



Breckland Council

**Whistle Blowing Policy – Confidential
Reporting Code**

February 2019

Document Control and History

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Introduction

What is Whistle blowing?

Whistle blowing is the raising of a significant concern. These concerns may cover issues of fraud, misconduct, or illegality, and this policy is designed to ensure that people know how to raise a genuine concern, and can do so in the knowledge that they will not face reprisal for their action.

The Whistleblowing commission, established in 2013 by the then whistleblowing charity Public Concern at Work (PCaW) now named 'Protect', is a charity which provides independent advice and information on whistle blowing. They draw the following distinction between whistle blowing and pursuing a complaint:

“When someone blows the whistle they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistle blower rarely has a personal interest in the outcome of any investigation into their concern - they are simply trying to alert others. For this reason, the whistle blower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.”

What is the purpose of the Whistle blowing Policy?

Employees, Councillors and others who deal with the Council may be the first to spot things that may be wrong or inappropriate within the Council. However, they might not say anything because they think this would be disloyal, or they might be concerned that their suspicions are unjustified or might turn out to be so after enquiry. They may also be worried that they or someone else might be victimised, or are unclear with whom to raise their concern.

Members of the public may also have concerns, but be unsure how and when to express them.

Breckland Council has produced this Whistle Blowing Policy to help:

- Councillors
- employees (including temporary and agency staff)
- others with whom the Council has dealings (e.g. contractors, partners, suppliers and voluntary organisations), and
- members of the public

to understand how and when to contact the Council with their concerns.

The Council is committed to maintaining an open culture with the highest standards of honesty and accountability. It takes all inappropriate behaviour very seriously and is committed to investigating any genuine concerns raised.

This policy aims to ensure that any concerns can be raised with confidence and without any worry on the part of the whistle blower about being victimised, discriminated against or disadvantaged in any way as a result.

Scope – Policy Aim

The policy aims to:

- encourage you to feel confident in raising serious or sensitive concerns about inappropriate behaviour and to question and act upon concerns
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from possible reprisals or victimization if you have a reasonable belief that you have raised any concern in good faith

This policy applies to:

- Breckland Council Councillors
- All Breckland Council staff (including Capita Symonds, shared managers and officers providing services to and on behalf of the Council)
- Council partners, contractors, suppliers, council owned/part owned companies and consultants
- Breckland residents and any other members of the public

Executive Summary

The aim of this policy is to maintain a working environment where people, whether they are employees of the Council, suppliers, contractors, Councillors or private individuals co-opted on to committees of the Council are able to raise concerns where they think there is misconduct or malpractice, and to know that their concerns will be taken seriously and investigated. The policy is intended to give confidence to employees to whistle blow and, as such, it incorporates statutory provision for protection under the Public Interest Disclosure Act 1998. Members of the public may also have concerns. That is why we have produced this whistle blowing policy not only to help our staff but we have published this document on our website to enable the public to also contact us with their concerns. Personal data will be used within lawful purposes, as detailed within the Council's Privacy Policy and Finance's Privacy Notice on our website.

Policy Consultation and Consideration

The Council's Executive Management Team and Governance and Audit Committee.

Policy Statement

1. Policy Coverage

What types of concern are covered by the policy?

This policy is intended to deal with serious or sensitive concerns about inappropriate behaviour. The Public Interest Disclosure Act 1998 outlines that a “protected” disclosure of a concern is one which demonstrates one or more of the following:

- A criminal offence has been committed, or is likely to be committed
- Disclosures related to a miscarriage of justice
- A failure to comply with a legal obligation
- The endangering of an individual’s health and safety
- Unnecessary dangers to the environment (for example, by pollution)
- Deliberate concealment of information relating to any of the above.

Beyond the legal context above, the Council would encourage employees, members of the public, and any other interested parties to raise any significant concerns that they may have, as soon as they are reasonably aware of them. These concerns could be about any aspects of the Council’s activities, e.g. with reference to Council employees, Members, or suppliers acting on behalf of the Council, and relate to issues that are either occurring now or likely to happen in the future.

What is not covered by the Policy?

The Council has a number of policies and procedures to address other matters, for example:

- Employees’ complaints about their terms and conditions of employment. These matters are dealt with through the Grievance Policy and Procedure.
- Instances of bullying and harassment of Council’s employees are dealt with through the Harassment and Bullying Prevention Policy.
- Complaints from members of the public about the Council’s services. These are dealt with through the Council’s Complaints Procedure.
- Concerns with reference to Members should be referred to the Monitoring Officer

This policy is not designed to question financial or business decisions taken by the Council nor may it be used to reconsider any matters that have already been addressed under the harassment, grievance, disciplinary or complaints procedures.

2. Safeguards

Protecting the Whistle Blower

In accordance with the Public Interest Disclosure Act 1998, Breckland Council undertakes to protect, as best it can, an employee who blows the whistle from personal claims, victimisation, harassment or bullying as a result of his or her disclosure. This assurance is not extended to someone who maliciously raises a

matter they know is untrue; such instances may be subject to the Council's disciplinary procedures.

Any employee or Councillor taking any reprisal or similar action against a whistle blower because he or she has made a protected disclosure under this policy will be subject to disciplinary action by the Council.

The Council will, at the request of the whistle blower, keep the nature of concerns confidential. It will not reveal names or positions without permission, unless it has to by law, or an enquiry results in a criminal investigation in which the whistle blower might be required as a witness. Whistle blowers should be aware, however, that the fact that enquiries are being made might, of itself, result in their identity becoming known. Where possible, the Council will make you aware if your identity is likely to be compromised through investigation.

All these matters will be explained at the time a concern is raised so the whistle blower can decide whether or not to proceed. The Council will also keep the whistle blower informed if the situation significantly changes.

Anonymous Allegations

The Council encourages whistle blowers to give their name when making an allegation. It will do all it can to protect the whistle blower. Concerns raised anonymously tend to be far less effective and if, for example, the Council does not have enough information, it may not be able to investigate the matter at all. Also, from a practical point of view, it is impossible to provide protection to a person whose identity is unknown and more difficult to judge whether the concern is made in good faith or maliciously.

If whistle blowers feel that they cannot give their name, the Council will make a judgement on whether or not to consider the matter depending upon such things as:

- the seriousness of the issue
- whether the concern is believable; and
- whether it can carry out a sufficient investigation based on the information provided

Assurances to third parties

The assurances provided to employees raising concerns cannot be given in the same way to third parties. For example, the Council cannot guarantee protection to employees of third party (contractor) organisations. However, we expect that all contractors are aware of the Council's whistle blowing procedures, and act in accordance with these.

Further, with regard to members of the Public, whilst they are not afforded statutory protection in the same way as employees, the Council is committed to treating all citizens fairly. Raising a concern under this policy will not affect the rights of any council citizens as set out within the Council's Constitution.

Untrue Allegations

If a whistle blower makes an allegation which they believe is true, but it is not confirmed by an investigation, the Council will not take any action against them.

However, if a whistle blower makes a deliberately false vexatious or malicious allegation which they know is untrue, the Council will take appropriate disciplinary or legal action against them. Allegations of this nature are not protected by the Public Interest Disclosure Act 1998.

3. How to raise a Concern

Guidance for Members of the Public, Contractors, Councillors and Partners

Members of the Public, Contractors and Councillors and those involved with partner organisations who suspect a Council Employee, another Councillor, Organisational Partners or other Contractors (in their dealings with the Council) of impropriety or illegality should contact one of the following:

- The Chief Executive
- Any Executive Director
- The Monitoring Officer
- Head of Internal Audit

If your concern relates to one of the above officers, you should contact Ernst & Young, as the Council's External Auditor.

All contact details are included within Appendix 1 of this policy.

Guidance for Employees

Whistle blowers should not attempt to investigate any concern themselves, but raise their concern using one of the avenues shown below.

A Council employee should first raise a concern with their manager. Guidance to employees on how to proceed is contained in the document "Guidance for employees - How to react to concerns of inappropriate behaviour" – see Appendix 2. Guidance to managers on how to deal with a concern is contained in the document "Guidance for Managers – How to react to concerns of inappropriate behaviour" – see Appendix 3.

If the employee feels that it is inappropriate to raise a concern with their manager given the person involved and/or the seriousness or sensitivity of the matter, contact should be made with one of the following officers

- The Chief Executive
- Any Executive Director
- Officers in the Council's Executive Management Team
- The S151 Officer
- HR Manager
- Legal Services Manager
- Head of Internal Audit

If your concern relates to any of the Officers above, this should be referred to the Chief Executive. If your concern relates to the Chief Executive, then this matter can

be raised with the Leader of the Council (or the Deputy Leader of the Council if the Leader is unavailable) or Ernst & Young, as the Council's External Auditors.

Whistle blowers are encouraged to raise concerns promptly and where possible in writing, giving as much information as possible, such as relevant background, names, dates, places and the reason for their concern. However, concerns can be raised by telephone or by meeting the appropriate officer. The earlier a concern is raised, the easier it will be to take effective action.

Although it will not be necessary to prove beyond doubt that an allegation is true, a whistle blower will be expected to demonstrate that there are reasonable grounds for voicing their concern.

Any whistle blower will be asked to declare any personal interest they may have in the concern being raised.

The Council has developed procedures as to how whistle blowing concerns should be reviewed and investigated. It is recommended that anyone who raises a concern refers to these to identify the next course of action that will be taken in response to the issue raised.

In matters concerning the health, safety and welfare of those on our premises (whether members of staff, contractors or visitors) anyone, including an elected safety representative, who becomes aware of a hazard (actual or potential) or dangerous occurrence should immediately notify the Health and Safety Advisor, before contacting any outside body, to ensure that immediate action can be taken if necessary to deal with the hazard. Contact can be made by telephone, email or the sending of a written report as appropriate to the situation.

Sources of support for the whistle blower

People who do not work for the Council might want to discuss their concern with a friend or colleague first. They may then find it easier to raise a concern if others share the same experiences or concerns.

For employees who are members of a union, trade union representatives can give general support and advice, or act on their behalf if this would help. This could be useful, particularly if the employee wishes to remain anonymous, to the extent that is possible.

The Council will encourage the trade unions to support any member of staff who raises a concern with them.

The Council further welcomes any member of staff to consult with Protect (previously PCaW) if they are not sure about whistle blowing. Protect are an independent charity who provide confidential support and advice to whistle blowers through a telephone helpline and the internet. Further details for Protect are included in Appendix 1.

Raising issues with an external party

Concerns are most readily addressed where they are raised internally in the first instance. However, there may be situations where you feel it is inappropriate to raise the concern internally, or unable to do so. Alternatively, you may have already raised a concern and are dissatisfied with the outcome. In these situations, there are a number of other parties to whom you may turn:

- Relevant Regulatory Organisations (e.g. the Environment Agency, Health and Safety Executive or Local Government Ombudsman)
- The Police (where a criminal matter is involved)

- Protect

Contact details for all parties are included within Appendix 1.

Before consulting an external party, the Council recommends that the whistle blower seeks independent legal advice (disclosure to a legal advisor is protected by law).

The law most readily protects disclosures that are seen to be “reasonable”, i.e. disclosures that are made within the Council, or to an appropriate regulator at an early stage. If the matter is taken outside of the Council, the whistle blower should ensure they do not disclose information about a third party that may be covered by a duty of confidentiality (e.g. commercially sensitive information or personal, private data).

Withdrawing your Allegation

You have the right to withdraw any allegation previously made under this policy and procedure. You should think very carefully before taking this course of action, bearing in mind an investigation may have started and you may need to explain this change of decision. If it considered appropriate, despite the complainant withdrawing the allegation, the investigation of the allegation may continue if it is deemed necessary.

How the Council will Respond

Appendix 4 gives details on how the Council will respond to concerns raised under this Whistleblowing policy.

Implementation

Responsible Officer for Whistle Blowing

The Council’s Monitoring Officer is the Senior Officer in the Council who can take an independent view of any concerns raised.

All concerns raised will be handled in line with the Whistle blowing Procedural Guidance.

Responsibility for the Whistle Blowing Policy

All concerns raised and the outcomes will be reported to the Governance and Audit Committee annually in a form that does not endanger confidentiality.

Management Control and Organisation

See Implementation section

Monitoring

This policy is to be reviewed at least every 3 years (or more frequently if required by changes to statutory legislation). Prior to any approval, the following parties shall be consulted:

- The Council’s Executive Management Team
- The Governance and Audit Committee

On an regular basis, Appendix 1 of the policy, which provides details of the key parties responsible for whistleblowing, shall be reviewed by the Internal Audit Consortium Manager and Section 151 Officer to ensure that details remain relevant and up-to-date. This review will not require re-endorsement of the policy.

Related Policies and Strategies

Counter Fraud, Corruption and Bribery Policy

Members' Code of Conduct

ICT Security Policy

Financial Regulations

ARP Fraud Policies

Officers' Code of Conduct

Appendices

Appendix 1 – Contacts for Whistle blowing

Appendix 2 – Guidance for Employees

Appendix 3 – Guidance for Managers

Appendix 4 – How the Council Will Respond

Contacts for Whistle Blowing

Raising concerns internally

<u>Chief Executive</u>	<u>Anna Graves</u> Chief.executive@breckland-sholland.gov.uk <u>01362 656870</u>
<u>Executive Director Commercialisation (Statutory S151 Officer)</u>	<u>Christine Marshall</u> christine.marshall@breckland-sholland.gov.uk <u>01362 656870</u>
<u>Executive Director Strategy & Governance (Monitoring Officer)</u>	<u>Maxine O'Mahony</u> Maxine.omahony@breckland-sholland.gov.uk <u>01362 656870</u>
<u>Executive Director Place</u>	<u>Rob Walker</u> Rob.Walker@breckland-sholland.gov.uk <u>01362 656870</u>
<u>Head of Internal Audit</u>	<u>Emma Hodds</u> ehodds@s-norfolk.gov.uk <u>01508 533791</u>
<u>Human Resources Manager</u>	<u>Susie Richardson</u> susie.richardson@breckland.gov.uk <u>01362 656870</u>
<u>The Fraud Officer</u> For raising suspicions concerning Council Tax, NNDR and Housing Benefits Fraud	<u>The Fraud Team</u> reportingfraud@angliarevenues.gov.uk <u>01842 756516</u>

Raising Concerns Externally

<p>Protect- www.pcaw.org.uk</p> <p>For support with how to raise concerns, and action to take</p>	<p>Protect CAN Mezzanine 7-14 Great Dover Street London SE1 4YR <u>020 3117 2520</u> whistle@protect-advice.org.uk</p>
<p><u>External Audit</u></p> <p>For issues relating to financial probity and governance including the proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally funded public services</p>	<p>The Comptroller and Auditor General National Audit Office 157-197 Buckingham Palace Road Victoria London SW1W 9SP <u>020 7798 7999</u> https://www.nao.org.uk/contact-us/whistleblowing-disclosures/</p>
<p><u>The Local Government Ombudsman</u> www.lgo.org.uk</p> <p>The Commission for Local Administration in England For Complaints against Councils – will cover all complaints</p>	<p>PO Box 4771 Coventry CV4 0EH <u>0300 061 0614</u></p>
<p><u>Norfolk Constabulary</u></p> <p>For all breaches of the law (except as noted below)</p>	<p>Operations and Communications Centre Jubilee House Falconers Chase Wymondham NR18 0WW <u>101</u></p>
<p><u>Serious Fraud Office</u> www.sfo.gov.uk</p>	<p>2-4 Cockspur Street London SW1Y 5BS</p>

<p>Fraud and Corruption issues</p>	<p><u>020 7239 7272</u> <u>Public.enquiries@sfo.gsi.gov.uk</u></p>
<p><u>National Crime Agency –</u> www.nationalcrimeagency.gov.uk</p> <p>For Money Laundering Issues</p>	<p>Units 1-6 Citadel Place Tinworth Street London SE11 5EF <u>0370 496 7622</u> communication@nca.x.gsi.gov.uk</p>
<p><u>The Health and Safety Executive –</u> www.hse.gov.uk</p>	<p>Rosebery Court 2nd Floor St Andrews Business Park Norwich NR7 0HS <u>0300 003 1647</u></p>
<p><u>The Environment Agency –</u> https://www.gov.uk/government/organisations/environment-agency</p> <p>For environmental crimes</p>	<p>National Customer Contact Centre PO Box 544 Rotherham S60 1BY <u>03708 506 506</u></p>

GUIDANCE FOR EMPLOYEES

HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action you take when you suspect inappropriate behaviour may have happened, or be about to happen, can be crucial. Inappropriate behaviour is described in the Council's Whistle Blowing Policy as:

- *Any criminal offence, particularly fraud or corruption*
- *Unauthorised use of Council money*
- *A failure to comply with a legal obligation*
- *The endangering of an individual's health and safety*
- *Unnecessary dangers to the environment (for example, by pollution)*
- *A person abusing their position for any unauthorised use or for personal gain*
- *A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Counter Fraud Strategy, the Employees' or Members' Code of Conduct)*
- *A person failing to meet appropriate professional standards*
- *Deliberate concealment of information relating to any of the above.*

Following these simple rules should help the Council in carrying out enquiries into any concerns you have.

DO

- ✓ **Make an immediate note of your concerns.**

Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

- ✓ **Convey your suspicions to someone with the appropriate authority and experience in accordance with the Council's Whistle Blowing Policy.**

- ✓ **Deal with the matter promptly if you feel your concerns are warranted.**

Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

DON'T

- ✗ **Do nothing.**

- ✗ **Be afraid of raising your concerns.**

You will not suffer any recrimination from the Council as a result of voicing a reasonably held suspicion. The Council will treat the matter sensitively and confidentially, and will take reasonable steps to protect anyone who raises a well intentioned concern.

- ✗ **Approach or accuse any individuals directly.**

✘ Try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence. Any attempt to gather evidence by people who are unfamiliar with these rules may weaken or destroy any future prosecution should that be thought appropriate.

✘ Convey your suspicions to anyone other than those indicated in the Council's Whistle Blowing Policy.

The Public Interest Disclosure Act 1998 - will protect you from any reprisals as long as you meet the rules set out in the Act. The rules are:

- **You must disclose the information in good faith**
- **You must reasonably believe it to be substantially true**
- **You must not seek any personal gain**

GUIDANCE FOR MANAGERS

HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action you take when you identify, or are made aware of, suspected inappropriate behaviour can be crucial in determining the success of any subsequent enquiries. Inappropriate behaviour is described in the Council's Whistle Blowing Policy as:

- *Any criminal offence, particularly fraud or corruption*
- *Unauthorised use of Council money*
- *A failure to comply with a legal obligation*
- *The endangering of an individual's health and safety*
- *Unnecessary dangers to the environment (for example, by pollution)*
- *A person abusing their position for any unauthorised use or for personal gain*
- *A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Counter Fraud Strategy, the Employees' or Members' Code of Conduct)*
- *A person failing to meet appropriate professional standards*
- *Deliberate concealment of information relating to any of the above.*

Following these simple rules will help to ensure that matters are properly handled.

As a manager you should familiarise yourself with both the Council's Policy to help fight Fraud and Corruption and its Whistle Blowing Policy

DO

✓ **Be responsive to employees' concerns.**

As part of the Council's anti-fraud and corruption culture, you should encourage employees to voice any reasonably held suspicion. As a manager you should treat all employees' concerns seriously and sensitively.

✓ **Note details.**

Get as much information as possible from the employee reporting the suspicion and encourage them to record this in writing. If the employee has made any notes, request access to these

Note any documentary evidence which may exist to support the allegations made, but do not interfere with this evidence in any way.

✓ **Evaluate the allegation objectively**

Before you take the matter further determine whether any suspicions appear to be justified.

Be objective when evaluating the issue. Consider the facts as they appear based on information you have to hand.

If in doubt, report your suspicions anyway.

If you consider that no further action is necessary, you should still record your decision and also inform the Monitoring Officer of the original notification details.

✓ **Advise the appropriate person**

If you feel that a suspicion is justified advise an appropriate officer in accordance with the Council's Whistle Blowing Policy

✓ **Deal with the matter promptly if you feel your concerns are warranted.**

Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

DON'T

✗ **Ridicule suspicions raised by employees**

The Council cannot operate an effective anti-fraud and corruption culture or Whistle Blowing Policy if employees are reluctant to pass on their concerns to management due to fear of ridicule or recrimination.

You need to ensure that all employee concerns are given a fair hearing. You should reassure employees that they will not suffer recrimination by raising any reasonably held suspicion.

✗ **Approach or accuse any individuals directly**

✗ **Convey your suspicions to anyone other than those indicated in the Council's Whistle Blowing Policy**

✗ **Try to investigate the matter yourself**

Investigations by employees who are unfamiliar with the requirements of evidence are highly likely to jeopardise a successful outcome. They may also alert the suspect and result in the destruction of evidence.

Your primary responsibility is to report the issue and all associated facts to the appropriate officer, wherever possible.

How the Council Will Respond

Whoever you raise your concerns with and whether the concern is made by an employee, member of the public, contractor, Councillor or partner, an impartial person will be appointed to investigate your concern and you will be informed of who this is. Confidentiality will be maintained in accordance with this policy.

In order to protect individuals and those accused of misdeeds or possible malpractice, 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 in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, harassment or discrimination issues) will normally be referred for consideration under those procedures.

Following these initial enquiries the Council will respond to your concerns as appropriate and establish whether or not:

- Your concerns should be considered under this policy
- Your concerns can be allayed satisfactorily without invoking a formal whistleblowing investigation
- No further investigation is necessary
- Your concerns may be resolved by other mechanisms or action, e.g. mediation, training or review
- There is sufficient substance behind your concerns to trigger an investigation

Where there is sufficient evidence behind the concerns to trigger an investigation the concern will either:

- Be investigated by management or internal audit; or
- Be referred to the Police; or
- Be referred to the external auditor; or
- Form the subject of an independent enquiry

Some concerns may be resolved by action agreed with you without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within 10 working days of a concern being raised, the person appointed to investigate your concern will contact you (in a way which does not arise suspicions in your workplace):

- Acknowledging that the concern has been received
- Indicating how we propose to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Telling you whether any initial enquiries have been made
- Supplying you with information on staff support mechanisms
- Advising you of your entitlement to seek advice and representation from your trade union representative
- Telling you whether further investigations will take place and if not, why not; and
- To agree with you how to proceed if you have chosen to remain anonymous.

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

Once the person appointed to investigate your concern has completed their investigations, they will produce a written report that sets out:

- The background to the whistleblowing concern;
- The findings of fact and associated evidence;
- The decision and reasons for the decision; and
- The recommendations and associated action plan

The Council accepts that you need to be assured that the matter has been properly addressed. Subject to legal constraints and any confidentiality or other issues, we will inform you of the outcome of any investigation.