and decisions made. The following issues will be considered:

- If the allegation has been substantiated, and/or in the event of ancillary issues being revealed, the Panel must compile an action plan to address what has happened and the consequences for the Council. Consideration must be given to the following as appropriate:
  - Disciplinary action against the member(s) of staff concerned
  - Remedial actions to recover any financial losses where there has been fraud, etc
  - The potential for legal action against third parties
  - Restoration of the Council's reputation
  - Review/strengthening of relevant internal controls if breached and/or the introduction of new controls and refer to the Audit or Standards Committee, as appropriate
- If the allegation has not been substantiated, the Panel will reflect on the context in which the original concern was raised in line with paragraph 17.1 above. The Panel must reach a judgement on whether they still believe in the light of their findings that the original allegation was made in good faith in the interests of the Council. Where they conclude that this was not the case, appropriate management actions will be agreed concerning the whistleblower and the subject(s) of the allegations.
- Circulation of the report. It should be noted that whistleblowing reports, by their nature should be treated as confidential, and wider circulation (e.g. to CMT or to Committee) should be clearly justified.

18.5 When the action plan has been produced as discussed in paragraph 18.4 above, the Panel will agree what formal reporting is appropriate to any or all of the Audit, Overview and Scrutiny and Standards Committees, and CMT. Where there has been a breach of any constitutional code, illegality or maladministration, the Panel will confirm that the Monitoring Officer will issue a formal report to the Cabinet and/or Council as required. The Leader and the nominated Cabinet member will be informed of the outcome and of the actions being taken.

- 18.6 The Panel member acting as the point of contact will arrange a formal meeting with the whistleblower to advise of the outcome of the investigations and the actions to be taken. Normally, it is expected that this meeting will constitute closure of the episode for the whistleblower, however, any potential consequences for the whistleblower will be reviewed and discussed at this meeting. Depending on the nature of the allegations, it may be necessary to make provision to mitigate any associated difficulties or tensions, which may include mediation, counselling, retraining or redeployment. Any support needs identified may be provided internally (e.g. by Human Resources) or externally (e.g. through the Employee Assistance Programme), as appropriate.
- 18.7 Actions relating to internal controls, etc will be fed into and monitored through the Council's performance management process and will be subject to further Internal Audit review as appropriate to ensure the adequacy of the actions taken. It shall be the responsibility of the Strategic Director relevant to the service area to oversee the implementation of actions relating to more general issues and they shall report back on the progress of these to CMT.
- 18.8 The Panel will ensure that the case file is completed as soon as possible. It will then be closed and retained as a confidential document by the Monitoring Officer. The subsequent outcomes of any ongoing management or legal actions will be placed on the file when those actions are concluded.
- 19.0 WHISTLEBLOWING ALLEGATIONS AGAINST THE CHIEF EXECUTIVE (HEAD OF PAID SERVICE), THE S151 FINANCE OFFICER AND THE MONITORING OFFICER.**  
*[NB Depending upon the nature of the allegation, these provisions may also apply to those Strategic Directors not holding a statutory designation]*
- 19.1 Paragraph 15.4 above describes how the Whistleblowing Evaluation Panel will be constituted in the event of an allegation being made against any of the Council's statutory officers. The Panel will undertake a preliminary assessment of the allegation to gauge its nature and validity. If the Panel concludes that the allegation should be investigated, the following considerations must be addressed:
- Is it appropriate for the investigation to be undertaken in accordance with the procedures outlined in this manual?
  - Is it appropriate for the relevant officer to remain at work whilst any investigation is undertaken?
- 19.2 If the answers to either of these questions is 'no', the panel must refer to Section 41 of Part 4 of the Council Constitution and arrange for the appointment of a designated independent person in accordance with

Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (Investigation of alleged misconduct). The independent person appointed will then liaise with the Panel and advise the Council on the appropriate course of action to take, including suspension during the investigation and any subsequent disciplinary sanctions.

## **20.0 The involvement of councillors in the whistleblowing process**

20.1 Except where the Leader or nominated Cabinet member act as members of the Whistleblowing Evaluation Panel (see paragraph 15.4 above), councillors will not make decisions on the processing of whistleblowing allegations. This is the role of the Panel who will inform councillors of outcomes. The primary role for councillors will be to ensure that appropriate actions stemming from whistleblowing investigations are endorsed and implemented, especially where these relate to the Council's governance arrangements. Should a councillor receive a whistleblowing allegation, they should pass it immediately to a Responsible Officer.

20.2 Councillors will have a number of formal roles in the whistleblowing process as summarised below:

- a) A member of the Cabinet other than the Leader of the Council will be nominated annually to be the point of contact for the Whistleblowing Evaluation Panel. He/she is referred to as the *nominated Cabinet member* and it is recommended that this be the Deputy Leader. He/she will be advised by the Panel that a whistleblowing allegation has been received and whether or not it is to be investigated. He/she will be given a headline summary of the nature of the allegation but will not receive details of the whistleblower or of the subject(s) of the allegation. The Panel will update the councillor of progress and of the outcome of any investigation. The nominated Cabinet member will be involved as outlined in paragraph 15.4 above.
- b) The Leader of the Council will be involved as outlined in paragraph 15.4 above. In addition to this role, the Panel may decide that the Leader should be informed of a whistleblowing allegation where the nature and potential consequences are of serious concern to the governance and reputation of the Council. In such cases, the nominated Cabinet member will be advised of the Leader's involvement.
- c) Councillors will be involved in receiving recommendations and determining actions stemming from reports to the Audit, Overview and Scrutiny and Standards Committees as appropriate.
- d) Councillors will determine any recommendations to Council where it has been necessary to appoint a designated independent person as outlined in paragraph 19.2 above.

- e) Individually, councillors may provide support by acting as a friend or advisor to other councillors who come forward as whistleblowers and may refer allegations to the Responsible Officer(s).
- f) Councillors will be required to formally endorse the Whistleblowing Policy at least every three years, although it will be necessary to review and update the policy on an annual basis.

## **21.0 Consideration for the subject(s) of mistaken/malicious allegations**

- 21.1 Where the Panel concludes, either without conducting a formal investigation or upon completion of an investigation, that the allegations have been made wrongly but in good faith, or where they have been made with malicious intent and with no other substantive motive, the Panel members must ensure that the potential or actual implications for the subject(s) of the allegations are assessed and appropriate action taken.
- 21.2 If the subject is not aware of the allegations, especially where it is decided not to conduct an investigation, agreement must be reached on if, how and when to tell them. The expectation is that the subject will be told but there may be exceptional circumstances where this is not appropriate. This decision must be informed by a risk assessment which will include consideration of the consequences of disclosing or not disclosing the information. Any confidential records retained will be kept securely by the Monitoring Officer for a period of 12 months and then destroyed.
- 21.3 The subject may become aware of the allegations as part of the investigation process, either before or during the investigation, but where the allegations remain unfounded.
- 21.4 In all of these situations, the Panel must consider the welfare of the subject(s) and ensure that when they become aware of the allegations, where false or made erroneously in good faith, they are offered suitable support and advice. That support and advice may include interventions such as mediation and counselling, and may be provided internally (e.g. by Human Resources) or externally (e.g. through the Employee Assistance Programme), as appropriate.
- 21.5 The potential impact on work relationships with the whistleblower must be considered in the context of respective roles in the organisation and the whistleblower's motive in making the allegations in the first place. These considerations will also support any disciplinary action and will inform any subsequent management decisions about the individuals concerned.

**APPENDIX A**

**SCHEDULE OF KEY CONTACTS**

<b>Contact Title</b>	<b>Name</b>	<b>Telephone Number</b>	<b>E-mail Address</b>
The Monitoring Officer	Emma Duncan	01263 516045	<a href="mailto:emma.duncan@north-norfolk.gov.uk">emma.duncan@north-norfolk.gov.uk</a>
The Chief Executive	Philip Burton	01263 516000	<a href="mailto:philip.burton@north-norfolk.gov.uk">philip.burton@north-norfolk.gov.uk</a>
The Head of Internal Audit	Sandra King	01508 533863 or 07789 170947	<a href="mailto:scking@s-norfolk.gov.uk">scking@s-norfolk.gov.uk</a>
UNISON - Chairman	Andy Mitchell	01263 516158	<a href="mailto:andy.mitchell@north-norfolk.gov.uk">andy.mitchell@north-norfolk.gov.uk</a>
UNISON – Branch Secretary	Carol Lowin-Green	01263 516117	<a href="mailto:carol.lowin-green@north-norfolk.gov.uk">carol.lowin-green@north-norfolk.gov.uk</a>
Leader of the Council	Cllr Virginia Gay	01692 402572	<a href="mailto:v.gay@virgin.net">v.gay@virgin.net</a>
Nominated Cabinet Member	Cllr Clive Stockton	01692 650004	<a href="mailto:clive.stockton@north-norfolk.gov.uk">clive.stockton@north-norfolk.gov.uk</a>
Internal Auditors – Field Manager	Colin Saville (Deloitte & Touche Public Sector Internal Audit)	01727 839000 or 07818 076531	<a href="mailto:csaville@deloitte.co.uk">csaville@deloitte.co.uk</a>



## **APPENDIX B**

### **PUBLIC CONCERN AT WORK**

Public Concern at Work (PCaW) is the independent authority on public interest whistleblowing. Established as a charity in 1993 following a series of scandals and disasters, PCaW has played a leading role in putting whistleblowing on the governance agenda and in developing legislation in the UK and abroad. All our work is informed by the free advice we offer to people with whistleblowing dilemmas and the professional support we provide to enlightened organisations.

We have four activities. We:

- offer free, confidential advice to people concerned about crime, danger or wrongdoing at work;
- help organisations to deliver and demonstrate good governance;
- inform public policy; and
- promote individual responsibility, organisational accountability and the public interest.

#### **We do:**

- ✓ advise how to raise concerns
- ✓ explain the public interest
- ✓ separate message from messenger
- ✓ provide an impartial, objective view

#### **We don't**

- ✗ duck difficult questions
- ✗ claim we have all the answers
- ✗ litigate or investigate
- ✗ encourage anonymous informing

### **Whistleblowing dos and don'ts**

Do:

- Keep calm;
- Think about the risks and outcomes before you act
- Remember you are a witness, not a complainant
- Phone us for advice - 020 7404 6609!

Don't:

- Forget there may be an innocent or good explanation
- Become a private detective
- Use a whistleblowing procedure to pursue a personal grievance
- Expect thanks

## **APPENDIX C**

### **List of Independent Organisations**

<b>Name and Address</b>	<b>Area of Concern</b>
Public Concern at Work Suite 306 16 Baldwins Gardens London EC1N 7RJ (Telephone 0207 404 6609)	All matters of malpractice and/or wrong doing
Complaints Investigation Officer Audit Commission 1 <sup>st</sup> Floor, Millbank Tower Millbank London SW1P 4HQ (Telephone: 0845 052 2646)	Financial Probity
Local Government Ombudsman The Commission for Local Administration in England The Oaks No 2 Westwood Way Westwood Business Park Coventry CV4 8JB (Telephone 0845 602 1983)	Maladministration
Norfolk Constabulary Operations and Communications Centre Jubilee House Falconers Chase Wymondham Norfolk NR18 0WW (Telephone 0845 456 4567)	Breaches of the Criminal Law

<p>The Serious Fraud Office Elm House 10-16 Elm Street London WC1X OBJ (Telephone 0207 239 7272)</p>	<p>Fraud and corruption</p>
<p>The Health and Safety Executive Lakeside 500 Old Chapel Way Broadland Business Park Norwich Norfolk NR7 0WQ (Telephone 0845 345 0055)</p>	<p>Health and Safety dangers</p>
<p>Planning Aid East of England Region PO Box 1225 Kenninghall Norwich NR16 2WR (Telephone 0870 850 9801)</p>	<p>Planning help, advice and information</p>
<p>The Environment Agency Anglian Regional Office Kingfisher House Goldhay Way Orton Goldhay Peterborough Cambridgeshire PE2 5ZR (Telephone 08708 506506)</p>	<p>Environmental dangers</p>
<p>Standards for England 4<sup>th</sup> Floor Griffin house 40 Lever Street Manchester M1 1BB (Telephone 0845 078 8181)</p>	<p>Breaches of the Council's Code of Conduct</p>

## **APPENDIX D**

### **GLOSSARY OF TERMS**

#### Anonymous

An individual who does not identify him or herself at any stage to anyone.

#### Confidential

Information may be confidential when it is non-public and disclosed to predetermined individuals in the trust and expectation that it will not be shared more widely. Information may be confidential to the Council, a third party (e.g. a commercial contract) or to an individual (e.g. personal and private medical information).

#### Confidentiality

Where the whistleblower's name is known but will not be disclosed without their consent, unless required by law.

#### Impropriety

An act that is deemed improper or unacceptable in relation to established rules, practices and conventions.

#### Illegality

A failure to comply with the requirements of, or an act not permitted by, prevailing law.

#### Malicious

An allegation may be considered to be malicious if it is a calculated and deliberate decision or act intended to be harmful or spiteful. There is no rigid test or definition, however, the key question is whether the decision to or act of making the allegation was undertaken for no other reason than to cause harm to someone.

#### Personal advantage

A deliberate act or omission which is intended to secure an immediate or future benefit for the individual raising the concern (e.g. increased salary or promotion).

#### Vexatious

Deciding whether an allegation is vexatious is a balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, however, the key question is whether the allegation is likely to cause distress, disruption or irritation, without any proper or justified cause.

Whistleblower

One or more individuals who have a reasonable and honest suspicion of an impropriety or illegality, information about which they disclose to the relevant organisation.

Witnesses

One or more individuals who have, or provide, independent evidence relevant to the allegation, either voluntarily in advance of an investigation or as part of an investigation.