



EMPLOYMENT POLICY STATEMENT

Policy Title: PUBLIC INTEREST DISCLOSURES “WHISTLEBLOWING”

Date: January 2016

Policy Statement

The Council is committed to high standards of openness and probity and has approved the following policy statement.

Employees may often be the first to realise when there is something seriously wrong within an organisation. However, they may be reluctant to express their concerns because they may feel that speaking up would be disloyal to their colleagues or the organisation or because they may fear that they may be victimised or harassed if they express their concerns openly. In these circumstances an employee may choose to ignore the concern rather than report what may just be a suspicion of malpractice.

This policy also enables the public, contract workers and elected Members to make Disclosures.

This policy empowers and encourages employees and others to raise serious concerns within the Council rather than ignoring a problem or raising the matter externally. A declaration of this nature is called a Public Interest Disclosure (referred to hereafter as a Disclosure) and is commonly referred to as “Whistleblowing”.

Matters which may prompt a Disclosure include dangerous, corrupt or illegal acts or practices. A more detailed definition is included in this policy.

The Council will endeavour wherever possible to ensure that if an employee or other individual makes a Disclosure in good faith and follows the procedure outlined in this policy, he/she will be protected from victimisation or harassment. A disclosure of this nature is referred to as a “Protected Disclosure”.

Legislation

Proceeds of Crime Act 2002 and Money Laundering Regulations 2003
Local Authorities (Code of Conduct) England 2001
Public Interest Disclosure Act 1998
Employment Rights Act 1996
Bribery Act 2010

Scope

The policy aims to:

- provide a clear and simple process for employees to follow when making a Disclosure;
- ensure Disclosures are investigated effectively and appropriately;
- enable employees to receive feedback on the outcome of the investigation;
- provide employees with the opportunity and guidance to take the matter further if they are dissatisfied with the Council's response and
- protect employees from reprisals or victimisation if they make a Disclosure in good faith.

There are procedures in place to enable employees to lodge a grievance relating to their own employment or where they believe they have been subject to bullying or harassment at work. The Council's Grievance Procedures and Harassment at Work Procedure should be referred to in these circumstances. The Public Interest Disclosures "Whistleblowing" Policy is intended to cover issues of probity and honesty that fall outside the scope of other procedures.

The issue prompting a Disclosure may have already happened, be currently happening or may happen in the future. An issue that may prompt a Disclosure may include but is not limited to the following:

- criminal or unlawful act;
- breach of a legal obligation;
- breach of Council Standing Orders or policy;
- actions or conduct which falls below established and accepted standards or practice;
- danger to the health or safety of an individual or breach of a Health & Safety rule, guideline or directive;
- where the environment has been, is being or is likely to be damaged;
- improper conduct;
- a miscarriage of justice or
- deliberately concealing information revealing any of the above.

The following areas of suspected misconduct each have a separate process to follow which is outlined below:

- money laundering
- conduct of a member of the Council

Procedures for Disclosures by non-employees under this policy are covered by the sections below titled 'Members of the Council', 'Contract Workers' and 'Disclosures by members of the public'.

Policy Standards

Generally

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment employees, including staff on temporary contracts, agency staff and contract workers are encouraged to come forward and make a Disclosure. Subjects of Disclosures may include members of staff; agency workers, contractors or third parties working in partnership with the Council.

Harassment or Victimisation

The Council recognises that the decision to Disclose can be a very difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. The Council will not tolerate harassment or victimisation and will take action to protect an employee when he/she makes a Disclosure in good faith. If the employee experiences harassment, victimisation or is treated less favourably, the perpetrator or perpetrators will be subject to disciplinary action which may include dismissal.

Confidentiality

Employees should be able to raise their concerns without the need for secrecy. However where an employee wishes to raise an issue in confidence, the Council will respect this request, except as stated in the paragraph below, and will not disclose the employee's name without the employee's prior consent nor will the Council take any other action which may indicate the identity of the employee who has made the Disclosure.

If concealing the identity of the employee making the Disclosure may result in harm or injury to a third party or allow a crime to be committed, the Council reserves the right to respond to a Disclosure even if in doing so the identity of the employee may be compromised. Circumstances of this nature are very unlikely to occur and would be dealt with extremely carefully in order to do everything possible to support and safeguard the interests of the employee who made the Disclosure.

Anonymous Allegations

The policy encourages employees to identify themselves by name in writing if they make a Disclosure. However if an employee is not prepared to do so their Disclosure will still be considered. In these circumstances it may not though always be possible for an investigation to follow and/or action to be taken.

Whilst Disclosures made anonymously are much more difficult to manage and resolve the Council will do its best to investigate and resolve Disclosures made this way.

Untrue Allegations

If an employee makes a Disclosure in good faith, but the subsequent investigation dispels and/or disproves the employee's concerns and/or claims, no action will be taken against the employee. However, if an employee makes a malicious, vexatious or frivolous Disclosure, disciplinary action, including dismissal, may be taken against them.

1. Guidance when making a Disclosure (see also Appendix)

Whilst employees are encouraged to commence the process at Stage 1 by making the Disclosure to their manager, they may commence the process at Stage 2 if appropriate to do so.

The employee may invite a work colleague or Trade Union representative to make a Disclosure on his/her behalf and may be accompanied at any meeting arising from their Disclosure by a work colleague or Trade Union representative.

Employees are encouraged to confirm their Disclosure in writing outlining as many details as possible. However if the employee is not prepared to confirm their Disclosure in writing they may make a verbal Disclosure to their manager or other appropriate officer.

Employees are encouraged to make their Disclosure at the earliest possible opportunity.

Although the employee is not expected to prove the truth of their Disclosure they will need to demonstrate to the officer contacted that there are sufficient grounds for an investigation to take place.

Internal Advice

Confidential advice and guidance on making a disclosure and the disclosure process can be obtained from the officers named below. Officers may delegate where required.

- *Nicola Golding – Monitoring Officer ext.4659 (including Members, the Public and Contractors)*
- *Jane Dodsworth – Head of Business Improvement ext. 4729*
- *John Ward, Head of Finance and Governance ext. 4805 or Helen Belenger, Accountancy Services Manager ext 1045 (Money Laundering only)*
- *Stephan James, Principal Auditor ext 4736*

2. Money Laundering

Money laundering refers to schemes designed to route illegally acquired cash through bank accounts and businesses so that the funds appear legitimate and earned honestly. The proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 make it an offence to “launder” money and places upon each individual the duty to report anyone whom they suspect of laundering money.

If employees have concerns of this nature they are required to contact the Council’s Money Laundering Reporting Officer Mr. J. Ward, Head of Finance and Governance, ext 4805, or the Deputy Money Laundering Reporting Officer Mrs. H. Belenger, Accountancy Services Manager, ext 1045, rather than follow Steps 1 and 2 outlined above.

3. Members of the Council

If a Member of the Council wishes to make a Disclosure under this policy he or she should in the first instance write to the Council's Monitoring Officer (Nicola Golding, Monitoring Officer ext.4659).

4. Conduct of a Member of the Council

If an employee has concerns of a general nature regarding the conduct of a Member of the Council he/she may report their concerns to the Council's Monitoring Officer (Nicola Golding, Monitoring Officer ext.4659) who will consider whether or not to refer the matter to the Council's Standards Committee.

The Council's Response to a Disclosure

The Council will implement the provisions of this policy whenever and wherever appropriate to do so and take whatever action is required to investigate and address Disclosures made in good faith.

When an employee makes a Disclosure, the Council will support and assist the employee and will confirm to the employee the outcome of the investigation unless to do so would lead to a breach of the statutory or contractual rights of the subject of the Disclosure, for example under the Data Protection Act (1998).

The Council will take formal disciplinary action against any employee who harasses, victimises, bullies or treats less favourably in any way an employee who makes a disclosure in good faith.

If an individual is not satisfied with the outcome of Stages 1 and 2 of the process or if they reasonably believe that they would be victimised if they followed the process outlined above, they may consider contacting one of the following:

- *Trade Union*
- *their local Council member (if they live within the District)*
- *relevant professional body or regulatory organisation*
- *a solicitor*
- *the Police*
- *their Member of Parliament*
- *the Health & Safety Executive*
- *Citizen Advice Bureau*
- *a solicitor*
- *Public Concern at Work, an independent charity offering specialist legal advice on disclosures (0207 404 6609)*

If advice is sought from a third party the employee is requested to discuss the matter discreetly as the Disclosure may have legal implications: defamation; slander; libel etc

Monitoring

The Chief Executive is the Responsible Officer under this policy and has overall responsibility for its maintenance and operation. A record of all Disclosures and their outcome will be maintained by the HR team and reported to the Council as and when

appropriate. The identity of the employee making the Disclosure will not be revealed in the summary report.

Contract Workers

Contract workers engaged by the Council can also make Disclosures under this policy. They should commence the process at Stage 2.

Contract workers should in the first instance write to the Council's Monitoring Officer (Nicola Golding, Monitoring Officer, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY – Telephone: 01243 534656). It is a requirement that Council managers engaging contractors provide them with a copy of this policy and make them aware their obligation to use it. Managers should record the fact that they have done this. The policy is also shown on the Council's public website under Corporate Compliments and Complaints.

Disclosures by members of the public

Members of the public may also make a Disclosure under this policy.

Chichester District Council is committed to the prevention of losses through fraud and corruption. Should any member of the public have evidence of dangerous, corrupt or illegal acts or practices within Chichester District Council they are invited to inform the Council under this policy. They should commence the Disclosure process from Stage 2.

Members of the public should in the first instance write to the Council's Monitoring Officer (Nicola Golding, Monitoring Officer, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY – Telephone: 01243 534656). The Whistleblowing Policy is shown on the Council's public website under Corporate Compliments and Complaints.

Procedure for making a Disclosure

1. General Disclosures (other than Money Laundering related)

Stage 1

The employee should make their Disclosure to their manager. A Disclosure may be made in writing or verbally and the employee's manager will take the following action:

- acknowledge verbally or in writing that a Disclosure has been raised;
- discuss, confidentially, the details of the Disclosure;
- indicate how they propose to respond to the Disclosure;
- indicate who will undertake the investigation and the nature and likely duration of the investigation (the investigation will be completed if possible within 20 working days);
- confirm the outcome of their investigation verbally or in writing and retain a written record of the Disclosure with a copy of this submitted to the HR team.

If the employee is not satisfied with the outcome of the Stage 1 investigation they may appeal and progress to Stage 2 of the process. Alternatively if the employee's manager has failed to complete Stage 1 within the agreed time scale they may progress to Stage 2 of the process.

If the employee feels unable to make their Disclosure to their manager for any reason they may commence the Disclosure process at Stage 2.

Stage 2

Appeals against a decision made at Stage 1 or commencing at Stage 2 should be made to the Executive Director who will follow, but not repeat unless necessary, the steps outlined in Stage 1. Appeals may be made in writing or verbally.

Stage 2 investigations will be completed where possible within 30 working days.

If an employee is unable to or chooses not to make his/her Disclosure to the Executive Director he/she may make their Disclosure to the Chief Executive.

January 2016