

## APPENDIX 2 – OFFICERS’ CODE OF CONDUCT

### 1. Introduction

- 1.1 The Government intend to publish an Officers’ Code of Conduct which the County Council will consider once it is available.
- 1.2 Under section 82(7) of the Local Government Act 2000 the terms of appointment or conditions of employment of every officer to whom the section applies are to be deemed to incorporate the Officers’ Code of Conduct for the time being in force.
- 1.3 The County Council has put in place a Local Code of Conduct (what the Council expects of its employees) and guidance to support them. This Code of Conduct is supported by the Whistle-Blowing Policy, which sets standards for employees and those with whom the Council deals to bring to attention concerns they may have about the Council’s conduct in the performance of its business and the Integrity Policy which sets the public standards with which the Council and its employees will comply.

## LOCAL CODE OF CONDUCT FOR EMPLOYEES

### INTRODUCTION

1. All employees must, as a matter of law, declare their interests in contracts with which the County Council (or a Governing Body) is concerned. This includes where the County Council is acting in partnership or as the Authorising Body for another organisation or body such as DAAT. Details of this obligation appear in the “Standards of Conduct – Guidance for Employees” which is appended. Nothing in this document detracts from the need to comply with that legal obligation.
2. As a Condition of Service, all employees are expected to maintain conduct of the highest standard such that public confidence in their integrity is maintained (see, for example, the NJC for Local Government Services Conditions of Service). This employment obligation is also reinforced, in relation to certain posts, by a duty to comply with other external standards – as applies, for example, to Social Workers under the BASW Code of Ethics, or the requirements of professional bodies such as the Law Society. The NJC standard is also to be supported by Local Codes of Practice to cover the official conduct and the obligations of employees and employer.
3. The County Council has put in place three policies to give public confidence in the Council’s ethical arrangements and to support its employees in meeting those standards:
  - 3.1 Integrity Policy (to set the public standards with which the Council and its employees will comply).
  - 3.2 Whistle-Blowing Policy (to set standards for public and employees and those with whom the Council deals (such as agency staff, contractors and partners) to bring to attention concerns they may have about the probity of the Council’s conduct in the performance of its business).
  - 3.3 This Local Code of Conduct (what the Council expects of its employees) and Guidance to support them.
4. This Local Code sets out the Council’s expectation of the way in which its employees will notify interests of theirs which could – however, inadvertently – be seen by the public as affecting the integrity of the Council’s employees and the arrangements for the Council’s business to be carried out.
5. Employees whose salary grade is PO Special 1 of above, and those employees identified by Chief Officers as exercising delegated powers to take decisions for and on behalf of the County Council, are required to submit a completed declaration of interest (including a ‘nil’ return where appropriate) within one month of appointment to post (or being identified by the Chief Officer as exercising such delegated powers). Thereafter such

employees shall submit a fresh declaration annually, and shall update their declaration as soon as practicable after a change of circumstances occurs which requires the declaration to be updated.

6. Employees taking decisions for or on behalf of the County Council would include those:
  - Procuring contracts, and/or placing orders for works, goods or services with outside suppliers or playing a significant part in the procurement, such as tender evaluation.
  - Securing the provision of places for education, for care or for social or other personal support.
  - Involved in the provision disposal or design of land, buildings and infrastructure schemes (such as roads).
7. Where the Code of Conduct is mandatory in relation to a particular post, reference to this will be included in the job description when recruitment to the post is being undertaken.
8. For other employees the Code is voluntary, though the Council encourages all employees to register as a matter of good public sector practice.
9. The Code requires employees to register their own personal interest. Where a close associated person of the employee e.g. spouse, partner or family and friends or those living with the employee has an interest in a company or organization which may be affected by a decision of the County Council (award of a contract etc) the employee may wish to discuss with them and register that there is an interest of a close associated person. e.g. if the answer would be 'yes' to the question 'Could an independent person who did not know me, but knew about the interest think that my decision or the decision of the County Council may have been influenced by the fact a close associated person had this interest?'
10. The Code is supported by the Council's Guidance "Standards of Conduct – Guidance for Employees" referred to above.
11. It is not intended that the register will be subject to public scrutiny, as it will contain personal data protected under the Data Protection Act.
12. The Government have said that they will introduce a Mandatory Officer Code of Conduct. This Code – and related documents such as the supporting guidance – will need to be reviewed when they do.
13. Declarations (including 'nil' returns) must be registered with the Monitoring Officer.
14. Access to the database of registered interests is restricted to senior officers authorised by Chief Officers for that purpose, on a need to know basis, and information will only be made available for County Council purposes, subject to any overriding legal obligation with which the Council are

required to comply. Data entry will be undertaken by officers of the Resources Directorate on a confidential basis.

## **STANDARDS OF CONDUCT – GUIDANCE FOR EMPLOYEES**

### **1. INTRODUCTION**

- 1.1 The public is entitled to expect of local government employees conduct of the highest standard. Public confidence in the integrity of the County Council would be undermined if there were the least suspicion, however ill-founded, that those who work for it could be influenced in any way by improper motives. Employees should also be protected against unjustified allegations or wrongdoing.
- 1.2 It is important therefore that employees should know the standards of conduct expected of them. This booklet is designed to help to bring together a number of existing provisions and guidelines. It also includes clarification of some areas where there may have previously been some doubt.
- 1.3 It is impossible to cover every eventuality in a document such as this and there will always be some room for interpretation. It is not a definitive statement of the law nor does it take away the requirement for individuals to comply with the law. It is intended as a guide which will assist employees to reach a decision in any particular case. Rules or Codes of Conduct do not of themselves create the standards but they are an indispensable factor in achieving the standards required.

#### **Application to Schools**

- 1.4 The Education Reform Act requires the governors of schools with delegated powers to establish the disciplinary rules which apply to the employees of the school. This has the effect of transferring an obligation which exists in general employment law from the County Council, as the employer, to the governors. However, Staffordshire County Council remains the employer of all staff of schools. The standards which are set out in this document are commended for adoption by governors. If this is done (and unless otherwise stated) the reference to 'County Council' in this guidance should read 'the governors of the school' reference to 'the Chief Officer' should read 'the Headteacher' and reference to "a department" should read "school".
- 1.5 In cases where information is to be provided to the Director of Law and Democracy direct, a copy of the information should be provided to the Commissioner for Education and Skills. Further advice on the scheme can be obtained from the Director of Law and Democracy.

### **2. Pecuniary Interests**

- 2.1 The law (Local Government Act 1972 section 117) specifically requires employees to disclose any "pecuniary" interest they may have (whether direct or indirect) in any contract with which the authority is concerned. Not to do so may be a criminal offence. With financial delegation to schools

and colleges this will extend to any contract with which a governing body is concerned.

- 2.2 A declaration under section 117 of the Local Government Act 1972 should be made where employees (or their spouse) receive any form of remuneration from a firm or person(s) which they know has had, has or is likely to have dealings with the County Council even through the remuneration may be quite properly payable. This includes for example payment for work done, commission, honoraria, dividends, interest, agency or other fees.
- 2.3 An interest could include, for example, any of the following:-
  - 2.3.1 Holding shares in the company (even a very small number).
  - 2.3.2 Employment by the company or acting as agent for the company.
  - 2.3.3 Being Chairman or Secretary of a body or organisation doing business or seeking grants from the County Council.
  - 2.3.4 Where the employee is in a position to influence or initiate contracts or where such relationship could be seen by others to place the employee of the County Council in a position to exercise influence for improper motives. The intention of this provision is to ensure that employees do not knowingly or otherwise place themselves in a position where doubts can be raised about their relationship with any other body concerned.
- 2.4 Certain kinds of relationships or memberships can sometimes influence a person's judgement or give the impression that the individual is acting for personal motives. A good test of whether an interest should be declared is to consider whether others would think the interest is of a kind which could make this view possible. It is difficult to define every possible case but an example is employees who, during the course of their duties, have dealings with an organisation in which they or any of their relatives hold an office or position of influence.
- 2.5 If any employee has any interest which falls within the broad outlines, then full details must be provided in writing to the Chief Officer. This information will also be passed to the Director of Law and Democracy to be recorded in a Register which she maintains. If the interest changes, the employee should also notify this in the same way.
- 2.6 If an employee has an interest in any particular matter, it will normally be undesirable for that employee to deal on behalf of the County Council with anything appertaining to it. In such cases the instructions of the Chief Officer must be sought.
- 2.7 If employees have any questions or doubts about what constitutes "an interest" they are advised to discuss the position with their Chief Officer.

### **3. GIFTS AND HOSPITALITY**

3.1 The Prime Minister's Committee on Conduct in Local Government (1974) identified offers of gifts and hospitality as a particular source of conflict between private and public interests where these are offered in connection with official duties. They said:-

“a nice exercise of judgement may sometimes be necessary to decide how the public interest, and an authority's good name, may best be served. A reasonable amount of entertainment is a normal part of the courtesies of public life, and extreme strictness can give unnecessary offence to people and organisations with whom the authority's relationships should be cordial. But an appearance of improper influence is easily created and with it encouragement of cynicism about the motive of those who serve in local government”.

The best general advice which can be given about offers of gifts or hospitality is to seek the advice of the Chief Officer and “when in doubt, opt out”. This is a good principle to follow since in law, the receipt of a gift in certain circumstances can impose a presumption of guilt which the ‘accused’ has to rebut.

#### **3.2 Gifts**

3.2.1 The general convention should be that gifts offered by persons who are providing or seek to provide goods or services to the County Council or who are seeking decisions from the County Council should be politely refused and returned. So should gifts (other than those of a minor nature) offered by those receiving services from the County Council (eg presents offered to home helps and teachers). This applies particularly to personal gifts offered to employees or members of their families. However, there is a need to recognise and provide for items of a very minor nature which come into the work-place as a consequence of normal commercial practice or as a token of appreciation. These are the items of a promotional character which are given to a wide range of people and not personally only to the employee. These gifts are usually given at Christmas time and include calendars, diaries, desk sets, flow charts, tape measures and other minor articles of use in the office or job.

3.2.2 Gifts may also be offered, for example, at the conclusion of a courtesy visit to a factory or firm. If these are of the type normally given by that firm to visitors and of a minor nature (eg small free sample or an ashtray) they can be accepted. Similar arrangements apply where the refusal of a small gift would give needless offence. However, this should not be done if the giver is currently seeking a decision of the County Council. The small gift should only be accepted if the giver merely wishes to express thanks for advice, help or co-operation received.

3.2.3 In all cases of this nature it is wise to err on the side of caution: an obviously expensive gift should be tactfully declined. If a gift is simply delivered it should be returned to the donor and the Chief Officer advised of the action taken. A note of the action taken should be placed on file by the Chief Officer. If there is a problem in returning it, the Chief Officer's advice should be sought.

### **3.3 Hospitality**

3.3.1 Hospitality of differing levels might be offered to the County Council and accepted at official level because that course of action is reasonable in all the circumstances. However, an offer of hospitality to individual employees calls for special caution particularly if the "host" is doing or trying to do business with the County Council or hoping to obtain a decision from it. It is very important to avoid any suggestion of improper influence. It is difficult to give fixed guidelines to be followed on all occasions. It is clearly a matter of individual judgement but the following paragraphs may indicate what is acceptable and what is not.

3.3.2 A working lunch of modest standards to allow the parties to continue to discuss business already started would normally be acceptable: this is a case where the modest hospitality is secondary to a specific working arrangement. The employee should be careful not to claim subsistence allowance unless the money claimed has actually been spent on, for example, the purchase of drinks to accompany the meal. On the other hand, it would not be acceptable conduct for an employee to accept a holiday (at home or abroad), or tickets for concerts, theatre or sporting events, the use of a company flat or hotel suite, or expensive hotel meals not connected with official business.

3.3.3 There are occasions when an offer of hospitality of any kind should be declined, e.g. when the person offering the hospitality has a matter currently at issue with the County Council such as a tender under consideration or a contract dispute.

### **3.4 Promotional Offers**

3.4.1 There has been a lot of publicity about unethical sales promotion techniques adopted by some companies. Purchasing inducements are offered in various forms; gifts, vouchers to be used against future orders, the 'buy one get one free' type of offer and the misleading offers which results in more goods being ordered than are required.

3.4.2 It is important to remember that when purchasing for the County Council, the best possible deal for the County Council must be obtained. Any commission vouchers, cash discounts etc offered by a contractor in connection with the order belong to the County Council (they may, depending on the circumstances, be credited to the department's budget) and should be paid to the Director of Finance and Resources.



3.4.3 If employees receive an approach from a supplier (or prospective supplier) which seems to be unauthorised in any way, or if they receive a gift or voucher from such a supplier, they should immediately inform the Chief Officer who should ensure that the Director of Finance and Resources's Audit Section is made aware of the approach.

#### **4. OTHER EMPLOYMENT**

4.1 It has been established as a basic principle, and included in some of the conditions of service, that whilst employees' off-duty hours are their personal concern, they should not subordinate their duty to their private interests nor should they place themselves in a position where their duty and their private interests conflict. Where an employee takes up any additional employment, such employment should not in any way conflict with or react detrimentally to the authority's or department's interests or in any way weaken public confidence in the conduct of the authority or department.

4.2 With the above in mind, the County Council does not preclude all employees from taking additional employment but has decided that in certain circumstances employees should not engage in any business or paid employment other than that for which they are employed by the County Council, unless the County Council has agreed in writing to such business or employment. The general rule is that employees should seek permission to take on a second employment

- When their salary is above a specified figure (at present spinal column point 28), or
- They wish to take on a second employment which is for an organisation which provides services to or similar to those provided by the County Council, or
- There is likely to be a conflict of interest with or other effect on their employment with the County Council.

4.3 Before committing themselves to any such second employment employees should seek permission in writing from the Chief Officer giving full details of the proposed employment and identifying the name of the proposed employer. This policy applies irrespective of whether or not the proposed business or employment is similar to the employment with the County Council. It is clearly undesirable for employees to undertake certain types of outside work for payment, at whatever level they are employed in the authority.

4.4 Employees at all levels should avoid getting into a position of conflict by undertaking outside work even if unpaid. For this purpose it is considered that a conflict arises when an employee is to be employed by a member of the public or an outside organisation or body for work which is in any way connected with the scope of the employee's duties with the County Council. Such work should not be accepted.

4.5 Another area which can lead to difficulties is where an employee has business interests (direct or indirect) outside the employment with the County Council. This would arise, for example, where an employee is a major shareholder or 'sleeping partner' in a business where the work experience of the employee is of prime importance to the business. In such a situation, there will arise a clear conflict of loyalties between the needs of the County Council employment and the needs of the 'other business'. There may also be circumstances where such an interest could provide an element of competition where the 'private business' seeks to provide a service which is one normally also provided by the local authority.

4.6 This advice does not preclude any employee from undertaking voluntary unpaid work outside normal hours for a charitable or similar organisation. In fact, the County Council encourages employees to become involved with bodies of this nature but subject to the advice contained elsewhere in this document.

## **5. LECTURES, PRESS ARTICLES, RADIO/TV APPEARANCES ETC.**

5.1 Many employees are invited to give lectures/talks, prepare articles or to appear on radio or TV. Employees are encouraged to do this, particularly on uncontroversial matters relating to their employment which it is thought may be of interest either professionally or to the public. The County Council out of courtesy would expect the employee to notify the Chief Officer before becoming involved, and also to clear, if necessary, the material to be used. For the purposes of this paragraph "the material to be used" covers confidential documents or reports etc., to which the employee has access solely because of being an employee of the Council (eg. a report in the confidential part of an Agenda). Employees would not expect to use such confidential information unless they had cleared it with their Chief Officer. There is nothing in this paragraph which would prevent them from using, for example, a Cabinet or Committee report which appeared in the public part of an agenda.

5.2 Employees must request the advice of their Chief Officer before becoming involved in controversial discussions or statements on matters of County Council policy (or matters of policy in the process of formulation) or matters under current consideration by the County Council. The position of employees expressing views on behalf of a professional body or trade union is covered by the provisions of paragraph 5.4 below.

5.3 Employees who write articles or appear in broadcasts in a personal capacity should make this clear and that the views expressed do not necessarily reflect those of the County Council.

5.4 Employees are of course free to express their views as representatives of trades unions or professional bodies but they are not entitled to use in this capacity confidential information received solely as an employee.

5.5 In many cases, employees undertaking any of the above, will be offered a fee. Where all the work (including preparation) is undertaken in the employee's own time, the employee may retain the whole fee. However, where the event or preparation for it takes place in County Council time and/or involves the use of County Council resources, it will be necessary to seek approval to use such resources and agree the proportion of any fee to be paid to the County Council for such use. Where a payment is not negotiated then the normal arrangement would be for the employee to pay over to the County Council 50% of the fee received.

5.6 There are occasions when fees are paid to employees for acting as an examiner for a university or college or other examining body. These fees may be retained by the employee. When an employee gives an occasional lecture on a subject appertaining to the local government service for which a fee is offered, the employee may retain the fee unless there has been substantial use of County Council resources in the preparation work in which case the arrangements under 5.5 above will apply.

## **6. USE OF COUNTY COUNCIL FACILITIES, RESOURCES, ETC.**

6.1 Any facilities, equipment, tools etc. provided by the County Council for use in an employee's duties should be used only for those duties and for no other purpose except where the County Council has agreed to private use. This applies to all facilities and property, including the use of telephones, photocopiers, vehicles or other similar equipment. There are approved arrangements for some of these services to be used for private purposes on payment of charges determined by the County Council – for example, private telephone calls from the work place; photocopies.

6.2 It is also important to ensure that there is no suggestion that an employee uses his position to gain the use of County Council services without payment. The approved arrangements for the use of equipment, services etc. for private purposes should always be followed and the appropriate charges paid.

## **7. RELATIONSHIPS WITH FIRMS WHO HAVE DEALINGS WITH THE COUNTY COUNCIL**

7.1 Employees should exercise caution about using the services of firms which have dealings with the County Council.

7.2 No employee should purchase for private purposes goods or services from a firm which has dealings with the County Council where the firm is offering preferential terms to the employee (directly or indirectly) because of a contractual, business or other relationship with the County Council. This would equally apply to the ordering of extra supplies against a contract where the intention is to use the goods privately and pay for them at the authority's contract price, particularly if the employee is aware that the price is not available to the ordinary customer. It would also apply to the use of the services of a contractor with whom employees have official

contact as part of their employment with the County Council. It would also preclude employees from using, for private purposes, any special trading cards which the County Council may hold. This would not be the case, of course, if the County Council negotiates a particular scheme for employees and has an agreement covering it (eg. preferential loans).

## **8. USE OF CONFIDENTIAL, PRIVATE OR PERSONAL INFORMATION**

- 8.1 Many employees obtain information in their official position which has not been made public and/or is confidential. Such information acquired in the course of official duties must not be used for the personal advantage of the employee or a relative or an acquaintance or friend or any other organisation.
- 8.2 The same rules apply to personal information about other employees. This type of information may only be disclosed to a third party where there is a legal responsibility to provide it (for example, on a request from the Inspector of Taxes; or the DSS) or where the employee provides a written authority for the information to be provided (for example, to a building society or a bank). The rules would not apply to information disclosed to a trade union under the provisions of the Employment Acts relating to the disclosure of information for collective bargaining purposes but, in such cases, individual employees would not be identified.
- 8.3 The restrictions in paragraph 8.2 apply equally to information which an employee may obtain from his employment about a contractor, debtor or creditor of the Council. Such information should be disclosed to a third party only in the circumstances set out.
- 8.4 Some information about employees is safeguarded by statute (for example, by the Data Protection Act or the Local Government and Housing Act 1989) and any employee who discloses such information could be liable to criminal prosecution and dismissal for gross misconduct. There is a separate Code of Practice dealing with this particular aspect – employees should be aware of its contents. A copy of this code is available from the Director of Law and Democracy.
- 8.5 No employee may communicate to the public or press, information about the discussions in, or decisions of, the County Council, the Cabinet or any Committee, Panel or Sub-Committee, taken following the exclusion of public and press unless authorised to do so.
- 8.6 As a general rule employees should not enter into any public correspondence or debate on a matter with which they are dealing officially or in which they have a direct involvement or in respect of which they hold official information, unless this is done with the consent of the Chief Officer concerned. Similar considerations exist covering the position of employees invited to participate in radio broadcasts, television programmes, etc., where the subject of the programme relates directly or indirectly to the work of the County Council. Employees invited to take part in such programmes

should discuss the position with their Chief Officer before accepting the invitation. (See also paragraph 5 above).

8.7 Nothing in paragraph 8.6 above prevents employees from exercising their rights as a Trade Union Officer or as citizens eg objections to a planning application; signing a petition against a school closure.

## **9. POLITICAL INTEREST/ACTIVITY**

9.1 The Local Government and Housing Act 1989 has the effect of imposing restrictions on public political activity by certain staff of local authorities. These restrictions do not apply to teachers or lecturers but they do apply to certain non-teaching staff in educational establishments.

9.2 Four different categories of employee are caught by the restrictions:-

9.2.1 Those whose posts are specified in the Act. This means that within the County Council, the Chief Executive and all Chief Officers and Deputy Directors are automatically caught. In addition, the restrictions will also catch any person who reports directly to the Chief Executive or a Chief Officer (except in a secretarial or clerical role).

9.2.2 Any officer who occupies a post which has delegated authority to discharge a function of the County Council – in effect this will catch all employees who are included in the County Council's arrangements for the delegation of functions to officers referred to in Appendix 1 of the Constitution.

9.2.3 Those posts not covered by 9.2.1 or 9.2.2 above but for which the annual rate of remuneration is Spinal Column Point 44 or over for a full-time post or, if the post is part-time, with an annual rate of remuneration which pro rata equates to SCP44 or above.

9.2.4 Posts not covered by 9.2.1 or 9.2.2 or 9.2.3 above but where the duties consist or involve either or both of the following giving advice on a regular basis to the authority, to any Committee, Panel or Sub-Committee of the authority (which will include member working parties etc) or to any joint committee on which the authority is represented and speaking on behalf of the authority on a regular basis to journalists or broadcasters. (These posts are called "politically sensitive").

9.3 The job description for any post will indicate if the post is included in the list the County Council holds under the Act.

9.4 The effect of the inclusion of a post in the list is that the postholder will be prevented from becoming a member of a local authority (except a Town or Parish Council), or a member of the House of Commons or of the European Parliament. In addition, regulations prevent them from:

- Holding office in a political party.
- Canvassing at elections.

- Speaking or writing publicly on matters of party political controversy.

9.5 The Act provides that the terms of appointment and conditions of employment of employees included in the list of politically restrictive posts, will be deemed to incorporate the restrictions on public political activity as outlined above.

9.6 In certain circumstances postholders may appeal to an independent adjudicator for the post to be deleted from the list. Such an appeal may only be made against inclusion in the lists under paragraph 9.2(c) or 9.2(d) above. In the case of posts included in the list on salary grounds (paragraph 9.2(c)), anyone wishing to appeal to the adjudicator must obtain from the Chief Executive a certificate of opinion of the authority as to whether they consider that the post meets the criteria under paragraph 9.2(d) for political sensitivity and must send this to the adjudicator with the application for removal from the list. If the appeal is against inclusion in the lists in paragraph 9.2(d) above no certificate of opinion of the authority is needed (since the authority will have already indicated its views by including the post in the list on the grounds of political sensitivity). It is also possible to complain to the adjudicator that the post has been wrongly omitted from a list.

The name and address of the independent adjudicator is available from the Director of Law and Democracy at the County Buildings, Martin Street, Stafford. ST16 2LH (01785 – 278310).

9.7 An employee proposing to apply for removal from the list of politically sensitive posts should send a copy of the application to his Chief Officer and to the Chief Executive.

## **10. GENERAL**

10.1 The various provisions included in legislation, in the various National Conditions of Service and in the County Council's Constitution are intended to ensure that the standards of conduct in public service are maintained at a high level. It is not possible to provide rules which cover every possible situation but the guidance included in this note is intended to give employees a clear indication of the standards of conduct the County Council expects of an employee in a situation where there may be a conflict between the employee's private and public interests. The decision in each case is one for employees to make individually but in so doing they must ensure that the rights and expectations of the public are secured on the one hand and, at the same time, safeguard their own position. In any case of doubt, employees should seek advice from their Chief Officer.

10.2 Whilst this code is for the guidance of employees, wilful disregard of any part of it could lead to action under the approved disciplinary procedures; but disregarding the code is not of itself a disciplinary offence.

- 10.3 In addition to this guidance to employees, there are other codes and procedures which whilst designed for specific purposes also have implications as to the standards of conduct required of employees. These will include rules, regulations, codes of practice and guidance relating to health and safety, and those covering discipline which will relate to matters such as timekeeping, conduct at work and any similar issues which could be in conflict with the standards required by the County Council.
- 10.4 This code is inevitably fairly lengthy. However, County Council employees who act in accordance with 'normal practice' should not find anything in it which should cause them concern.

Staffordshire County Council			<b>HR Policy Handbook</b>				
Reference Number	HR 99	Approved By	Draft 1	Issue	01	Date	08/01/04
Policy Title	<b>Whistleblowing</b>						

## Legislative Framework

***The Public Interest Disclosure Act 1999*** – sets out a framework of protection against victimisation or dismissal for workers who blow the whistle on ("disclosure") criminal behaviour and other specified forms of malpractice.

*The Act does not provide a general protection for whistleblowers that applies in all circumstances. It applies to making a 'protected' disclosure in respect of specific types of malpractice, which are:*

- criminal behaviour
- failure to comply with a legal obligation
- miscarriage of justice
- endangering someone's health and safety
- damage to the environment
- deliberate concealment of information relating to any of the above
- 

The Act covers internal disclosures to the employer, disclosures to prescribed 'persons' such as regulatory bodies (e.g. for health and safety, the Health and Safety Executive), and wider disclosures, for example to the police and the media.

## Policy Statement

*The Council expects employees, and others that we deal with, (such as contractors, agency staff and partners), who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. If and when they do, provided they act in good faith and follow the laid down procedures, the Council will do everything it can to ensure that they are not victimised in any way.*

The Council will, at its discretion, consider disclosures that are made anonymously, although such disclosures are inevitably much less powerful. The Council will also treat every disclosure in confidence, and only reveal the identity of the person making it if absolutely necessary (e.g. if required in connection with legal action).



The Council will keep people who make disclosures informed about the progress and (subject to legal constraints) outcome of any investigation carried out.

However frivolous, malicious, or allegations made for personal gain, may result in disciplinary action against the person making them.

### ***Trade Union***

*There are many trade unions working within Staffordshire County Council who can assist with this process. It is recommended that a trade union representative be contacted at the earliest stage so that appropriate advice, guidance and support can be offered to the employee.*

### ***HR Units***

*Directorate HR units can assist with the interpretation and application of this process. It is recommended that an HR representative be contacted at the earliest stage so that appropriate advice, guidance and support can be offered to both the manager and employee.*

## **Guidance On How To Apply The Policy**

### **Making a Protected Disclosure**

**To make a 'protected' disclosure the whistleblower has to meet certain conditions.**

- Disclosure to the **employer** will be protected if it is made in good faith and the whistleblower has a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur.
- Disclosure to a **regulatory body** will be protected where, in addition, the whistleblower honestly and reasonably believes that the information they provide and any allegation contained in it are substantially true.
- Disclosure to other external bodies will be protected if, in addition, making it is in all respects reasonable. "In all respects reasonable" means, in effect:
  - the disclosure is not made for personal gain
  - the whistleblower reasonably believed that they would be victimised if they raised the matter internally
  - there is no relevant regulatory body
  - they reasonably believed that evidence was likely to be concealed or destroyed
  - the concern has already been raised with the employer and/or relevant regulatory body

- the concern is of an "exceptionally serious" nature – which in a local government setting could include, say, the alleged abuse of children or vulnerable adults in an authority's care or corruption.

*Having taken advice as appropriate, an employee of the Council, or any other person covered by the Act, who has serious concerns about any aspect of the Council's work, should in the first instance inform one of the Contact Officers whose details are given in Appendix A.*

The initial contact can be by telephone or in writing, and if the latter should be in a sealed envelope addressed to the officer concerned and marked: 'PIDA – Strictly Private and Confidential'. E-mail is not a secure medium and must not be used.

The Contact Officer who has received a disclosure will: (a) acknowledge its receipt, in writing, within 5 working days; (b) seek further information if need be, including by personal interview, at which the individual can be accompanied by an official of their trade union or professional association, or by a fellow employee; (c) when the precise nature of the alleged malpractice is established, refer the disclosure to the Monitoring Officer; (d) in liaison with the Monitoring Officer, keep the individual informed regarding the progress and (subject to legal constraints) outcome of any investigation.

On receipt of a disclosure from a Contact Officer the Monitoring Officer will determine what further action, if any, is needed, which may comprise:

- internal investigation
- report to the Police
- report to external audit
- independent enquiry
- any combination of the above

The Monitoring Officer will also ensure that the Contact Officer is advised of progress and outcome.

If at the end of the process an employee of the Council, or any other person covered by the Act, is not satisfied with how a disclosure has been dealt with, they may refer to one of the regulatory bodies/other external agencies whose details are listed in Appendix B. As with the internal disclosure, before referring to one of these bodies the individual should consider: do I honestly and reasonably believe that my concerns are well founded and that any allegations I am about to make are substantially true?

Exceptionally, the Act offers protection in respect of disclosures made to people or bodies not listed in Appendix B but only when, all things considered, it is reasonable to do this and the disclosure is not made for personal gain. In addition, one of the following must apply:

- The matter has been raised already with the employer and/or relevant regulatory body, or

- The person reasonably believed that they would be victimised if they raised the matter internally; or
- There is no relevant regulatory body, and they reasonably believed that evidence was likely to be concealed or destroyed; or
- Their concern is of an "exceptionally serious" nature, which is for them to determine.

## Levels of Authority

Throughout this policy document, there are many references to **Contact Officer**. For the purposes of this policy 'Contact Officer' is the person delegated by the Director to perform the task. The Contact Officer's are listed in Appendix A.

## Other considerations

The Council will monitor the application of this policy and, in conjunction with the recognised trade unions, review and revise it as necessary.

## Accountabilities

**Monitoring Officer** – has overall responsibility for the proper application of the policy. The Monitoring Officer is also responsible for deciding, in respect of **ALL** disclosures, whether there will be a formal investigation, what form it will take and who will carry it out.

**Contact Officers** – Heads of Service designated by Chief Officers to receive disclosures, obtain further information if need be, refer disclosures to the Monitoring Officer, carry out investigations as required, and keep the whistleblower informed regarding the progress and (subject to legal constraints) outcome of any investigation.

## Further Advice and Information

This policy document is for general guidance only. If you need any further advice on how to apply this policy please contact your departmental HR Manager.

Independent advice on 'whistleblowing' can also be obtained from the charity Public Concern at Work and from the Audit Commission. Contact details for these organisations are:

Public Concern at Work  
Suite 306  
16 Baldwins Gardens  
London EC1N 7RJ  
Helpline: 020 7404 6609  
E-mail: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

Audit Commission  
1 Vincent Square  
London SW1P 2PN  
Telephone: 020 7828 1212  
E-mail: [enquiries@audit-commission.gov.uk](mailto:enquiries@audit-commission.gov.uk)

Further information and Advice

Further background information on this topic is available on the following

Websites:

[www.dti.gov.uk](http://www.dti.gov.uk)

[www.acas.org.uk](http://www.acas.org.uk)

[www.lg-employers.gov.uk](http://www.lg-employers.gov.uk)

[www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)

[www.pcaw.co.uk](http://www.pcaw.co.uk)

*See also national conditions of service and local agreements before determining or issuing advice.*

### **Other Contacts**

Please note that the County Council takes no responsibility or liability for any material produced by or contained in external sites or for any advice or services given by external organisations. It is the responsibility solely of each person to decide whether or not they use any such material, advice or service.

### **Standard Documents**

This information can be made available in a range of formats and languages, including Braille and large print. If this would be useful to you or someone you know, please contact your Directorate HR Manager.

## **PUBLIC INTEREST DISCLOSURES**

The Council acknowledges that anyone who is not satisfied with its response to a disclosure they have made under this policy is entitled in law to disclose elsewhere. **Appendix B** lists the names and addresses of bodies to whom disclosures can be made, including bodies prescribed by the Government.

### **EXTERNAL/PREScribed BODIES**

Health & Safety Exec.  
Area Office  
Marches House  
The Midway  
Newcastle under Lyme  
(Info line tel: 08701 545500)

Environment Agency  
(no local address)  
Tel: 0845 933 3111 (enquiries)  
0800 807060 (to report  
accidents)

Staffordshire Police HQ  
Cannock Road  
Stafford  
ST17 0QG  
Tel: 0185 257717

Inland Revenue  
Greyfriars House  
Greyfriars  
Stafford  
Tel: 01785 256222

Customs & Excise  
Newcastle under Lyme Business  
Centre  
Blackburn House  
Newcastle under Lyme  
ST5 1UT  
Tel: 01782 753600  
(Enqs: 0121 697 4295)

Citizens' Advice Bureau  
131 North Walls  
Stafford  
Tel: 01785 258673

Data Protection Registrar  
Local Govt. Ombudsman  
Pensions Ombudsman  
11 Belgrave Road  
London  
SW1V 1RB  
Tel. 0171 834 9144

Audit Commission  
1 Vincent Square  
London  
SW1P 2PN

District Auditor  
Eastgate House  
Eastgate Street  
Stafford

One's local Councillor