

# HARTLEPOOL BOROUGH COUNCIL



## "WHISTLE BLOWING" PROCEDURE

### 1. Introduction/Underlying Principles

Hartlepool Borough Council is committed to ensuring that all its activities are lawful and that the highest possible standards are observed. A number of rules, regulations and procedures exist which are intended to promote high standards and to investigate and rectify any shortcomings.

Employees are often the first to realise when something is wrong within a Council but may not always voice their concerns. This might be because they fear reprisals or harassment or because they think speaking up is disloyal to colleagues.

This procedure provides a way in which concerns about malpractice or wrongdoing may be raised and investigated when other procedures are not sufficient or are inappropriate. It is intended to encourage employees to raise serious concerns and to protect them from any form of reprisal.

### 2. Existing Procedures

The grievance procedure exists for employees to raise complaints about their employment. Copies of this are available in all departments and from the Personnel division. The Employee Support Policy provides a special procedure for those wishing to make a complaint about harassment, victimisation or discrimination. Copies of this are available in all departments or can be obtained from the Employee Support Officer. This procedure does not replace complaints procedure..

#### 2.1 Members of the Public

Members of the public are encouraged to raise any matter of concern with their local Councillor, with the Director of the appropriate department, or with the Chairperson of the appropriate Committee.

### 3. What is Malpractice or Wrongdoing?

Employees are encouraged, and expected, to report malpractice or wrongdoing and could in certain circumstances be subject to disciplinary action if they know of this and do not report it. Malpractice or wrongdoing might include any of the following. This is not a comprehensive list but gives examples of the sorts of things which could be raised, under the procedures listed in section 2, where appropriate, or under this procedure:-

- a) Unlawful acts or omissions, acts which are criminal or in breach of civil law or statutory duty.
- b) failure to comply with appropriate professional or other established standards;

- c) corruption or fraud;
- d) actions which are likely to cause physical danger to any person;
- e) failure to take reasonable steps to report and rectify any situation which is likely to cause a significant avoidable cost, or loss of income, to the Council or would otherwise seriously prejudice the Council;
- f) failure to draw relevant matters to the attention of Councillors or superior officers, or failure to comment appropriately on matters within an employee's responsibilities which might significantly affect an action or decision of, or on behalf of, the Council.
- g) abuse of power, or the use of the Council's powers and authority for any unauthorised or ulterior purpose;
- h) unfair discrimination in the Council's employment or services;
- i) other unethical conduct

#### **4. How do I Raise a Concern?**

If an employee has a concern then he/she should raise it with someone as soon as possible. If there are reasons why he/she cannot raise it with his/her manager, or through the procedures listed in section 2, then the following procedure should be followed.

##### **4.1** Raise the matter with

- The Council's Monitoring Officer  
Mr J A Brown - Chief Solicitor

##### **4.2** Letters to the Chief Solicitor will not be opened by anyone else if marked Personal & Confidential. The Chief Solicitor can be contacted on tel: 266522 ext. 3003.

##### **4.3** Whilst concerns may be raised verbally it is helpful to have details in writing.

##### **4.4** When a matter is raised with the Chief Solicitor he/she will arrange for one of the following to take place:-

- his/her own investigations (procedure at Appendix I)
- investigation by another officer or Internal Audit as appropriate
- referral to the Police
- referral to the external Auditor
- referral for independent enquiry
- referral for consideration under another procedure (disciplinary, grievance, etc)
- no action
- exercise of his/her power as Monitoring Officer

- 4.5** The decision will be based upon the information provided, and an interview with the employee raising the concern (off site if necessary) if appropriate. In respect of a written report, or a verbal report which the Chief Solicitor has agreed to accept, the Chief Solicitor will advise the employee in writing within 10 days of what is to happen giving an estimate of the time any investigation is expected to take. The Chief Solicitor will report as necessary to Council Members.

Some concerns may be resolved by agreed action without any need for investigation.

If urgent action is required this will be taken before any investigation is conducted.

## **5. Support and Safeguards**

It can be difficult for employees to raise concerns and Hartlepool Borough Council aims to support those who do so and to take steps to ensure that they are not victimised or harassed. The Chief Solicitor may take appropriate action to protect those raising concerns in good faith. An employee who raises concerns in good faith will not be penalised by the Council, eg. in relation to general treatment or to any job or promotion application, or any request for a reference.

This procedure does not override or affect an employee's rights to protection under the provisions of the Employment Rights Act 1996 inserted by the Public Interest Disclosure Act 1998. The Act protects employees against detriment as a result of making a "protected disclosure" and specifies a range of matters, which may be the subject of a protected disclosure. Some of the malpractice referred to in this procedure, e.g. commission of a criminal offence, would also be the subject of the statutory protection afforded by the Act; others, e.g. the provision of misinformation to the Council or causing financial loss to the Council, would not be subject to statutory protection. The Council believes that its employees are entitled to the additional protection afforded by the procedure.

### **5.1 Victimisation**

Disciplinary action will be taken against anyone victimising or harassing an employee because he/she has raised concerns.

### **5.2 Anonymous Allegations**

Anonymous allegations are necessarily difficult to investigate and, for that reason, cannot always be given the same consideration as attributed allegations. In considering whether any action is to be taken the seriousness and credibility of the allegations will be taken into account as will the feasibility of investigating them and the reason(s) for anonymity being requested.

### **5.3 Confidentiality**

It is much easier to investigate concerns when those raising them are willing for their names to be disclosed if necessary in the investigation. However if employees specifically ask for their names not to be disclosed then this will be respected subject only to any requirement to disclose having the force of law. This may, in some situations impede the investigation. If the only evidence of wrongdoing or malpractice is that of the complainant as an eyewitness of the complainant then he/she will usually need to be prepared to make a statement.

## **6. Links to Other Procedures**

### **6.1 Disciplinary Action**

Employees who are subject to disciplinary action and who raise concerns under this procedure should note that the disciplinary action will not necessarily be halted or delayed as a result. However in some circumstances this may be appropriate or necessary.

### **6.2 Unproven Allegations**

If an employee makes an allegation in good faith and this is not confirmed in the investigation no action will be taken against him/her. The Council will also try to minimise any negative effects of an allegation being investigated and not confirmed.

### **6.3 Deliberately False Allegations**

The Council will take disciplinary action against any employee deliberately making allegations they know to be false or unfounded, whether frivolously or maliciously. Action will also be taken against any employee inventing or otherwise falsifying facts in order to make a complaint.

### **6.4 Other Procedures**

If a matter is raised under the Whistle-Blowing procedure which could more appropriately be dealt with under another procedure the Chief Solicitor will consult the appropriate senior officer who would operate the other procedure and, if this is agreed, refer the matter on, advising the complainant accordingly.

## **7. Taking Concerns/Complaints Further**

**7.1** If employees are not able to have their concerns addressed satisfactorily through this or the Council procedures then they may need to consider taking matters outside the authority and consulting one of the following :-

- the District Auditor
- the relevant professional bodies or regulatory organisations
- the Police
- the Local Government Ombudsman
- Public Concern at Work

*Social Services employees are encouraged to refer matters of concern to the National Care Standards Commission since such referral is encouraged nationally.*

**7.2** The Chief Personnel & Information Systems Officer, the Employee Support Officer or the Monitoring Officer can give advice on raising concerns externally, as can the trades unions and professional associations.

**7.3** Employees who raise concerns outside the Council should ensure that confidential information is not disclosed inappropriately. The Chief Solicitor or Chief Personnel & Information Systems Officer can advise on this.

**7.4** The Public Interest Disclosure Act 1998 also provides for protection under the Act to be extended to disclosure to a 'prescribed person' identified by the Secretary of State in regulations made under the Act. For matters relating to the proper conduct of public

business, value for money, fraud and corruption in local government bodies, the 'prescribed person' is the Audit Commission for England and Wales and auditors (such as the District Auditor) appointed to audit local authorities' accounts.

**8. Records of Complaints**

The Chief Solicitor who is the Monitoring Officer will be responsible for maintaining records of concern raised and of outcomes. Records will be kept in a form, which does not compromise confidentiality.

**9. Trades Unions**

This procedure has been agreed with the Hartlepool Joint Trade Union Committee and Trades Union representatives may give advice on the use of this or other procedures to raise concerns. Employees raising concerns may invite their Trades Union representative, or a colleague, to be present during any meetings or interviews.