



INVESTORS  
IN PEOPLE

Gold

# **WHISTLE BLOWING POLICY**

## **MARCH 2017**

## **St. Albans City and District Council**

### **Whistle Blowing Policy**

#### **1. Introduction**

1.1 Members, officers, casual and agency workers, self-employed workers at the Council, contractors or members of the public (hereafter referred to collectively as “potential whistle blowers”) may be the first to notice something which is wrong in connection with the Council and its activities or in the wider public domain. They might not say anything however, because they:

- i. may be concerned that their suspicions might not be justified or:
- ii. may be concerned that they or someone else might be victimised.

1.2 The purpose of this whistle blowing policy therefore is to help potential whistle blowers to raise their concerns. The Council is committed to being open, honest and accountable and therefore wishes to be alerted to any problems at the earliest opportunity. This will enable the Council to take appropriate action such as:

- i. Pre-empt a crime or other wrong doings where possible;
- ii. Where a crime or something suspicious has taken place to instigate an appropriate investigation;
- iii. Bring to account the perpetrators;
- iv. Minimise any losses or to recover any actual ones;
- v. Take corrective action to reduce the risk of repeat occurrences;

#### **2. Types of Action Covered by the Policy**

2.1 Concerns about the following types of wrongdoings are covered by this whistle blowing policy:

- i. Corruption;
- ii. Fraud;
- iii. Bribery
- iv. Theft;
- v. An unlawful act;
- vi. Any danger to health and safety;
- vii. Exploitation or abuse of vulnerable adults or children
- viii. A person abusing their position in connection with unauthorised activity for personal gain;
- ix. Damage being caused to the environment (by pollution or fly-tipping for example);
- x. Misuse of Council property.

### **3. Confidential Reporting Procedure**

- 3.1 Any suspicion of fraud or other wrongdoing will be treated seriously and will be reviewed and analysed in accordance with the Public Interest Disclosure Act (1998), the Human Rights Act, the Council's Anti- Money Laundering Policy, the Council's Anti-Fraud, Bribery and Corruption Policy and the Council's Safeguarding Policy.
- 3.2 Potential whistle blowers should be aware that they have statutory protection against victimisation and dismissal under the Public Interest Disclosure Act 1998, if they speak out genuinely against corruption and malpractice at work.
- 3.3 It is essential for all concerned that disclosures of wrongdoing or irregularity are dealt with properly, quickly and discreetly. This is in the interests of the Council, its employees, any persons who are the subject of such allegations, as well as the person making the disclosure.
- 3.4 Confidential reporting is the disclosure or communication of information about possible wrong doing by individuals or organisations, either internally or externally, to an organisation, in this case, the Council.
- 3.5 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect all organisations that deal with us 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.
- 3.6 This policy makes it clear that concerns can be raised without fear of victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable serious concerns to be raised with the Council rather than ignoring a problem or 'blowing the whistle' to external sources such as the media.
- 3.7 The procedure applies to all potential whistle blowers, as per paragraph 1.1.

### **4. Aims**

- 4.1 This policy aims to:
  - i. Encourage a person considering making a report to feel confident in raising serious concerns;
  - ii. Provide avenues to raise those concerns and receive feedback on any action taken;
  - iii. Ensure that a response to any concerns and how to pursue them to the person making a report is made;
  - iv. Reassure the person making the report that they will be protected from possible disadvantage if they have a reasonable belief and made any disclosure in good faith.

- 4.2 For Members and officers there are existing procedures in place to enable them to lodge a grievance relating to their own employment. For Members, officers and members of the public there is also a Complaints Policy which can be used to raise a complaint. The Whistle Blowing Policy is intended to cover concerns that fall outside the scope of the Grievance and Complaints Policies. Any serious concern that anyone has about any aspect of service provision or the conduct of Members or officers of the Council or others acting on behalf of the Council can and should be reported under this policy.
- 4.3 The concern may be about something that is:
- An offence or breach of law
  - A disclosure related to miscarriages of justice
  - A health and safety risk, including risk to the public as well as other employees
  - Damage to the environment
  - An unauthorised or inappropriate use of public funds
  - Possible fraud, bribery or corruption
  - Sexual or physical abuse of clients and/or colleagues
  - Exploitation or abuse of vulnerable adults or children
  - Against the Council's Standing Orders and policies
  - Against established standards of practice
  - Other improper or unethical conduct;
- 4.4 The concern may be something that makes potential whistle blowers feel uncomfortable in terms of known standards, their experience or the standards to which they believe the Council subscribes.

## **5. Anonymous Allegations**

- 5.1 Where someone chooses to report their concerns anonymously this will be respected. All concerns raised will be treated in confidence. However, it should be noted that concerns expressed anonymously are less powerful and will only be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:
- i. the seriousness of the issues raised;
  - ii. the credibility of the concern; and
  - iii. the likelihood of confirming the allegation.
- 5.2 Therefore anyone reporting an allegation will be encouraged to put their name to it as this will greatly assist with any subsequent investigation. Furthermore anyone making an allegation in good faith will not have their identity revealed by Internal Audit or the Council unless required to do so by a court of law or the police.
- 5.3 It should be noted that if an allegation suggests criminal activity and the case is to be pursued by police, the identity of the person reporting the details may be important at a later date if criminal proceedings are to be pursued effectively.

5.4 It should be noted that in some instances, the Council may not be able to proceed with internal disciplinary action without being able to disclose the name of the complainant. Should the need arise, the individual will be asked if they wish to remain anonymous.

## **6. False or Malicious Allegations**

6.1 The Enterprise and Regulatory Reform Act 2013 (The Act) states that a person cannot be dismissed from their employment if their disclosure meets certain requirements. These are called 'qualifying disclosures'. They include when someone reports:

- that someone's health and safety is in danger
- damage to the environment
- a criminal offence
- that an organisation is not obeying the law (like not having the right insurance)
- that someone is covering up wrongdoing

6.2 The Act provides protection to the following people:

- employees
- casual and agency workers
- people that are training with an employer, but not employed
- self-employed workers, if supervised or working off-site

6.3 The Act says that a whistleblower should also believe that their disclosure is in the public interest.

6.4 Therefore if an allegation is made in good faith and the person making the report has a reasonable belief in the truth of the allegation, but this is not confirmed by the investigation, there will be no action taken against them.

6.5 If, however, an allegation is made frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against the person if they are a member of Council staff.

6.6 The Act states that a worker dismissed for whistle blowing can bring a case against their employer at an Employment Tribunal. If the tribunal decides the employee has been unfairly dismissed, it will order that they are:

- reinstated (get their job back)
- paid compensation

6.7 From 25 June 2013 a tribunal judge can reduce any compensation awarded by 25% if they find the person has acted dishonestly.

6.8 A whistleblower who is bullied at work will also be able to bring a claim to the Employment Tribunal against their employer or co-workers.

## 7. How to Raise a Concern

- 7.1 A person wishing to raise a concern and who is a Member or officer of the Council (whether permanent employee, casual or agency worker or trainee) should initially consider raising this with the Chief Executive, the Deputy Chief Executive (Finance), the Monitoring Officer or a Head of Service prior to escalating to the use of this policy.
- 7.2 However anyone, whether a Member or officer of the Council or a member of the public may raise their concerns directly to the Internal Audit Manager:
- i. In person at his office in the Council building;
  - ii. Telephone – 01727 819332;
  - iii. Via the Fraud webpage on the Council’s Internet site;
  - iv. email – [piyush.fatania@stalbans.gov.uk](mailto:piyush.fatania@stalbans.gov.uk)
  - v. Letter to:–  
  
The Internal Audit Manager,  
St. Albans City and District Council,  
Civic Offices,  
St. Peter’s Street,  
St. Albans,  
Herts.  
AL1 3 JE
- 7.3 Cases of concerns over the exploitation or abuse of vulnerable adults or children should alternatively be reported through to the Council’s Principal Community Protection Officer:
- i. In person at his office in the Council building;
  - ii. Telephone – 01727 819416;
  - iii. Via the Community Safety webpage on the Council’s Internet site;
  - iv. Email – [neil.kieran@stalbans.gov.uk](mailto:neil.kieran@stalbans.gov.uk)
- 7.4 Those making an allegation should try to provide the following information:
- i. The background and history of the concern (giving relevant facts where possible);
  - ii. The reason why they are particularly concerned about the situation.
- 7.5 The sooner a concern is raised the easier it is to take definitive action. Although anyone making an allegation is not expected to prove beyond reasonable doubt the truth of it, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

- 7.6 Where someone becomes aware of an incidence of fraud, bribery or corruption or of the exploitation or abuse of a vulnerable child or adult they **should not**:
- i. Do nothing;
  - ii. Be afraid of raising concerns;
  - iii. Approach or accuse individuals directly;
  - iv. Try to investigate the matter;
  - v. Raise suspicions to anyone other than those charged with the proper authority.

## **8. How the Council Will Respond**

- 8.1 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. Any potential investigation may be:
- i. Conducted by Internal Audit or through the disciplinary process;
  - ii. Referred to the police;
  - iii. Referred to the External Auditor;
  - iv. Referred to the Hertfordshire Safeguarding Children's Board (HSCB) or the Hertfordshire Safeguarding Adults Board (HSAB). These Boards have been established by and are the lead responsibility of Hertfordshire County Council.
- 8.2 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.
- 8.3 Within ten working days of a concern being raised, the responsible person from Internal Audit or from Community Protection will write to the person making the allegation to:
- i. Acknowledge that the concern has been received;
  - ii. Indicate how it is proposed to deal with the matter;
  - iii. Explain if further investigations will take place and if not, why not.
- 8.4 If allegations are found to be proven against a Council Member or officer and there has been a breach of Council policy or the Code of Conduct for Members or for Employees then the Council will deal with this in accordance with the relevant internal disciplinary policy.
- 8.5 If allegations are found to be proven and there has been a criminal act which has been committed, then the council will contact the police who will deal with this in accordance with the law. This is not mutually exclusive of 8.4 above and the Council may instigate disciplinary procedures alongside any police action.
- 8.6 If the allegations are found to be unproven, then the council will write to the Member or officer who has been accused and those who made the accusation (where they have identified themselves) to notify them of this outcome.