Witham Town Council: Whistleblowing Policy

This policy should be read in conjunction with the Staff Handbook and Code of Conduct.

Policy Overview

Whistleblowing' is the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council.

Employees are often the first to realise that there may be something seriously wrong within the Council. 'Whistleblowing' is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency and long-term success.

This policy is designed to comply with the Public Interest Disclosure Act 1998 (PIDA) as amended (including by the Enterprise and Regulatory Reform Act 2013), and best practice guidance for UK local government.

Aims of the Policy

The Policy is designed to ensure that anyone can raise concerns about wrongdoing or malpractice within the Council without fear of victimisation, discrimination, disadvantage or dismissal.

It is also intended to encourage and enable the raising of serious concerns within the Council rather than ignoring a problem or trying to deal with it externally.

To qualify for protection, a disclosure must be made with a reasonable belief that it is in the public interest.

This Policy aims to-

- encourage confidence in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice
- provide avenues to raise concerns and receive feedback on any action taken
- ensure that a response is received to those concerns
- provide reassurance of protection from possible reprisals or victimisation if concerns have been raised and disclosures made in good faith and in the public interest.

The Whistleblowing Policy is not intended to replace existing procedures and where appropriate the existing grievance procedure should still be used.

Complaints of misconduct by Town Councillors are dealt with under a separate procedure, copies of which can be obtained from the Town Clerk.

Applicability

Whom Is the Policy Applicable to?

The Policy applies to-

- employees of Witham Town Council
- employees of contractors working for the Council
- voluntary workers within the Council

The policy also covers agency workers, former employees, and job applicants (where their concern relates to recruitment at the Council); volunteers are encouraged to use the Council's procedure, but UK law does not require the Council to protect volunteers under PIDA unless they have a contract.

What should be reported?
The following concerns about service provision or the conduct of officers should be reported if it is believed that they-

- do not comply with Witham Town Council standards
- are not in keeping with any council policies
- fall below established standards of practice
- involve improper behaviour.

These matters can relate to

- conduct which is an offence or a breach of the law (a criminal offence has been committed or failing to comply with any other legal obligation)
- racial, sexual, disability or other discrimination
- safeguarding of children or vulnerable adults
- health and safety of the public and/or other employees
- damage to the environment
- unauthorised use of public funds or other assets
- possible fraud and corruption
- other unethical conduct

This list is not exhaustive.

Protecting the Whistleblower
The Public Interest Disclosure Act 1998 protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in the public interest.
The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

If a case arises where the employee themselves has participated in the action causing concern it is in that employees interests to admit to such wrongdoing. The Council may still choose to act against such an employee, but the fact that they came forward may be used in mitigation.

Witham Town Council recognises that the decision to report a concern can be difficult.
The Council will not tolerate any harassment or victimisation of a whistleblower and will take appropriate action to protect anyone that raises a concern in good faith and will treat this as a serious disciplinary offence, which will be dealt with under the disciplinary procedure.

Throughout the process, Witham Town Council will fully support anyone who chooses to raise concerns.
For those who are not Witham Town Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

All concerns will be treated in confidence and every effort will be made not to reveal the identity of the person making the allegations, although if disciplinary or other proceedings follow the investigation this may not be possible.

Whistleblowers have the right to remain anonymous, and the Council will respect this right unless required by law to disclose the whistleblower's identity.

Untrue Allegations
If an allegation is made in good faith and the individual doing so reasonably believes it to be true, but it is not confirmed by the investigation, there will not be repercussions.
If an allegation is made frivolously, maliciously or for personal gain, appropriate action that could include disciplinary action may be taken and this is not protected under PIDA.

Raising a Concern
Concerns should normally be raised with the Town Clerk or Deputy Town Clerk but if under exceptional circumstances the matter concerns both parties the leader of the Council should be approached.

All concerns should be made in writing and include the following information-

- the nature of the concern and why it is believed to be true
- the background and history of the concern (giving relevant dates)

Although it is not expected to prove beyond doubt the truth of the suspicion, the letter will need to demonstrate to the person contacted that there is a genuine concern relating to suspected wrongdoing or malpractice within the Council and there are reasonable grounds for concern.

Anonymous allegations will be considered at the Council's discretion. While anonymity may limit investigation and feedback, anonymous reports will not be automatically disregarded.

What the Council will do
The Council will respond to concerns as quickly as possible

In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

The investigation may need to be carried out under terms of strict confidentiality, i.e. by not informing the subject of the complaint until it becomes necessary to do so. In certain cases however, such as allegations of ill treatment of others, suspension from work may have to be considered immediately.

Where appropriate, the matters raised may-

- be investigated by management, internal audit, or through the disciplinary/grievance process
- be referred to the police
- be referred to the external auditor
- be referred and put through established child protection/abuse procedures
- form the subject of an independent inquiry

Within ten working days of a concern being raised, the person investigating will respond to the allegations-

- acknowledging that the concern has been received
- indicating how the Council proposes to deal with the matter
- supplying information on staff support mechanisms
- explaining whether investigations will take place and if not, why not

The amount of contact between the whistleblower and the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of information.

The Council will do what it can to minimise any difficulties that may be experienced because of raising a concern.
To ensure that it is felt that a disclosure has been properly addressed the whistle blower will be kept informed of the progress and outcome of any investigation, unless there are any legal reasons why this cannot be done.

The Council commits to concluding any investigation within a reasonable timeframe, typically within three months of the initial report.

All records of disclosures and investigations will be maintained securely and in line with UK GDPR and Data Protection Act 2018 requirements.

A confidential summary of whistleblowing activity will be reported annually to the Council's Personnel or HR Committee.

How the Matter can be Taken Further
This Policy is intended to provide an avenue within the Council to raise concerns. If it is not felt that concerns have been dealt with then it is possible to escalate the matter outside of the Council by contacting –

- a trade union representative
- the police
- the monitoring officer at Braintree District Council

Additionally, concerns can be raised with:
- The Health and Safety Executive
- The Environment Agency
- The Information Commissioner's Office
- Protect (formerly Public Concern at Work), the whistleblowing charity

Disclosure to other parties (such as the media) may only be legally protected if strict statutory conditions are met, such as a reasonable belief of victimisation or evidence being concealed. Otherwise, protection under PIDA may be lost. A list of prescribed persons is available on GOV.UK.

This Policy does not prevent anyone with a concern from taking their own legal advice.

The Council will regularly review this policy to ensure it remains effective and up-to-date with current legislation and best practices.

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