

**NORTH YORKSHIRE COUNTY COUNCIL**

**WHISTLEBLOWING POLICY**

(This Policy applies to all Members, Staff and Contractors except those staff working in Primary Schools – see separate version of Policy)

**July 2009**

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## 1.0 INTRODUCTION

- 1.1 The County Council is committed to the provision of the highest quality services to its residents and to full accountability for those services. Whilst the County Council has in place rules, regulations, quality standards and procedures to ensure that the highest standards of conduct and commitment to service delivery are followed, irregularities, wrong-doing or serious failures in standards do sometimes occur. The County Council wants to identify and remove such malpractice in the performance and delivery of its services.
- 1.2 The greatest deterrent to malpractice or wrongdoing is the probability that it will be reported and investigated vigorously, that those who are responsible for it will be punished and that the matter will be promptly remedied. This Policy is therefore intended as a clear statement that any malpractice by members, employees or third parties (including contractors) reported to the County Council will be swiftly and thoroughly investigated. The County Council will also look at ways to ensure that such malpractice or wrongdoing can be prevented for the future.

## 2.0 AIMS AND SCOPE OF THE POLICY

- 2.1 This Policy provides all employees, agency workers, contractors including their staff and members of the County Council with
- avenues to raise concerns and receive feedback on any actions taken
  - reassurances that they will be protected from reprisals or victimisation for whistleblowing in good faith
- 2.2 Set out below is a list which is intended to illustrate the sorts of issues which may be considered as malpractice or wrongdoing and can be legitimately raised under this Whistleblowing Policy:
- (a) any unlawful act, whether criminal or a breach of civil law, failure to comply with legal obligations or where a miscarriage of justice has occurred, is occurring or is likely to occur
  - (b) maladministration, as defined by the Local Government Ombudsman
  - (c) breach of any statutory Code of Practice
  - (d) breach of, or failure to implement or comply with any policy or procedure rules determined by the County Council, Executive or Committee of the County Council
  - (e) failure to comply with appropriate professional standards
  - (f) corruption or fraud including obtaining money (eg grants) without entitlement

- (g) misuse of assets, including stores, equipment, vehicles, buildings, computer hardware and software
- (h) endangering the health and safety of any individual with actions which are likely to cause physical danger, or to give rise to a risk of significant damage to property
- (i) failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income, to the County Council or would otherwise seriously prejudice the County Council;
- (j) abuse of power, or the use of the County Council's powers and authority for any unauthorised or ulterior purpose
- (k) unfair discrimination in the County Council's employment or services
- (l) causing damage to the environment
- (m) deliberately concealing information in relation to any of the items on this list

2.3 This Whistleblowing Policy is intended to supplement, rather than to replace, the existing grievance procedures as laid down in the Personnel Manual whereby employees of the County Council may already raise complaints or matters of genuine concern. It is therefore designed to provide a channel for those instances where the person reporting the matter feels that, for any reason, they cannot make use of those existing complaints procedures.

### **3.0 EMPLOYEE CO-OPERATION AND SAFEGUARDS**

3.1 In many cases it is an employee of the County Council who is most likely to be in the best position to learn of any malpractice or wrongdoing within the County Council and to identify something which falls below the standards which the County Council and its customers are entitled to expect. The County Council expects the fullest co-operation of all its employees in securing the highest standards of service to the residents of North Yorkshire. This means that, where an employee of the County Council becomes aware of or suspects malpractice, the County Council will expect them to report these suspicions. Where an employee fails to report their suspicions, they become themselves implicated in the wrongdoing, and the County Council will treat failure by an employee to report such matters as a serious matter which may, in the case of an employee, amount to a disciplinary matter and in the case of a Member, to a matter, depending on the circumstances, that may amount to a breach of the Members' Code of Conduct.

3.2 This Policy statement has been discussed with the relevant trade unions and has their support.

3.3 The County Council will respect (so far as it can legally) the confidentiality of any whistleblowing complaint received, where the complainant requests that confidentiality but cannot guarantee that the investigation process will not result in colleagues speculating on the identity of the whistleblower. It must be appreciated

that it will be easier to follow up and to verify complaints if the complainant is prepared to give his/her name, and unsupported anonymous complaints and allegations are much less powerful and therefore will have to be treated with caution. There will be circumstances where information must be disclosed for legal reasons, or to enable legal steps to be taken, e.g. there may be an obligation to disclose under the Freedom of Information provisions, or if the circumstances amount to a serious crime there may be circumstances where information will have to be passed to senior officers or to external agencies such as the police or external auditors.

- 3.4 Any reporting system will be of little effect if those who should use it are afraid that, as the result of making their report, they may experience recriminations, victimisation or harassment. The County Council will therefore not tolerate any attempt on the part of any employee or member to take reprisals against any person who has reported a serious and genuine concern. The County Council will treat any such recriminations, victimisation or harassment by any employee or member of the County Council as a serious matter which may, in the case of an employee, amount to a disciplinary matter and in the case of a Member, to a matter, depending on the circumstances, that may amount to a breach of the Members' Code of Conduct. Individuals may also have statutory protection under the Public Interest Disclosure Act 1998, which aims to protect individuals who make certain disclosures of information in the public interest and who are then victimised in their employment. If a whistleblower who has made a valid complaint feels that they have been victimised as a result of raising concerns they can raise the matter directly with the Head of Internal Audit, Veritau who will raise the matter immediately with the appropriate Corporate Director.
- 3.5 The County Council is proud of its reputation for having the highest standards of probity. It will therefore ensure that the necessary resources are put into investigating any complaints which it receives. As a consequence of this it will view very seriously any false or malicious allegations which it receives, and will regard the making of any deliberately malicious or vexatious allegations by any employee or member of the County Council as a serious disciplinary offence.
- 3.6 The Whistleblowing Policy will be publicised to all staff, as a minimum requirement, three times per annum by including a message in pay slips informing them of the Policy and the existence of the confidential telephone number. Other media used to communicate with staff (eg newsletters) will also be used where appropriate.
- 3.7 For contractors, publicity will be arranged via the Corporate Procurement Group on a periodic basis. Particular emphasis will be placed on raising the policy pro-actively with those contractors who are considered strategically important to providing services to the County Council.

#### **4.0 HOW TO RAISE A CONCERN**

- 4.1 It is envisaged that a Line Manager will be the first point of contact in the vast majority of cases. It will be their responsibility to initially investigate all matters reported to them promptly in accordance with the procedure notes issued.

4.2 It is, however, appreciated that there may be times when an employee of the County Council feels unable to use the above procedure, for example when the Whistleblower feels that their Line Manager may be involved in the malpractice. The County Council has therefore appointed the Head of Internal Audit, Veritau to act as its Whistleblowing Officer, with the following remit:

- (a) to receive and record any complaints under this Policy
- (b) to ensure the confidentiality of any whistleblowing complainant who requests that their complaint be treated in confidence subject to paragraph 3.3 above.
- (c) to investigate promptly any whistleblowing complaint and to respond directly to the complainant, with a right of access to the Chief Executive Officer and all members and employees of the County Council and to all documents and records of the County Council
- (d) to report to the appropriate Service Unit Head where the investigation identifies a serious cause for concern within the responsibilities of that officer and to recommend the use of any relevant statutory powers or duties. Where the complaint relates to the conduct of a member or one of the Service Unit Heads, he/she should report to the Chief Executive Officer (and also to the Monitoring Officer in case of complaints in relation to Member conduct). Where the complaint relates to the Chief Executive Officer, he/she should report to the Corporate Director – Finance and Central Services
- (e) to report as appropriate, either jointly with the Corporate Director(s) concerned or in his own right, to the County Council, the Executive and/or any Committee or Sub-Committee of the County Council
- (f) to recommend, in conjunction with the Chief Executive Officer or Assistant Chief Executive (Legal and Democratic Services), to settle appropriate action to resolve a complaint or recompense a complainant, and
- (g) to report every six months to the Corporate Director – Finance and Central Services and to the Standards Committee on the number of concerns raised under this Whistleblowing Policy. Those matters raised which identify fraud or loss to the County Council will be reported to the Audit Committee on an annual basis.

4.3 It is better if concerns are raised in writing. This allows the opportunity to set out the background and history of the concern, giving names, dates and places where possible, and the reason why the employee or member is particularly concerned about the situation.

4.4 It is anticipated that an employee will know the address to write to for their Line Manager or Service Unit Head.

4.5 The Head of Internal Audit, Veritau can be contacted by writing a letter in a sealed envelope marked Strictly Private and Confidential, addressed to:

Max Thomas (Head of Internal Audit)  
Veritau Ltd

County Hall  
Racecourse Lane  
Northallerton  
North Yorkshire DL7 8AL

or by telephoning (01609) 780780, extension number 2143. In addition there is a direct and confidential, non switchboard telephone line (01609) 760067, which is connected to an answering machine and is available 24 hours a day. There is also an anonymous on-line form, available on the Internet, which can be completed. This is then forwarded to Internal Audit.

- 4.6 For contractors, a clause will be inserted in all standard County Council contracts highlighting that the Whistleblowing Policy applies to all their staff working on County Council business. It will place a requirement on these contractors to publicise the Whistleblowing Policy to all their key staff involved with their contract for the County Council.
- 4.7 Although whistleblowers are not expected to prove the truth of an allegation, they will need to demonstrate to the person they choose to contact that there are sufficient grounds for concern.

## 5.0 HOW THE COUNTY COUNCIL WILL RESPOND

- 5.1 In order to protect both individuals and the County Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example child protection or discrimination issues) will normally be referred for separate consideration under those procedures.
- 5.2 Some concerns may be resolved by agreed action without the need for detailed investigation.
- 5.3 Within 10 working days of a concern being received, the line manager or officer who is designated to carry out the whistleblowing investigation will write to the whistleblower:
- acknowledging that the concern has been received
  - indicating how it proposes to deal with the matter
  - giving an estimate of how long it will take to provide a final response
  - stating whether any initial enquiries have been made, and
  - state whether further investigations will take place, and if not, why not.
- 5.4 The amount of contact between the officers considering the issues and the whistleblower, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the whistleblower.
- 5.5 When any meeting is arranged, the whistleblower has the right, if they so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

5.6 The County Council will take steps to minimise any difficulties which the whistleblower may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the County Council will provide advice about the procedure.

5.7 The County Council accepts the whistleblower needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, information about the outcomes of any investigations will be provided.

## **6.0 HOW MATTERS CAN BE TAKEN FURTHER**

6.1 This policy is intended to provide staff with an appropriate avenue to raise concerns within the Council. If staff have reported a concern in accordance with the Council's Whistleblowing Policy but are not satisfied that the issues have been properly addressed then they may also pursue the matter in an alternative way as follows:

- Local Council member (if staff member lives in the area of the Council)
- Chair or any member of the Standards Committee
- Chair or any member of the Audit Committee
- The External Auditor
- Relevant professional bodies or regulatory organisations, for example, the Information Commissioner's Office

## **7.0 REVIEW OF THE POLICY**

7.1 The Policy will be subject to review as and when required.