

South Tyneside Council's whistleblowing policy 'Speak Out'

South Tyneside Council's whistleblowing policy through which concerns can be raised about possible fraud, crime, danger or other serious risks that could threaten service users, employees, the public or the Council's reputation.

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Whistleblowing

In this policy, whistleblowing means the raising of a concern within the workplace that has come to the attention of an employee during the course of their work, about a danger, risk, malpractice, or wrongdoing which affects others. This policy aims to encourage employees and others to come forward and voice their concerns without fear of adverse consequences. Whistleblowing law¹ provides protection for workers who feel they are being treated less favourably because they have blown the whistle.

Introduction

1. South Tyneside Council is committed to the highest possible standards of openness, probity and accountability and seeking continuous improvement in service delivery. Integrity is one of our core values; this means we will do the right thing whatever the circumstances. We encourage our employees (including agency, voluntary, temporary, trainee or apprentice employees), elected members, contractors and suppliers and their employees and partners who may have concerns about any aspect of the Council's work to come forward and voice those concerns to us.
2. Employees are often the first to realise that there may be something wrong within the Council. However, they may not express their concerns because they feel that speaking out would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report their concern.

Speaking - Out Champions

3. The Council will appoint colleagues to act as Speaking-Out Champions who will support the delivery of this Policy across the Council.

Who does this policy apply to?

4. The policy applies to all employees, contractors and partners working for the Council, for example, agency staff, builders, drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example South Tyneside Homes. It also applies to elected members, but in a limited way set out below. The Council will seek to ensure that as part of its procurement processes this Policy is brought to the attention of such external contractors, suppliers and service providers (described in this policy as "Contractors").
5. The legal protection that workers have does not apply to elected members, and this is because their status is far more closely aligned to that of an employer rather than a worker. The intention of the legislation was to enable workers to speak out without worrying about the potential consequences on their livelihood. The nature of the office of councillor means that it falls outside of the scope of the legal protection, but the Council's policy aims to ensure that elected members do not receive any less favourable treatment because of whistleblowing.
6. This policy, would however, apply to an elected member who, for example, is also an employee of a partner organisation of the Council, and who raised a concern in their capacity as an employee of that partner organisation. This policy and the law would provide that whistleblower with protection from any adverse consequences affecting their employment.
7. These procedures are in addition to the Council's complaints procedures, grievance

¹ Public Interest Disclosure Act 1998, Employment Rights Act 1996 and the Enterprise and Regulatory Reform Act 2013

procedure, Policy on Anti-Fraud and Corruption Arrangements and other statutory reporting procedures.

What should be reported under this policy?

8. Examples of the types of concern you can report are set out below. Your concern may affect you as well as others, but it is the public interest – the interests of others – that makes it whistleblowing rather than a personal concern.
9. This policy is not intended to replace existing procedures:
 - If your concern relates to a personal complaint or grievance about your own treatment as an employee, you should raise it under existing employee grievance or harassment procedures
 - If a client has a concern about services provided to him/her, it should be raised as a complaint under the corporate complaint process
 - If your concern relates to suspected benefit fraud, there is a national Benefit Fraud Hotline and it should be reported to 0800 854 4400.
 - If it is a complaint of misconduct by an elected member, it should be raised with the Monitoring Officer under the Members Code of Conduct procedure.
10. Employees are under a separate legal obligation to report to their Line Manager any work situation you consider represents a danger to the health and safety of yourself, fellow employees or members of the public, or a shortcoming in the Council's arrangements for health and safety. If you are unable to raise these with your line manager, you should raise them with the Health and Safety Team.
11. You can raise a concern about an incident that happened in the past, is happening now or you believe may happen in the future.
12. Therefore, any serious concerns that you have about any aspect of service provision or the conduct of staff or elected members of the Council, or others acting on behalf of the Council can be reported under this policy. This may be about something that:
 - conduct which is a criminal offence or a failure to comply with any other legal obligation imposed upon the Council, such as fraud corruption or theft, or where public funds or assets being used in an unauthorised manner
 - the Council has failed, is failing or is likely to fail to comply with any legal obligation to which it is subject for example the Council is discriminating against, neglecting or abusing a service user
 - disclosures related to a miscarriage of justice that has occurred, is occurring or is likely to occur
 - the health or safety of an individual has been, is being or is likely to be endangered for example where you have concerns regarding the welfare of children and/or vulnerable adults
 - the environment has been, is being or is likely to be damaged for example the Council has disregarded planning or building control obligations placed upon it
 - where information relating to any of the above has been or is likely to be deliberately concealed or
 - something that makes you feel uncomfortable in terms of the standards or policies you believe the Council subscribes to.

This list is not exhaustive, and you should report any serious concerns that you may have about any aspect of Council business or the conduct of officers, elected members or others

acting for or on behalf of the Council.

How to raise your concerns?

13. This policy aims to:
 - encourage you to feel confident to raise concerns at the earliest opportunity and in the right way. We would rather you raised the matter when it is just a concern rather than wait for proof
 - encourage you to question and act upon concerns about practice so that they can be properly investigated
 - give you avenues to raise your concerns and receive feedback on any action taken
 - guarantee that you receive a response to your concerns and ensures that you are aware of the process to follow if you are not satisfied
 - reassure you that you will be protected from possible reprisals or victimisation.
14. You may wish to consider discussing your concern with a colleague first, as you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or share the same concerns. The protections set out in this policy would apply to protect any colleague or manager with whom you raise a concern, should they escalate the concern either with you or on your behalf.
15. You should initially raise your concern with your manager. A discussion with your manager might be able to provide reassurance that the matter has already been identified and is being rectified or may resolve any misunderstanding. If your concern involves your manager or you are a contractor you should raise your concern with the relevant Head of Service.
16. If you feel you are unable to raise your concern with the relevant Head of Service or it is inappropriate to do so, then you can report it to the Director of Governance & Corporate Affairs.
17. The Council recognises that there may be instances where it may not be appropriate to raise a concern with a line manager or other officer. If you feel unable to raise your concern with any officer, then you can report it to the Council's Independent Person. The Independent Person's contact information can be obtained from the Monitoring Officer or the Deputy Monitoring Officers.
18. The Director of Governance & Corporate Affairs has overall responsibility for this policy and will maintain a record of disclosures and the outcomes (but in a form which does not endanger your confidentiality) and will report, if considered to be appropriate, to the Audit Committee
19. If your concern relates to South Tyneside Homes, you should follow South Tyneside Homes' Whistleblowing Policy. You can still report it to your line manager or Head of Service in the Council however it will be referred to South Tyneside Homes to consider in the first instance.
20. Where your concern is about financial impropriety, the Council's Financial Management Standards require that the Assurance and Risk Manager should be informed by either yourself or by the officer investigating the concern.

What information should you provide?

21. Concerns are better raised in writing. Provide as much information as possible to enable potential issues to be identified and investigated. Although you are not expected to prove the truth of an allegation, you will need to demonstrate that there are sufficient grounds for your concern.

22. Relevant information is likely to include:

- the reason why you are concerned
- the background or history of the concern
- names of officers or members involved
- specific dates and places of events
- details of when and how you first became aware of the concern
- the extent to which you have personally witnessed or experienced the problem and
- any documentary evidence which supports your disclosure (although you should not undertake your own investigation before reporting the concern – it is the Council's responsibility to investigate, not yours).

23. A form is available if you wish to use it (see Appendix 1). If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.

Our Commitment: Protecting the Whistleblower

24. The Council recognises that reporting a concern can be a difficult choice to make. The Council encourages employees and others to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside of the organisation: it is not disloyal to colleagues or the Council to speak out.

25. The Council expects employees, elected members and others to come forward and voice their concerns and your report will be treated in confidence. Every effort will be made not to reveal your identity if you so wish. However, if disciplinary or other proceedings follow the investigation, it may not be possible to keep your identity secret and you may be asked to come forward as a witness. If you agree to this, you will be offered advice and support.

26. Please note that you must:

- believe the disclosure of information is in the public interest
- believe it to be substantially true
- not act maliciously and make false allegations

If what you say is substantially true, you should have nothing to fear because you will be doing your duty to your employer to raise concerns and your duty to those to whom you provide a service.

27. Employees and others can raise their concerns without fear of victimisation, subsequent discrimination, harassment or disadvantage. The Council will not tolerate any harassment or victimisation of a whistleblower and will take steps to protect you when you raise a concern. The types of detrimental treatment which this Policy prohibits include:

- Closer monitoring or micro-management of an employee that has made a disclosure
- Failure to promote
- Ostracism
- Unrequested re-assignment or re-location
- Demotion
- Suspension
- Disciplinary sanction (including unfair dismissal)
- Bullying or harassment
- Failure to provide an appropriate reference
- Failing to investigate a subsequent concern
- Denial of training or development opportunities

- Blocking access to resources
- Informal pressure on employees to retract or change their report

28. You can also get independent, confidential advice from your Trade Union or from the charity Protect (formerly called Public Concern at Work) if you are uncertain as to whether a particular concern should be reported as whistleblowing or if you feel you have suffered detrimental treatment.

Anonymous Reports

29. Concerns expressed anonymously make investigation more difficult. It is also more difficult to establish if concerns are credible and makes it harder protect you or to give you feedback. Concerns raised anonymously are much less powerful and less likely to be effective, but they will be considered at the discretion of the Director of Governance and Corporate Affairs. The Council encourages you to put your name to your concern wherever possible, given the protections set out in this Policy.

30. In exercising the discretion, the factors to be considered would include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from named sources.

Untrue, vexatious or malicious allegations

31. If you make an allegation in the public interest, but it is not confirmed by the investigation, no action will be taken against you. However, if you knowingly make a malicious or vexatious allegation or make an allegation that you know or believe to be untrue, disciplinary or other action may be taken against you.

What happens after the whistle has been blown and how will the Council respond?

32. Your disclosure will always be acknowledged in writing unless you have made it anonymously. The action taken by the Council will depend on the nature and seriousness of the concern. The matters raised may:

- be investigated internally
- be referred to the External Auditor
- be referred to the Monitoring Officer, for consideration of whether any matter should be considered by the Standards Committee or Audit Committee
- be considered under the Disciplinary Procedure if the matters relate to an employee
- be referred to the Police or a statutory, regulatory, or professional body.

33. To protect individuals and the Council, preliminary enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of other procedures or complaints processes will normally be referred for consideration under those procedures.

34. If the concern is to be investigated, an officer will be assigned to investigate your concern. Within ten working days of appointment, the investigating officer will write to you:

- acknowledging that the concern has been received
- explain their role and indicating how they propose to deal with the matter
- giving an estimate of how long it will take to provide a response
- telling you whether an initial enquiry has been made

- telling you whether further investigations will take place, and if not, why not.

35. The amount of contact between the investigating officer and you will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the investigating officer will seek further information from you. When any meeting is arranged with the investigating officer you have the right if you so wish to be accompanied.
36. The investigating officer will aim to complete internal investigative work within [20] working days of their appointment but this will depend on the type and scope of the investigation. If it will take longer than this, they will let you know and provide an updated estimate of when they expect to complete the investigation. If your concern is to be investigated by an external investigator, it is likely to take longer. Again, you will be kept informed and given an estimate of when it will be completed.
37. The Council understands that you need to be assured that the matter has been properly addressed. Subject to any legal constraints, you will receive feedback about the outcome of any investigation. The need for confidentiality may prevent you from being given specific details of the investigation or any action taken as a result.
38. The Council will provide you with support and assistance throughout. Please feel free to contact the Assurance and Risk Manager at any time, if you want to talk about the process and want support. If you feel you have been treated unfairly because you made a whistleblowing disclosure you should tell the Corporate Lead - HR as soon as possible.

How the matter can be taken further?

39. If you are not satisfied with the way in which your disclosure has been handled, you should speak to the Director of Governance and Corporate Affairs within 10 working days of being advised of the outcome.
40. Any further action taken will depend on the reason for your dissatisfaction. It may include:
- Clarification as to the findings of the investigation
 - a review of the finding by a Director or Head of Service not previously involved in the disclosure
 - the appointment of an external organisation to carry out an independent investigation.
41. However, we would rather you raised a matter with the appropriate regulator or outside body than not at all. The following are possible contact points:
- Local Council Member
 - External Auditor
 - Trade Union
 - Relevant professional bodies, regulatory or other organisation.
42. You may raise a concern with any of the above but it should satisfy the three requirements set out in paragraph 24 above. You should seek appropriate legal advice prior to raising a matter externally.

Review of the policy

43. This policy will be reviewed when required and updated if necessary. We welcome any feedback and comments to help us improve on the policy and the Council's processes for

dealing with concerns.

Appendix 1: 'Speak Out' Report Form

Report made under the Council's 'Speak Out' policy to:	(Give the name and job title of officer to whom the report is being made)
Your name:	(You are encouraged to insert your name, but may chose not to – the recipient of the form will attempt to preserve confidentiality)
Your Service or Team:	
Concerns reported:	(Give full details of the background to the concern; names, dates and places; and the reasons why you are concerned. Attach a separate sheet if necessary.
Date:	
Signed: (if employee's name appears above)	

Please copy this form to monitoring.officer@southtyneside.gov.uk