

## Report for Resolution

**Report to** Audit Committee  
28 November 2008

**Report of** Head of Finance

**Subject** Revised Whistleblowing Policy

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### **Purpose**

To ask members to consider and approve the revised whistleblowing policy.

### **Recommendations**

Members are asked to approve the revised whistleblowing policy.

### **Financial Consequences**

The financial consequences of this report are none directly.

### **Risk Management**

In conjunction with the council's enhanced anti-fraud strategies, the whistleblowing policy is intended to mitigate the risk of frauds against the council, by making it clear that all allegations of wrongdoing will be properly investigated.

### **Equality Implications**

The policy officer has advised on the diversity impact assessment, which will be formally reviewed by the sponsorship equalities group on 28 November - until then it is in draft. Once approved it will be published on the council's web site. At this stage the assessment concludes that a full impact assessment is not necessary.

### **Strategic Objective/Service Priorities**

The report helps to achieve the strategic priority "Aiming for excellence – ensuring the Council is efficient in its use of resources, is effective in delivering its plans, is a good employer and communicates effectively with its customers, staff and partners" and the service plan priority to ensure the proper administration of council's financial affairs including reviewing, developing and reporting on the financial aspects of corporate governance.

### **Contact Officers**

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### **Background Documents**

Anti-Fraud and Corruption Strategy

# Report

## Background

1. The Committee on Standards in Public Life recommended in 1997 that “*Every local authority should institute a procedure for whistleblowing, which would enable concerns to be raised confidentially inside and, if necessary, outside the organisation.*” The council duly introduced such a procedure in 1998.
2. The Public Interest Disclosure Act 1998 provides employees with statutory protection against dismissal and victimisation when raising genuine concerns about crime, civil offences, miscarriage of justice and danger to health and safety and the environment, so long as the manner in which the concerns are raised complies with the requirements of the Act. The council confirmed its commitment to act accordingly in its whistleblowing policy.
3. In January 2005 the Committee on Standards in Public Life stated that an effective whistleblowing system is “*both an instrument in support of good governance and a manifestation of a more open culture*”.
4. The purpose of this report is to put forward a revised whistleblowing policy, which draws upon the very latest guidance in this area.
5. The attached whistleblowing policy (Appendix A) essentially supports the council’s strategy to help fight fraud and corruption but expands its position to include other types of “wrongdoing”. It makes it clear that concerns can be raised without fear of reprisals. It is intended to encourage and enable councillors, employees, contractors, suppliers, partners and members of the public to raise concerns with the council, irrespective of status, rather than overlooking an issue or reporting the matter externally.
6. It seeks to let everybody know that the council wants “wrongdoing” to be reported, providing the council with the opportunity to deal with potentially damaging situations, rather than give rise to the possibility of financial loss, regulatory breach or damaged reputation.
7. The revised policy was endorsed by UNISON at the Joint Consultative and Negotiating Committee on 14 July 2008.

## Changes introduced by the new policy

8. The most significant change in the updating of this policy is to incorporate arrangements for whistleblowing by persons other than employees, such as contractors or members of the public. This means that it will in future be a corporate policy rather than being “owned” and updated by HR and Learning, and will be made available on the council web site.
9. The new policy also:
  - makes a clear statement of the council’s intent

- seeks to draw the distinction between whistleblowing and pursuing a complaint, giving greater clarity of understanding to those who might wish to pursue either
- states what support is available for the whistleblower
- makes the monitoring officer the responsible person for the policy
- commits us to following up allegations and providing feedback
- has revised guidance documents to employees and managers to include all potential types of action covered by whistleblowing, rather than just dealing with concerns about fraud and corruption.

### **Research carried out in developing this policy**

10. In drafting this updated policy, recently reviewed policies of other local authorities were used as best practice.
11. Account has also been taken of best practice guidance published by Public Concern at Work, a charity which looks at developments in whistleblowing and the legislation in this area.

### **Proposal and Reasons**

12. The adoption of an updated whistleblowing policy will assist the council in combating fraud and corruption and other acts of “wrongdoing”. The council wants councillors, employees, contractors, suppliers and members of the public to raise genuine concerns where fraud and corruption is suspected, or there is a danger to health and safety and the environment that needs to be reported. The policy seeks to provide mechanisms by which the council can be made aware of wrongdoing, whilst also explaining the process for their investigation.
13. The updated policy is also in line with the stricter requirements of the key lines of enquiry from the 2007/08 use of resources assessment.
14. Continuing to foster and develop an anti fraud and corruption culture at the council is important and can bring real benefits to the council, its staff, its members, the public and those other bodies with whom it interacts. This is why the council is keen to actively encourage individuals to make contact where they have serious or sensitive concerns about inappropriate behaviour occurring at or against the council, or within the local environment.
15. The policy provides an opportunity to investigate and mitigate the risk of frauds or wrongdoing being perpetrated against the council, health and safety being undermined, or the environment being compromised. Where there are concerns of “wrongdoing”, the whistleblowing policy makes it clear that such matters will be thoroughly investigated.

### **Conclusion**

16. Adoption of the modified whistleblowing policy will strengthen the council's corporate governance framework and enhance existing arrangements developed to safeguard the council's position against the types of wrongdoing as specified in the policy.



## **WHISTLEBLOWING POLICY**

### **1. STATEMENT OF INTENT**

Norwich City Council is committed to the highest possible standards of openness, honesty and accountability in all of its activities. It also expects a high standard of conduct and integrity from councillors and employees.

Employees, councillors and others who deal with the council may be the first to know or to suspect when something is unacceptable or going seriously wrong within the council. Turning a blind eye to such situations may mean that action is not taken before real damage is done.

All Norwich City Council councillors and employees have a responsibility to their colleagues, the council and the community to ensure that attention is drawn to any suspected malpractice or irregularity and to ensure that it is dealt with promptly

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

This whistleblowing policy is intended to help:

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

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

All reports of such activities will be taken seriously and investigated. This whistleblowing policy aims to ensure that when such concerns are properly raised they are addressed and the person raising them is protected.

### **2. WHAT IS WHISTLEBLOWING?**

There are numerous definitions of whistleblowing. For example:

- Raising concerns about misconduct within an organisation or within an independent structure associated with it
- Giving information (usually to the authorities) about illegal or underhand practices

- Exposing to the press a malpractice or cover-up in a business or government office
- Providing a safe alternative to silence (*Public Concern at Work*).

More specifically, Public Concern at Work (a charity which provides independent advice and information on whistleblowing) gives the following explanation:

*“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 whistleblower 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 whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.”*

### **3. WHAT IS COVERED BY THIS POLICY?**

This policy is intended to cover serious concerns about inappropriate behaviour that fall outside the scope of other procedures. That concern may be about the following (the list is not exhaustive):

- any criminal offence, particularly fraud or corruption
- unauthorised use of public funds;
- a failure to comply with a legal obligation
- the endangering of an individual's health and safety
- damage to the environment
- actions that are contrary to the council's standing orders, financial regulations or any other approved policies
- actions or behaviour that falls below established standards of practice, including members' and employees codes of conduct
- a person abusing their position for any unauthorised purpose or for personal gain
- harassment, discrimination or victimisation of either staff or clients
- the deliberate concealment of information relating to any of the above matters
- other unethical conduct.

The code of conduct for employees requires staff to report to the appropriate manager any serious impropriety or breach of procedure in accordance with this policy.

#### **4. WHAT IS NOT COVERED?**

This policy is not for matters that are covered by other procedures, such as:

- employees' complaints about their terms and conditions of employment. These matters are dealt with through the grievance procedure.
- complaints from members of the public about the council's services. These are dealt with through the council's complaints procedure.
- staff bringing to the attention of the appropriate level of management any deficiency in the provision of service. To do this is not whistleblowing under the council's code of conduct for employees unless there was some serious failing of the type listed above.

#### **5. PROTECTION FOR WHISTLEBLOWERS**

In accordance with the Public Interest Disclosure Act 1998, the 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 and will not initiate any disciplinary action against them so long as the disclosure was:

- made in good faith
- reasonably believed to be substantially true, and
- was not made for personal gain.

The council will not tolerate threats of victimisation to whistleblowers, which includes deterring them from raising concerns or suppressing concerns they have raised.

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

Similarly, any members taking such action will be reported to either the Standards Board or the Standards Committee as appropriate.

Matters of concern raised will be treated with as much confidentiality as is possible depending upon the situation. The council 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 whistleblower might be required as a witness. Whistleblowers should be aware, however, that the fact that enquiries are being made might, of itself, result in their identity becoming known.

This will be explained at the time a concern is raised so the whistleblower can decide whether or not to proceed. The council will also keep the whistleblower informed if the situation significantly changes.

Whistleblowers who give evidence during disciplinary hearings may be accompanied by a trade union representative, or by a fellow employee.

Where an employee acts in a malicious way (for example by leaking information to the press before the council has had a chance to investigate and put the matter right), the protection outlined above will not apply and the employee may be subject to disciplinary action.

## **6. ANONYMOUS ALLEGATIONS**

The council encourages whistleblowers to give their name when making an allegation. It will do all it can to protect the whistleblower. 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 whistleblowers 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
- whether it can investigate sufficiently based on the information provided.

## **7. UNTRUE ALLEGATIONS**

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

However, if a whistleblower makes a deliberately false 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.

## **8. HOW TO RAISE A CONCERN**

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

A council employee should first raise a concern with their manager or head of service. 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 1.

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 2.

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

- Head of Legal and Democratic Services (as the Monitoring Officer) on 01603 212440
- Head of Finance (as the section 151 officer) on 01603 212556
- Audit Manager on 01603 212575

People who do not work for the council can contact the council's whistleblowing officer direct in any of the following ways:

- by writing to the Monitoring Officer at: Norwich City Council, City Hall, Norwich, Norfolk NR2 1NH. Please write 'For the personal attention of the Monitoring Officer' on your envelope
- by telephoning the council's fraud hotline on 01603 212700
- by completing an online fraud report form on Norwich City Council's website: [www.norwich.gov.uk](http://www.norwich.gov.uk) This form can be used to report all types of suspected fraud, not just benefit fraud.

Whistleblowers are encouraged to raise concerns promptly, 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 whistleblower will be expected to demonstrate that there are reasonable grounds for voicing their concern.

Any whistleblower will be asked to declare any personal interest they may have in the concern being 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 Senior Health and Safety Officer, 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.



## **9. HELP FOR THE WHISTLEBLOWER**

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, trade union representatives can give 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.

## **10. HOW THE COUNCIL WILL RESPOND**

The council will respond to your concerns and take action appropriate to the information provided. The matter may:

- be investigated by management, internal audit, or through the disciplinary process
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry

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. Concerns or allegations which fall within the scope of other, existing, procedures will normally be referred for consideration under those procedures and the whistleblower advised accordingly.

Within 10 working days of a concern being received, the council will write to the whistleblower to:

- acknowledge that the concern has been received;
- explain how it proposes to deal with the matter;
- indicate whether any initial enquiries have been made;
- state whether further investigations will take place, and if not, why not.

The amount of contact between officers considering the issues raised and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided.

Any meetings arranged will normally take place at the council's offices but can be arranged elsewhere. At any meetings, the whistleblower can be accompanied by a friend or a representative from a trade union or professional association.

The council will take steps to reduce any difficulties that may be experienced as a result of raising a concern. For instance, if the whistleblower needs to give evidence in criminal or disciplinary proceedings, the council will provide support and advice on the procedures.

The council accepts that members of staff need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, members of staff will receive information about the outcomes of any investigations.

## **11. HOW THE MATTER CAN BE TAKEN FURTHER**

This policy is intended to provide an avenue to raise concerns within the council. If an individual feels it is right to take the matter outside this process, the following are possible contact points:

- the Audit Commission's dedicated telephone hotline for receiving disclosures – 0845 0522 646
- the local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- the Environment Agency
- the police (if it is potentially a criminal matter)
- the Health and Safety Executive
- Public Concern at Work:

Address: Suite 301  
16 Baldwin Gardens  
London EC1N 7RJ  
  
Tel: 020 7404 6609  
Fax: 020 7404 6576  
Email: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

If the whistleblower decides to take the matter outside the council, they must ensure that they do not disclose information about a third party e.g. a company or a private individual which may be covered by a duty of confidentiality.

## **12. THE RESPONSIBLE OFFICER**

The Head of Legal and Democratic Services is the council's Monitoring Officer and has overall responsibility for the maintenance and operation of this policy.

All concerns raised and the outcomes (in an anonymous format) will be reported as necessary to the Audit Committee.

### **13. MONITORING AND REVIEW**

This policy will be monitored and regularly reviewed, taking account of any change of legislation or council policy, to ensure it remains relevant and effective.

### **RELATED POLICIES AND DOCUMENTS**

- Anti Fraud and Corruption Policy
- Discipline and Grievance Procedures
- Harassment Policy
- Codes of Conduct for Members and Employees
- Complaints Policy
- Employee Handbook
- Public Interest Disclosure Act 1998

Re-issued November 2008

## Appendix 1

### WHISTLEBLOWING - GUIDANCE FOR EMPLOYEES

#### HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

**The action that you take when you first suspect inappropriate behaviour may be crucial. This guidance tells you what you should and should not do if you suspect such behaviour in the council.**

**Inappropriate behaviour is described in the council's whistleblowing policy as:**

- any criminal offence, particularly fraud or corruption
- unauthorised use of public funds;
- a failure to comply with a legal obligation
- the endangering of an individual's health and safety
- damage to the environment
- actions that are contrary to the council's standing orders, financial regulations or any other approved policies
- actions or behaviour that falls below established standards of practice, including members' and employees' codes of conduct
- a person abusing their position for any unauthorised purpose or for personal gain
- harassment, discrimination or victimisation of either staff or clients
- the deliberate concealment of information relating to any of the above matters
- other unethical conduct.

#### **Acting Upon Your Suspicions – The Do's and Don'ts**

If you suspect inappropriate behaviour within the council, there are a few simple rules that should be followed to help the council with subsequent enquiries:

##### **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 whistleblowing 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 whistleblowing 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**

## Appendix 2

### WHISTLEBLOWING - GUIDANCE FOR MANAGERS

#### HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

**The action that you take when you first identify or are made aware of suspected inappropriate behaviour may be crucial in determining the success of any subsequent investigation.**

**Inappropriate behaviour is described in the council's whistleblowing policy as:**

- any criminal offence, particularly fraud or corruption
- unauthorised use of public funds;
- a failure to comply with a legal obligation
- the endangering of an individual's health and safety
- damage to the environment
- actions that are contrary to the council's standing orders, financial regulations or any other approved policies
- actions or behaviour that falls below established standards of practice, including members' and employees' codes of conduct
- a person abusing their position for any unauthorised purpose or for personal gain
- harassment, discrimination or victimisation of either staff or clients
- the deliberate concealment of information relating to any of the above matters
- other unethical conduct.

**As a manager, you should become familiar with the council's anti fraud and corruption policy and its whistleblowing policy so that you are well equipped to deal with allegations when they arise.**

**The following simple rules should help to ensure that matters are properly handled:**

**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**

Note all relevant 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, obtain these also.

In addition, 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, you need to 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 whistleblowing policy.

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

Any delay may cause the council to suffer further financial or reputational 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 whistleblowing 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 whistleblowing policy**

### **✗ Try to investigate the matter yourself**

Remember that 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.**