

Whistleblowing Policy

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1. Introduction

1.1 Eastleigh Borough Council is committed to the highest possible standards of openness, honesty and accountability. We expect all colleagues to operate on this basis and to adhere to the Council's policies, procedures and code of conduct. Colleagues are often the first to realise that there may be something 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. It is not disloyal to colleagues or the Council to speak up. The Council is committed to achieving high standards of service and high ethical standards in public life and in all of its practices. To help achieve these standards it encourages freedom of speech.

1.2 In this policy 'Whistleblowing' means the disclosure of information which is in the public interest by colleagues of reasonably suspected misconduct, illegal acts or failure to act within the Council so as to ensure that the prevention, deterrence, detection and investigation of malpractice including fraud, corruption, and unethical conduct is achieved.

This policy is to encourage colleagues who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. Any concerns raised under this policy will be treated seriously and dealt with confidentially.

1.3 This policy applies to:

- all Council employees (temporary, permanent, part time and full time)
- all Council trainees
- agency staff, casual staff or consultants undertaking council work
- contractors working for the Council on council premises and,
- suppliers and those providing services under contract with the Council in their own premises

These will be referred to in the policy as colleagues.

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1.4 The protections of the Public Interest Disclosure Act deal with protections for colleagues. However, Councillors are also able to make disclosures about suspected wrong-doing and this Policy will be applied.

2. Aims of the policy

2.1 The Policy is designed to ensure that you can raise your concerns about wrongdoing or malpractice within the workplace or externally without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

It is also intended to encourage and enable you to raise concerns within the Council.

2.2 The Policy aims to:

- encourage workers to be vigilant against wrongdoing and malpractice, and to report issues of such nature;
- encourage you to feel confident in raising serious concerns at the earliest opportunity in the knowledge that your concerns will be taken seriously and investigated in an appropriate manner;
- provide avenues for you to raise such concerns and receive feedback on any action taken;
- allow you to take the matter further if you are dissatisfied with the council's response; and
- reassure you that you will be protected from reprisals or victimisation for raising matters which in your reasonable belief, are in the public interest.

3. Scope of the policy

3.1 The Policy is intended to deal with concerns raised in relation to specific issues which are in the public interest and which fall outside the scope of other Council policies and procedures. The Policy will not apply to concerns of a personal or professional nature or personal grievances concerning an individual's terms and conditions of employment, treatment of an employee, application of an employment policy or other aspects of the working relationship, complaints of bullying or harassment, or disciplinary matters. Such complaints will be dealt with under existing policies which are available on the Staff Hub.

3.2 It should be emphasised that the Policy, in accordance with the Public Interest Disclosure Act, is concerned with alleged malpractice, impropriety or wrongdoing in the workplace. It is not designed to provide a route through which individuals can publicly question financial or business decisions taken by the Council, and it offers no protection to such individuals. Neither may the Policy be used to obtain a rehearing of matters

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which have already been addressed under other policies/procedures such as Disciplinary, Capability or Grievance procedures.

4. What should be reported (examples of wrongdoing at work)

4.1 Specific concerns which are in the public interest and may be raised under this Policy include:

- A criminal offence
- A miscarriage of justice
- Breach of a legal obligation
- Danger to the health and safety of individuals (including risks to the public as well as other colleagues)
- Conduct likely to damage the reputation or business of Eastleigh Borough Council
- Other improper or unethical conduct which is not in keeping with the Council's constitution or procedures
- An act causing damage to the environment
- Unauthorised use of public funds
- Misappropriation of public funds or other assets (possible fraud) (Please also see the Council's Anti-Fraud and Corruption policy)
- Negligence
- Attempting to conceal any of the above.

This list is not exhaustive.

4.2 If your concern relates to the conduct of Councillors, this must be dealt with under the Councillors' Code of Conduct (the Monitoring Officer can help you with this). Please also see the Code of Conduct Complaints Procedure available on the Council's website.

5. Raising a Concern

Who should you raise your concern with?

5.1 You are urged to raise concerns when they arise with your Line Manager, or their manager. This may depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you prefer you should raise your concerns either by email, telephone or in person with one of the following:

- Chief Internal Auditor - Lisa Smy – Telephone: 02380 688229/Ext: 8229 Email: Lisa.Smy@eastleigh.gov.uk
- Service Director – Governance and Support (Monitoring Officer) & Whistleblowing Champion – Joanne Cassar - Telephone: 02380 688015/Ext: 8015 Email: Joanne.Cassar@eastleigh.gov.uk

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- Chief Executive – James Strachan – Telephone: 02380 688100/Ext: 8100 Email: James.Strachan@eastleigh.gov.uk
- Deputy Chief Executive and Chief Financial (Section 151)_ Officer - Sarah King - Telephone: 02380 688011/Ext: 8011 Email: Sarah.King@eastleigh.gov.uk
- Chair of Audit and Resources Committee – Councillor Steve Holes – Email: Steve.Holes@eastleigh.gov.uk
- Member of the HR Advisor Team

5.2 If, exceptionally, the concern is about the Chief Executive of the Council your concern should be raised with the Leader of the Council, the Local Government and Social Care Ombudsman or External Audit who will decide how the investigation will proceed. This may include external investigation.

How to raise a concern

5.3 Concerns may be reported verbally, in writing or by email. Whatever means is used, care should be taken to ensure that the report can only be heard, or read, by the intended recipient(s) and as much detail as possible is provided including:

- the nature of your concern and why you believe it to be true;
- the background and history of the concern (giving relevant names, dates and places, where possible);
- the outcome requested.

5.4 For ease, you may wish to use the Whistleblowing disclosure form, example found at Appendix A of this policy.

5.5 You may invite your trade union representative or a work colleague for support during any meetings or interviews in connection with the concern you have raised.

6. What the Council will do

What happens next?

6.1 The overriding principle for the Council will be whether a disclosure made is in the public interest. In order to be fair to all colleagues, 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.

6.2 The Council will respond to your concerns as quickly as possible. Do not forget that testing your concerns is not the same as either accepting or rejecting them.

Who will investigate?

6.3 The Council's Internal Audit service will conduct all investigations relating to malpractice (unless it relates to the Chief Executive, in which case the Leader of the Council, Local

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Government and Social Care Ombudsman or External Audit will decide any course of action taken). In the first instance an initial investigation will be carried out to consider the information made available by the discloser and will decide how the disclosure will be investigated.

6.4 Depending on what is established during the course of the investigation, this will determine whether a disclosure is investigated further through the following channels:

- the disciplinary/grievance procedure;
- referral to the Police;
- in some circumstances, referral to the External Auditor*;
- referral to established child/adult protection/abuse procedures;
- an independent inquiry.

6.5 The identity of the whistleblower will be protected through all such referrals/disclosure except where unavoidable (for the purposes of an interview or for legal reasons for example). In the event that the Whistleblowers identity has to be disclosed, prior consent will be sought unless there is a legal requirement to do otherwise.

*Where the Internal Audit team, after initial investigation, considers there are potential concerns relating to fraud, governance arrangements or financial misconduct and/or internal control arrangements of the Council, they will inform the Council's Chair and Vice Chair of Audit and Resources Committee and External Auditor of the allegation where necessary and only with the knowledge of the whistleblower.

6.6 In some cases it may be necessary for the Internal Audit Team to consider broader potential impacts of disclosures on risk management, governance and control arrangements. Separate planned audit reviews may be expedited or further investigations commissioned.

What response can you expect?

6.7 Within 10 working days of a concern being received (excluding anonymous concerns), the person investigating the concern will write to you:

- acknowledging that the disclosure has been received;
- indicating how the Council proposes to deal with the matter;
- seeking any further detail if that is required;
- telling you whether further investigation will take place, and if not, the reason why ;
- giving an estimate of how long it will take to provide a final response;

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- supplying you with information on further support available during the investigation process.

6.6 It may not be possible to pursue the matter further, if there has been no ability to obtain independent evidence of the concern raised. In this case, other options that may be available to you can be discussed.

6.7 The amount of contact between you and the individuals considering the issues will depend on the matters raised, the potential difficulties involved and the clarity of your information. It is likely that you will be interviewed to ensure that your disclosure is fully understood. Any meeting can be arranged away from your workplace, if you wish, and a trade union representative or work colleague may accompany you in support.

6.8 The Council will do what it can to minimise any difficulties you may experience as a result of raising a concern. For instance, if you are asked to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive appropriate advice and support.

6.9 You need to be assured that your disclosure has been properly addressed. Unless there are any legal reasons why this cannot be done, you will be kept informed of the progress and outcome of any investigation.

7. Protecting the Whistleblower

Your legal rights

7.1 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, when those disclosures are made in accordance with the Act's provisions and in the public interest.

7.2 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.

7.3 Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Council cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

Harassment or Victimisation

7.4 The Council is committed to good practice and high standards and to being supportive of you as a colleague.

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7.5 The Council recognises that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe that what you are saying is true, you should have nothing to fear because you are doing your duty to your employer, your colleagues and those for whom you are providing a service.

7.6 The Council will not tolerate any harassment or victimisation of a whistleblower (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith and will treat this as a serious disciplinary offence which will be dealt with under the disciplinary policy and procedure.

Confidentiality

7.7 All concerns will be treated in confidence and every effort will be made not to reveal your identity if that is your wish. If disciplinary or other proceedings follow the investigation, it may not be possible to take action as a result of your disclosure without your help, so you may be asked to come forward as a witness. If you agree to this, you will be offered advice and support.

Anonymous Allegations

7.8 In view of the protection afforded to a colleague raising a genuine concern, this policy encourages you to put your name to your allegation whenever possible. If you do not tell us who you are, it will be much more difficult for us to protect your position, or to give you feedback.

7.9 Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:

- the seriousness of the allegation
- the credibility of the concern, and
- the likelihood of confirming the allegation from other sources

Untrue Allegations

7.10 If you make an allegation in good faith and reasonably believing it to be true, but it is not confirmed by the investigation, the Council will recognise your concern and you have nothing to fear. If however, you make an allegation frivolously, maliciously or for personal gain, it may be subject to further action being taken under the Disciplinary Policy.

8. Safeguarding and whistleblowing

What this policy covers

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8.1 This policy is designed to cover concerns that staff have about the conduct of individuals in a position of trust within the organisation which could be detrimental to the safety or wellbeing of children and vulnerable adults where colleagues for whatever reason, feel unable to raise them under the organisation's standard protection procedures/the Safeguarding policy around dealing with such allegations.

8.2 Examples of unacceptable behaviour by colleagues towards children or vulnerable adults (this is not an exhaustive list)

- Unprofessional behaviour;
- Bullying by colleagues;
- Any form of abuse (physical, sexual, emotional or neglect);
- Name calling;
- Personal contact with children and young people which is contrary to the organisation's policies and codes of conduct;
- Any form of racial abuse;
- Inappropriate sexualised behaviour;
- Knowledge about an individual's personal circumstances which may indicate they could be a risk to children or vulnerable adults or unsuitable to work with them.

9 How the matter can be taken further

9.1 This policy is intended to provide you with an avenue to raise concerns within and to the Council. The Council hopes you will be satisfied with the response to your concern. If you are not you must indicate this to the person who has been dealing with your concern. If you feel it is right to take the matter outside the Council, the following are possible contact points:

- The External Auditor – Ernst & Young LLP, Grosvenor House, Grosvenor Square, Southampton, SO15 2BE
- Relevant professional bodies or regulatory organisations as prescribed under the Public Interest Disclosure Act 1998 e.g. Environment Agency, Health & Safety Executive
- The Local Government and Social Care Ombudsman
- Your solicitor
- The Police
- Protect*
- Your professional association

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*Protect is an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. They also hold a list of the appropriate external bodies.

9.2 To avoid possible prejudice to any internal investigation process, a disclosure should not normally be made to external bodies before it is raised through the internal mechanisms set out in this Policy. If you do take the matter outside of the Council, you should ensure that you do not disclose confidential information. You must reasonably believe the information disclosed is substantially true and being made in the public interest and not for personal gain.

9.3 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 protection under the Public Interest Disclosure Act 1998.

10 Legal responsibility (applicable legislation)

10.1 The following legislation is applicable throughout this policy:

- Public Interest Disclosure Act 1998 (incorporating Employment Rights Act 1996)
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 1998
- Health & Safety at Work Act 1974
- Freedom of Information Act 2000
- Enterprise and Regulatory Reform Act 2013
- The Bribery Act 2010

11 Other related Council Policies and Procedures

- Grievance and Disciplinary Procedures
- Anti-Fraud & Corruption Policy
- The Council's Constitution
- Safeguarding Policy
- Staff Code of Conduct

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Appendix A

Making a public interest disclosure (whistleblowing)

This form is intended for use by any individual working for the organisation (including contractors, agency workers and volunteers) who wishes to raise an issue about wrongdoing.

This form should be used to report wrongdoing within the organisation (for example, financial irregularities or health and safety concerns), rather than to raise a personal grievance (for example, if you would like to make an allegation of bullying or harassment, or are complaining that your contract of employment has been breached).

If you are unsure about whether your concerns are best dealt with under the organisation's whistleblowing policy or grievance procedure, please read the organisation's whistleblowing policy, which provides examples of the issues that should be reported using this form.

Once you have submitted this form, the organisation's whistleblowing procedure will be invoked. This will result in an investigation, which will not involve anyone (for example, your line manager) you may have implicated below.

In certain circumstances, you can request that your concerns be kept anonymous. Where possible, the organisation will respect a request for anonymity, but cannot guarantee that it will be able to do so.

This form should be completed and delivered to your chosen contact from the policy in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line.

Formal public interest disclosure (whistleblowing)

Name:

Job title:

Directorate/Team:

Date:

Summary of disclosure:

Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.

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Individuals involved:	
Please provide the names and contact details of any people involved in your concerns, including witnesses.	
Outcome requested:	
Please set out how you would like to see the issue dealt with and why you believe that this will resolve the issue.	
Declaration:	
I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the organisation taking disciplinary action against me.	
Form completed by:	
Signature:	
For completion by the Council:	
Date form received by the Council:	
Name of recipient and job title:	
Signature:	