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WHISTLEBLOWING POLICY

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This document is held by Tamworth Borough Council, and the document owner is Jane Hackett, Solicitor to the Council & Monitoring Officer.

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Revision History

Revision Date	Version Control	Summary of changes
01/03/12	1.01.01	Scheduled review
<u>29/07/13</u>	<u>1.01.02</u>	<u>Changes under the Enterprise and Regulatory Reform Act 2013</u>

Approvals

Name	Title	Approved
Full Council	Committee Approval <u>11/9/12</u>	<u>Yes</u>
Audit & Governance Committee	Committee Approval	<u>Yes</u>
CMT	Group Approval	<u>Yes</u>
TULG	Trade Union Consultation	<u>Yes</u>
Jane Hackett	Solicitor to the Council & Monitoring Officer	<u>Yes</u> <u>Yes</u>
Angela Struthers	Head of Internal Audit Services	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.

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Distribution

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TAMWORTH BOROUGH COUNCIL

WHISTLEBLOWING POLICY

1. Introduction

1.1 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.

1.2 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,

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(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.

1.2 This policy is designed for workers. Workers include:

~~-employees;~~

~~however, the Council's partners or members of the public can~~

~~also~~ agency workers;

people that are training with an employer but not employed; and self-employed workers, if supervised or working off-site.

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~~raise concerns in the knowledge that they are protected under the safeguards of this policy.~~

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- 1.3 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.
- 1.4 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. ~~“t cases.”~~
- 1.5 ~~Employees, members of the council, or contractors~~ 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.
- 1.6 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.
- 1.7 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 ~~serious~~ concerns in the public interest, in good faith within the Council rather than overlooking a problem or 'blowing the whistle' outside.*

~~1.8~~ The policy applies to:

~~all employees of the Council, members of the Council, contractors working for the Council on Council Premises (eg agency staff), suppliers and those providing services under a contract with the council, people working in partnership with the council and its employees and members (eg volunteers,~~

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trustees etc)

4.91.8 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. ~~You are responsible for making service users aware of the existence of these procedures.~~

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4.101.9 This policy has been discussed with the relevant trade unions and professional organisations and has their support.

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2. Aims and Scope of this Policy

2.1 This policy aims to:

- encourage you to feel confident in raising ~~serious~~ concerns that are in the public interest ~~and to question and act upon concerns about practice~~
- 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.

2.2 There are existing procedures in place to enable you to disclose ~~certain~~ 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 & Vulnerable Adult Protection Policy (which has its own Whistleblowing Policy in place), for disclosures regarding suspected mistreatment of children and vulnerable adults.

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2.3 This policy is intended to cover major concerns that may fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriage of justice
- health and safety risks, (including risks to the public as well as other employees)
- damage to the environment
- the unauthorised use of public funds
- sexual or physical abuse of both employees and clients other than that covered under the Children & Vulnerable Adult Protection Policy, or
- other unethical conduct.

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2.4 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be something that:

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2.4

- makes you feel uncomfortable in terms of known standards, your experience of the standards you believe the Council subscribes to, or
- is against the Council's Standing Orders and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

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

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3 Safeguards

3.1 Harassment or Victimisation

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

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3.33.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is **true 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.

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3.43.3 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.

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~~3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.~~

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4. Confidentiality

4.1 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 .

5. Anonymous Allegations

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

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

5.3 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.

6. Untrue Allegations

6.1 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 may be taken against you.

7. How to Raise a Concern

7.1 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 Corporate Services, Solicitor to the Council or Head of Internal Audit Services.

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Where you feel unable to raise the concerns internally due to the nature of the disclosure you should contact the Audit Commission on their Confidential Public Interest Disclosure phone line – [0845-052-26460303444 8330](tel:0845-052-26460303444-8330). The Commission will then ensure that the disclosure is properly investigated.

- 7.2 To raise a concern in respect of Benefits Fraud, you can contact the Benefits fraud section on 01827 709525/541. Alternatively you can call the National Benefit Fraud Hotline telephone number 0800 [328-6340854440](tel:328-6340854440) or text phone number 0800 328 [6344-0512](tel:6344-0512) or write to them at PO Box No. 647, Preston, PR1 1WA.

8 External contacts

- 8.1 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 below, or the police, or if applicable your own union, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

- 8.2 Relevant Prescribed Regulators are as follows:

Health and Safety risks	Health and Safety Executive
Environmental issues	The Environmental Agency
Fraud and Fiscal Irregularities	Serious Fraud Office, HM Revenues & Customs
Public Sector Finance	National Audit Office and Audit Commission
Competition & Consumer Law	Office of Fair Trading
Elected Member's conduct	Standards Committee for the authority Solicitor to the Council & Monitoring Officer (details available on the website)
Others	Certification Officer (Trade Unions), Charity Commission , Information Commissioner

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- 8.3 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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8.4 The earlier you express the concern the easier it is to take action.

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8.5 ~~Although you are not expected to prove beyond doubt the truth of an allegation and you,~~ you will need to be able to demonstrate to the person contacted that there are reasonable grounds for your concern.

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

- Chief Executive – 709220
- Executive Director Corporate Services – 709252
- Solicitor to the Council & Monitoring Officer – 709258
- Head of Internal Audit Services – 709234

8.7 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.

8.9 You may invite your trade union, ~~professional association representative~~ or professional association representative or a ~~friend~~member of staff to be present during any meetings or interviews in connection with the concerns you have raised.

9. How the Council Will Respond

9.1 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.

9.2 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.

9.3 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.

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9.4 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.

9.5 Within ten working days of a concern being raised, the Solicitor to the Council 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.

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

9.7 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 ~~friend~~ member of staff.

~~9.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.~~

~~9.9.8~~ 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.

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10. The Responsible Officer

10.1 The Solicitor to the Council & 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

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not endanger your confidentiality) and will report as necessary to the Council.

11. How the Matter can be Taken Further

- 11.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned earlier. 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
- 11.2 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.