



Whistleblowing Procedure

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Hampshire County Council Whistleblowing Procedure

I. Introduction

Individual members of staff have a right and a duty to raise matters of concern which they have about the services provided by Hampshire County Council or any serious associated malpractice. This procedure sets out the recommended course of action which individuals should take to report a concern and also the action to take if, in extreme circumstances, a matter is not addressed or if they feel that raising the matter internally could result in evidence of malpractice being concealed.

Hampshire County Council is committed to the highest standards of openness and accountability and takes malpractice seriously. Employees and others that we deal with who have serious concerns about any aspect of the Council's work are encouraged to report those concerns.

This whistleblowing procedure is intended to;

- Deter malpractice and avoid crisis management, contributing to the efficiency of the County Council
- Maintain the County Council's reputation by providing accountability
- Provide a mechanism for employees to raise concerns of malpractice
- Ensure that concerns are addressed promptly and effectively
- Ensure compliance with the law and minimise external disclosures

This procedure has been designed to operate in accordance with the provisions of the Public Interest Disclosure Act 1998, which gives protection to people who disclose reasonable concerns about serious misconduct or malpractice at work.

Examples of the types of malpractice that should be disclosed using this procedure are;

- fraud or corruption
- financial irregularities
- unauthorised use of public funds
- the physical, emotional or sexual abuse of clients
- serious breaches of professional codes of conduct/ practice
- failure to comply with legal obligations
- endangering of an individuals health and safety
- damage to the environment
- a criminal offence
- failure to follow financial and contract procedure rules
- showing undue favour to a contractor or a job applicant
- miscarriages of justice
- deliberate concealment of information relating to any of the above
- other dangers or illegalities which may affect clients, members of the public or the Council itself.

In certain circumstances the use of other County Council procedures may apply. For example, complaints about the quality of service delivery should be addressed through the corporate complaints procedure. Employees who have specific complaints relating to their own employment situation, which fall outside of the scope of this procedure and examples above, should refer to the grievance procedure.

This policy applies to all staff covered under EHCC agreements except for school based staff. This policy also applies to contractors and suppliers of services.

This policy will be reviewed every three years or whenever a change in employment legislation necessitates a review, whichever is sooner.

2. Principles

The standards expected of the County Council's employees are set out in the Code of Conduct and in departmental and local procedures and guidance relating to specific issues. The policy is also consistent with the rights and responsibilities outlined in the Staff Charter.

This procedure covers a range of possible concerns. Issues of safeguarding of children or vulnerable adults are a special case under this procedure. Any employee of the County Council who has any concerns about the potential for a child or vulnerable adult to be at risk of harm has a duty to report those concerns appropriately within the County Council.

The Children's and Adult Services Departments have specific guidance on dealing with safeguarding issues anywhere within the County Council and have safeguarding teams in place who are able to deal with such concerns. Further details are available by accessing the following safeguarding links; for [Adult Services](#) or for [Children's Services](#).

All staff have a duty of confidentiality to Hampshire County Council. If a member of staff is considering making a disclosure of confidential information they are advised to seek prior advice from their line manager, the Employment Practice Centre or a trade union representative. The confidentiality for employee's who raise concerns will be respected as far as possible in line with a fair and thorough process.

Throughout the procedure, the complainant has the right to be accompanied to any meetings by a trade union representative, work colleague from within the County Council or a friend.

It is recognised that there may be matters that cannot be dealt with internally and external authorities may need to become involved. Where this is the case the County Council reserves the right to make a referral without the individual's consent.

The Council accepts that the complainant will need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, the complainant will be informed of the outcome of any investigation.

There will be no adverse consequences for a member of staff who raises a concern in accordance with this procedure. Victimisation or deterring employee's from raising

legitimate concerns will constitute serious misconduct and will be addressed under the County Council's disciplinary policy.

Concerns that are raised frivolously, maliciously, for personal gain or where they are known to be untrue may result in disciplinary action, or in the case of agency staff, termination of the agency contract. In the case of contractors, the matter will be reported to the County Council's relevant manager so that a decision can be made about the appropriate action to take.

Individuals are encouraged to give their name when raising concerns. A concern expressed anonymously is much less powerful and is often more difficult to investigate. The decision whether to investigate an anonymous allegation will be made by local management, in conjunction with an HR representative from the Employment Practice Centre where necessary. When making this decision, the manager will take into account the seriousness of the issues raised, the credibility of what is being said and the likelihood of confirming the allegation from other sources.

The Employment Practice Centre is responsible for providing advice and guidance to managers and employees on the application of this procedure. Senior managers are responsible for ensuring that all employees have the opportunity to raise concerns under the whistleblowing procedure and that action taken in accordance with this procedure is monitored and is consistent with practices across Hampshire County Council.

3. How to raise a concern

An individual must raise their concern with their line manager, or their line manager's manager if the concern involves the immediate line manager, as promptly as possible. If an individual believes that management is involved in the malpractice they should approach a senior manager in the same or another department or an HR representative from the Employment Practice Centre. For the purposes of this procedure the appropriate manager will be referred to as 'the responsible officer'. Individuals may also raise a concern through their professional association or trade union.

Concerns may be raised verbally or in writing. Individuals wishing to submit written detail are invited to include the following information;

- the background and history of the concern (providing relevant names, dates and places)
- the reason for concern about this situation
- any evidence or documentation relating to the concern

Individuals are encouraged to provide as much detail as possible to focus the investigation on the main issues. Although the individual will not be required to prove beyond reasonable doubt the truth of the allegation(s), demonstration that there are reasonable grounds for the concern are necessary.

Unless in very extreme cases, individuals should raise concerns using this internal whistleblowing procedure and should not proceed directly to outside bodies, including the media/ internet.

4. How the County Council will respond

The County Council will respond to all concerns and will address such issues on a case by case basis dependant on the nature of the concern.

Where appropriate the matter(s) raised may be;

- internally investigated by the responsible officer, possibly resulting in other formal action
- assigned to an investigating officer to undertake an internal investigation
- referred to the police
- referred to internal audit or other relevant County Council departments
- referred under the County Council's Safeguarding Adult's/ Children's procedures

In order to protect all parties, initial enquiries will be made to determine whether an investigation is appropriate and, if so, what form it should take. If urgent action is required this will be taken before any investigation is conducted. Some concerns may be resolved by agreed action without the need for investigation.

If the responsible officer identifies that an investigating officer (IO) is required, the IO will be determined by the responsible officer on a case by case basis, taking into account the relevant sensitivities where necessary.

An initial confidential interview with the concerned individual should be conducted by the IO to establish the facts and to determine the appropriate action to take. The outcome of this meeting and the suggested course of action should be shared with the responsible officer who will decide whether further investigation is required and what form the investigation should take.

Within **5 working days** of a concern being raised, the responsible officer will write to the individual who raised the concern detailing the following;

- acknowledgement that the concern has been received
- an indication of how the Council is dealing with the matter
- provision of an estimate of the timescales for a final response
- inform the individual whether any initial enquiries have been made
- supply the individual with information relating to staff support mechanisms such as the Employee Support Line (*esl*)
- inform the individual whether further investigations will take place and if not, why that is the case

5. Investigations (link to stand alone investigations guidance to follow)

The purpose of the investigation is to establish the facts and circumstances of the complaint. This may be done either within the context of a safeguarding investigation or a whistleblowing complaint. Where the responsible officer has appointed an investigating officer, the investigating officer should undertake the following actions;

- establish the full details of the complaint

- inform the member(s) of staff whom the complaint is against as soon as possible (where the concern relates to a safeguarding issue advice in relation to informing the alleged offender(s) should be sought from the Employment Practice Centre or the relevant safeguarding unit before any communication takes place)
- consider involvement of other internal or external parties, for example the safeguarding officer or the Police
- thoroughly investigate the allegations, with assistance where necessary
- produce an investigation report to capture the key findings arising from the investigation and make recommendations for resolution
- provide the responsible officer with a copy of the investigation report upon conclusion of the investigation

The investigating officer may also require a statement from the individual who reported the concern as part of the process of collecting evidence.

Due to the varied nature of whistleblowing complaints, which may involve internal investigators and/ or the Police, it is not possible to provide precise timescales for completion of such investigations. The investigating officer should ensure that the investigation is undertaken as promptly as possible without affecting the quality of the investigation.

The amount of contact between the responsible officer and the complainant will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If the investigation is a prolonged one, the investigating officer should keep the responsible officer informed as to the progress of the investigation and when it is likely to be concluded. The responsible officer should ensure that the individual who raised the concern is also kept updated.

Further guidance and general principles for conducting internal investigations can be obtained from the guidance entitled 'Internal Investigations' (to follow).

5.1 Outcome of investigation

The responsible officer should share the outcome of the investigation with the employee who raised the concern, ideally face to face in the first instance. This should then be followed up in writing as soon as practically possible following completion of the investigation. The written confirmation should detail the outcome of the investigation and any action that is proposed, where appropriate.

Any further actions that are identified as a result of the investigation should be referred to the most appropriate manager or department to progress.

6. How the matter can be taken further

This procedure is intended to provide individuals with an avenue within the County Council to raise concerns and to be satisfied with any action taken at the above stages of this procedure. However, should the individual not be satisfied, the County Council recognises that they may choose to raise their concern externally, provided that it comes within the range of concerns outlined in section 1. It is a normally expected that external contact is made only after exhaustion of the internal procedure.

Individuals should only raise the concern externally if they consider that it meets the following criteria;

- the matter has already been raised internally but the individual believes that the matter has not been addressed, and/or
- the individual has reasonable grounds to believe that they will be placed in a vulnerable position by raising the matter internally.

In such instances as those provided above, individuals may wish to contact;

Semi external contacts;

- an elected Member of the Council
- the district (external) auditor
- a trade union representative
- the local Government ombudsman

Fully external contacts;

- Public Concerns at Work, a registered charity whose services are free and confidential (telephone number 020 7404 6609)
- Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- the Police
- Whistleblowing lines of external bodies, e.g. OFSTED.

7. Key points and record keeping

Details of all concerns raised and the subsequent investigation will be retained for five years, except where separate retention rules apply, e.g. child protection records. The purpose of this is to ensure that a central record is kept which can be cross-referenced with other complaints in order to monitor any patterns of concern and to assist the County Council in monitoring the effectiveness of this procedure.

Written records should be treated as confidential and kept in accordance with the Data Protection Act (1998).

Written records may include;

- the nature of the complaint
- a copy of the employees written complaint
- the employer's response
- action taken
- reasons for action taken
- subsequent developments
- letters, investigation reports, formal meeting minutes (if taken) and relevant correspondence relating to the complaint.

8. Support

The Employee Support Line (*esl*) is a confidential counselling and support service provided by trained, experienced counsellors, providing face-to-face counselling available throughout Hampshire. This service is available to all HCC staff, more information can be found at <http://www3.hants.gov.uk/employeesupport.htm>, or by contacting the helpline on 02380 626606 or sending a confidential email to eslhelp@hants.gov.uk.