

WHISTLEBLOWING POLICY

(This Policy was reviewed by the full Council at its AGM held on 15 May 2024, minute 20/24-25)

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1. INTRODUCTION.

- 1.1 The Public Interest Disclosure Act 1998 (the 1998 Act) contains measures which help to promote greater openness between employers and employees in the workplace and supports a structure for whistleblowing.
- 1.2 The 1998 Act:
 - (a) is designed to give statutory protection to employees who “blow the whistle” on their employer’s malpractice;
 - (b) although not requiring the Town Council to set up an appropriate mechanism for dealing with whistleblowing, makes clear the important role that such a mechanism can play in helping the Town Council comply with the law (a good policy is, one key way, to deliver accountability throughout the Town Council).
- 1.3 The Town Council is committed to the highest possible standards of openness, probity and accountability both as an employer and as a provider of services. In line with that commitment, the Town Council encourages its customers to voice their concerns through its Complaints Procedure as a way to put things right for the customer and to improve services.
- 1.4 Employees are often the first to realize that there may be something seriously wrong within their employer organization. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer organization. They may also fear harassment, victimization or recrimination from their employer. In these circumstances, it may be easier to ignore the concern rather than report what may just be suspicion of malpractice. As an employer, the Town Council encourages its employees and other (paras. 1.5 and 1.6) with serious concerns about any aspect of malpractice within the organization of the Town Council, to come forward and voice those concerns through a whistleblowing mechanism, which is in addition to the Town Council’s Complaints Procedure.
- 1.5 Although the 1998 Act was designed primarily to protect the interests of employees (referred to as “workers” in the Act), the Town Council has widened the scope of its whistleblowing mechanism by providing the opportunity to others (as well as its employees) to raise concerns in a responsible way through the whistleblowing mechanism.
- 1.6 “Whistleblowing” means the disclosure (by an employee or Town Councillor of the Town Council, or any contractor, their agent and/or sub-contractor, supplier or consultant of the Town Council in the course of their work for the Town Council including the self-employed who work under a contract to perform personally any work or service for the Town Council, or trainees on vocational or work experience schemes), of malpractice/wrongdoing within the organization of the Town Council. It

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should be noted however, that the potential protection (afforded by the 1998 Act) from victimization and dismissal for whistleblowing within the workplace, applies only to “workers” as defined by the 1998 Act.

- 1.7 The main aim of this Whistleblowing Policy (the Policy) is to allow employees and others (paras 1.5 and 1.6) (the “Whistleblower(s)”) to speak without fear about very serious wrongdoings/malpractice within the organization of the Town Council. This Policy encourages employees and others to resolve problems internally without the need for public disclosure.

NB. The 1998 Act requires Whistleblowers to voice their concerns first to the Town Council unless:

- they reasonably believe that they will be victimized
- they reasonably believe there would be a cover-up
- a concern is exceptionally serious
- there is a prescribed regulator, example; the Health and Safety Executive, the Inland Revenue, the Financial Services Authority

- 1.8 This Policy is intended as a clear and unequivocal statement that whenever and wherever such malpractice or wrong-doing is identified by or reported/disclosed to the Town Council, it will be swiftly and thoroughly investigated and rectified and that the Town Council will also investigate means of ensuring that such malpractice or wrong-doing can be prevented in the future.

2. STATUS OF THE POLICY.

- 2.1 This Policy is in addition to the Town Council’s Complaints Procedure and does not replace the Complaints Procedure. Although the majority of complaints are likely to be capable of being dealt with speedily and simply through the Complaints Procedure, some complaints may involve more serious issues. In the first instance, the most appropriate way of handling this type of complaint may be through the Complaints Procedure, although it may subsequently be necessary for the complaint to be investigated through this Policy, particularly where malpractice within the organization of the Town Council is a real concern.
- 2.2 This Policy is designed to provide a channel for those instances where Whistleblowers reporting or disclosing a malpractice or wrongdoing feel that for any reason, they cannot make use of existing Town Council procedures such as the Complaints Procedure.
- 2.3 This Policy furthers the aim of and is complementary to the Members Code of Conduct.
- 2.4 This Policy does not prejudice or prevent the instigation of any process relevant to other Town Council rules, practices or procedures.

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- 2.5 This Policy is intended to cover major concerns that fall outside of the scope of other procedures. Any employee of the Town Council who is aggrieved at any matter relating to their employment must refer to the Town Council's Grievance Procedure, details of which are readily available at the Town Council Offices.

3. PURPOSE AND SCOPE OF THE POLICY.

- 3.1 This Policy aims to:

- provide avenues for employees and others to raise/disclose concerns and receive feedback on any action taken
- allow employees and others to take the matter further if they are dissatisfied with the Town Council's response, and
- reassure employees that they will be protected from reprisals or victimization for whistleblowing in good faith and in accordance with the 1998 Act.

- 3.2 This Policy is intended to cover the following areas of concern (referred to as "qualifying disclosures" in the 1998 Act although it should be noted that this Policy is wider in scope than that "qualifying disclosures" of the Act);

This list is not intended to be comprehensive but merely illustrates the sorts of issues, which may be raised under this Policy.

- fraud, corruption or any other lawful act
- maladministration and mismanagement
- breach of the Town Council's Standing Orders or Policies
- breach of professional standards
- actions which are likely to cause physical danger to the health and safety of any individual or give rise to the risk of damage to Town Council owned property
- actions which are likely to give rise to a significant avoidable cost or loss of income
- actions which are likely or give rise to a miscarriage of justice
- misuse of information which would seriously prejudice or compromise the Town Council
- actions which are likely or give rise to the failure to comply with any legal obligation
- abuse of power, or the use of the Town Council's powers and authority, for any unauthorized or ulterior purpose
- deliberate concealment of any matter falling within one of the preceding areas

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4. WHO DOES THIS POLICY COVER

- 4.1 This Policy covers any malpractice or wrong-doing by and disclosures of any malpractice or wrong-doing by;
- (a) any employee of the Town Council (where the relationship is one of employer and employee), either under a contract of employment or apprenticeship
 - (b) any Town Councillor
 - (c) any Co-optee of the Town Council
 - (d) any contractor, their agent and/or sub-contractor, supplier or consultant of the Town Council in the course of their work for the Town Council including the self-employed who work under a contract to perform personally any work or service of the Town Council (examples: agency staff, builders,

5. SAFEGUARDS.

- 5.1 The Town Council is committed to good practice and high standards and wants to be supportive of its employees and others who may have dealings with the Town Council.
- 5.2 The Town Council recognizes that the decision to report a concern can be difficult one to make, particularly where the Whistleblower may be implicated in and /or “tarnished” by the allegations being made. If what is being reported/disclosed is true, then Whistleblowers should have nothing to fear because they will be doing their duty to the Town Council as their employer and those for whom they are providing a service.
- 5.3 The Town Council will not tolerate any harassment or victimization (including informal pressures) and will take appropriate action to protect Whistleblowers when they raise a concern in good faith.
- 5.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect the Whistleblower.

NB. Under the 1998 Act, employees are protected from harassment, victimization, disciplinary action or dismissal or any other disadvantage at work (even if their disclosure of malpractice is not substantiated after investigation), provided they raise/disclose issues;

- in good faith
- in the reasonable belief that the information disclosed and any allegation contained in it, are substantially true and of an exceptionally serious nature

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- do not report/disclose the matter for purposes of personal gain (example; if employees are already the subject of disciplinary or redundancy procedures, that those procedures would be halted as a result of their whistleblowing) and
- in all the circumstances of the case, it is reasonable for the employee to make the disclosure

NB. Employees must not use the Policy to deal with day to day problems, mistakes or general differences of view that arise at work. Operational matters should be raised with the Town Clerk.

6. CONFIDENTIALITY.

6.1 The Town Council will use its best endeavors to treat in confidence all concerns raised and every effort will be made by the Town Council not to reveal the identity of the Whistleblower without his/her agreement. However, it must be appreciated, that the Town Council cannot guarantee that any investigation process will not reveal the source of information.

6.2 The Town Council will take steps to minimize any difficulties which Whistleblowers experience as a result of raising concerns. For instance, if Whistleblowers are required to give evidence in criminal or disciplinary proceedings, the Town Council will seek their agreement to this.

Data Protection Act 1998

The Data Protection Act 1998 (the DPA) regulates the processing of personal data which is information relating to a living individual from which that individual can be identified. The DPA applies to manual as well as computerized records. Members and all staff as well as others working for the Town Council in other capacities, such as contractors, consultants etc. must have regard to the Data Protection Principles set out in Appendix 2. Any questions relating to data protection must be addressed to the Town Clerk.

6.3 Whistleblowers' requests for confidentiality must be respected. Details of names (and addresses where applicable) will not be published/released without the express permission of the Whistleblower.

7. ANONYMOUS ALLEGATIONS.

7.1 This Policy encourages Whistleblowers to put their names to their allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Town Council.

7.2 In exercising the discretion, the factors to be taken into account will include:

- the seriousness of the issues raised

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- the credibility of the concern, and
- the likelihood of confirming the allegation from attributable sources

7.3 It will be easier to follow up and to verify concerns if Whistleblowers are prepared to give their names. Unsupported anonymous concerns and allegations will have to be treated with caution.

8. UNTRUE ALLEGATIONS.

If a Whistleblower makes an allegation/disclosure in good faith, but it is not confirmed by the investigation, no action will be taken against him/her. If, however, the Whistleblower makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against him/her and their actions may constitute gross mis-conduct and be dealt with accordingly.

9. HOW TO RAISE A CONCERN – EMPLOYEE CO-OPERATION.

9.1 Whistleblowers must raise their concerns in writing to the Town Clerk, this should normally be accompanied by a verbal, face to face, submission.

9.2 Fraud/Probity Related Concerns

Concerns/disclosures involving fraud/probity issues must be raised initially with the Town Clerk.

9.3 Where the concerns/disclosure relates to the conduct or otherwise of the Town Clerk, Whistleblowers may raise their concerns through the Responsible Financial Officer and/or Town Mayor.

9.4 Concerns must be raised in writing and Whistleblowers are invited to use the following format;

- in one or more statements giving the background and history of the concern, stating names, dates, times and places of each or any observation or incident
- the reason why the Whistleblower is particularly concerned about the situation.

9.5 The earlier the Whistleblower expresses concern, the easier it is to take action.

9.6 Although not expected to prove the truth of an allegation the Whistleblower will need to demonstrate that there is sufficient grounds for his/her concern.

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9.7 Whistleblowers have the right to be accompanied during any meetings or interviews in connection with concerns they have raised (this excludes any legal representatives)

NB. Employees may themselves become complicit in the malpractice or wrong-doing which may be regarded by the Town Council as a serious disciplinary matter (gross mis-conduct), if they fail reasonably to report malpractices or wrong-doing within the Town Council.

9.8 Where it is not possible to raise/disclose concerns within the Town Council, or where Whistleblowers believe that the matter has not been properly addressed internally, Whistleblowers have the right to take the matter outside of the Town Council.

10. HOW THE TOWN COUNCIL WILL RESPOND.

10.1 In order to protect individuals and those accused of misdeeds or possible malpractice, the Town Council will make initial enquiries to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Town Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures for example discrimination, victimization or harassment will normally be referred for consideration under those procedures.

10.2 Some concerns may be resolved by agreed action.

10.3 Where appropriate the concerns raised may be;

- investigated by the Town Council
- referred to the Police
- referred to any other relevant body/agency/specialist

All actions taken will be at the discretion of the Town Clerk.

10.4 Investigation Process - Guidelines

10.4.1 If considered appropriate the Town Clerk may nominate the Responsible Financial Officer or an independent person to have responsibility for the conduct of any investigation.

10.4.2 Whilst every situation must depend upon its own facts and circumstances may vary widely, Investigating Officers may find the following guidance to be of assistance when conducting investigation;

- a) do not delay
- b) interview witnesses before memories fade
- c) the information given by Whistleblowers should be in writing in one or more statements. Initially these statements should be taken without regard to the fact that in those cases where anonymity is to

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- be preserved it may subsequently prove to be necessary to omit or erase certain parts of the statements before submission to others, in order to prevent identification;
- d) a careful balance must be maintained between the desirability to protect Whistleblowers who are genuinely in fear and providing a fair process for persons accused or wrong-doing/malpractice;
- e) In taking statements the following should be adhered to
- date, time and place of each or any observation or incident
 - the opportunity and ability to observe clearly and with accuracy (mere vagueness and uncertainty is unacceptable).
 - the circumstantial evidence, such as knowledge of a system or arrangement or the reason for the presence of the Whistleblower and why certain small details are memorable.
 - whether the Whistleblower has suffered at the hands of the person being accused of the wrong-doing/malpractice or has any other reason to fabricate, whether from personal grudge or any other reason or principle
- f) further investigation may then take place either to confirm or undermine the information given. Corroboration is obviously desirable.
- g) although Investigating Officers may have an intimate knowledge of the geography, the nature and the workings of the Town Council and the various members of staff, tactful enquiries may well be thought suitable and advisable for example; into the character and background of the Whistleblower or any other information which may tend to add or detract from the value of the information.
- h) if the Whistleblower is prepared to attend criminal or disciplinary proceedings no problem will arise but if, some or all the evidence is to come from a Whistleblower who wishes to remain anonymous, then a decision will need to be made whether to continue with criminal or disciplinary proceedings.
- i) if criminal or disciplinary proceedings are to continue, the Whistleblower will need to receive advice and support.
- j) the written statement of the Whistleblower, if necessary, with omissions to avoid identification, should be made available to the person being accused of the wrongdoing/malpractice and/or made available to his/her representative.
- k) if the person being accused of the wrongdoing/malpractice or his/her representative raises any particular and relevant issue which should be put to the Whistleblower, it may be desirable to make further enquiries of the Whistleblower.
- l) where a Whistleblower has been the cause for the initiation of an investigation, it is important that the Investigating Officer takes and retains full and careful notes of the investigation process particularly if evidence from an Investigating Officer is required for criminal or disciplinary proceedings.

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10.4.3 Any unreasonable delay in concluding an investigation could be considered a violation of Article 6 rights under the European Convention on Human Rights. However, it should be noted that the Court has held that overall delay may not be unreasonable in cases which are not straightforward. The Court's view is based on the fact that it is in the interests of the public to take time to investigate the matters. Specific circumstances in each case will determine the length of the investigation.

10.4.4 A Whistleblowing Record Form (Appendix 1) has been structured in such a way as to protect confidentiality. This form must be completed by the Investigating Officer on each occasion that a Whistleblower raises/discloses a concern through the channels referred to in paras. 9.1 to 9.3 and the following procedure will be adopted;

- acknowledge in writing (usually within 10 working days) that the concern has been received;
- indicate how the Town Council proposes to deal with the matter;
- give an estimate of how long it will take to provide an initial or final response;
- tell the Whistleblower whether any initial enquiries have been made;
- tell the Whistleblower whether further investigations will take place and if not, why not, example: some concerns may be resolved by agreed action without the need for investigation.

10.4.5 Once completed the Whistleblowing Record Form must be forwarded to the Town Clerk for record maintenance/review purposes.

10.4.6 The Town Council accepts that Whistleblowers need to be assured that their concerns have been properly addressed. Thus, subject to legal constraints, Whistleblowers will receive information about the outcomes of any investigations. Whistleblowers have no automatic right of access to any investigation report. Release of any report in whole or in part will be at the discretion of the Town Clerk whose decision on this matter will be final.

11. THE TOWN CLERK'S ROLE.

The Town Clerk has overall responsibility for the maintenance and operation of the Policy.

12. RECORDING/MONITORING AND ANNUAL REVIEW.

12.1 The Town Clerk will maintain the records of concerns/disclosures and the outcome of any investigation, but in a form which does not endanger confidentiality.

12.2 The Town Clerk will, if necessary, report to the Personnel Committee, the report will be in a form which does not endanger confidentiality.

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12.3 The Policy will be subject to annual review by The Town Clerk. The review will ascertain if changes to the Policy, either in whole or in part, are necessary. The Town Clerk will recommend any changes, as appropriate to the Personnel Committee.

13. HOW THE MATTER CAN BE TAKEN FURTHER.

13.1 The Policy is intended to provide Whistleblowers with an avenue to raise/disclose concerns within the Town Council. The Town Council (and the 1998 Act) expects that Whistleblowers will first raise/disclose the concerns internally. Where this is not possible or where Whistleblowers believe that the matter has not been properly addresses internally, Whistleblowers have the right to take the matter outside the Council and the following are possible contact points:

- relevant professional bodies or regulatory organizations:
- Public Concern at Work (an independent charity which provides confidential, free legal help to staff and others who have concerns about the workplace).
- a Solicitor
- the Police
- the Ombudsman
- the Standards Board for England (in relation to the Member Code of Conduct)

NB. Whistleblowers should not as a first step take their concerns to the press or the media.

13.2 Employees may lose the protection of the 1998 Act if information is disclosed in a way not authorized by the 1998 Act.

14. REVIEW OF RECOMMENDED ACTIONS.

Following the investigation, the implementation of any action(s) e.g. change to procedures, training etc. will be reviewed by the Town Clerk. The results of the review and subsequent close out of the investigation will be communicated to the Personnel Committee for record maintenance purposes.

15. ANY DOUBTS?

If there are any doubts about the contents of the Policy or where there are issues that are not adequately covered, then the matter should be discussed with the Town Clerk.