

Whistle blowing Policy

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Introduction

Surrey County Council is committed to the highest possible standards of honesty, openness, probity and accountability. It seeks to conduct its affairs in a responsible manner, to ensure that all Council activities are open and effectively managed, and that the Council's integrity and principles of public interest disclosure are sustained.

In line with that commitment we encourage employees, those working on behalf of the Council and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns with their immediate manager and / or more senior managers. Where any member of staff decides to report a serious incident, whether anonymous or not, this will be treated as a 'protected', internal disclosure' i.e. there will be no adverse repercussions for the member of staff.

Staff are encouraged to use an external, independent and confidential Service provided by Expolink helpline Freephone: 0800 374199.

Purpose of the policy

Staff are often the first to realise that there may be something seriously wrong within the Council. However, staff may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. Each person working for Surrey County Council needs to realise that they not only have the right, but also a duty to report any improper actions or omissions.

Surrey County Council also recognises and appreciates that staff who raise concerns regarding malpractice or wrongdoing are an asset to the Council, and not a threat. This policy makes it clear that they can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. The whistle blowing policy is intended to encourage and enable staff to raise serious concerns within the Council.

This policy aims to:

- Encourage staff to feel confident in raising serious concerns and to question and act upon concerns about practice.
- Provide avenues to raise those concerns and receive feedback on any action taken.
- Ensure that staff receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied.
- Reassure staff that they will be protected from possible reprisals or victimisation if they have made any disclosure in good faith.
- Promote the already established and resources 'The Contact Centre' to ensure that residents use it as a channel to report any serious concerns. Surrey County Council will use its standard internal mechanisms to fully investigate concerns raised.

Who is covered by the policy

The policy applies to all Council employees, whether full-time or part time, permanent or temporary, members of the Council and those carrying out work for the Council on Council premises, for example, agency workers, contractors, consultants. It also covers providers of works, services and supplies, including the Council's external contractors and those providing services under a contract with the Council in their own premises, for example, care homes. However, to facilitate the reading of this policy, the terms 'staff' or 'members of staff' have been used, with the intention to cover all individuals mentioned above.

This policy will be expected to apply to schools but this is a decision for the Head-teacher / Chair of Governors. Arrangements for whistle blowing will be covered by individual schools procedures to reflect their respective governance arrangements.

Scope of the policy

There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. The whistle blowing policy is intended to cover serious concerns that fall outside the scope of other procedures, in accordance with the Public Interest Disclosure Act 1998. These include:

- Conduct which is an offence or a breach of law
- Failure to comply with a legal obligation
- Disclosures related to miscarriages of justice
- Health and safety risks, including risks to the public as well as other employees/staff
- Damage to the environment
- Information relating to the above issues that has been or is likely to be deliberately concealed

Examples of the above categories are likely to include:

- The unauthorised use or misuse of public funds
- Possible fraud and corruption
- Sexual, physical or psychological abuse of service users
- Harassment & bullying of staff
- Breaches of codes of conduct

Therefore, any serious concerns that a member of staff has about any aspect of service provision or the conduct of Surrey County Council staff or Members of the Council, others acting on behalf of the Council, service users or residents can be reported under the whistle blowing policy where the member of staff has a reasonable belief in those concerns and they relate to one of the specified areas set out above.

Links with other policies

In investigating financial irregularities, this policy should be read in conjunction with the 'Strategy against Fraud & Corruption' which sets out how the financial irregularities should be investigated.

This policy does not replace the corporate complaints procedures. Other forms of concern or complaint are dealt with under separate Council procedures, such as Ending of Harassment & Bullying (including discrimination and victimisation); Grievance; Disciplinary (inappropriate conduct or behaviour) and Capability (performance related issues). The flowchart available in Guidance note shows the relationship between these procedures.

As this policy is in addition to the Council's complaints procedures, and other statutory reporting procedures applying to some services, managers are responsible for making service users aware of the existence of these procedures.

Safeguarding against harassment or victimisation

The Council is committed to good practice and high standards and wants to be supportive of employees/staff. It is recognised that the decision to report a concern can be a difficult one to make. If a member of staff has a reasonable belief that what they are saying is true, they have nothing to fear because they will be doing their duty to their employer and/or those for whom they are providing a service.

The Council will take zero tolerance approach to any act of harassment or victimisation (including informal pressures) and will take appropriate action to protect staff when they raise a concern, by supporting the member of staff and consider action under the appropriate procedure (for example Disciplinary) against the person or persons responsible for the reported acts, provided the member of staff:

- Discloses the information in good faith
- Believes the concern to be true
- Does not act maliciously or make false allegations
- Does not seek any personal gain

and provided the allegations relate to one of the categories covered by the scope of the policy and referred to above.

Unsubstantiated allegations

If a member of staff makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken.

Confidentiality

All concerns will be treated in confidence but at the appropriate time, the whistle blower may be asked to come forward as a witness, and this will be discussed with them.

Anonymous allegations

This policy encourages staff to put their name to their allegation whenever possible.

Where a concern is raised via the external confidential Expolink Service, there is a provision to provide Expolink with name and contact details which will not be passed to the Council without express permission from the individual. This enables feedback to be given.

The Council will take all concerns raised seriously. However, concerns expressed anonymously are much less powerful but will 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 issues raised
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

How to raise concerns

As a first step, staff should normally raise concerns with their immediate manager or another manager or if it is believed that such managers are involved, the Chief Executive, the Head of Finance, Head of HR and OD, the Head of Legal and Democratic Services (Monitoring Officer) or Chief Internal Auditor should be approached. (Contact details are given in the For Reference section).

Any concern regarding the conduct of Members of the Council should always be referred to the Head of Legal and Democratic Services who is the Council's Monitoring Officer for consideration as to whether the matter should be referred to the Council's Standards Committee for advice.

While concerns will usually be raised internally, the Council recognises that staff may feel unable to do this, and that they may wish to contact an independent, external organisation, such as Expolink Freephone 0800 374199 to report the concern to be reviewed internally. Expolink is an external and independent organisation, who are specialists in providing a confidential hotline service for whistle blowing and can be contacted any time, night or day, in complete confidence with any relevant concerns. The call will not be traced or monitored.

Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- The background and history of the concern (giving relevant dates);
- The reason why they are particularly concerned about the situation.

The earlier the concern is expressed; the easier it is to take action. In order to assist with the investigation, staff should provide as much detail and supporting evidence as possible regarding their concern. Although staff are not expected to prove beyond doubt the truth of an allegation, it will need to be demonstrated to the person contacted that there are sufficient grounds for concern for the person who raises them to have a reasonable belief that they exist.

The whistle blower may invite a recognised Trade Union representative or a work colleague to be present during any meetings or interviews in connection with the concerns raised.

How the council will respond

The Council will investigate and respond to all concerns raised by staff or service users through any channels including Expolink and The Contact Centre.

While it is not essential that the concerns be provided in writing, the person receiving the concern will, however, ensure that a written account of it is made. This will help with the subsequent investigation by making sure that everyone involved is clear about what is being raised.

When a concern is raised, managers should undertake the following actions:

- Take the concern seriously.
- Consider the concerns fully and objectively.

- Recognise that raising a concern can be a difficult experience for employees
- Ensure confidentiality.
- Refer to the Chief Executive, Head of Legal & Democratic Services or Strategic Director to agree the level at which the concern will be investigated and identify the manager with overall responsibility for co-ordinating the matter.

Refer to the Flow-chart in the guidance. Advice and guidance on the use of the whistle blowing policy can be obtained from the HR&OD Team. For Schools, refer to the individual schools arrangements.

Initial enquiry

In order to protect the 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 that of the public interest. If urgent action is required, this will be taken before any investigation is conducted.

Purpose of the initial inquiry is to ascertain if the conduct or behaviour involves a Member of the Council, a Senior Manager or a member of staff, so that further inquiries and investigation can be progressed accordingly.

Preliminary enquiry

Preliminary inquiry establishes need to carry out an investigation. Further to the results of the initial and preliminary enquiries and at the discretion of senior management, the following steps will then need to be considered:

- Concerns or allegations, which fall within the scope of specific procedures, eg child protection or discrimination issues) will normally be referred for consideration under those procedures.
- Where there is any financial impropriety, the concern should be referred to Internal Audit, before taking any other action
- Inform the Head of Legal and Democratic Services, who is the Council's Monitoring Officer if the concerns indicate unlawful activity.
- Ensure that matters of a criminal nature are reported to the Police after consultation with Internal Audit
- Whether the disciplinary or other relevant management policies, procedures and processes of the Council need to be applied
- Appointment of an officer to carry out the investigation under these procedures.

Investigation

Depending on the nature of concerns, investigation may be carried out under Ending Bullying & Harassment Policy, Capability Policy, Disciplinary Policy or The Strategy against Fraud & corruption.

Investigation Time-scales

Within ten working days of a concern being raised, the person who is dealing with the concern that has been raised will respond in writing either to the employee directly or to Expolink where this was the reporting route:

- Acknowledging that the concern has been received
- Indicating how the Council propose to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Advising whether any initial enquiries have been made
- Supplying information on staff support mechanisms, and
- Advising whether further investigations or action is required; and if not, why not.

Where Expolink was the reporting route the manager dealing with the concern will provide an additional update to Expolink at 28 calendar days after the report was received, advising of additional progress made and the estimated date a final response will be available.

Investigation process (see the details of this in the supporting guidance)

The impartial investigating manager appointed to undertake the investigation would establish the facts of the matter and assess whether the concern has foundation and can be resolved internally. Other people may need to be interviewed to provide further information and/or clarification concerning the issue(s) raised.

It is essential that written records of all interviews be kept throughout the investigation, together with written details of any action taken. The investigation will result in a written report and recommendations for corrective action, which will be passed to the manager responsible for deciding whether formal action shall be taken.

Where any meeting is arranged involving an individual member of staff, which can be off-site, a recognised Trade Union representative or a work colleague may also attend. The Council will take steps to minimise any difficulties, which may be experienced as a result of raising a concern. For instance, if a member of staff is required to give evidence in criminal or disciplinary proceedings, the Council will arrange for them to receive appropriate procedural and /or legal advice.

The member of staff raising the concern with a manager will be, subject to legal constraints, be advised in writing of the outcome of the investigation and, where appropriate, what action is being taken. This may include changes to working practices to ensure that a similar situation does not occur again. Where the concern was raised via Expolink, the employee will be invited to contact them for feedback at the appropriate time.

Monitoring arrangements

The Head of HR and OD, in consultation with the Monitoring Officer (Head of Legal and Democratic Services) has overall responsibility for the maintenance and operation of this policy. The Head of HR and OD maintain a record of concerns raised and the outcomes (but in a form which does not compromise confidentiality) as part of the already existing major case register and will report as necessary to the Council.

The Financial regulations state that the Head of HR and OD will ensure that 'whistle blowing' procedures are defined, documented, widely promulgated and reviewed at appropriate intervals, in consultation with the Head of Legal and Democratic Services.

The practical aspects of monitoring are to assess whether:

- The policy is being used appropriately
- Concerns are being handled and investigated properly
- There are any discernible patterns of concern across the Council
- The policy has been effective in identifying and deterring malpractice
- More needs to be done to raise awareness of the policy.