Sleaford Town Council

CONSTITUTION
Chapter 28
Title: WHISTLE-BLOWING POLICY

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Introduction

The work "whistleblowing" in this policy refers to a disclosure made in good faith and in the public interest by employees, contractors, volunteers or Members, of malpractice, illegal acts or omissions at work.

A whistle-blower is a witness and not a complainant. Whistleblowing is not the same as making a complaint or raising a grievance, where the individual is saying that they have been personally poorly treated. A whistle-blower is usually not directly or personally affected by the matter concerned.

Statement of Commitment

Sleaford Town Council is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices. As such, malpractice and wrongdoing are taken seriously by the Council.

Sleaford Town Council recognises that in many cases, the Council's employees, Members, volunteer helpers or contractors will be the people most likely to become aware of wrongdoing or malpractice. In the light of this, the Council encourages its staff, Members, contractors and volunteers to use the mechanisms specified within this policy to report malpractice by its Members, employees or ex-employees with confidence and without having to worry about being victimised, discriminated against or disadvantaged in any way as a result.

Where Council employees or Members are aware of our suspect malpractice, the Council expects them to report their suspicions. The Council will treat failure to report wrongdoing or malpractice as a serious matter.

Sleaford Town Council will not tolerate any harassment or victimisation of a whistle-blower (including informal pressures), and will treat this as a serious disciplinary offence. Appropriate disciplinary action may be taken in accordance with the Council's Disciplinary Procedure.

Legal Framework

Under the Public Interest Disclosure Act 1998, workers who raise genuine concerns about a range of misconduct or malpractice at work have statutory protection against victimisation and dismissal.

An employee who blows the whistle will be protected by the Act if the disclosure is made in good faith about any of the following:-

- a criminal act;
- failure to comply with a legal obligation;
- miscarriages of justice;
- danger to health and safety;
- any damage to the environment;
- an attempt to cover up any of the above;

A whistle-blower will not be protected under the Act if they break the law when making a disclosure.

Scope of this Policy

Sleaford Town Council has a range of policies and procedures in place to deal with standards of behaviour at work. These include a grievance policy, disciplinary policy and others as included in the Staff Handbook. Employees are encouraged to use the provisions of these procedures when appropriate. Service users should make complaints or raise concerns through the Complaints Procedure.

Therefore, this Whistle-blowing Policy should not be used to deal with complaints that employees may have about their employment in most circumstances. The aim if the Whistleblowing Policy and Procedure is to enable employees, Members, contactors and volunteers to report an issue if they feel that it cannot be done using the existing procedures, particularly if the matter is not about their personal employment position. Whistle-blowing refers to issues that are such importance that the public interest is served by reporting the issue.

The following is a list of examples when this policy may be used (please note that this list is not exhaustive):

- any unlawful act, whether criminal or a breach of civil law, has been committed, is being committed or is likely to be committed;
- suspect corruption or fraud;
- disregard for legislation, particularly that of health & safety at work;
- a breach of a code of conduct;
- misuse of assets, including store, equipment, vehicles, buildings, computer hardware and software;
- breach of financial regulations;
- showing undue favour over a contractual matter or to a job applicant;
- breach of, or failure to implement or comply with any policy determined by the Council;
- failure to take reasonable steps to report and rectify and situation which is likely to give rise to a significant avoidable cost, or loss of income, to the Council or would otherwise seriously prejudice the Council;
- abuse of power, or the use of the Council's power and authority for any unauthorised or ulterior purpose;
- deliberately concealing information in relation to any of the items on this list.

Whilst volunteers are not covered by the Public Interest Disclosure Act, this Council's policy has been written to encompass Members and volunteers.

How to Disclose Information

a) The Town Council

The Public Interest Disclosure Act directs workers towards raising matters internally in the first instance, and to use internal whistle-blowing policies.

For a disclosure to be protected by law, a whistle-blower must:

- make the disclosure in good faith;
- reasonably believe that the information is substantially true

b) A Legal Advisor

A disclosure of information for the purpose of obtaining legal advice is protected.

c) Prescribed Persons

Whilst the Town Council strongly encourages disclosures to be made internally, if a whistle-blower feels unable to use the procedure outlined within this policy they can make a disclosure to other people/organisations as prescribed by government. The most relevant prescribed people relating to the Town Council are:

- The Health and Safety Executive and North Kesteven District Council for health and safety risks;
- The Environment Agency;
- The Serious Fraud Office;
- HM Revenue & Customs;
- National Audit Office, Audit Commission;
- Information Commissioner.

To make a protected disclosure to a prescribed person, the whistle-blower must:

- make the disclosure in good faith;
- reasonably believe that the information is substantially true;
- reasonably believe that the information is being disclosed to the right person or organisation.

Wider Disclosures

A whistle-blower would also be protected under the Act if they made wider disclosures, e.g. to a professional body, the Police or an MP, etc., if the whistle-blower:

- makes the disclosure in good faith;
- reasonably believes that the information is substantially true;
- does not act for personal gain;
- acts reasonably taking into account the circumstances;

In order to make a protected wider disclosure, the whistle-blower must either:

- reasonably believe that the Council would treat them unfairly if they made a disclosure internally or to a prescribed person;
- reasonably believe that an internal disclosure would result in the destruction or cover-up of evidence;
- have previously disclosed the same or very similar information internally or to a prescribed person

Whistle-blowing Procedure

Confidentiality

If the whistle-blower requests confidentiality, the Council will not reveal the whistle-blower's name or position without their permission. It is, however, easier to pursue and verify complaints if the whistle-blower provides his/her name. Unsupported, anonymous complaints and allegations will be treated with caution.

There may be circumstances when the Council is legally obliged to disclose the name of a whistle-blower, e.g. when ordered to by court.

Protection for Whistle-blowers

If an employee, Member, volunteer or contractor raises a concern which they believe to be true, the Council will take appropriate action to protect the individual from harassment, victimisation and bullying. Employees who raise a genuine concern under this policy will not be at risk of losing their job. However, a whistle-blower will not be protected from the consequences of making a disclosure if, by doing so, they commit a criminal offence.

Involvement of Trade Unions

Sleaford Town Council recognises the right of whistle-blowers to be advised and represented by their union when raising concerns under the whistle-blowing procedure.

Designated Officer

The Town Clerk is the Designated Officer to be a point of contact for concerns raised under this procedure.

a) Raising a Concern

An employee should normally raise their concerns about wrongdoing or malpractice with his / her immediate line manager. Whilst the whistle-blower is not expected to prove the truth of an allegation or to investigate the matter themselves, the whistle-blower should have a reasonable belief and some evidence to back it up before raising their concerns. The manager will notify the Designated Officer within two working days whenever possible.

Where it is not appropriate to go via normal management reporting channels, because the matter is serious and sensitive (e.g. if the whistle-blower believes that his or her manager is involved), he/she should contact the Designated Officer. Members, volunteers and contractors should contact the Designated Officer.

The Town Clerk must take all concerns seriously.

Where, exceptionally, the concern is about the Town Clerk, the concerns should be reported to the Chairman of the Council, who will decide how the investigation will proceed. This may include an external investigation.

b) Employer's Response

Within ten working days, the Town Clerk will arrange an initial interview to ascertain the nature of the whistle-blower's concern. The interview will be confidential if requested by the whistle-blower. The whistle-blower has the right to bring a friend or union representative along with them. The friend must observe confidentiality.

At this stage, the whistle-blower will be asked whether he/she wishes his / her identity to be disclosed and will be reassured about protection from possible reprisals or victimisation.

The whistle-blower will be asked if they wish to make a written or verbal statement. In either case, the Town Clerk will write a brief summary (dated) of the interview, which will be agreed by both parties.

The Town Clerk will be responsible for the commission of any further investigation.

c) Investigation

The investigation may need to be carried out under strict confidentiality, i.e. the subject of the investigation will not be informed until, or if, it becomes necessary to do so. This may be appropriate in cases of suspected fraud.

The Town Clerk will offer to keep the whistle-blower informed about the investigation and its outcome.

If the investigation finds that there is a case to be answered by any employee, Sleaford Town Council’s Disciplinary Procedure will be used.
If the investigation identifies that there is no case to answer, but that the whistle-blower held a genuine concern and was not acting maliciously, the matter will be closed. The Town Clerk will ensure that the whistle-blower suffers no reprisals or victimisation.

If the investigation discovers that an employee has made false accusations with malicious intent, appropriate disciplinary action may be taken in accordance with the Council's Disciplinary Procedure.

If the concern raised is very serious or complex, it may be necessary for an inquiry to be held. The Designated Officer may refer the issue to the police or other agencies in serious cases.

Following the Investigation

The Town Clerk will arrange a meeting with the whistle-blower within ten working days of the conclusion of the investigation in order to feedback any action taken. This will not include details of any disciplinary action, as this is confidential.

If the whistle-blower is not satisfied with the outcome of the investigation, the whistle-blower may make disclosures to prescribed persons, or wider disclosures, under the conditions outlined in the section “how to disclose information”.

Policy Review

The policy will be reviewed annually. In the event that an incident of whistleblowing takes place, Sleaford Town Council will take the opportunity to examine its policy, procedures and working methods to see if they can be improved.