



COLNEY HEATH PARISH COUNCIL

Highfield Park Office
Highfield Park Visitor Centre
Hill End Lane
St Albans
Hertfordshire AL4 0RA

Colney Heath Village Office
83 High Street
Colney Heath
Hertfordshire AL4 0NS

Tel: 01727 825314 Email: clerk@colneyheathparishcouncil.gov.uk

Public Disclosure (Whistleblowing) Policy

1. Background

Colney Heath Parish Council ("the Council") operates within all relevant laws and regulations and expects all employees to co-operate in this by also adhering to all such laws, regulations, policies and procedures.

The Public Interest Disclosure Act 1998, gives legal protection in particular to employees against being dismissed or penalised as a result of publicly disclosing certain serious concerns. The Act also makes special provision for disclosures to prescribed bodies and those bodies that are most likely to be of relevance are:-

- The Health and Safety Executive (re: health and safety risks);
- Environment Agency (re: environmental issues);
- Inland Revenue/Customs and Excise (re: financial irregularities);
- The National Audit Office (re: public sector finance);
- Monitoring Officer (re: Councillors' conduct);
- Information Commission (re: breaches of the Data Protection Act).

It is fundamental to everyone's employment that they will be loyal to the Council as their employer and will not disclose confidential information outside the organisation. However, from time to time, an employee might discover information which he/she believes shows wrongdoing or malpractice within the organisation. On such occasions, the Council accepts that it is necessary for the information to be disclosed without fear of reprisal and, where appropriate, to someone other than the Clerk in the Council.

The Council recognises that whilst the employee (the "whistle-blower") may often be in the best position to know when the interests of the public are being put at risk, they may not wish to express their concerns as for example the employee may think it is disloyal to do, may fear reprisals, may not expect any action to be taken or may not know the best way to proceed.

Concerns can be raised internally to the Clerk or if the Clerk is involved in any way, to the Chairman of the Council and the disclosure will be protected as long as the employee has an honest and reasonable suspicion that bad practice has occurred, is occurring or is likely to occur.

This Policy, which is non-contractual and does not form part of the contract of employment, applies to all Council employees and aims to provide the



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necessary environment for concerns to be raised promptly and be adequately dealt with in accordance with the process set out.

2. Policy Statement

The Council is committed to the highest standards of honesty, openness, probity and accountability and to dealing with all fraud and other forms of malpractice reported. It aims to ensure that it operates in a responsible manner to a high standard of public service and recognises that all employees have an important role in helping to achieve this aim.

Any employee, contractor, member of the public or any other organisation with serious or sensitive concerns in good faith about any aspect of the Council's work is encouraged to come forward and voice those concerns at an early stage without fear of victimisation, subsequent discrimination or disadvantage. These concerns may relate to issues that are occurring now, took place in the past, or are likely to happen in the future. The Council will take all wrongdoing seriously and any such concerns and supporting evidence suggesting such behaviour will be investigated thoroughly.

Employees are encouraged and expected to use this Policy and procedure rather than to air their grievances outside the Council and all concerns received will be treated in confidence and investigated in accordance with this policy.

There is still a right to disclose to a regulatory authority if you become aware of any matter or act which seems not to be in accord with the general aims set out above. However, the Council expects that the Clerk or the Chairman of the Council, as appropriate, is advised of any such circumstances before reporting it externally.

3. Scope of the Policy

The Policy is intended to deal with serious or sensitive concerns about wrongdoing, alleged malpractice or impropriety in or by the Council which it is in the public interest to disclose for example :-

- financial malpractice, impropriety, fraud or corruption;
- conduct amounting to an offence or breach of the law;
- breach of Standing Orders and/or Financial Regulations;
- breach of any Code of Conduct;
- failure to comply with a legal obligation or with the rules and regulations of the Council;
- damage to the environment;
- any health and safety risk matter which seems likely to harm an employee, customer, member of the public or the environment;
- professional malpractice which includes matters such as non-application of the Council's academic procedures and systems;



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- improper conduct or unethical behaviour including any offence under the Bribery Act 2010;
- discrimination of any kind;
- the concealment of evidence relating to any of the above.

The above list of examples is indicative and not exhaustive.

It can be difficult to decide whether a particular issue falls within the Policy and it may be that, when concerns are investigated, it appears appropriate to address them through other more specific procedures for example staff grievances, complaints and disciplinary matters. In such cases, the matter will not normally be considered under this Policy but will be investigated in accordance with, for example the Council's complaints, grievance or disciplinary procedure.

It is particularly urgent and important in matters concerning the health and safety of those on the Council's premises (whether employees, contractors or visitors). For example, in the case of a hazard or dangerous occurrence you must notify the Clerk or the Chairman of the Council immediately before making any other report to an outside body, so that immediate and appropriate action can be taken to remove the hazard.

4. Procedure for Making and Investigating an Internal Disclosure

Concerns should normally be put in writing to the Clerk or the Chairman of the Council as appropriate, as they are designated as the persons primarily responsible for oversight of this Policy. Concerns that are expressed anonymously are less powerful, are less likely to be effective and may not be addressed.

The Clerk or the Chairman of the Council will consider the information disclosed and decide whether the matter falls within the scope of this Policy and, if so, whether there are grounds for proceeding with an investigation and how the investigation should be undertaken. Alternatively, if the matter falls outside this Policy and procedure but within another, then the individual making the disclosure will be informed and directed to the appropriate process or if there are insufficient grounds on which to proceed, they will be informed and will have a right to provide further information and resubmit the concerns.

If there are grounds for proceeding and depending on the nature of the matter the options may involve:-

- an internal investigation conducted by the Clerk, a Panel of three Members of the Council or an appointed relevant independent third party as appropriate; or
- referral to the Council's auditor; or
- referring the matter to the police.



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The investigation will not normally be conducted personally by the Clerk, the Chair of the Council or any other person who may be involved or have to take a decision arising from the findings.

The investigation will be conducted as sensitively as possible, and normally be completed within six weeks of the disclosure being made. The investigation will consider the concept of natural justice and the need to safeguard individual reputations. When an allegation concerns a named individual, the person concerned will be informed of the allegation and of the evidence supporting it. The person will be invited to respond to the allegation as part of the investigation and/or before any conclusion or decision is reached. The point at which it is appropriate for the individual to be informed will depend on the nature of the case.

The findings of any investigation will be reported to the relevant Committee of the Council and/or the Council itself, depending on the circumstances, who will reach a decision on any further action to be taken. Following the initial investigation, other internal procedures may be identified as relevant and may be invoked, such as the disciplinary or grievance procedure. In some cases, it may be appropriate to refer a matter outside the Council for further investigation as highlighted above.

The "whistle-blower" will be advised of the conclusion reached and what action, if any, is to be taken and why. If they are dissatisfied about how an inquiry was carried out, and its resultant outcome, then they may appeal but normally only on procedural grounds, to the Council, who may order a procedural review.

This Policy and procedure is therefore designed to clarify the route through which concerns can be raised and give re-assurance that such matters will be taken seriously and acted upon by the Council. The Council takes the view that in most cases an internal investigation and decision is likely to be the most appropriate course of action.

If an employee raises matters of concern outside the Council including by social media or with the media, without first using this procedure and before an investigation is completed, it will be treated as a breach of the procedure and potentially a disciplinary offence, especially if it causes, or might have caused, unnecessary reputational damage to another employee, a Councillor or the Council itself. In such circumstances, the employee will be deemed to have waived their rights under the Public Interest Disclosure Act.

5. Information and training

All employees will be briefed fully on the contents of this Policy and be made aware of the implications of the relevant legislation referred to above.



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6. Safeguards

The Council is keen to ensure that the position of both the person raising concerns and anyone about whom allegations might be made are safeguarded. This Policy and procedure offers protection against dismissal or other penalty by the Council to those individuals who disclose relevant concerns, provided that the disclosure is made in good faith and in the reasonable belief that what is disclosed is covered by the Policy and is made to the appropriate person. No action will be taken against an individual who makes an allegation in good faith even if it is not confirmed by subsequent investigation.

The Council will not tolerate harassment, bullying or victimisation (including informal pressures) and will take action to protect employees when they raise a concern in good faith. The intention is that anyone's career should not be harmed or hindered as a result of acting under this Policy (whether the matter reported proves to be true or not and providing that the reporting was carried out in good faith). The Council will consider any action by an employee found to be victimising another in these circumstances, as a serious disciplinary offence and similarly an employee making a malicious or vexatious allegation or for personal gain will be liable to disciplinary action on grounds of gross misconduct. A disclosure may be deemed malicious or vexatious at any stage of the procedure.

The Council will aim to treat all disclosures and information regarding any action taken under these procedures in a confidential and sensitive manner. The Council will also do its best to protect employees' identities when they raise a concern. However, should the concern raised need to be witnessed for another procedure (for example the Disciplinary Procedure) employees may be asked to provide a signed statement as part of the evidence, thus revealing their identity. This will always be discussed with employees first although in some circumstances the Council may have to disclose employee identities without their consent.

In summary the Council will ensure that:-

- concerns raised are treated seriously and sensitively;
- every effort will be made to meet a request for anonymity and the investigation will be carried out within the usual bounds of confidentiality which means that others may have to be informed;
- acts of harassment, bullying and/or discrimination on any whistle-blower will be taken seriously.

7. Implementation and Review

The Council will take appropriate action to publicise this Policy so that all employees and potential "whistle-blowers":-



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- feel confident that they can raise concerns about Council practices;
- realise that concerns should be raised about any employee, councillor, supplier or anyone who provides services to the public on the Council's behalf;
- are aware of the different ways they can inform the Council of their concerns;
- understand that concerns will be received in good faith and taken seriously;
- are aware that anonymous concerns may not be able to be investigated;
- understand that they will receive a response to their concerns and are aware of how to pursue them further if they are not satisfied with the response;
- are reassured that they will be protected from victimisation, subsequent discrimination or disadvantage.

Any comments or questions about the Policy or its' use may be addressed to the Clerk or the Chairman of the Council.

The Capability Procedure is non-contractual and does not form part of the employee's contract of employment.

The Policy and procedures will be reviewed periodically by the Council to ensure that they are effective and, as appropriate, to reflect any statutory change.

8. Approval

This Procedure was first adopted by the Council at the meeting held on 8 December 2016 and marked for review in December 2018. It was agreed this policy would be reviewed every two years.

**COLNEY HEATH PARISH COUNCIL
CLERK TO THE COUNCIL**

DATE

10/1/19

Approved at the meeting of the Full Council 10 January 2019.