

“WHISTLEBLOWING” POLICY AND PROCEDURE

1. INTRODUCTION

- 1.1 Employees are often the first to realise that there may be something seriously wrong within organisations. 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 be a suspicion of malpractice.
- 1.2 Basingstoke & Deane Borough Council is committed to the highest possible standards of openness, honesty and accountability. In line with that commitment, we encourage employees and others with genuine concerns about any aspect of the council’s work to come forward and voice those concerns. This policy document makes it clear that staff can do so in strict confidence without fear of reprisals. This policy is intended to encourage and enable staff to raise serious concerns within the council rather than ignoring a problem or raising their concerns outside.
- 1.3 This policy has been discussed with the relevant trade union and has their support.
- 1.4 This policy applies to:
- all council employees (temporary, permanent, part time and full time),
 - agency staff or consultants undertaking council work or working on behalf of
 - contractors working for the council on council premises, and
 - suppliers and those providing services under contract with the council in their own premises.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 For those referred to in paragraph 1.4 (above) this policy aims to:-

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- encourage you to report suspected wrongdoing as soon as possible, in the knowledge that your concerns will be taken seriously and investigated as appropriate;
- provide avenues for you to raise concerns and receive feedback on any action taken;
- allow you to take the matter further if you are dissatisfied with the council's response;
- reassure you that you will be protected from reprisals or victimisation for raising matters which in your reasonable belief, are in the public interest.

2.2 This Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures. You have to believe that you are acting in the public interest by coming forward. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

There is a Grievance Policy and Procedure in place to enable you to lodge a grievance relating to your own employment.

In addition the information you wish to disclose must be about something you have a reasonable suspicion, or concern about that shows one or more of the following has occurred or is likely to occur:

- criminal offences, for example fraud or corruption
- failure to comply with an obligation set out in law,
- a miscarriage of justice,
- someone's health and safety is in danger (including risks to the public as well as other workers),
- risk or actual damage to the environment,
- improper and unauthorised use of public funds,
- improper or other unethical conduct,
- breach of the council's constitution or policies,

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- failure to follow established standards or practice,
 - deliberate concealment of any of the above matters (covering up wrongdoing).
- 2.3 If your concern relates to the conduct of members, and this has not been resolved under the Protocol for Councillor/ Officer Relations then a complaint under the Code of Conduct for Councillors to the Head of Law and Governance and Monitoring Officer can be made.
- 2.4 Members of the public who wish to raise a concern about a council service should use the council’s Complaints Procedure or if the complaint is about a councillor, make a complaint under the Council’s Arrangements for Determining Complaints against Councillors.

3. SAFEGUARDS

In order to encourage individuals to come forward with genuine concerns regarding possible wrongdoing the council will protect the individual and treat their concerns seriously.

3.1 Harassment or Victimisation

The council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The council will not tolerate harassment or victimisation and will take all reasonable steps to protect you when you raise a concern.

Workers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats, victimisation or unfavourable treatment connected with raising a concern. If you believe you have suffered any such treatment, you should inform one of the contacts named in 5.1 below immediately.

This does not mean that if you are already the subject of disciplinary or redundancy procedures, these will be halted as a result of your “whistleblowing”.

Workers must not threaten or retaliate against whistle-blowers in any way. If you are involved in such conduct you may be subject to disciplinary action and in some cases the whistleblower may have a right to sue you personally for compensation in an employment tribunal.

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3.2 Confidentiality

The council will not reveal your identity when you raise a concern. It must be appreciated that during the investigation a statement by you may be required as part of the evidence gathering process. However, you will not be identified as the originator of the allegations being investigated.

3.3 Anonymous Allegations

This policy encourages you to put your name to your allegation. Proper investigation may be more difficult, or impossible, if we cannot obtain further information from you. Concerns expressed anonymously are much less powerful, however, they may be considered at the discretion of the council.

Exercising the discretion, the factors to be taken into account will include the:-

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

3.4 UNTRUE ALLEGATIONS

Allegations made but not confirmed by any investigation will result in no action. If it is concluded that the whistleblower has made false, malicious or vexatious allegations, the worker will be dealt with under the council's Disciplinary Policy and Procedure.

4. THE RESPONSIBLE OFFICER

4.1 The Head Law and Governance and Monitoring Officer has overall responsibility for the maintenance and operation of this policy. They maintain a record of concerns raised (but not the names of the person raising the concern) and the outcomes and will report as necessary to the council.

4.2 The Head of Law and Governance and Monitoring Officer will do what they lawfully can to protect your identity, but you should be aware that they may be obliged to disclose it to the Police, the External Auditor or the Courts.

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5. HOW TO RAISE A CONCERN

- 5.1 As a first step, you should normally raise concerns with your immediate manager or their superior. However, this will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. One of the following people should be contacted where you wish to raise a concern under the whistleblowing policy:

	<u>Direct Line</u>	<u>Extension</u>
Chief Executive	(01256) 845788	2788
Executive Director of Corporate Services	(01256) 845513	2513
Head of Law and Governance and Monitoring Officer	(01256) 845345	2345
Legal Services Manager	(01256) 845475	2475
Head of HR, Communications and Policy	(01256) 845549	2549
Chief Internal Auditor	(01256) 845242	2242
Fraud Hotline	0800 525 927	
Fraud Email	fraudinvestigators@basingstoke.gov.uk	

- 5.2 Whilst all staff are encouraged to raise any concerns in accordance with paragraph 5.1, government guidance allows you to make a disclosure to the authority's external auditor (refer to section 8.1 for contact information).
- 5.3 Concerns are better raised in writing. You will be invited to set out the background and history of the concern, giving name, dates and places where possible, and the reason why you are particularly concerned about the situation. If you feel that you are not able to put your concern in writing, you can telephone or meet the appropriate officer.
- 5.4 The earlier you express your concern, the easier it is to take action.

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5.5 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

6 HOW THE COUNCIL WILL RESPOND

6.1 The action taken by the council will depend on the nature of the concern. The matters raised may be:

- investigated internally (by one of the officers named in paragraph 5.1, internal auditors or through the disciplinary process)
- referred to the police
- referred to the external auditor
- the subject of an independent inquiry

6.2 In all cases, the officer dealing with the matter will notify the Head of Law and Governance and Monitoring Officer that they are dealing with a whistleblowing allegation, but will not reveal your identity to them, unless you provide your consent.

6.3 In order to protect individuals and the council, 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 to bear 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 to the appropriate channel for consideration under those procedures.

6.4 Some concerns may be resolved by agreed action without the need for formal investigation.

6.5 Within ten working days of a concern being raised, the officer dealing with it will contact you:

- verbally acknowledging that the concern has been received;
- indicating how they propose to deal with the matter.

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- 6.6 The amount of contact between you and the officer considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the officer will seek further information from you.
- 6.7 You will be informed when an investigation has been completed and the action that is proposed to be followed. In addition, the officer will notify the Head of Law and Governance and Monitoring Officer of the outcome of an investigation.
- 6.8 It may not be possible to pursue the matter further, if the officer has been unable to obtain independent evidence of the concern raised. In this case, the officer will discuss with you any other options that may be available.
- 6.9 If you are not satisfied with the council's response, the officer dealing with the matter will explain the reasons for the decision. Alternatively, you can approach another of the officers detailed in paragraph 5.1 for an independent review. It should be noted that an independent review will not necessarily result in a new investigation, but will be a review of the way in which your concern was dealt with. Should the independent review conclude that a new internal investigation is required into all or part of the original concerns raised, this will not be undertaken by the same officer who conducted the original investigation.

7. DATA PROTECTION

- **Respecting the rights of the wrongdoer.** Whilst the whistleblowing legislation is primarily concerned with the rights of the whistle-blower, data protection legislation is also concerned with any person who is the subject of the disclosure. They will be told of the allegation and the identity of anyone who will receive personal data about them because of the investigation, unless there is a substantial risk that this will prejudice the investigation.
- **Whistleblower confidentiality.** The Council will keep the identity of the whistleblower confidential unless they wish their identity to be known.
- **Security.** The council will apply appropriate technical and organisational measures to keep secure any personal data that has been disclosed or gathered during the investigation.
- **Data retention.** Personal data gathered during an investigation will usually only be kept until the end of the investigation and/or subsequent

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legal or disciplinary proceedings. Where data is archived in order to mitigate the risk of future liability or harm to the council, the systems will be secure and the data will be kept to a minimum and retained for the length of time required to cover the period within which a claim may be raised. Where the investigation reveals no evidence of wrongdoing, personal data will be destroyed.

8. SIGNPOST TO FURTHER ADVICE AND INFORMATION

8.1 This policy is intended to provide you with an avenue to raise concerns within the council. If you feel that it is right to take the matter outside of the council, the following are possible contact points:

- UNISON – (Basingstoke & Deane Borough Council Branch Chair) contact admin@basingstoke-unison.org.uk and ask for the details for the current branch chair

- Your solicitor

- The council’s external auditors:

Ernst and Young (EY) LLP, Apex Plaza, Forbury Road, Reading,
RG11YE
Tel: 0118 928 1100

- The Police

- The independent charity Protect which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest.on:

Tel: (020) 117 2520
Advice Line: [Protect Advice Line](https://www.protect-advice.org.uk)
Website: www.protect-advice.org.uk

- Your MP

- ACAS

Helpline number: 0300 123 1100
Monday-Friday: 8am-8pm and Saturday 9am-1pm
Website: [Acas | Making working life better for everyone in Britain](https://www.acas.org.uk)

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8.2 **If you do take the matter outside the council, you should ensure that you do not disclose confidential information. You should check with the Head of Law and Governance before disclosing information to make sure you do not inadvertently disclose any confidential information.**

8.3 It will be safe to raise a concern with any of the organisations referred to in paragraph 7.1 provided that:

- You reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- It is your reasonable belief that the disclosure is being made in the public interest
- You do not make the disclosure for the purposes of personal gain

It is recommended that you seek legal advice if you intend to raise concerns outside of the council to ensure that you satisfy the requirements for your protection under the Public Interest Disclosure Act 1998.

8.4 If you make allegations which are malicious, for personal gain or you have no reasonable grounds to believe are true, then you could face defamation proceedings or a prosecution for wasting Police time. If you decide to address your concerns to the press or the media in most cases you'll lose your whistleblowing law rights, and may also face defamation proceedings if your allegations prove to be unfounded.

9 THE LAW

9.1 This policy has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concerns about, health and safety at work. This policy also takes account of the Employment Rights Act 1996 as amended by the Enterprise and Regulatory Reform Act 2013.

10 REVIEW

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10.1 This policy is to be reviewed every two years. The next review date is September 2024.

11 APPROVAL FOR THIS POLICY

11.1 This policy was approved by the Human Resources Committee in November 2022.

Related Policies and documents (available on the Council's intranet - Sinbad)

- Fighting Fraud and Corruption Locally Strategy for the 2020s
- Staff Handbook (which includes disciplinary and grievance procedures, and conduct in local government)
- The Constitution
- Code of Conduct for Councillors (within Constitution)
- The Council's Complaints Procedure
- Anti-Fraud and Corruption Policy

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