

**Teignbridge District Council
Audit Scrutiny
29 August 2023
Part 1**

WHISTLEBLOWING POLICY REVIEW and AMENDMENT

Purpose of Report

To present the results of an external review of the Whistleblowing policy, and seek approval for an amended Whistleblowing policy which incorporates the feedback and recommendations from the review.

Recommendation(s)

The Audit Scrutiny Committee resolves to approve the amended Whistleblowing policy.

Financial Implications

Costs of £2,000 were incurred commissioning Whistleblowing charity "Protect" to review the policy and provide a member briefing. These charges were met from reserves as they were not budgeted for.

Legal Implications

The Accounts and Audit Regulations require the Council to make arrangements for the prevention and detection of fraud. The Whistleblowing policy is part of the framework for managing this, and other allegations of misconduct. The policy recognises the Employment Rights Act 1996.

Risk Assessment

The policy forms part of the framework for managing the risk of fraud and other forms of unacceptable behaviour.

Environmental/ Climate Change Implications

Not applicable.

Report Author

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Executive Member

Councillor Richard Keeling – Executive Member for Resources

1. BACKGROUND

- 1.1 The Whistleblowing policy's main purpose is to encourage and provide protection to members of staff and councillors wishing to raise genuine concerns internally. It is included in the Council's Constitution.
- 1.2 The policy is periodically reviewed to ensure it is fit for purpose and reflects current legislation and best practice.
- 1.3 Following an internal review, an updated policy was presented to full Council for approval in May 2023. Council resolved:

“that the policy be adopted, and with expediency “Protect” be invited in to scrutinise and have oversight of the policy and that employees, members of the Council and the public be made aware of the policy”.

- 1.4 Protect's report is appended below. In summary, they reported that our Teignbridge policy was of generally high quality. It was clearly structured, succinct and demonstrates a commitment to transparency and good governance. They made recommendations for improvement which have been incorporated into an updated draft policy presented to members today. This is also appended below, for members' review and approval. Changes are denoted by red text and are underlined.

2. GROUPS CONSULTED

- Strategic Leadership Team – Monitoring Officer
- Human Resources and Organisational Development Manager

3. ENVIRONMENTAL/CLIMATE CHANGE IMPACT

Not applicable.

4. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

Not applicable.



Protect
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London E2 9DA
Tel: 020 3117 2520
Email: info@protect-advice.org.uk
www.protect-advice.org.uk

Sue Heath
Audit and Information Governance Manager
Teignbridge District Council

11th August 2023

Dear Sue

I have reviewed Teignbridge District Council's Whistleblowing Policy, as per your request. The policy is of generally high quality. It is clearly structured, succinct and demonstrates a commitment to transparency and good governance.

Please find below our recommendations for improvement, based upon our expertise in whistleblowing law and best practice.

Legislation: We would not recommend that you link to the Public Interest Disclosure Act 1998 (as you do in the introduction) as this is not updated regularly. PIDA 1998 is incorporated in the Employment Rights Act 1996 here: [Employment Rights Act 1996 \(legislation.gov.uk\)](http://legislation.gov.uk)

Scope: workers are covered by whistleblowing protection, not just employees.

- **Victimisation:** it is important to include a section explicitly addressing the issue of whistleblower victimisation, containing: An assurance that a whistleblower raising a concern will not be at risk of losing their job or suffering any form of reprisal as a result – this is in the intro but could be reiterated (without the good faith wording) in the section on victimisation.
- An assurance that TDC takes a zero-tolerance approach to victimisation of whistleblowers and will treat victimisation as a disciplinary matter.
- If possible, examples of treatment which would constitute victimisation, such as bullying, demotion and including any attempt to identify a whistleblower.

- Encourages reporting of victimisation, setting out where should a whistleblower go if they do experience victimisation

Review: who is responsible for reviewing the policy? Make this clear in the policy, as this demonstrates accountability and oversight. It also provides a channel for whistleblowers to provide feedback or report breaches of the policy.

Good faith: consider removing the wording 'good faith' in the introduction and in the section about malicious/untrue allegations, as this is no longer a requirement in whistleblowing law. It is also overly legalistic and does not help the reader. The key point is that if the whistleblower raises a genuine concern, it does not matter if they are mistaken.

Examples: It may be helpful to provide examples of the kind of issue that would fall more properly within the grievance procedure (e.g., pay disputes).

Accessibility: ensure the policy is cross-referenced in other documents, is part of the staff handbook, and can be easily found on internal systems

Confidentiality – The sentence about the investigation process revealing a whistleblower's identity is confusing. Despite the guarantees about confidentiality, it seems to suggest that confidentiality will be breached regardless, and this could be off-putting to a whistleblower.

Outcomes: You might want to make clear that the list of potential outcomes is not exhaustive – there may be risks that are raised that lead to changes in how you do things but do not require anyone to be disciplined. For example, you cannot discipline someone if the wrongdoing is happening in your supply chain. The outcome may be that you suspend that contract.

Escalation options:

- If practical, include names of individuals listed in the policy (e.g., Internal Audit Manager)
- The roles of Statutory monitoring officer and internal audit manager may not be obvious to all readers. Consider including a very brief description of this person's role and responsibilities so that whistleblowers know which one to go to with which sort of concern.

- How would a whistleblower know who TDC's external auditor is, and how can they be contacted?

Regulators: are there any other outside bodies it would be helpful to signpost whistleblowers to? E.g., the Environment Agency for those reporting environmental crime, or the Health and Safety Executive.

I hope the above is helpful. Thank you for your working with Protect, and for your commitment to improving the Council's whistleblowing arrangements.



Senior Adviser

Teignbridge District Council's

Whistleblowing Policy

Version Control:

Version	Date	Author	Comment
5	12.12.22	S. Heath	Draft Version 5
5	23.5.23	S.Heath	Final Version 5
6	29.8.23	S.Heath	Draft Version 6 (Protect review)

Authorisation:

Approved:	By:
14.12.23	CMT / SLT
18.1.23	Audit Scrutiny
23.5.23	Council

Introduction and Aims of this Policy

All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice, fraud, theft, corruption or serious failures of standards at work that put people or property at risk (this is not intended to be an exhaustive list), it can be difficult to know what to do.

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may even feel that your job will be at risk if you do raise a concern. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

Teignbridge District Council has developed this policy to enable you to raise your concerns about malpractice at an early stage and in the right way. It upholds the provisions of the the [Public Interest Disclosure Act 1998- Employment Rights Act](#) and it supports the [Council's Anti-Fraud and Corruption Policy](#).

By promoting a culture of openness within the Council, we want to encourage individuals to feel confident and come forward to make disclosures regarding serious allegations of wrongdoing. This may involve the actions of the Council's employees, workers, its Councillors, contractors, or any aspect of the Council's activities. Most importantly,

disclosures can be made **in good faith**, without fear of victimisation, detriment or risk to job security.

Scope

The Whistleblowing Policy applies to all employees, workers, and councillors of Teignbridge District Council.

Whilst this policy also extends to consultants, agency staff, contractors, sub-contractors and staff of partner organisations who are engaged in work for the Council, workers who are not direct employees of Teignbridge may not receive the same protection under the Public Interest Disclosure Act.

Although the Council will endeavour to provide appropriate advice and support wherever possible in this eventuality, it is recommended that advice is sought from a trade union representative or from Protect (formerly Public Concern at Work) an independent charity set up to provide advice and guidance about whistleblowing issues. Contact details for Protect are given below.

If you are an employee and your concern relates to your own treatment as an employee, **(for example pay disputes)**, then please use the Council's employment Grievance Procedure. A copy can be obtained from your manager or from HR.

If a customer has concerns about services provided, it should be raised as a [complaint to the Council](#).

Confidentiality

The Council will do its utmost, subject to any over-riding legal obligations, to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be realised and appreciated, however, that the investigation process itself may well reveal the source of the information, and, depending on the outcome, a formal statement by the individual may be required as part of the evidence.

If you ask us to protect your identity, your details will not be disclosed without your consent. If the situation arises where the matter cannot be resolved without revealing your identity (for instance because your evidence is needed in court), the person investigating the matter will discuss with you how to proceed.

Anonymous allegations

This policy is designed to encourage staff to put their names to allegations. If you do not tell us who you are, it may be more difficult for us to look into the matter, to protect your position, or to give you feedback. Concerns which are reported anonymously are much less

powerful, but if they contain sufficient detail they will be considered at the discretion of the Council. The factors to be considered would include:

1. The seriousness of the issue raised;
2. The credibility of the concern; and
3. The likelihood of confirming the allegation from attributable sources.

Malicious / untrue allegations

If an employee makes an allegation **in good faith**, reasonably believing it to be true, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

What to expect when you raise a concern

Once you have expressed your concern, the matter will be looked into to assess what action should be taken initially. This may involve an internal inquiry or a more formal investigation. In the interim, the issue you raise will be acknowledged normally within 5 working days. You will be told:

- who is handling the matter
- how you can contact them
- whether your further assistance may be needed.

When you raise your concerns, you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, please say so at the outset. You will be advised if your concern falls more properly within the Grievance Procedure.

The person handling the matter will then write to you, normally within 10 working days, summarising your concerns and setting out what is likely to happen next. Once the investigation is completed, you will be advised of the outcome in writing. Please note that it may not be possible to tell you the precise action taken where this would infringe a duty of confidence owed to someone else.

The earlier you express a concern, the easier it is to take action. Concerns may be expressed in writing, by email, or verbally, either by telephone or face to face by meeting the appropriate officer.

Once an investigation has been concluded there are a number of potential outcomes:

- no case to answer – case closed
- informal disciplinary action (if of a minor nature)
- formal disciplinary action (eg: dismissal)
- referral to Police and / or other body

Victimisation

Please be assured you have explicit assurance that a whistleblower raising a concern will not be at risk of losing their job or suffering any form of reprisal as a result. Examples of victimisations include bullying, demotion, intimidation, and any attempt to identify a whistleblower.

The Council takes a zero-tolerance approach to victimisation of whistleblowers and will treat victimisation as a disciplinary matter.

Any incidence of victimisation should be reported to the contacts shown below.

How to raise a concern, advice and support

Please raise it with your manager first. This may be done verbally or in writing / by email.

If for whatever reason, you feel unable to raise the matter with your manager, please raise your concerns with one of the following:

- **The Council's Statutory Monitoring Officer**
(responsible for legality and governance):
 - monitoringofficer@teignbridge.gov.uk
 - Telephone: 01626 215139

- **The Internal Audit Manager**
(provides assurance on risk, governance and counter fraud may undertake investigations into alleged fraud)
 - audit@teignbridge.gov.uk
 - Telephone: 01626 215258

- **The Managing Director**
- **Any Head of Service**
- **Any District Councillor**

There are also external agencies which can be contacted if there is reason not to raise the matter internally. You can contact one of the following:

- The Council's External Auditor - [Grant Thornton – www.grantthornton.co.uk](http://www.grantthornton.co.uk)
- The Police
(Contact the Local Crime Desk)
- [Protect](#) (formerly Public Concern at Work)
This is a charity, which provides confidential and free advice to anyone who believes there is serious wrongdoing in the workplace.
 - [External bodies may also be helpful such as the Environment Agency or the Health and Safety Executive.](#)

Review

The policy will be reviewed [by the Audit Manager and HR and OD Manager](#), as and when a change to legislation, working practices, or guidance from specialist sources dictate.