

Whistle Blowing Policy and Procedure

POLICY

1. Aim of the Policy

- 1.1 Exeter City Council is committed to high standards of conduct and good practice and wants all malpractice to be identified and dealt with. All employees and others, who help to deliver its services, are expected to help with this.
- 1.2 Many of us at some time or another will have had concerns about something not seeming right at work. Normally these concerns should be raised with your manager to be dealt with. However, there are occasions when you may be worried about raising such issues, perhaps feeling it is none of your business or it is only a suspicion or you may also feel that raising such matters would be disloyal to your colleagues or manager and in doing so your job could be put at risk. You may even have raised the matter previously but the person you spoke to did nothing about it, and you are not sure what to do next.
- 1.3 To address these issues the Council has established this policy to enable you to raise your concerns and provide you with protection from detriment such as victimisation or discipline.
- 1.4 This policy encourages you to raise genuine, serious concerns as “whistleblowers” to the Council or ‘regulators’ (the Local Government Ombudsman, Audit Commission, Standards Board for England, or Police), and provides a procedure for doing so. Exeter City Council will take any action necessary in proportion to the nature of the complaint.
- 1.5 The Policy explains how to raise a concern, otherwise known as making a public interest disclosure. Concerns raised under this policy must be made in good faith and you should reasonably believe that it is in the public interest.

2. Who does the policy apply to and who is protected by the policy?

- 2.1 This policy applies to you, and you are protected under it, if you work for the Council as:
 - An employee
 - A Councillor
 - An agency employee
 - A trainee
 - A worker who provides services to or on behalf of Exeter City Council, e.g. contractors, consultants etc
 - Volunteers, work experience placements etc
- 2.2 If you are a Councillor, you may refer whistle-blowing concerns in accordance with this policy on behalf of yourself or one of your constituents if you are asked to do so by a third party. However, you may not rely on the use of this policy as an alternative to raising any questions or concerns you may have that should otherwise be managed through the proper democratic processes of the Council. In addition, if you raise whistle-blowing concerns as a result of matters that have come to your attention in your capacity as a Councillor, you may not rely on this policy to remain anonymous in any investigation that may then follow.
- 2.3 Please note that:
 - should you have an employment grievance, then this policy will not apply, and instead you should use the Council’s Grievance Procedure which is published on the intranet or obtainable from Human Resources
 - you should not raise your concerns outside of the Council before you have raised them internally, because by doing so you may weaken the protection given to you by the Public Interest Disclosure Act 1998.

- 2.4 Anonymous concerns/complaints will always be considered as far as it is reasonable and practicable to do so but it is often difficult to attach equal weight to anonymous allegations due to the investigator's difficulty in confirming or following up evidence.

3 What kinds of concerns/disclosures are covered?

- 3.1 The Public Interest Disclosure Act 1998 specifies 'Qualifying Disclosures' as follows:

- a criminal offence;
- a breach of a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of any individual;
- damage to the environment; or
- deliberate covering up of information tending to show any of the above five matters.

4 What is expected of you?

- 4.1 If you make a disclosure to someone within the Council, you are expected to:

- Make the disclosure in good faith and reasonably believe that it is made in the public interest
- Have a reasonable grounds for suspicion about the malpractice; and
- Not make the complaint for personal gain or make malicious or vindictive complaints as this could result in disciplinary action

5 How are you protected?

- 5.1 If you act in good faith and in the public interest and comply with the expectations above, you will be protected from discrimination as a result of raising a concern. In particular, you will be protected from harassment or victimisation (this does not mean that no action will be taken against you if you were involved in a fraudulent activity). This may include agreement to alternative working arrangements during any consequential investigation into the allegations.
- 5.2 The Council will not tolerate the harassment or victimisation of anyone who raises a concern. The Council recognises, however, that there may be occasions when you want to raise a concern in confidence rather than approach your manager direct. Where this is the case, your identity will be protected and not disclosed without your consent. Should a situation arise where the matter concerned cannot be resolved without revealing your identity (for example, because your evidence is needed in court), then the person investigating the matter will discuss with you how to proceed.

6 How to raise your concerns

- 6.1 Please raise your concern with your line manager or assistant director/corporate manager first, either orally or in writing.
- 6.2 If, for whatever reason, you do not wish to raise the concern with your line manager or assistant director/corporate manager please contact either:
- The Council's statutory monitoring officer, Baan Al-Khafaji, Corporate Manager Legal
Civic Centre, Paris Street, Exeter, EX1 1JN
Telephone: (01392) 265874 or
- Internal Audit
Civic Centre, Paris Street, Exeter, EX1 1JN
Telephone: (01392) 265631
- 6.3 You can always contact a trade union representative for advice and assistance on how best to proceed.
- 6.4 If you:

- consider the matter is so serious that you do not wish to discuss it with any of the above, or
- still have concerns after raising your concern with any of those listed at 6.2 above then please contact the Chief Executive, & Growth Director Civic Centre, Paris Street, Exeter, EX1 1JN. Telephone: (01329) 265188

- 6.5 The protection offered under this policy also applies to disclosures made outside of the Council/regulators where one or more of the following conditions apply:
- The person raising the concern reasonably believes that they would suffer detriment if they made the disclosure to the Council or to a ‘regulator’; or
 - None of the regulators covers the matter and they reasonably believe the evidence is likely to be concealed or destroyed;
 - or they have already made the disclosure to the Council or to a regulator

6.5 The procedure for dealing with disclosures is detailed at Appendix A.

7 Independent advice

- 7.1 If you are unsure about using this policy or want independent advice, you can contact the independent charity, Public Concern At Work (telephone 020 7404 6609). Their advisers will give you free confidential advice at any stage about how to raise a concern at work, and will support and advise you on the law and how best to proceed.

8 If you are dissatisfied with the way your concern is dealt with

- 8.1 If you are unhappy with the response or feedback you get from the investigating person, then you can always raise your concern with the Chief Executive & Growth Director or seek advice from Public Concern At Work.

Appendix A

PROCEDURE FOR DEALING WITH A DISCLOSURE

Concerns of financial impropriety:

Where the concern involves financial irregularity, the matter must be referred to Internal Audit for investigation in accordance with the Council’s Anti-Fraud, Anti-Bribery and Anti-Corruption Policy. Once the investigation is concluded, Internal Audit must report the outcome of the investigation (including any recommendations for improving areas of weakness) to the Council’s Monitoring Officer and the relevant assistant director/corporate manager.

Making a disclosure

Concerns raised/disclosures will be dealt with under the following stages. Not all disclosures will follow the full sequence of Stages. The action taken by the Council will be reasonable and proportionate, depending on the nature of the concern.

Stage 1 – Informal resolution

The person receiving the disclosure should decide with the person raising the concern, on the basis of the information provided, how the matter can best be resolved. This may include informal resolution or formal consideration

If possible, all concerns should be resolved by the relevant manager informally. The person raising the concern may do this orally or in writing and they should give as much information as possible about:

- The nature of the problem
- The background (with dates if possible)
- Who is involved
- The reasons for the concern

If you are raising a concern and are unable to raise the matter with your Line Manager you are advised to speak to another manager, Internal Audit or a member of the Human Resources Team who should consider whether the matter can be resolved informally as set out above or referred for formal consideration as detailed below.

Stage 2 – Formal procedure

Where the matter cannot be resolved informally because this is not appropriate or informal resolution has not been satisfactory a formal disclosure should be made to the Monitoring Officer – Corporate Manager Legal, Internal Audit or the Chief Executive and Growth Director.

The person who has received the disclosure will take or instigate any necessary urgent action to protect the individual, public interest, evidence etc.

At this stage, the person raising the concern (the ‘Whistle-blower’), will be asked whether he or she wishes their identity to be disclosed and will be reassured with regard to protection from possible reprisals or victimisation

Stage 3 – Initial response to a formal disclosure

The person receiving the disclosure should acknowledge the concern in writing within 5 working days giving details of:

- The name of the person who is handling the investigation, this could be management or it could be someone external, for example the Council’s external auditors, depending on the nature of the concern
- How he/she can be contacted
- Details of assistance that may be required

The person named as the investigating officer above must:

- investigate the matter personally or appoint an appropriate officer to do so
- advise the monitoring officer of the details of the allegation

The Whistle-blower will be notified of the intended response to the disclosure and the reasons for it.

Stage 4 – Management investigation

Where the decision has been made to carry out a management investigation, a senior manager or other person will be appointed as an investigating officer. This should be someone with expertise in the area in which the concern has been raised.

The investigation will be carried out under the strictest confidentiality. The investigation is essentially a ‘fact finding’ exercise, to establish what further action may be necessary and make recommendations accordingly.

The Investigating Officer, or their appointed representative, must:

- conduct the investigation
- follow the Council’s Management Guide to Disciplinary Procedures, which includes the requirement to follow the principles of natural justice.
- comply with the requirements of the Human Rights Act 1998
- where anonymity is requested, ensure that every effort is made to guarantee such confidentiality
- propose an action plan for necessary improvements

(Amended July 2014)

- report the outcome of the investigation to the Council's Monitoring Officer and relevant assistant director/corporate manager
- update the whistle-blower of progress to date

The investigation may serve as the information gathering part of Exeter City Council's disciplinary procedure. In such cases this will be made clear to any people who may be subject to such investigation.

Stage 5 – Responding to management investigation

If the result of the investigation is that there is a case to be answered by any individual, the recognised procedure will be followed.

The amount of contact between the officers considering the issues and the employee/councillor raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the whistle-blower.

Where there is no case to answer, but the whistle-blower held a genuine concern and acted in accordance with the expectations as detailed in this policy, Exeter City Council will ensure that they suffer no reprisals or victimisation, as far as is reasonably practicable. Considerations will include Exeter City Council's duty to provide a healthy and safe working environment for all.

Stage 6 – Confirmation of the outcome

So far as legally possible and subject to rights of confidentiality, the whistleblower will be informed of the outcome of the investigation and how the matter has been resolved.

If the whistle-blower is unhappy with the response or feedback from the investigating person, then the concern can be raised with the Chief Executive & Growth Director or advice sought from Public Concern At Work.

Employees who take a concern outside the Council should ensure that they do not disclose confidential information, except in accordance with this procedure

Recording and reporting

The Monitoring Officer will keep a central register of all whistle-blowing complaints received and submit an annual report to the Audit and Governance Committee setting out the number of complaints received and the outcome of each investigation conducted, together with any action plan for improvements put forward by the Investigating Officer.

Responsibility for implementing this Policy

The responsibility for ensuring that Exeter City Council adheres to this Policy rests with all Managers.

Legislation

Legislation relevant to this policy includes:

- Public Interest Disclosure Act 1998
- The Enterprise and Regulatory Reform Act 2013

Other related policies and procedures

Anti-Fraud, Anti-Bribery and Anti-Corruption Policy
 Anti-Money Laundering Policy
 Grievance Policy
 Disciplinary Policy

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