

# **DARLINGTON BOROUGH COUNCIL**

## **Whistleblowing Policy**

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# Whistleblowing Policy

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# WHISTLEBLOWING POLICY

## INTRODUCTION

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 to the Council. They may also 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.
2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal 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.
3. This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.
4. This procedure is in addition to, for example, the Council's internal grievance and other personnel procedures as well as the corporate complaints procedure and other statutory reporting procedures. Where other procedures are activated simultaneously, an agreement will be reached with the complainant about how they fit with agreed processes for each and whether or not information can be shared to enable each process to do its job.
5. This policy has been discussed with the relevant trade unions and professional organisations and has their support.
6. This policy makes it clear that you can voice your concerns without fear of victimisation, discrimination or disadvantage. This policy is intended to encourage and enable employees and others to raise serious concerns within the Council rather than overlooking a problem or having to 'blow the whistle' outside. It is the commitment of the Managing Director and the Council that the Borough Council should be an organisation which has a culture of improvement and openness, and not control and blame.

## AIMS AND SCOPE OF THIS POLICY

7. This policy aims to :-
  - (a) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
  - (b) provide avenues for you to raise those concerns and receive feedback on any action taken;
  - (c) 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

- (d) 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 good faith.
8. There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This Policy is intended to cover major concerns that fall outside the scope of other procedures. These include :-
- (a) Conduct, which is an offence or a breach of law.
  - (b) Disclosures related to miscarriage of justice.
  - (c) Health and safety risks, including risks to the public as well as other employees.
  - (d) Damage to the environment.
  - (e) The unauthorised use of public funds.
  - (f) Possible fraud and corruption.
  - (g) Sexual or physical abuse of clients.
  - (h) Other unethical conduct.
9. Thus, any serious concerns that you have about any aspect of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can be reported under this Policy. This may be about something that :-
- (a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
  - (b) is against the Council's Procedure Rules and policies;
  - (c) falls below established standards of practice; or
  - (d) amounts to improper conduct;
  - (e) threatens the reputation and standing of the Council
10. You do not have to refer to this Policy to have an issue or complaint dealt with under the Policy.
11. This Policy applies to all:
- (a) employees of the Council;
  - (b) employees of contractors working for the Council, for example, agency staff, builders, etc;
  - (c) employees of suppliers;
  - (d) those providing services under a contract or other agreement with the Council in their own premises, for example care homes, and
  - (e) voluntary workers working with the Council

## **SAFEGUARDS**

### **YOUR LEGAL RIGHTS**

12. This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in the public interest.

13. The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.
14. Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Council cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

## **HARASSMENT OR VICTIMISATION**

15. The Council is committed to good practice and high standards and wants to be supportive of employees.
16. The Council recognises that the decision to report a concern can be a difficult one to make. If you reasonably believe 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.
17. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern with a reasonable belief and in the public interest. .
18. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

## **CONFIDENTIALITY**

19. 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 if effective action is to be taken to tackle something which is wrong. You should make clear when you raise the matter whether you wish the matter to be kept confidential. It means you should not be afraid of giving your name when you want to make a complaint.

## **ANONYMOUS ALLEGATIONS**

20. This policy encourages you to put your name to your concern whenever possible.
21. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
22. In exercising this discretion the factors to be taken into account would include :-
  - (a) the seriousness of the issues raised;
  - (b) the credibility of the concern; and
  - (c) the likelihood of confirming the allegation from attributable sources.

## **FALSE OR UNPROVEN ALLEGATIONS**

23. If you express a concern with a reasonable belief in a potential breach, but it is not confirmed or cannot be proved by the investigation, the Council will recognise your concern and you have nothing to fear.
24. If, however, you make an allegation frivolously, maliciously or for personal gain, and the investigation confirms this, then disciplinary action may be taken against you.

## **HOW TO RAISE A CONCERN**

25. As a first step, you should normally raise concerns with your immediate manager or, if appropriate, a more senior manager. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. It will be for your and/ or your manager to deal with the issue or refer it to a Contact Officer for investigation under this policy. If you are external to the Council, or if you work for the Council but are dissatisfied with how your manager has dealt with your concern, then you should raise it with one of the Contact Officers in paragraph 29.
26. Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format :-
  - (a) the background and history of the concern (giving relevant dates);
  - (b) the reason why you are particularly concerned about the situation
  - (c) your connection to the matter and the names of the other persons who could assist in gathering information about it;
  - (d) Your reasons for needing confidentiality – are there particular persons who should not be told?
  - (e) The reason why the Council should become involved (where it is not directly connected to the matter)
27. The earlier you express the concern the easier it is to take action.
28. 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.
29. Obtain advice/guidance on how to pursue matters of concern may be obtained from the Contact Officers :-

Luke Swinhoe, Assistant Director, Law and Governance, on 01325 405490 or [luke.swinhoe@darlington.gov.uk](mailto:luke.swinhoe@darlington.gov.uk)

Elizabeth Davison, Assistant Director, Resources, on 01325 405830 or [elizabeth.davison@darlington.gov.uk](mailto:elizabeth.davison@darlington.gov.uk)

Paul Wildsmith, Managing Director, on 01326 405829 or [paul.wildsmith@darlington.gov.uk](mailto:paul.wildsmith@darlington.gov.uk)

30. The Contact Officer will be responsible for ensuring that you are kept informed of the progress of your complaint and for ensuring that you are aware as far as possible of the outcome and any action which results. If you are concerned about any aspect of your complaint once you have made it you should speak to the Contact Officer.
31. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
32. 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.

## **HOW THE COUNCIL WILL RESPOND**

33. The Council will respond to your concerns. Do not forget that a Contact Officer or an investigator testing out your concerns is not the same as either accepting or rejecting them.
34. The person you contact will either deal with your issue, or nominate someone to do so who will not have been involved in the issue themselves and will know how to carry it forward. This may involve an interview to take a detailed account of your concerns and any evidence available.
35. Where appropriate, the matters raised may :-
  - (a) be investigated by management, internal audit or through the disciplinary process;
  - (b) be referred to the Police;
  - (c) be referred to the External Auditor; and
  - (d) form the subject of an independent inquiry.
36. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether a detailed investigation is appropriate and, if so, what form it should 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, child protection or discrimination issues) will normally be referred for consideration under those procedures.
37. 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.
38. Within ten working days of a concern being raised, the person with whom you raised the concern will write to you :-
  - (a) acknowledging that the concern has been received;
  - (b) indicating how we propose to deal with the matter;

- (c) giving an estimate of how long it will take to provide a final response;
  - (d) telling you whether any initial enquiries have been made;
  - (e) supplying you with information on staff support mechanisms; and
  - (f) telling you whether further investigations will take place and if not, why not; and will inform the Responsible Officer that an issue has been raised under this policy.
39. 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 Council will seek further information from you.
40. 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.
41. 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 and where appropriate financial or other support.
42. 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 or at least explain why this is not possible.

## **THE RESPONSIBLE OFFICER**

43. The Managing Director 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. They will also be responsible for ensuring that proper and timely progress is made dealing with any complaint and that the principles and requirements of this policy are met.

## **HOW THE MATTER CAN BE TAKEN FURTHER**

44. 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 :-
- (a) the external auditor;
  - (b) your Trade Union;
  - (c) your local Citizen Advice Bureau;
  - (d) relevant professional bodies or regulatory organisations;
  - (e) a relevant voluntary organisation;
  - (f) the Police.
45. If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.



## CONTACTS FOR INDEPENDENT EXTERNAL ADVICE

46. You may at any stage want to obtain help or advice from outside the Council and this can be obtained from a charitable organisation called 'Public Concern at Work'. They can be contacted through their website [www.pcaw.co.uk](http://www.pcaw.co.uk) or via their helpline at: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)