

WHISTLEBLOWING POLICY

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~~Approved by Audit & Governance Committee~~

Document Location

This document is held by Tamworth Borough Council, and the document owner is ~~Jane Hackett~~ Angela Struthers, Solicitor to the Council Head of Audit & Governance & Monitoring Officer.

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Revision History

Revision Date	Version Control	Summary of changes
01/03/12	1.01.01	Scheduled review
29/07/13	1.01.02	Changes under the Enterprise and Regulatory Reform Act 2013
03/08/15	1.01.03	Scheduled review plus changes under The Public Interest Disclosure (Prescribed Persons) Order 2014 .
23/08/17	1.01.04	Scheduled review
04/07/18	1.01.05	Minor Changes (job titles)
<u>26/09/2018</u>	<u>1.01.06</u>	<u>Scheduled review</u>

Approvals

Name	Title	Approved
Audit & Governance Committee	Committee Approval	Yes
CMT	Group Approval	Yes
TULG	Trade Union Consultation	Yes
Angela Struthers	Monitoring Officer <u>Head of Audit & Governance</u>	Yes

Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

Distribution

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TAMWORTH BOROUGH COUNCIL

WHISTLEBLOWING POLICY

1. Policy Statement

- 1.1 Tamworth Borough Council believes it is important to encourage a climate of openness and dialogue within the Council, where the free expression by staff of their concerns is welcomed by managers as a contribution towards improving services.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it expects employees, and others that it deals with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.4 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. *This Whistleblowing Policy is intended to encourage and enable anyone to raise concerns in the public interest, in good faith within the Council rather than overlooking a problem or 'blowing the whistle' outside.*

Chief Executive

Leader of the Council

2. Introduction

- 2.1 The Public Interest Disclosure Act 1998 became law in July, 1999. This Act, introduced the protection of whistleblowers and removes the limits of financial liability to which an organisation is exposed should a whistleblower receive unfair treatment. This policy document sets out the Council's response to the requirements of the Act.
- 2.2 Under the Enterprise and Regulatory Reform Act 2013, any disclosure made using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest. It must also show one or more of the following:
- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
 - (d) that the health or safety of any individual has been, is being or is likely to be endangered,
 - (e) that the environment has been, is being or is likely to be damaged, or
 - (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- 2.3 This policy is designed for workers. Workers include:
- employees;
 - agency workers;
 - people that are training with an employer but not employed; and
 - self-employed workers, if supervised or working off-site.
- 2.4 Local Government employees have an individual and collective responsibility regarding their conduct and practices, which are always subject to scrutiny. As individuals, employees are required to work within the Code of Conduct for Tamworth Borough Council Employees and the

relevant codes of conduct including the standards appropriate to their professional organisations or associations. The Council's regulatory framework also includes Financial Regulations and Contract Standing Orders that must be met.

- 2.5 All employees have a duty to bring to the attention of management any deficiency in the provision of service and any impropriety or breach of procedure, in accordance with Financial Regulations.
- 2.6 These procedures are in addition to the Council's complaints procedures including the Grievance Procedure and the Dignity and Respect at Work Policy, and other statutory reporting procedures applying to some Services.
- 2.7 This policy has been discussed with the relevant trade unions and professional organisations and has their support.

3 Aims and Scope of this Policy

- 3.1 This policy aims to:
- encourage you to feel confident in raising concerns that are in the public interest
 - provide avenues for you to raise those concerns and receive feedback on any action taken
 - ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
 - reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
- 3.2 There are existing procedures in place to enable you to disclose particular concerns. These are:
- The Authority's Grievance Procedure which enables you to lodge a grievance relating to your own employment;
 - The Authority's Counter Fraud and Corruption Policy Statement, Strategy & Guidance Notes, which outlines how you can disclose potential fraud, bribery, corruption and theft;
 - The Authority's Dignity and Respect at Work Policy, which enables you to disclose cases of potential harassment and bullying;
 - The Authority's Children & Adults at Risk of Abuse and Neglect Policy (which has its own Whistleblowing Policy in place), for disclosures regarding suspected mistreatment of children and adults at risk of abuse and neglect.

3.3 This policy does **not** replace the corporate complaints procedure or other existing policies for raising issues regarding your employment.

4 **Safeguards**

4.1 The Council is committed to good practice and high standards and shall be supportive of employees.

4.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is within reasonable belief, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

4.3 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith. It is a disciplinary matter to victimise a bone fide whistleblower.

5 **Confidentiality**

5.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness, but this will be discussed with you, as to whether and how the matter can be proceeded with .

6 **Anonymous Allegations**

6.1 This policy encourages you to put your name to your allegation whenever possible.

6.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

6.3 In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

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7 **Untrue Allegations**

7.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make

an allegation frivolously, maliciously or for personal gain, disciplinary action will be taken against you.

8 How to Raise a Concern

8.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Executive Director – Organisation, Executive Director -Finance, or Head of Audit & Governance & Monitoring Officer. Where you feel unable to raise the concerns internally due to the nature of the disclosure you should contact the External Auditor who will then ensure that the disclosure is properly investigated.

8.2 To raise a concern in respect of Benefits Fraud, you can contact the National Benefit Fraud Hotline - telephone number 0800 854 440 or text phone number 0800 320 0512 or online www.gov.uk/report-benefit-fraud or write to them at NBFH, PO Box No. 224, Preston, PR1 1GP.

9 External contacts

9.1 While it is hoped that this policy gives you the reassurance you need to raise such matters internally, it is recognised that there may be circumstances where you can properly report matters to outside bodies, such as prescribed regulators, some of which are outlined at 9.7. If a worker chooses to go to the media, they can expect in most cases to lose their whistleblowing law rights. It is only in exceptional circumstances that a worker can go to the media without losing their rights. The Public Interest Disclosure Act 1998 gives more detail on this.

9.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

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9.3 The earlier you express the concern the easier it is to take action and you will need to be able to demonstrate to the person contacted that there are reasonable grounds for your concern.

9.4 Contact points for advice/guidance on how to pursue matters of concern can be obtained from:

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- Chief Executive – 709453
- Executive Director – Organisation 709225
- [Executive Director -Finance – 709242](#)
- [Executive Director – Communities 709447](#)
- Head of Audit & Governance& Monitoring Officer – 709234

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- 9.5 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 9.6 You may invite your trade union or professional association representative or a member of staff to be present during any meetings or interviews in connection with the concerns you have raised.
- 9.7 Examples of relevant Prescribed Regulators are as follows:

Proper conduct of public business, value for money fraud and corruption relating to provision of public services	Comptroller and Auditor General
Serious or complex fraud	Director of the Serious Fraud Office
Environmental issues	Environment Agency
Accounting, auditing and actuarial issues	Financial Reporting Council Limited
Health & Safety issues	Health & Safety Executive
Social Housing	Homes & Communities Agency
Data Protection & Freedom of Information	Information Commissioner
Corruption & Bribery	National Crime Agency
Child Welfare & Protection	Children's Commissioner NSPCC

The full list of prescribed regulators can be found in [The Public Interest Disclosure \(Prescribed Persons\) Order 2014](#).

10 How the Council Will Respond

10.1 The Council will always respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

10.2 Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry.

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

10.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

10.5 Within ten working days of a concern being raised, the [Head of Audit & Governance](#) & Monitoring Officer will write to you:

- acknowledging that the concern has been received
- indicating how the Council propose to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made
- supplying you with information on how the Council will support you if you think this is necessary, whilst the matter is under consideration, and
- telling you whether further investigations will take place and if not, why not.

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10.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matter raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

- 10.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a trade union officer or professional association representative or a member of staff.
- 10.8 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

11 The Responsible Officer

- 11.1 The Head of Audit & Governance & Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

12 How the Matter can be Taken Further

- 12.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned at paragraph 9.7. While it cannot be guaranteed that all matters will be addressed in the way that you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this
- 12.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.



Part 1 – Details

<u>What Policy/ Procedure/ Strategy/Project/Service is being assessed?</u>	<u>Whistleblowing Policy</u>
<u>Date Conducted</u>	<u>15/10/2018</u>
<u>Name of Lead Officer and Service Area</u>	<u>Angela Struthers Audit & Governance</u>
<u>Commissioning Team (if applicable)</u>	<u>N/A</u>
<u>Director Responsible for project/service area</u>	<u>Andrew Barratt</u>
<u>Who are the main stakeholders</u>	<u>Employees, Citizens</u>
<u>Describe what consultation has been undertaken. Who was involved and what was the outcome</u>	<u>CMT – review of existing policy</u>
<u>Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc).</u>	<u>N/A</u>

<u>What are you assessing?</u> <u>Indicate with an 'x'</u> <u>which applies</u>	<u>A decision to review or</u> <u>change a service</u>	
	<u>A</u> <u>Strategy/Policy/Procedure</u>	<u>X</u>
	<u>A function, service or</u> <u>project</u>	
<u>What kind of</u> <u>assessment is it?</u> <u>Indicate with an 'x'</u> <u>which applies</u>	<u>New</u>	
	<u>Existing</u>	<u>X</u>
	<u>Being reviewed</u>	
	<u>Being reviewed as a result</u> <u>of budget constraints / End</u> <u>of Contract</u>	

Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

Review of existing policy in line with good practice

Who will be affected and how?

Employees, citizens – updated policy

Are there any other functions, policies or services linked to this impact assessment?

Yes X No

If you answered 'Yes', please indicate what they are?

Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes

Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

<u>Impact Area</u>	<u>Yes</u>	<u>No</u>	<u>Reason (provide brief explanation)</u>
<u>Age</u>		<u>X</u>	
<u>Disability</u>		<u>X</u>	
<u>Gender Reassignment</u>		<u>X</u>	
<u>Marriage & Civil Partnership</u>		<u>X</u>	
<u>Pregnancy & Maternity</u>		<u>X</u>	
<u>Race</u>		<u>X</u>	
<u>Religion or belief</u>		<u>X</u>	
<u>Sexual orientation</u>		<u>X</u>	
<u>Sex</u>		<u>X</u>	
<u>Gypsy/Travelling Community</u>		<u>X</u>	
<u>Those with Caring/Dependent responsibilities</u>		<u>X</u>	
<u>Those having an offending past</u>		<u>X</u>	
<u>Children</u>		<u>X</u>	
<u>Vulnerable Adults</u>		<u>X</u>	
<u>Families</u>		<u>X</u>	
<u>Those who are homeless</u>		<u>X</u>	
<u>Those on low income</u>		<u>X</u>	
<u>Those with Drug or Alcohol problems</u>		<u>X</u>	
<u>Those with Mental Health issues</u>		<u>X</u>	
<u>Those with Physical Health issues</u>		<u>X</u>	
<u>Other (Please Detail)</u>		<u>X</u>	

Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

<u>Impact Area</u>	<u>Details of the Impact</u>	<u>Action to reduce risk</u>

Part 5 - Action Plan and Review

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

<u>Impact (positive or negative) identified</u>	<u>Action</u>	<u>Person(s) responsible</u>	<u>Target date</u>	<u>Required outcome</u>
	<u>Outcomes and Actions entered onto Covalent</u>			

Date of Review (If applicable)

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