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# Whistleblowing Policy

August 2024

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## **Introduction**

1.1. In this policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council.

1.2. Newark Town Council is committed to the highest standards of transparency, probity, integrity and accountability.

1.3. This policy is intended to provide a means of making serious allegations about standards, conduct, financial irregularity or possible unlawful action in a way that will ensure confidentiality and protect those making such allegations in the reasonable belief that it is in the public interest to do so from being victimised, discriminated against or disadvantaged.

1.4. This policy does not replace other procedures such as the Complaints procedure, the Grievance procedure or other specifically laid down statutory reporting procedures.

1.5. This policy is intended to ensure that the Newark Town Council complies with its duty under the Public Interest Disclosure Act 1998.

## **2. Scope**

2.1. This policy applies to all Newark Town Council employees, including contractors and volunteers.

2.2. This policy applies to, but is not limited to, allegations about any of the following:

- Conduct which is an offence or breach of the law,
- Alleged miscarriage of justice,
- Serious Health and Safety risks,
- The unauthorised use of public funds,
- Possible fraud and corruption,
- Sexual, physical or verbal abuse, or bullying or intimidation of employees, customers or service users,
- Abuse of authority,
- Other unethical conduct.

## **3. Procedure for Making an Allegation**

3.1. It is preferable for allegations to be made to the Town Clerk. However, this may depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the whistleblower believes that the Town Clerk is

involved it would be inappropriate to raise it directly with them. The whistleblower may then make an allegation direct to any of the following:

- Chairman of the Council,
- Chair of Personnel Sub Committee.

3.2. Concerns should be raised in writing and include:

- The name of the person making the allegation and a contact point, unless the concern is raised anonymously,
- The background and history of the allegation (giving relevant dates and names and positions of those who may be in a position to have contributed to the allegation),
- The specific reason for the allegation. Although someone making an allegation will not be expected to prove the truth of any allegations, they will need to provide information to the person they have reported to, to establish that that there are reasonable grounds for the allegation.

3.3. Someone making an allegation may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation. However, if the matter is subsequently dealt with through another procedure the right to be accompanied will at that stage be in accordance with the relevant procedure.

3.4. Newark Town Council will take steps to minimise any difficulties which may be experienced as a result of making an allegation. For instance, if a whistleblower is required to give evidence in criminal or disciplinary proceedings Newark Town Council will arrange for them to receive advice about the procedure and advise on the support mechanisms that are available.

3.5. Newark Town Council accepts that whistleblowers need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, Newark Town Council will inform those making allegations of the outcome of any investigation.

#### **4. How employees are safeguarded when raising a concern**

4.1. This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions.

4.2. The Act makes it unlawful for the council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

4.3. The Public Interest Disclosure Act 1998 and Employment Rights Act 1996 clearly define what types of disclosure qualify employees for protection against dismissal and detrimental treatment by your employer. These are known as 'protected disclosures.'

4.4. The following qualify as a protected disclosure:

- Criminal offences (Section 43B(1)(a), ERA 1996).
- Breach of any legal obligation (Section 43B(1)(b), ERA 1996).
- Miscarriages of justice (Section 43B(1)(c), ERA 1996).
- Danger to the health and safety of any individual (Section 43B(1)(d), ERA 1996).
- Damage to the environment (Section 43B(1)(e), ERA 1996).
- The deliberate concealing of information about any of the above (Section 43B(1)(f), ERA 1996).

4.5. A disclosure will also be protected if the information disclosed is of a nature that shows that any of the above is likely to be deliberately concealed.

#### **4.1 Harassment or victimisation**

4.1.1. Newark Town Council will not tolerate harassment or victimisation by those involved with the matters of concern or from others. It will take action to protect employees when they raise a concern in the public interest. The council takes its responsibilities in this seriously as it is responsible as the employer for any detriment caused.

4.1.2. Due regard and sensitivity will be exercised by all involved in the process to ensure that employees do not suffer detrimental treatment as a result of raising a complaint.

4.1.3. If employees are already the subject of disciplinary or redundancy procedures, those procedures will not be halted as a result of an employee whistleblowing.

#### **4.2 Anonymous Allegations**

4.2.1. This policy encourages employees to put their name to the allegation.

4.2.2. Although concerns expressed anonymously are much less powerful they will be considered taking into account:

- The seriousness of the issues raised,
- The credibility of the concern; and
- Whether the allegation can realistically be investigated from factors or sources other than the complainant

4.2.3. Employees will be unable to be told the outcome of any investigation of a concern which was brought forward anonymously.

## 4.3 Confidentiality

4.3.1. All allegations will be treated in confidence and every effort will be made not to reveal a whistleblower's identity unless the whistleblower otherwise requests.

4.3.2. Similarly, if the allegation results in court proceedings, then the whistleblower may have to give evidence in open court if the case is to be successful.

4.3.3. Newark Town Council will not, without the whistleblower's consent, disclose the identity of a whistleblower to anyone other than a person involved in the investigation/allegation.

## 4.4 Untrue allegations

4.4.1. If an employee makes an allegation in the public interest and reasonably believed it to be true, but it is not confirmed by the investigation, no action will be taken against the employee.

4.4.2. If, however, an employee makes malicious or frivolous allegations, or repeated allegations which have no foundation, disciplinary action will be taken against the employee.

## 5. How we will respond

5.1. The action taken will depend on the nature of the concern. The matters raised may:

- Be investigated internally,
- Be referred to the Police,
- Be referred to the External Auditor,
- Form the subject of an independent inquiry.

5.2. To protect individuals and the council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Most matters will, initially, be investigated internally. Concerns or allegations which fall within the scope of specific current procedures (for example, child protection or discrimination issues) will normally be dealt with through those routes.

5.3. **Within 10 working days of a concern being received**, Newark Town Council will write to the employee:

- Acknowledging that the concern has been received,
- Indicating how it proposes to deal with the matter,
- Giving an estimate of how long it will take to provide a final response,
- Informing the employee as to whether any initial enquiries have been made; and

- Informing the employee as to whether further investigations will take place and, if not, why not.

5.4. Some concerns may be resolved by immediate action without the need for an investigation.

5.5. The amount of contact between Newark Town Council and the employee will depend on the nature of the matters raised, the potential difficulties involved and the amount and clarity of the information the employee provided. If necessary, further information will be sought.

5.6. When any meeting is arranged with the employee as a whistle blower, they have the right to be accompanied by a trade union or professional association representative, or a colleague who is not involved in the area of work to which the concern relates.

5.7. Newark Town Council will act as necessary to minimise any difficulties which employees may experience as a result of raising a concern. For instance, if later, employees are required to give evidence in criminal or disciplinary proceedings, Newark Town Council will advise the employee directly as to the procedure.

5.8. Newark Town Council accepts that employees need to be assured that the matter has been properly addressed so, subject to legal constraints, the employee will receive information about the outcomes of any investigations.

## **6. What employees can do if our response does not resolve their concern**

6.1. This policy is intended to provide employees with an avenue to raise concerns and to have them resolved inside the council.

6.2. If the investigations and the action arising from them does not resolve the concern, the employee may choose to take the matter outside the council. In such circumstances, employees should seek advice from the Town Clerk to ensure correct procedures are followed and that confidential information is not disclosed.

## **7. Monitoring**

7.1. The Town Clerk has overall responsibility for the maintenance and operation of this policy. S/he maintains a record of concerns raised and the outcomes (but in a form which does not endanger employee confidentiality).

7.2. Details of all concerns raised, and subsequent information will be retained for 6 years. The purpose of this is to ensure that a record is kept which can be cross referenced with other complaints in order to monitor any patterns of concern.