

# Whistleblowing Policy

## March 2018

For Employees, Councillors, Partners and Members of the Public



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## **FORWARD**

South Ribble Borough Council (the council) is committed to ensuring that it, and the people working for it, complies with the highest standards of openness, probity and accountability. In line with that commitment, it expects and encourages all employees to maintain high standards in accordance with the Code of Conduct for Council Employees. This Policy aims to encourage workers with serious concerns about any aspect of the council's work to come forward and voice those concerns, so that they can be investigated effectively.

This council is fully committed to supporting employees who come forward with allegations of wrongdoing and will as so far is possible ensure that complete confidentiality is maintained.

Like other policies, the Whistleblowing Policy, when invoked can start a process; it is therefore of paramount importance that the correct process is being used – the Whistleblowing Policy is designed to investigate serious allegations of wrongdoing; the council has other policies for less serious investigations. Like most things, it will come down to individual judgement and the reasonableness and proportionality tests.

Whether or not it is the Whistleblowing Policy that is appropriate, the Chief Executive and the rest of the Leadership Management Team are unambiguously committed to taking seriously any and all allegations of wrongdoing – serious or otherwise.

**Heather McManus**

**Chief Executive**

## 1. INTRODUCTION

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear bullying, harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may be a suspicion of malpractice.
- 1.2 The council is committed to the highest possible standards of openness, professionalism and accountability. We expect employees, councillors, partners, members of the public and others that we deal with, who have serious concerns about any aspect of the council's work, to come forward and tell us about them. This policy forms part of the council's governance arrangements.
- 1.3 The council is very mindful of the increased importance of working with partners in all areas of its activities. In these circumstances, the council shall ensure that its partners and all companies, with whom it is contracted, will be fully informed of the procedures we have in place for whistleblowing.
- 1.4 Employees can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. Employees/workers who raise a concern are protected by the Public Interest Disclosure Act 1998 which is incorporated into the Employment Rights Act 1996. This Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the council, rather than overlooking a problem or 'blowing the whistle' outside. A whistleblower is a witness, not a complainant.
- 1.5 The Policy applies to all employees, elected members and those contractors working for the Council on its premises, for example, volunteers, agency staff, builders, and drivers. It also covers suppliers

and those providing services under a partnership arrangement with the Council. Members of the public are also encouraged to report their concerns via this Policy.

1.6 This Policy complies with relevant legislation and statutory provisions.

## **2. AIM AND SCOPE OF THIS POLICY**

2.1 This Policy aims to:

- encourage employees to feel confident in raising serious concerns;
- provide guidance on how to raise those concerns and be given feedback on any action taken;
- ensure that those who raise a concern receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied;
- reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure in good faith;
- give a clear message that disclosures of serious misconduct or impropriety are taken seriously;
- ensure that where the disclosure proves to be well founded, the individuals responsible for such serious misconduct or wrongdoing will be held accountable for their actions; and

- set out what employees can expect by way of confidentiality and protection when making a whistleblowing disclosure; and

2.2 All employees have a legal and moral responsibility to report improper acts and omissions. In some circumstances, failure to raise such concerns may amount to a breach of contract or law.

2.3 There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. This Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These include any disclosure of information which the employee reasonably believes to show one of the following:

- conduct which is an offence or a breach of law;
- failure to comply with a legal obligation;
- disclosures related to miscarriages of justice (e.g. failure to provide evidence in a criminal investigation, perjury);
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public funds;
- possible fraud, corruption, bribery, or money laundering;
- sexual or physical abuse of clients;
- other improper or unethical conduct; and

- deliberate covering up of information relating to any of the above.
- abuse of power or authority;
- failure to comply with professional standards, Council policies or codes of practice/ conduct.

### **3. WHAT IS THE LEGAL BACKGROUND?**

3.1 The Public Interest Disclosure Act 1998 ( 'the Act') (as amended by the Enterprise and Regulatory Reform Act 2013) protects employees against detrimental treatment or dismissal as a result of any disclosure of normally confidential information in the interests of the public. The Act only covers protected disclosures under six categories, namely:

- crime
- illegality
- miscarriage of justice
- damage to health and safety
- damage to the environment
- "cover ups" about these issues

3.2 This disclosure will be protected if the worker discloses:

- a) in course of obtaining legal advice;
- b) to the employer;
- c) in certain circumstances to a Minister of the Crown;
- d) to a 'prescribed person' reasonably believing that the information and any allegation contained within it are substantially true. The Secretary of State prescribes by list both the identity of the prescribed person (usually regulatory body) and its remit;
- e) to any person or body provided that a number of detailed conditions are satisfied. Those conditions include a requirement that the worker does not make the disclosure for

purposes of personal gain and a requirement that it is reasonable to make the disclosure in the circumstances. A further section makes provision for a disclosure of an exceptionally serious failure to any person or body.

3.3 The Act makes it unlawful for an employer to dismiss or subject a worker to a detriment for having made a 'protected disclosure' of information. The protection provided by the Act is not subject to any qualifying period of employment and so is referred to as a 'day one' right in employment law.

## **4. RAISING CONCERNS**

### **4.1. How does an employee raise a concern?**

4.1.1 Employees who have a genuine concern about malpractice in the workplace should normally raise this in the first instance with the Monitoring Officer. If it is considered that there is a conflict of interest arrangements will be made for either the Deputy Monitoring Officer or another independent person be assigned to investigate.

4.1.2 Directors / Heads of Service must **NOT** make enquiries or investigate any allegation themselves as this could jeopardise any resulting investigation.

4.1.3 Any report of suspected fraud should be referred to the Head of Shared Assurance Services for the concern to be investigated in accordance with the Anti-Fraud and Corruption Strategy and the Fraud Response Plan.

Any matter relating to an elected member should be reported to the Monitoring Officer.

### **4.2. How does an elected member raise a concern?**

4.2.1 Elected members who have a genuine concern about malpractice should raise the concern with the Monitoring Officer.

4.3. **How do those external to the Authority for example contractors, suppliers or members of the public, raise a concern?**

4.3.1 The Authority encourages those external to the Authority who suspect fraud and/or corruption to contact the Head of Shared Assurance Services. (See Appendix 1 below for contact details). The earlier the concern is raised the easier it will be to take action.

**5. HOW THE COUNCIL WILL RESPOND**

5.1 The Council will respond to all concerns raised. The relevant Whistleblowing Contact will formally record the allegation (Appendix 3) and determine the action to be taken.

The matters raised may:

- be investigated by the Monitoring Officer
- be referred to the Police;
- be referred to the external auditor; or
- form the subject of an independent inquiry.

5.2 Within five working days of you raising a concern, the Whistleblowing Contact will write to you to:

- acknowledge the concern;
- tell you if further action is being taken;
- where applicable, tell you how long it is likely to take to give you a final response; and

- tell you about the support available to you.

A record will be kept of the advice given in each case (Appendix 3a).

5.3 So that you know that your concern has been dealt with properly - and following the conclusion of the investigation and subject to any necessary legal constraints - the Whistleblowing Contact will write to you to inform you of the outcome. However, this will not include details of any disciplinary action, which will remain confidential to the individual concerned.

## **6 SUPPORT FOR EMPLOYEES**

6.1 The Council will not tolerate any bullying, harassment or victimisation (including informal pressures) and will take appropriate action to protect employees when they raise a concern in good faith.

If any employee believes that they are suffering a detriment for having raised a concern they should report this. Subjecting an employee to a detriment means “any disadvantage”. This could include (but is not limited to) any of the following:

- failure to promote
- denial of training
- closer monitoring
- ostracism
- blocking access to resources
- unrequested re-assignment or re-location
- demotion
- suspension
- disciplinary sanction
- bullying or harassment
- victimisation
- dismissal
- failure to provide an appropriate reference

- failing to investigate a subsequent concern

6.2 Any employee who subjects another employee to a detriment for raising their concerns will themselves be subject to a disciplinary sanction.

6.3 The Council recognises that the decision to report a concern can be a difficult one to make. If an employee believes that what they are saying is true, they should have nothing to fear as they will be doing their duty to their employer and those for whom they are providing a service.

6.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary, redundancy or other procedures that already affect employees.

6.5 Employees who raise concerns or who are the subject of an investigation can access confidential counselling via Human Resources.

## **6.6 Confidentiality**

6.6.1 All concerns will be treated in confidence and every effort will be made not to reveal an employee's identity if they so wish.

6.6.2 In some cases confidentiality may not be possible, for instance if an employee reports abuse or a criminal offence or the disclosure is otherwise required by law. If it does become necessary to reveal an employee's identity they will be consulted before this action is taken.

## **6.7 Anonymous Allegations**

6.7.1 The Council encourages whistleblowers to put their name to an allegation whenever possible. Concerns expressed anonymously are much harder to investigate but will be considered at the discretion of the Whistleblowing Contact.

6.7.2 In exercising this discretion the factors to be taken into account would include the seriousness of the issues raised and the likelihood of confirming the allegation.

## 6.8 Untrue Allegations

6.8.1 If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, an employee makes an allegation frivolously or maliciously, disciplinary action may be taken against them.

## 7 LINKS TO OTHER PROCEDURES

7.1 There may be an existing procedure which specifically deals with your particular concern and you should normally follow the appropriate procedure. Human Resources or one of the Whistleblowing Contacts will be able to advise you on this.

- a) If you have a grievance associated with your employment, you should follow the *Grievance Procedure*.
- b) If you have a complaint about bullying or harassment, you should follow the *Bullying and Harassment Procedure*.
- c) If you have a complaint about discrimination, as defined in the *Equal Opportunities Policy*, then you should inform Human Resources.
- d) If a member of the public complains about a fellow employee or some action taken by the Authority, you should direct them to the *Complaints Procedure*.
- e) If you have a concern about a Health and Safety issue, you should contact the Health and Safety Officer.
- f) If you have a concern relating to the actions of an elected member, you should report this to the Monitoring Officer.

- g) If you have a concern relating to safeguarding (CSE, Prevent and Counter Terrorism), you should report this to the Designated Safeguarding Officer.

## **8 DEFINITIONS & EXPLANATION OF TERMS**

### **8.1 Employees**

'Employees' and 'Workers' in this Policy are as defined in the Public Interest Disclosure Act 1998

### **8.2 Whistleblowing**

"The raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others" (Whistleblowing Commission)

### **8.3 Settlement Agreements**

8.3.1 The council when drafting settlement agreements will not include a clause which precludes a worker from making a protected disclosure.

### **8.4 Good Faith**

8.4.1 Employees are protected if they have an honest and reasonable belief or concern, whether this turns out to be true or not. Disclosures must not be malicious or made in pursuit of a personal grudge.

### **8.5 Fraud**

8.5.1 The Fraud Act 2006 refers to fraud being committed by:

- false representation
- failing to disclose  
information
- abuse of position

8.5.2 For practical purposes, fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party.

## **9 THE RESPONSIBLE OFFICER**

9.1 The Monitoring Officer is responsible for the maintenance and operation of this Policy and Procedure.

## **10. TRAINING, REVIEW & OVERSIGHT**

10.1 The Policy will be reviewed annually by the Monitoring Officer and should the Policy require substantial amendments Governance Committee approval will be sought. The revised Policy will be published on Connect, Member Connect and the Council's website.

10.2 The Council will arrange for periodic audits of the effectiveness of the Policy and the results will be reported to the Governance Committee.

10.3 The Council's Annual Governance Statement will also specify the number and types of concerns raised; any relevant litigation and levels of employee awareness, trust and confidence in the arrangements.

## **11. INDEPENDENT ADVICE**

11.1 In addition to the procedures outlined in this policy – or in the event that a complainant is unhappy with the response from the council – then independent advice may be sought from those organisations listed in Appendix 2. Guidance is provided in Appendix 2 as to what type of issues are covered by the respective organisations.

## APPENDIX 1 – Internal Contacts\*

<b>Internal Whistleblowing Contacts</b>	
David Whelan (Interim Monitoring Officer) <a href="mailto:dwhelan@southribble.gov.uk">dwhelan@southribble.gov.uk</a>	☎ 01772 625247
Heather MacManus, Chief Executive <a href="mailto:jhunter@southribble.gov.uk">jhunter@southribble.gov.uk</a>	☎ 01772 625301
Garry Barclay, Head of Shared Assurance Services <a href="mailto:gbarclay@southribble.gov.uk">gbarclay@southribble.gov.uk</a>	☎ 01772 625272
Jennifer Mullin, Designated Safeguarding Officer <a href="mailto:jmullin@southribble.gov.uk">jmullin@southribble.gov.uk</a>	☎ 01772 625329
General Fraud Hotline	☎ 01772 625251
<b>Other Contact Numbers</b>	
Unison	☎ 01772 625506
Benefit Fraud Helpline	☎ 01772 625254

(The names of individuals may need updating from time to time as post holders change).

## APPENDIX 2 – External Contacts (and the matters they would deal with)

National Audit Office	☎ 020 7798 7999  or write to:  The Comptometer & Auditor General National Audit Office 157-197 Buckingham Palace Road London SW1 9SP
Criminal Cases Review Commission <i>(Actual or potential miscarriages of justice)</i>	Alpha Tower, Suffolk Street, Queensway, Birmingham, B1 1TT ☎ (0121) 633 1800
HM Revenue and Customs <i>(VAT, insurance premium tax, excise duties, landfill tax, import and export of prohibited or restricted goods)</i>	Customs Confidential, Freepost SEA 939, PO Box 100, Gravesend, Kent, DA12 2BR  ☎ (0800) 595000
The Information Commissioner <i>(Compliance with data protection legislation)</i>	The Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF  ☎ (0303) 123 1113
The Environment Agency <i>(Acts or omissions which have an actual or potential effect on the environment)</i>	Rio House, Waterside Drive, Aztec West, Almondsbury, Bristol, BS12 4UD  ☎ (0800) 807060
Health and Safety Executive <i>(Health and safety at work)</i>	Information Centre, Broad Lane, Sheffield, S3 7HQ  ☎ (0541) 545500
Local Government Ombudsman <i>(Council maladministration)</i>	The Local Government Ombudsman PO Box 4771, Coventry, CV4 0EH  ☎ 0845 602 1983
Public Concern at Work <i>(free confidential advice on Whistleblowing)</i>	Public Concern at Work 3rd Floor, Bank Chambers 6 - 10 Borough High Street London SE1 9QQ  ☎ 020 7404 6609 or email <a href="mailto:helpline@pcaw.co.uk">helpline@pcaw.co.uk</a>

☎ **One of the contacts listed above is likely to be relevant for your particular concern. If this is not the case, or you are unsure who to contact, Public Concern at Work will be able to advise you.**

## APPENDIX 3 - Report Made Under the Whistleblowing Procedure

South Ribble Borough Council is committed to the highest possible standards of openness, professionalism and accountability. In line with that commitment we expect employees, partners, members of the public 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.

<p><b>Description of the Concern.</b></p> <p>Where possible include:</p>	<ul style="list-style-type: none"> <li>• <b>Date(s) of incident(s)</b></li> <li>• <b>Who was involved</b></li> <li>• <b>Why this is a concern</b></li> <li>• <b>Whether there were any other witnesses</b></li> <li>• <b>Whether you have tried to raise this with your manager</b></li> <li>• <b>What the result was</b></li> </ul>
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**Continue on separate sheet if necessary**

You are encouraged to put your name to this report. Concerns expressed anonymously are much harder to investigate but will be considered at the discretion of the Whistleblowing Contact.

<b>Name:</b>		<b>Service:</b>	
<b>Address:</b>		<b>Contact Telephone No.:</b>	
<b>Date:</b>			

*To be completed by Whistleblowing Contact on Receipt of Report*

<b>WB Contact Name:</b>		<b>Reference:</b>	
<b>Date of Report:</b>			

## APPENDIX 3a – Advice given by Whistleblowing Contacts [to be completed by the above contacts only]

South Ribble Borough Council is committed to the highest possible standards of openness, professionalism and accountability. In line with that commitment we expect employees, partners,

members of the public 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.

<i>WB Contact Name:</i>		<i>Reference:</i>	
<i>Date of Report:</i>			

Advice given: