



devon**audit**partnership

Counter Fraud Services

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Devon Audit Partnership

South Hams District Council  
Whistleblowing Policy



December 2023

CUSTOMER  
SERVICE  
EXCELLENCE



Support, Assurance & Innovation

## WHISTLEBLOWING POLICY

### 1. POLICY STATEMENT

- 1.1 South Hams District Council is committed to the highest possible standards of honesty, openness and accountability in public life.
- 1.2 All organisations face the risk of things going wrong or of unknowingly harbouring malpractice. This Policy has been developed in accordance with the provisions of the [Employment Rights Act 1996](#), as amended by the [Public Interest Disclosure Act 1998](#). It is also supplemental to and supports the Council's Anti-Fraud, Bribery and Corruption Policy. It also is part of the Council's role in identifying and taking measures to remedy all malpractice, particularly regarding issues of fraud and corruption.
- 1.3 We want you to feel that it is safe and acceptable to tell us about your concerns so that we can investigate and take action as soon as possible. We welcome all genuine concerns and will treat your issues seriously - this policy explains how to raise a concern, the types of activity you should report, the protection we can provide, confidentiality, our response and how you can take matters further, if necessary.
- 1.4 By promoting a culture of openness within the Council, we want to encourage individuals to feel confident and come forward to raise both disclosures and serious allegations of wrongdoing; this may involve the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities. Disclosures can be made through established internal channels, without fear of victimisation, detriment or risk to job security.

### 2. SCOPE AND AIMS OF THE POLICY

#### Aims

- 2.1 The policy sets out the procedure via which the Council will deal with a whistleblowing complaint and, where the complainant is an employee, the measures in place to ensure the protection due to them under the Employment Rights Act 1996.
- 2.2 A whistleblowing complaint is the disclosure of information which relates to suspected wrongdoing or dangers at work within the Council. This may include:
- (a) criminal activity.
  - (b) failure to comply with any legal or professional obligation [or regulatory requirements];
  - (c) miscarriages of justice.
  - (d) danger to health and safety.
  - (e) damage to the environment.
  - (f) bribery and/or corruption.
  - (g) financial fraud or mismanagement.
  - (h) conduct likely to damage our reputation or financial wellbeing.
  - (i) unauthorised disclosure of confidential information.
  - (j) negligence.
  - (k) the deliberate concealment of any of the above matters.

### 2.3 The Policy aims to:

- (a) Provide the framework for employees to feel that there are protections in place for them and the reassurance that there will be protection from reprisals or victimisation for employees who raise a whistleblowing complaint in good faith in accordance with this procedure.
- (b) Ensure employees, and all other persons to feel confident in raising that when they wish to raise concerns there is a process in place under which they will be dealt with.
- (c) Provide avenues for employees to raise these concerns and receive feedback on any action taken.
- (d) Set out a procedure by which the matter can be taken further where there is dissatisfaction with the Council's response.

### Scope

- 2.4 This whistleblowing policy applies to all [employees](#) wishing to raise a whistleblowing complaint.
- 2.5 UK law protects employees from dismissal, harassment or victimisation if such treatment occurs as a result of having made a whistle-blowing disclosure considered to be in the public interest. In addition to the employer's liability, the individual who subjects the employee to such treatment may also be held personally liable.
- 2.6 Whilst the process for dealing with complaints in this policy apply to any person raising a whistleblowing complaint, where allegations are raised by other individuals who are not direct employees (including, councillors, agency workers, consultants, contractors, sub-contractors) the protection measures within this will not apply.
- 2.7 Although the Council will endeavour to provide appropriate advice and support wherever possible in this eventuality, it is recommended that advice is sought from a trade union representative or from Protect (formerly Public Concern at Work) an independent charity set up to provide advice and guidance about whistleblowing issues. Contact details for [Protect](#) are given in Section 10 below.
- 2.8 This policy does not replace:
  - (a) Our existing Grievance Resolution Policy and Procedure. You should use these policies if you have a personal grievance or are unhappy with the way you are being treated. This includes harassment, discrimination or unfair treatment as a result of a protected characteristic under the [Equality Act 2010](#). The Whistleblowing arrangements are not intended to give you a further opportunity to pursue a grievance or complaint once you have exhausted the relevant employment procedures.
  - (b) Corporate Complaints Procedure Individuals wishing to bring a complaint about the delivery of a Council service to them where it is not a serious issue (as falling within 2.2 above) should use the Corporate Complaints Procedure.
  - (c) Our Councillor Complaints Arrangements. Individuals (other than employees, due to the statutory protection of staff whistleblowing) wishing to bring a complaint against a Councillor should use the Councillor Complaints Process and submit a complaint to the Monitoring Officer, in the first instance. This will not prevent the

complaint being taken forward under the Whistleblowing arrangements, where appropriate.

### 3. SAFEGUARDS

**3.1 Harassment or Victimisation (employees)** The Council recognises 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, or suspected of, the malpractice. The Council will not tolerate harassment or victimisation of any employee as a result of them raising a whistleblowing complaint. The Council will take action to protect staff when they do so in good faith. However, this does not mean that if a member of staff is already the subject of disciplinary or redundancy procedures, those procedures will be halted because of their 'Whistleblowing'.

**3.2 Confidentiality** The Council will do its utmost, subject to any over-riding legal obligations, to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be realised and appreciated, however, that the investigation process itself may well reveal the source of the information, and, depending on the outcome, a formal statement by the individual may be required as part of the evidence.

**3.3 Anonymous Allegations** Remember, this policy is designed to encourage employees to put their names to allegations. If you do not tell us who you are, it will be much more difficult for us to look into the matter, to protect your position or to give you feedback. Concerns which are reported anonymously are much less powerful, but if they contain sufficient detail they will be considered at the discretion of the Council. The factors to be considered would include:

- (a) The seriousness of the issue raised.
- (b) The credibility of the concern; and
- (c) The likelihood of confirming the allegation from attributable sources.

**3.4 Untrue Allegations** If an employee makes an allegation in good faith, reasonably believing it to be true, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

### 4. RAISING A CONCERN

4.1 Initially, employees are encouraged to raise concerns with:

- (a) Their immediate line manager or their line manager's manager;

4.2 If this is not appropriate due to the nature of the concerns, or where the person is not an employee, the individual can raise their concerns with:

- (a) A Head of Service
- (b) An Assistant Director
- (c) A Director within the Senior Leadership Team (SLT)
- (d) The Chief Executive.

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- 4.3 Individuals who are unsure about reporting or do not feel at ease raising the concern through any of the above routes are encouraged to seek advice from one of the following:
- (a) The Head of Devon Audit Partnership
  - (b) The Head of Legal Services (Monitoring Officer)
  - (c) Section 151 Officer (Corporate Director of Strategic Finance)

4.4 Employees may ask their Trade Union or professional association to raise the concern on their behalf.

4.5 Concerns should be raised in writing, where possible. The background and history of the concern should be set out, giving names, dates and places where possible, and the reason why the individual is concerned about the situation. Those who do not feel able to put their concerns in writing may raise the matter verbally with the appropriate officer.

4.6 Although employees are not expected to prove the truth of their concern, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.

## 5. HOW THE COUNCIL WILL RESPOND

5.1 Within ten working days of a concern being received, the relevant Director from the Council will contact the individual raising the complaint:

- (a) Acknowledging that the concern has been received.
- (b) Indicating how it proposes to deal with the matter.
- (c) Telling the employee whether any initial enquiries have been made.
- (d) Telling the employee whether further investigations will take place, and if not, why not.

5.2 The action taken by the Council will depend on the nature of the concern.

5.3 The matters raised may:

- (a) Be investigated internally.
- (b) Be referred to the Police.
- (c) Be referred to the External Auditors.
- (d) Form the subject of an independent inquiry by the Ombudsman.

5.4 To protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other, existing, procedures (e.g. discrimination issues) will normally be referred for consideration under those procedures.

5.5 Some concerns may be resolved without the need for investigation. Where a formal investigation is required, it is likely to take the form of an investigation by a manager or by Devon Audit Partnership. In certain cases, the matters raised may be referred to the Police or the Council's external auditors for investigation or an independent inquiry could be set up.

5.6 The amount of contact between the managers considering the issues raised and the complainant will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided.

- 5.7 When any meeting is arranged, employees have the right, if they so wish, to be accompanied by a Trade Union or professional association representative or a work colleague who is not involved in the area of work to which the concern relates.
- 5.8 The Council will take steps to minimise any difficulties which employees may experience as a result of raising a concern. For instance, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.
- 5.9 The Council accepts that employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, and the requirement for confidentiality of others involved in the process, employees will receive information about the outcomes of any investigations.
- 5.10 If an employee is not assured that the matter has been properly addressed, they should contact the Head of Devon Audit Partnership, or consider an alternative method of taking forward a complaint (section 6).

## **6. ALTERNATIVE METHODS OF TAKING FORWARD A COMPLAINT**

6.1 This policy is intended to provide employees with an avenue to raise concerns within the Council. If an individual is not satisfied, and feels it is right to take the matter outside this process, possible contact points are listed below including Protect (formerly Public Concern at Work), an independent charity set up to provide advice and guidance about whistleblowing issues.

- (a) The local Council member (if you live in the area of the Council).
- (b) The External Auditor.
- (c) Relevant professional bodies or regulatory organisations.
- (d) Individuals' solicitors.
- (e) A relevant charity or voluntary organisation such as Protect.
- (f) The Police.

6.2 If an employee does take the matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. This should be checked with one of the designated contact points, Devon Audit Partnership, Legal Services, Human Resources or if preferred, an outside organisation such as the Ombudsman or Protect.

## **7. THE RESPONSIBLE OFFICER**

7.1 The Head of Devon Audit Partnership has overall responsibility for the maintenance and operation of this policy.

7.2 The Head of Devon Audit Partnership will maintain a record of concerns raised and the outcomes (in an anonymous format) and will report as necessary to the Audit and Governance Committee.

## **8. REVIEW AND MONITORING**

## OFFICIAL

- 8.1 This policy is to be reviewed and monitored every 2 years the next review date is December 2025.
- 8.2 The Head of Devon Audit Partnership will monitor this policy. In this regard managers, councillors and trade union representatives must inform Devon Audit Partnership immediately should concerns falling under the scope of this policy be raised with them.

**9. KEY CONTACT INFORMATION**

Devon Audit Partnership: Internal Audit Team Tel: 01392 382437 Email: [dap@devon.gov.uk](mailto:dap@devon.gov.uk)

Counter Fraud Team Tel: 01752 304450 Email: [counter.fraud@devon.gov.uk](mailto:counter.fraud@devon.gov.uk)

Legal Services (Monitoring Officer): Email: [david.fairbairn@swdevon.gov.uk](mailto:david.fairbairn@swdevon.gov.uk)

Financial Services (S151 Officer): Email: [lisa.buckle@swdevon.gov.uk](mailto:lisa.buckle@swdevon.gov.uk)

Protect (formerly Public Tel: 020 3117 2520 Concern at Work) Website: <https://protect-advice.org.uk/advice-line/>