

# Speaking Up Framework

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**Policy Statement**

**The Council is committed to ensuring that all of its activities are conducted ethically, honestly and with the highest possible standard of openness and accountability so as to protect everyone's safety and secure the proper use of public money.**

**It is recognised that employees, Members, the public and contractors/suppliers who deal regularly with the Council are often the first to realise that there may be something seriously wrong. This framework intends to encourage people to Speak Up and raise concerns that they may have that something is not right.**

**The Council expects its employees, Members and others that we deal with to come forward and raise their concerns about any Council activity.**

**The Council will seek to protect individuals raising concerns in the Public Interest from harassment or victimisation; confidentiality will be maintained as far as is possible and within any requirements of the law.**

**The Council is committed to investigating and responding to any concerns raised as fully as is possible.**

## **WHAT IS SPEAKING UP?**

**This Speaking Up Framework is intended to:**

- **create a safe culture and clear policies for employees of the Council to raise concerns without fear of reprisal.**
  - The Framework provides a clear and easily accessible reporting route for employees, the public and others who deal with the Council to raise concerns, and sets out a documented process that assures individuals their concerns will be handled appropriately and, where necessary, confidentially.

**The Speaking Up framework is intended to be an early warning system that can alert the Council to such things as:**

- **someone defrauding the Council;**
- **faulty machinery or unsafe working practices being used by employees or contractors;**
- **people abusing their positions via discrimination or harassment,**
- **illegal activities;**
- **concerns relating to the treatment of children and vulnerable adults; or**
- **employees or Members seeking or accepting payments in exchange for work or contracts to a specific supplier or for making a particular decision.**

**For employees there are other policies available which should be used in preference to the Speaking Up Framework depending on the circumstance. For example where they have complaints about harassment, grievances over their employment and health & safety concerns, the reporting routes set out in these policies should be followed.**

**Speaking Up is a valuable activity which can be used to inform those who need to know about fraud, corruption, cover-ups and many other problems. It is often only through the receipt of reports that this information comes to light and can be addressed before real damage is done.**

### 1 INTRODUCTION

- 1.1 Employees<sup>1</sup> and other people that the Council deal with are often in the best position to know when the interests of the public are being put at risk. The Council recognises that these people can act as useful early warning systems on matters of safety or to help uncover fraud and mismanagement within the Council. However, individuals may often not raise their concerns because they:
- feel that they are being disloyal to colleagues or the Council;
  - fear reprisals will be made through harassment or victimisation; or
  - they are unsure of the best way to proceed.
- 1.2 The Council aims to promote an open and honest culture and is committed to the highest possible standards of probity and accountability. The Council seeks to foster an environment which encourages anyone with serious concerns about any aspect of the authority's work to come forward and raise those concerns. Wherever possible the confidentiality of the individual raising the concern will be maintained.
- 1.3 This framework compliments the Council's Anti-fraud and Bribery Framework, and Disciplinary Policy. The Code of Conduct for Employees reinforces the message that concerns can be raised without fear of reprisal.
- 1.4 The Speaking Up framework is a mechanism by which concerns can be raised with the Council in a controlled and protected way; it is not a detailed investigation process in its own right. Concerns that are raised via the Speaking Up process will be reviewed and generally will be referred for investigation under the most relevant Council procedure. Examples of where the concern may be passed will include:
- disciplinary or standards investigation;
  - grievance investigation;
  - dignity at work investigation;
  - investigation by the Health & Safety Officer
  - referral under safeguarding policies; and
  - anti-fraud or bribery investigation.
- 1.5 Although this policy is predominantly aimed at employees of the Council who have statutory protection under the Public Interest Disclosure Act, the Council recognises that many other individuals and groups may also have concerns that they may wish to raise with the Council in a controlled and protected way. This framework applies equally, in terms of reporting, investigation and confidentiality to all individuals including employees, Members, agency workers, contractors, suppliers, partner organisations and the public.

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<sup>1</sup> The term employees covers Agency Staff, Temporary Workers, Consultants, Casual Staff and Volunteers.

- 1.6 All individuals are encouraged to raise serious concerns within the Council without fear of retribution and irrespective of seniority, rank or status. For employees there may be other routes which should be used prior to making a report under this framework unless you feel that by raising a concern openly through the normal process would lead to harassment and victimisation.

## **2 SCOPE OF THE POLICY**

- 2.1 This policy is about creating an environment which:

- provides avenues for individuals to raise concerns and receive feedback on any action taken;
- acknowledges that individuals can take the matter further if dissatisfied with the Council's response; and
- reassures individuals that they will be protected from reprisals or victimisation.

- 2.2 Individuals are encouraged to report any serious concerns relating to an activity of the Council or the conduct of any employee or Member under this policy. Typical concerns include the following:

- conduct which is an offence or a breach of the law;
- a criminal offence has been, is being, or is likely to be committed;
- suspected or actual fraudulent or corrupt activity;
- harassment or bullying of employees or clients or the public;
- health and safety risks to employees, contractors or the public;
- damage to the environment;
- showing undue favour over a contractual or employment matter;
- a breach of the scheme of delegations, contract procedure rules or financial regulations;
- safeguarding issues relating to children and vulnerable adults; and
- a breach of the employees' or members' code of conduct.

This list is not exhaustive; the policy applies to any unethical or improper conduct.

- 2.3 This policy is **NOT** about employees lodging grievances about their employment or the public complaining about the level or quality of service that they have received. There are other policies and procedures in place to cover these situations.

- Dignity at Work Policy;
- Grievance Policy; and
- Customer Feedback and Complaints Policy.

### **3 SAFEGUARDS – SUPPORT FOR THOSE RAISING CONCERNS**

#### Council Responsibility

- 3.1 The Council recognises that the decision to report a concern is often a difficult one to make not least because of the fear of reprisal from those responsible for the malpractice. However, where there are genuine concerns the reporter has nothing to fear as they are fulfilling a duty to the Council and to those for whom it provides services.
- 3.2 Where a concern is raised the Council will be as supportive as possible. Harassment and victimisation (including informal pressure) will not be tolerated. If as a result of raising a concern in the public interest the reporter experiences any pressure, the Council will take action to protect them. Any employee or Member who is found to be victimising anyone who has raised a concern may face action under the disciplinary or Standards procedures.
- 3.3 All employees are entitled to protection under the Public Interest Disclosure Act which includes protection from harassment and victimisation due to raising a justified concern (one in the public interest). However, this does not mean that if an employee is already the subject of disciplinary or redundancy procedures, that this will be halted as a result of the employee making an allegation.
- 3.4 Where an allegation raised under this process leads to an investigation, this will be carried out in accordance with the relevant policies and legislation including the Regulation of Investigatory Powers Act, the Data Protection Act and also will act in accordance with the Human Rights Act, the Council's Anti-Fraud and Bribery Framework, the Standards Investigation Procedures for Members and the Disciplinary Policy for employees.
- 3.5 The Council will take all possible steps to maintain the confidentiality of the person making the allegation throughout the process where they have expressed a preference for their name not to be disclosed. However, it is recognised that this may not always be possible. In the event that the investigation requires confidentiality to be broken then the person will be informed in advance.
- 3.6 The Council will take steps to minimise any difficulties that the person making an allegation experiences as a result of raising a concern. For example, where the person is required to give evidence at a criminal or disciplinary proceeding then the Council will arrange for them to receive advice and support about the process that they will have to go through.
- 3.7 Any unwarranted breach of confidentiality by someone involved in the investigation of an allegation may be considered for disciplinary action. This could be where someone who is either being investigated or interviewed as part of the investigation becomes aware of the identity of the person who made the allegation and deliberately identifies them to others.

### Anonymous Allegations

- 3.8 Generally, people are not encouraged to make allegations anonymously. This is because:
- being anonymous doesn't stop others from successfully guessing who raised the concern;
  - it is harder to investigate the concern if people cannot ask follow-up questions or seek clarification;
  - it is easier to protect employees/workers under the Public Interest Disclosure Act if concerns are raised openly; and
  - it can lead people to focus on the whistleblower, maybe suspecting that they might be raising the concern maliciously.
- 3.9 All allegations will be reviewed by the Council's Internal Audit Section and/or Human Resources Section in consultation with the Monitoring Officer, s151 Officer or Designated Officer for Safeguarding referrals where relevant. Where there is sufficient evidence to substantiate the allegation, it will be followed-up. However, it should be noted that anonymous allegations can be more difficult to action effectively.
- 3.10 Where an anonymous allegation is received the Council will take the following factors into account to determine the scope and depth of any investigation:
- the seriousness of the issues raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from the information provided and other sources in the face of a denial by the accused.

### Unproved/Untrue Allegations

- 3.11 If a genuine allegation is made but is not confirmed through investigation, no action will be taken against the reporter and the matter will be considered to be closed. However, if there is evidence that an allegation is malicious, vexatious or was made for personal gain then disciplinary action may be taken against the person making the allegation.

## **4 HOW TO RAISE A CONCERN**

- 4.1 The Council will consider concerns raised verbally or in writing provided that adequate information is provided. However, concerns are best advised in writing setting out the following:
- background and history to the concern;
  - names, dates and places (where possible); and
  - the reason you are particularly concerned about the situation.

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Although you are not expected to prove the truth of the allegation, you will need to demonstrate to the person you contact that there are sufficient grounds for your concern.

- 4.2 If you would prefer to discuss the issues directly with someone prior to putting them in writing then you can telephone or arrange to meet an appropriate officer from Internal Audit or Human Resources for further advice and guidance.
- 4.3 The earlier a concern is expressed the easier it will be for the Council to take action.

### Employees

- 4.4 Employees are encouraged to raise concerns that they may have with their immediate line-manager or their Head of Service through the day-to-day reporting processes. Where other policies are available to employees (such as grievance or Dignity at Work) these routes should be pursued. However it is recognised that the seriousness, sensitivity or the circumstances of the allegation may make it unwise to approach their line-manager; for example where the line-manager is believed to be involved. If an employee feels that they cannot raise the issue with their line-manager, they should contact one of the people listed at 4.11 below.
- 4.5 A concern should only be raised under this policy if the employee considers that, in their opinion, they have not had a satisfactory response from their line-manager or if circumstances make it unwise for the person to approach their line-manager. In addition, employees need to show they are raising the concern in the "Public Interest" in order to have the statutory protection offered by the Public Interest Disclosure Act.
- 4.6 It may be relevant for employees to discuss the matter with colleagues if they believe similar concerns are held as it may be easier for the matter to be raised where two or more individuals share the same concerns. However, once a concern has been raised under this Speaking Up Framework you should be mindful that any further discussions with other parties may affect the ability of the Council to maintain your confidentiality.
- 4.7 Employees can also approach their trade union to raise the concern on their behalf; this would normally be done through existing consultation routes. However, where relevant the Union can raise the concern directly with one of the named officers below.
- 4.8 Employees have the right to invite a trade union representative or workplace colleague to be present at any interviews or meetings held in relation to the concerns that they have raised.

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### Members of the Public, Contractors, Suppliers

- 4.9 Members of the public, contractors and suppliers to the Council can contact one of the designated officers set out in 4.11 directly if they have any concerns.

### Members

- 4.10 Members should address any concerns that they have to the Chief Executive, s151 Officer or Monitoring Officer (Head of Law & Governance). However, if they believe one of these people may be implicated then they can contact the Chief Internal Auditor or Head of Business Support & Assurance directly.

### Who to contact

- 4.11 The following people are the key contacts under this Speaking Up Framework and should be contacted if you wish to raise any concerns or for advice under this policy. They will be able to refer the matter to other employees for investigation if relevant:

- **Chief Internal Auditor – 01543 464415**
- **Head of Business Support and Assurance– 01543 464411**

- 4.12 Alternatively employees and Members may choose to approach one of the following directly for specific concerns:

- **Monitoring Officer (Head of Law & Governance) – 01785 619220**
- **Human Resources Manager - CCDC 01543 464426;**
- **Health & Safety Officer – CCDC 01543 464227; SBC 01785 619404**
- **s151 Officer – 01543 464334**

- 4.13 In certain circumstances employees may wish to contact an appropriate external body – e.g. Trade Union to raise the concern under this policy on their behalf. (See also section 6)

- 4.14 For Housing Benefit Fraud Allegations the National Benefit Fraud Hotline should be contacted on 0800 854 440.

- 4.15 For Council Tax fraud you can leave a message on the Authority's Fraud Hotline on 01785 619447 (this is a 24 hour answering machine), or to speak to someone directly, call 01785 619443.

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- 4.16 Issues relating to the Safeguarding of Children and Vulnerable Adults can be raised directly with Staffordshire Safeguarding Children's Board via the County Council:

To report a child safeguarding concern, please follow <https://www.staffordshire.gov.uk/Care-for-children-and-families/Childprotection/First-Response.aspx#Reportaconcern>

Alternatively, call 0300 111 8007 and select option 1 between Monday to Thursday 08:30 to 17:00 and Friday 08:30 to 16:30. Outside of these hours or on weekends and bank holidays, please contact the Emergency Duty Team by phoning 0345 604 2886.

To report an adult safeguarding concern, please follow <https://www.staffordshire.gov.uk/Advice-support-and-care-for-adults/reportabuse.aspx>

Alternatively, call 0345 604 2719 between Monday to Friday 09:00 to 17:00. Outside of the hours above, or on weekends and bank holidays, please contact the Emergency Duty Team by phoning 0345 604 2886.

If a child or vulnerable adult is in immediate danger, you must always call 999.

- 4.17 Employees can raise safeguarding concern to the Council's Designated Officer for Safeguarding – Head of Wellbeing 01543 464210 or 01785 619309

## **5 INVESTIGATING A CONCERN**

- 5.1 An initial review will take place by the Council's Internal Audit Section and/or Human Resources Section in consultation with the relevant Head of Service/Service Manager, s151 Officer, Monitoring Officer, or Designated Officer for Safeguarding (where they are not implicated in the allegation) to establish the facts of the allegation.
- 5.2 Where the concern raised is a Housing Benefit related matter then this will be referred to and be investigated by the DWP. Where the concern relates to Council Tax Reduction or Tenancy matters this will be investigated by the relevant internal service team. Where matters relate to safeguarding children and vulnerable adults the matter will be referred to the relevant agencies.
- 5.3 This initial review will determine whether the concerns are more appropriate to be addressed under one of the Council's other policies/procedures, such as Customer Feedback & Complaints or Grievance Policy. Where allegations fall under the scope of a specific policy/procedure they will normally be referred for consideration under those procedures by the Reviewing Officer after consultation with the person making the complaint.
- 5.4 The Reviewing Officer will determine the most appropriate action; this will depend on the nature of the concern but could include any of the following:

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- an internal investigation (for example a disciplinary investigation or an investigation under the Anti-fraud and Bribery Framework's fraud response plan);
  - referral to the Police
  - referral to Safeguarding agencies;
  - referral to the National Crime Agency (for potential money laundering allegations);
  - referral to the Council's External Auditor;
  - referral to the Health & Safety Executive or other regulatory body
  - referral to the Standards Committee.
- 5.5 The amount of contact between the person raising a concern and the Reviewing Officer will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the person who raised the concern in a discrete manner.
- 5.6 With the exception of anonymous allegations, the Reviewing Officer will write to the person raising the issue within 10 working days of a concern being received to:
- acknowledge that the concern has been received;
  - indicate how it is proposed to deal with the matter (e.g. referral under another policy, investigation etc);
  - inform whether further investigations will take place, and if not, why not.
- 5.7 It will often only be possible for the Reviewing Officer to offer an estimated timescale for any investigation as it may not be clear how much information will need to be reviewed to enable a full investigation to be concluded. However, wherever possible (and subject to constraints relating to confidentiality etc) the Reviewing Officer will keep the person who raised the concern informed of further progress at regular intervals throughout the course of any investigation.
- 5.8 The Council accepts that individuals who raise concerns under this process will want to be assured that the matter has been properly addressed. Therefore, the Council will provide the person raising a concern with information relating to the outcome of any investigations. However, the information provided may be limited due to confidentiality and data protection issues.
- 5.9 A full report of any findings will be provided at the conclusion of the investigation in accordance with the relevant policy. This will be to the relevant member(s) of Leadership Team unless they have been implicated in the allegation. In the event that the Chief Executive is implicated, the Leader of the Council will receive the report.

- 5.10 Where allegations implicate Members, the Monitoring Officer will be informed throughout the process and if necessary the matter will be referred to the Standards Committee for their consideration and possible investigation of a breach of the Member's Code of Conduct.
- 5.11 Summaries of investigations and lessons learnt may also be reported to Leadership Team and the Audit & Governance Committee where internal process failures have been discovered as part of the investigation.

## **6 TAKING THE MATTER FURTHER**

- 6.1 This framework aims to provide employees and others with an avenue to raise concerns within the Council. It hopes that everyone who chooses to raise a concern under this process will be satisfied with the response to their concerns. However, if the individual is not satisfied with the outcome of the investigation they can make a complaint to the Council's Monitoring Officer.
- 6.2 Individuals may choose to seek advice in relation to the matter from outside the Council; the following are possible contact points:
- External Auditors;
  - relevant professional bodies/regulatory organisations;
  - the Local Government Ombudsman;
  - your Solicitor;
  - the Police;
  - Public Concern at Work;
  - Trade Unions;
  - Professional Associations.

## **7 TRAINING & INFORMATION**

- 7.1 The Council acknowledges the importance of ensuring that Members and employees are fully aware of their personal responsibilities
- 7.2 The Council will ensure periodic awareness reminders are issued to staff.
- 7.3 There are a number of key documents which set out those responsibilities and these include:
- Codes of Conduct for Members
  - Code of Conduct for Employees
  - Financial Regulations and Procurement Regulations
  - Anti-Fraud & Bribery Framework
  - Anti-Money Laundering Framework
  - The Constitution
  - Relevant Professional Ethical Codes or frameworks
  - Safeguarding Children and Vulnerable Adults Policy.

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- 7.4 All employees will be made aware of their responsibilities under this framework by their line managers as well as ensuring that they are aware of the relevant reporting procedures.
- 7.5 The Council recognises that the continuing success of this strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees throughout the organisation. Awareness training will be made available to managers and key employees.
- 7.6 The Council will also ensure that all contractors/suppliers are aware of the existence of this framework and their responsibilities under it as part of the tendering process.
- 7.7 This framework will also be made available to contractors and the public by publishing it on the Council's website.

### **8 MONITORING & REVIEW**

- 8.1 The Head of Business Support & Assurance will maintain a continuous overview of the operation of this Speaking Up Framework to ensure it is consistently applied and will report, as necessary, to the Council via the Audit & Governance Committee on the effectiveness of the framework.
- 8.2 This framework will be reviewed and updated periodically to follow best practice and other changes.
- 8.3 Monitoring on the application of the framework, including allegations not proven or false allegations will be carried out. This will include monitoring of equality and diversity issues in relation to the person who has an allegation made against them and in relation to the ultimate outcome of any investigations. Information that may be recorded includes age, gender, race, disability, etc. However, it may not be possible to obtain all information for all cases.
- 8.4 This information will be used to monitor trends and to ensure that the framework is applied equally to all and in particular that decisions to investigate or take other action are consistently applied.

### **9 RESPONSIBLE OFFICERS**

- 9.1 The Head of Business Support & Assurance has overall responsibility for the maintenance and operation of this policy.
- 9.2 The Chief Internal Auditor, Head of Business Support & Assurance, Head of Human Resources, s151 Officer and Monitoring Officer can be contacted to discuss any aspect of this policy in more detail or to offer advice and guidance.

### **10 ASSOCIATED POLICIES**

- 10.1 Other associated Council Policies:-
- Anti-fraud & Bribery Framework
  - Disciplinary Policy
  - Anti-Money Laundering Framework
  - Members & Employees Codes of Conduct
  - Regulation of Investigatory Powers Policy
  - Employee Grievance Policy
  - Customer Feedback & Complaints Policy
  - Dignity at Work Policy
  - Safeguarding Children & Vulnerable Adults Policy