



## Performance and Audit Scrutiny Committee 30 July 2012

### Whistleblowing Policy

#### 1. Summary and Reasons for Recommendations

- 1.1 Good governance requires organisations to take malpractice seriously and to ensure that employees and others (for example, contractors, suppliers of goods and services, partner organisations and members of the public) have adequate means to raise concerns about such malpractice. St Edmundsbury Borough Council has in place a Whistleblowing Policy which sets out its commitment and describes the protection available to those who raise matters of concern.
- 1.2 The Council's current Whistleblowing Policy was last revised in February 2006. It is good practice to review arrangements from time to time and as such a review of the Policy has been undertaken to ensure it continues to reflect best practice, legislation and shared services arrangements. The revised joint Policy between Forest Heath District Council and St Edmundsbury Borough Council is set out at **Appendix A** to this report.
- 1.3 This Policy aims to reassure employees and others that if they are faced with serious concerns regarding either Council, they can feel confident that their allegation will be treated in a correct and proper manner without fear of repercussions.

#### 2. Recommendations

- 2.1 That the Committee consider the revised joint Whistleblowing Policy between Forest Heath District Council and St Edmundsbury Borough Council and recommend its adoption to Cabinet (for subsequent formal adoption by full Council); and
- 2.2 That the Portfolio Holder for Performance and Resources be given delegated authority to amend the officer post titles where necessary regarding the reporting of whistleblowing concerns referred to within the Policy, following the upcoming senior management restructure.

#### Contact Details

Name  
Telephone  
E-mail

#### Portfolio Holder for Performance and Resources

Councillor Dave Ray  
01359 250912  
[david.ray@stedsbc.gov.uk](mailto:david.ray@stedsbc.gov.uk)

#### Head of Legal and Democratic Services

Joy Bowes  
01284 757141  
[joy.bowes@stedsbc.gov.uk](mailto:joy.bowes@stedsbc.gov.uk)

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| <p><b>3. Corporate Priorities</b></p> <p>3.1 The recommendations made in this report are intended to support and enhance the Council's ability to deliver its priorities.</p>  |
| <p><b>4. Key Issues</b></p> <p>4.1 The Whistleblowing Policy encourages and enables employees and others to raise serious concerns within an organisation rather than overlooking a problem or 'blowing the whistle' outside.</p> <p>4.2 Employees and others are often the first to realise if there is something seriously wrong. However, they may not express their concerns as they feel that speaking up would be disloyal to their colleagues or to the organisation.</p> <p>4.3 The Council's Whistleblowing Policy aims to:</p> <ul style="list-style-type: none"> <li>• encourage them to feel confident in raising serious concerns and to question and act upon concerns;</li> <li>• provide avenues for them to raise those concerns and receive feedback on any action taken;</li> <li>• ensure that they receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied; and</li> <li>• reassure them that they will be protected from possible reprisals or victimisation if they have raised any concern in good faith.</li> </ul> <p>4.4 An effective Whistleblowing Policy which gives employees and others confidence to raise their concerns, including the option to access confidential advice is an essential part of good governance and will help organisations to identify and manage wrongdoing, risk and malpractice.</p> |
| <p><b>5. Other Options considered</b></p> <p>5.1 There are no alternative options as the Council needs to ensure it has adequate measures in place to ensure concerns are raised in the right way without fear, and to demonstrate how these concerns are dealt with.</p>  |
| <p><b>6. Community Impact</b></p> <p>6.1 None arising directly from this report.</p>   |
| <p><b>7. Consultation</b> <i>(refer to the Consultation and Community Engagement Strategy)</i></p> <p>7.1 No alternative consultation has taken place or is planned for this document.</p>   |
| <p><b>8. Resource implications</b> <i>(including asset management implications)</i></p> <p>8.1 There are no specific financial implications arising from this report.</p>  |
| <p><b>9. Risk/Opportunity Assessment</b> <i>(potential hazards or opportunities affecting corporate, service or project objectives)</i></p> <p>9.1 The Council could suffer reputational and other damage if malpractice goes undiscovered, or if disclosures are made in an inappropriate way.</p>  |

**10. Legal or policy implications**

- 10.1 The proposed changes will ensure that the Council meets its legislative requirements (Public Interest Disclosure Act 1998 and the Bribery Act 2010) and continues to follow best practice guidelines (Whistleblowing Arrangements Code of Practice PAS 1998:2008).



# WHISTLEBLOWING POLICY

## **1. Introduction**

- 1.1 Staff, councillors and others closely involved with us (contractors, suppliers of goods and services, partner organisations and members of the public) are often the first to know when someone within or connected to the Councils is doing something improper or illegal (malpractice). However, they may be reluctant to report the matter, because they feel they may be disloyal to colleagues, or fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Both Councils are committed to the highest possible standards of openness, propriety and integrity. In line with that commitment, we encourage anyone with serious concerns about any aspect of our work to come forward and voice those concerns.
- 1.3 We recognise that the decision to report a concern can be a difficult one to make. This Policy sets out to make it clear that such concerns can be raised in confidence without fear of harassment, victimisation, discrimination or disadvantage.

## **2. Aims and Scope of this Policy**

- 2.1 This Whistleblowing Policy is primarily for raising a concern, which affects the interests of others, such as service users, the public, colleagues, or the Councils themselves.
- 2.2 This Policy aims to:
- encourage you to feel confident in raising serious concerns and to question and act upon 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; and
  - reassure you that you will be protected from possible reprisals or victimisation if you have raised any concern in good faith.
- 2.3 There are existing procedures in place to enable staff to lodge a grievance relating to their employment or the way they have been treated, in these circumstances please refer to the Councils' Grievance Procedures.
- 2.4 This Whistleblowing Policy is intended to cover concerns that fall outside the scope of the other procedures (e.g. complaints and grievance) including concerns about:
- conduct which is an offence or a breach of the law;
  - disclosure related to miscarriages of justice;
  - health and safety risks, including risks to the public as well as to other employees;
  - damage to the environment;
  - the unauthorised use of public funds;
  - possible fraud and corruption and approaches of bribery;
  - physical or sexual abuse of clients;
  - breaches of both Councils' constitutions and policies;

- anything that makes you feel uncomfortable in terms of known standards, or the standards you believe both Councils subscribe to; or
- concealing information about any of these matters.

If in doubt – please raise it!

### **3. Safeguards – our assurances to you**

#### **3.1 Protection from harassment or victimisation**

3.1.1 Both Councils recognise 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 for the malpractice. The Public Interest Disclosure Act 1998 (the Act) protects whistleblowers from any reprisals provided that they:

- disclose the information in good faith;
- believe it to be substantially true;
- do not act maliciously or make false allegations; and
- do not seek personal gain.

3.1.2 If you raise a concern which you believe to be true you have nothing to fear but we understand that deciding to blow the whistle is not easy. We will take action under the Act including disciplinary action where appropriate to protect you from any harassment, victimisation or bullying.

3.1.3 If you work for the Councils, you should also know that any allegation you make will not influence, or be influenced by, any related disciplinary action against you or any redundancy procedures that may affect you. This does not mean that if you are already the subject of disciplinary or other employment related procedures those procedures will be halted if you blow the whistle.

#### **3.2 Confidentiality**

3.2.1 With these assurances we hope you will feel able to raise your concerns openly.

3.2.2 However, we recognise that there may be some circumstances when you would prefer to speak to someone in confidence, and we will keep your concerns confidential if that is what you want. In this case we will not reveal your name or position without your permission or unless we have to by law.

3.2.3 It must be appreciated however that the investigation process may reveal the source of the information and a statement may be required as part of the evidence. In addition, a person who is the subject of a complaint may, by law, be allowed access to certain information so that they can respond to the complaint.

#### **3.3 Anonymous Allegations**

3.3.1 Because we will protect you (see paragraph 3.1.1 to 3.1.3 above), we encourage you to give your name when you make an allegation. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the Councils.

3.3.2 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.

### **3.4 Unsubstantiated Allegations**

- 3.4.1 If you make an allegation which you believe is true, but it is not confirmed by our investigation, no action will be taken against you. However, for employees if you make an allegation which you know to be untrue we will take appropriate action which may include disciplinary or legal action if the allegations are malicious or vexatious.
- 3.4.2 Councillors who knowingly make false allegations may bring the Councils into disrepute and be subject to investigation and sanction by the Standards Committee.

### **4. How to raise a concern**

- 4.1 Please remember the earlier you raise a concern the easier it is to resolve it. You do not need to have firm evidence of malpractice before raising a concern; however, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.
- 4.2 Concerns are better raised in writing giving the background, history and reason for the concern together with names, dates, places and as much information as possible. If staff do not feel able to put their concern in writing they can telephone or meet the officer to whom they intend to report their concerns.
- 4.3 The reporting route for concerns will depend on the seriousness and sensitivity of the issues and who is thought to be involved.
- 4.4 If you work for the Councils, depending upon the seriousness and sensitivity of the matter and who is suspected of wrongdoing, you should raise your concern with your line manager. If necessary a reporting route other than the normal line manager may be used to raise such issues, as follows:

| <b>Allegation Concerning</b> | <b>Report to</b>  |
|------------------------------|---|
| Any Councillor               | Monitoring Officer or Chief Executive                                 |
| Chief Executive              | Monitoring Officer  |
| Monitoring Officer           | Chief Executive   |
| Director                     | Chief Executive   |
| Head of Service              | Chief Executive or Director   |
| Service Manager              | Director, Chief Executive, Monitoring Officer, Internal Audit Manager |
| All other employees          | Head of Service / Service Manager                                     |

Alternatively, you may wish to e-mail your concerns confidentially to either [whistleblower@forest-heath.gov.uk](mailto:whistleblower@forest-heath.gov.uk) or [whistleblower@stedsbc.gov.uk](mailto:whistleblower@stedsbc.gov.uk).

- 4.5 In accordance with paragraph 7.2 below the Internal Audit Manager in the case of Forest Heath District Council and the Head of Legal and Democratic Services in respect of St Edmundsbury Borough Council will also be notified in order to update the respective Council's central record of whistleblowing concerns raised and the outcomes.

4.6 Members of the public are also encouraged to report concerns or convey suspicions through any of the above reporting routes or by contacting an elected Councillor of the Council to which the concern relates. Issues can also be raised directly with the Councils' external auditors at any time. If you wish to write a letter, the Councils' addresses are:

|                                       |                                |
|---------------------------------------|--------------------------------|
| Forest Heath District Council Offices | St Edmundsbury Borough Council |
| College Heath Road                    | West Suffolk House             |
| Mildenhall                            | Bury St Edmunds                |
| Suffolk                               | Suffolk                        |
| IP28 7EY                              | IP33 3YU                       |

Please address the envelope to the appropriate officer or elected Councillor marking it 'strictly private and confidential', or if you are unsure as to who the appropriate officer or elected Councillor is, please mark for the attention of the Internal Audit Manager in the case of Forest Heath District Council and the Head of Legal and Democratic Services in respect of St Edmundsbury Borough Council.

- 4.7 If the matter relates to any Councillor this needs to be reported to the Chief Executive or Monitoring Officer of the Council of which the Councillor is an elected representative, which in the case of Forest Heath District Council is the Legal Services Manager and in respect of St Edmundsbury Borough Council the Head of Legal and Democratic Services.
- 4.8 In all cases where there is cause to suspect fraud, theft or corruption the Chief Executive and Section 151 Officer (which in respect of Forest Heath is the Head of Finance and in the case of St Edmundsbury Borough Council is the Chief Finance Officer) should be immediately informed and will determine the form of any investigation. Should your concerns relate to either of these officers please refer to paragraph 4.4 for an alternative reporting route. In addition, the Monitoring Officer (which in the case of Forest Heath District Council is the Legal Services Manager and in respect of St Edmundsbury Borough Council the Head of Legal and Democratic Services) should also be informed of any suspected irregularity.
- 4.9 Staff may also choose to invite a representative of a trade union or professional association to raise a matter on their behalf. This could be useful, particularly if they wish to remain anonymous. Advice and guidance on how to pursue matters of concern can also be sought from the Internal Audit Manager in respect of Forest Heath District Council and the Head of Legal and Democratic Services in the case of St Edmundsbury Borough Council.
- 4.10 If you do not feel able to report your suspicions to anyone within the Council you can talk to our external auditors – relevant local office address details are shown below. Our external auditors until 31<sup>st</sup> August 2012 are the Audit Commission, and from that date will change to Ernst & Young.

|                                    |                                      |
|------------------------------------|--------------------------------------|
| Until 31 <sup>st</sup> August 2012 | After 1 <sup>st</sup> September 2012 |
| Audit Commission                   | Ernst & Young                        |
| Springvale Court Hadleigh Road     | One Cambridge Business Park          |
| Sproughton Ipswich                 | Cambridge                            |
| IP8 3AS                            | CB4 0WZ                              |
| Tel: 01473 203000                  | Tel: 0122 339 4400                   |



4.11 Alternatively you can contact Public Concern at Work, an independent charity that provides free advice to those who wish to express concerns about fraud or other serious malpractice. Their address is:

3<sup>rd</sup> Floor

6-10 Borough High Street

London SE1 9QQ

Telephone: 020 7404 6609

Email: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

## **5. How the Councils will respond and handle the matter**

5.1 The way we deal with the concern will depend on what it involves. In order to protect individuals and the Councils we will first make enquiries to decide whether we should carry out an investigation and if so how we should go about it.

5.2 The Chief Executive and the Section 151 Officer (which in respect of Forest Heath District Council is the Head of Finance and in the case of St Edmundsbury Borough Council is the Chief Finance Officer) will determine what steps they consider necessary by way of investigation and report, depending upon the nature of the concern, including whether the member of staff or other should be notified if they have been subject to a whistleblowing allegation or concern. Your concern may be investigated by management, our internal auditors, or through the disciplinary process, or we may refer it to:

- the police;
- our external auditor (refer to paragraph 4.10 for contact details);
- an independent investigator; or
- any combination of the above.

Throughout all our enquiries and any investigation our main concern will be to put the interests of the public first.

5.3 If your concern or allegation relates to, for example, discrimination issues and can be handled under any other procedure or policy, we will pass it on to the relevant person and let you know.

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

5.5 Wherever possible we will aim to acknowledge concerns received in writing within ten working days. The acknowledgement will:

- indicate how the matter is proposed to be dealt with;
- give an estimate of how long it will take to provide a final response;
- advise whether any initial enquiries have been made; and
- advise whether further investigations will take place, and if not, why not.

5.6 It is difficult to set further timescales as they depend on the nature of the allegation and the type of investigation we need to carry out.

- 5.7 The amount of contact you will have with the officers considering the issues will depend on the nature of your concern, the potential difficulties involved, and the clarity of the information you have given.
- 5.8 If you have a meeting with investigating officers, you can be accompanied by a friend, or a representative from a trade union or professional association.
- 5.9 We recognise that you need to be assured that the matter has been properly addressed. We will usually give you feedback on the progress and outcomes of any investigation, subject to any legal constraint.
- 5.10 We will take steps to minimise any difficulties which staff may experience as a result of raising a concern. For instance, we will give you advice if you are required to give evidence in criminal or disciplinary proceedings., and also, meetings may, if necessary be arranged off site with you, if you so wish.
- 5.11 Both Councils believe that everyone has the right to be treated fairly, and will apply this principle to those who are the subject of someone voicing their concern.

## **6. How you can take the matter further**

- 6.1 We hope this Policy gives you the reassurance you need to raise a concern internally and that you will be satisfied with any action we take. If you are not, and you want to take the matter outside each Council, the following are possible contact points:
- the external auditor (refer to paragraph 4.10 above for contact details);
  - relevant professional bodies or regulatory organisations;
  - a solicitor; or
  - the police.
- 6.2 We also recognise that there may be circumstances where you can report matters to outside bodies, such as the Health and Safety Executive or other appropriate regulators.
- 6.3 If matters are taken outside the Council you should ensure that this does not result in disclosing confidential information. It may, therefore, be necessary for advice to be sought from the Senior Information Risk Owner at Forest Heath District Council or the Data Protection Officer at St Edmundsbury Borough Council.

## **7. Administration**

- 7.1 The Internal Audit Manager in respect of Forest Heath District Council and the Head of Legal and Democratic Services in the case of St Edmundsbury Borough Council will be pleased to answer any questions about the Policy and its application.
- 7.2 A record of concerns raised and the outcomes is maintained in accordance with data retention guidelines, but in a form which does not endanger confidentiality nor data protection.
- 7.3 This Policy will be reviewed each year to confirm it remains accurate and up to date; and any significant and necessary changes will be reported to each Council's Audit Committee.

Note - with the upcoming restructuring of Joint Management Team, a number of posts and titles may change which will require amendment within this Policy.

See also: -

Forest Heath District Council and St Edmundsbury Borough Council Guidance:

Anti Fraud and Anti Corruption Strategy

Codes of Conduct (Members and Employees)

Constitution

Financial Procedural Rules

Grievance Procedure (Forest Heath) Disciplinary, Capability Policy and Procedure (St Edmundsbury)

Customer Feedback Procedure (Forest Heath) Customer Feedback: Complaints, Comments and Suggestions Procedure and Guidance Document (St Edmundsbury)

Websites:

Public Concern at Work <http://www.pcaw.org.uk/>

Direct Guidance

[http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowingintheworkplace/DG\\_175821](http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowingintheworkplace/DG_175821))