

# Whistleblowing Policy

*Report concerns about serious wrongdoing with support and legal protection.*

## Version Details:

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## 1. Scope

- 1.1 This policy applies to you if you are a worker at South Somerset District Council (SSDC). This definition includes all workers who undertake activities on our behalf: all employees, locum, agency, casual staff; volunteers, work experience students etc.
- 1.2 The principles of this policy also apply to you if you are an elected Member, a contractor doing business with us, a partner organisation working with us, or a member of the public. Please see 'Information for Non Employees' at Section 12.

## 2. Purpose

- 2.1 The purpose of this policy is to encourage you to report serious concerns i.e. to 'blow the whistle' if you become aware of certain types of wrongdoing at work, which we specify below. We want to raise awareness of how to report such a concern, and to inform you of the legal protections available when you make a 'protected disclosure' under the Employment Rights Act 1996 (ERA) as amended. In addition to these legal protections, the policy details the other measures that we will take to ensure you are not mistreated for reporting your concerns.

## 3. Introduction

- 3.1 As an administrator of public funds and provider of services, it is in the interest of the public for information of wrongdoing at SSDC to be reported, both to ensure the efficient and proper delivery of our services, and to protect the public purse. It is vitally important that you, as a member of our staff, report such concerns.
- 3.2 The definition of 'whistleblowing' is often cited as 'making a disclosure in the public interest'. To clarify, this means voicing any wrongdoing you believe has happened, is happening, or is likely to happen at SSDC, which could affect the community at large, and falls within one of the categories listed below.
- 3.3 To qualify for legal protection, the whistleblowing must be about:
  - A criminal offence;
  - A failure to comply with a legal obligation;
  - A miscarriage of justice;
  - A health and safety risk likely to cause danger;
  - Damage to the environment (e.g. land, water, air, waste, energy, natural habitat);
  - A deliberate concealment of a matter relating to any of the above.

This policy only covers reporting the above concerns directly to SSDC as an employer, or to a 'prescribed person', as set out in Section 8. For other situations, where you are concerned about whether your disclosure would be legally protected, you should seek independent advice e.g. from Citizens' Advice.

- 3.4 Supporting whistleblowing is an important part of the open culture of SSDC, as whistleblowing is a vital tool in protecting us from wrongdoing. An environment where whistleblowing is encouraged can do much to prevent wrongdoing from arising. In the unlikely event that it does occur, this policy provides routes to report it quickly and safely through the correct channels, so that we can respond promptly.
- 3.5 You can raise a concern at any stage, though it is far better to disclose information sooner. Delays can allow more wrongdoing to take place, and could lead to accusations that you were involved in the matter too. You should not begin an investigation yourself to avoid any issues around the admissibility of any evidence collected; just report your concern and leave it to us to investigate.
- 3.6 We recognise that reporting a concern can be intimidating, but it need not be. You may think that speaking up will affect your relationship with colleagues, or perhaps even the security of your job, but there are legal protections in place to prevent such things from happening, providing you follow this policy. You can be confident that if you do raise a concern, it will be treated seriously.

## 4. Support

- 4.1 We understand that a lack of visible support could be a significant deterrent to people raising a concern, so we will ensure that support is available throughout the process. The Lead Specialist - People (HRM) will agree a 'key contact' with you once you have reported a concern, and they will be responsible for giving you support and advice throughout the process. The key contact will be independent, and available without the need for you to follow formal procedures to liaise with them.
- 4.2 We also recognise the need to extend support into the future to ensure your continued protection, so we will actively monitor your treatment if you raise a concern to make sure you suffer no detriment as a result.
- 4.3 We know that reporting a concern can be a difficult decision to make. You may fear reaction from those alleged to be involved, or perhaps from your colleagues. We will not tolerate harassment or victimisation of any kind. Disciplinary action will be taken if a colleague or manager mistreats you because you raised a concern, even if your suspicions turn out to be mistaken.

## 5. Grievances

- 5.1 There is a significant difference between making a complaint for personal reasons, and blowing the whistle in the public interest. This Whistleblowing Policy is distinct from the 'Grievance Procedure', which enables staff to raise complaints about their own personal circumstances and treatment. The Whistleblowing Policy is therefore not an appropriate way for staff to refute any capability or disciplinary action that they might be facing, or to report matters which do not fall within Section 3.3.
- 5.2 We understand that reporting incidents of bullying can be in the public interest, but we will usually deal with concerns of this nature under the 'Grievance Policy', which provides protection for complainants, including staff who wish to report abuse they have witnessed as a third party. The exception to this is if you are being bullied as a result of a whistleblowing concern you have raised, in which case you should contact the HRM or your Key Contact promptly so that action can be taken.

## 6. Disclosures

- 6.1 Although we do not set out the full details of the legal protection under the ERA (as amended) in this section, generally to qualify for legal protection when reporting a concern at SSDC, your disclosure of information must be:
- Made about one of the offences specified in Section 3.3;
  - Made in your reasonable belief that it is true;
  - Made without breaking the law (although a confidentiality clause or 'gagging clause' in a settlement agreement is not binding if you are a whistleblower);
  - Made to SSDC as your employer, or if we agree, to another authority.
- 6.2 If all these conditions are met, you will make a 'protected disclosure', and can take legal action if you suffer detriment or are dismissed because of reporting a concern.

## 7. Protections

- 7.1 Under Section 47(B) of ERA, as amended, when you make a protected disclosure using the appropriate channels, you have the right not to be subject to detriment by SSDC for doing so.
- 7.2 Section 47(B) also offers protection if fellow workers victimise you because of your whistleblowing. The person who victimised you may be held personally liable, and SSDC could be held vicariously liable unless we can show that we took reasonable steps to prevent such treatment.
- 7.3 Under Section 103(A) of ERA, you would be considered to be unfairly dismissed if your dismissal relates to you making a protected disclosure in any way.

- 7.4 Whether you make a disclosure in good faith or not will not affect your entitlement to legal protection. However, the amount of damages that you might receive (if you suffer detriment or are unfairly dismissed) could be reduced by the court if your protected disclosure was not made in good faith.

## 8. Reporting Procedure

### 8.1 Inform the People Manager:

If possible in the circumstances, first you should direct concerns about wrongdoing to your People Manager (PM). There is no special procedure for doing this; simply speak to them, recording the conversation, or put the concern in writing if you prefer.

You should declare all personal interests in the matter from the start. The PM will advise you whether your concern falls more properly under another policy, such as the Grievance Procedure. If you are unhappy with their decision, advice can be sought from the HRM.

### 8.2 If you cannot inform the Service Manager:

For whatever reason, it may be that you cannot inform the PM of your concern. If they are thought to be involved in the concern, or have failed to follow up your concern without an adequate explanation, you should inform the relevant Director for the service instead.

If informing a Director is not appropriate for similar reasons, you should contact the Monitoring Officer (MO) or the S151 Officer.

### 8.3 If your concern cannot be raised at SSDC:

In all but the most exceptional cases, you should raise concerns internally so that we can decide how to deal with the issue. We hope that the reporting routes in this policy will enable you to feel comfortable in doing so. In exceptional circumstances, you can contact our auditors, the South West Audit Partnership (SWAP) on 01935 848540, where you can leave a message so that they can arrange a meeting with you.

### 8.4 What the Managers need to do:

As the conditions for a protected disclosure are set out in the legislation, PM's or Directors only need to filter whether a concern is in the public interest or not. If it meets the conditions set out in Section 3, they should pass the information to the MO and the HRM. Where fraud may be involved, the Fraud and Data Manager will be informed, unless the holder of that post is implicated in the wrongdoing.

The MO will set out the legal implications, and the HRM will set out the support facilities available. The information will then be passed to an

appropriate investigation team. The MO may refer the matter to the police if a criminal offence is likely to be involved, or other specific agencies as appropriate to the circumstances.

If the conditions in Section 3 are not met, it is a separate issue for the PM to deal with under the appropriate policy, such as the Grievance Procedure.

#### 8.5 **Anonymity:**

We will keep all investigations strictly confidential, yet as with any enquiry, we cannot guarantee you absolute anonymity as the evidence you can give may be vital to bringing about disciplinary measures or criminal proceedings. Of course, we will discuss the options before we take any actions which might reveal your identity.

If you submit a concern anonymously, we will treat it as a formal concern, though please appreciate it may be very difficult to establish the facts in such a case. It may also make it harder for you to gain the legal protections available. We hope that the legal protections guaranteed by both this policy and the legislation will encourage you to raise a concern in person, or at least with contact details to allow us to respond.

#### 8.6 **Responding:**

We recognise that a major deterrent for people considering whether to speak up is the sense that nothing will happen. Of course, we cannot reveal detailed investigative information due to the need to maintain the integrity of the evidence. In the majority of cases however, we can give you some feedback, and we will endeavour to do so unless there are significant reasons why we cannot.

- 8.7 There are other options if you do not want to report your concern to your employer, such as getting legal advice, or informing a prescribed person or body which deals with the issue you are raising. The following link provides details of prescribed persons for local councils:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

## 9. Investigation Arrangements

- 9.1 When you raise a formal concern, the MO and the HRM will organise initial enquiries to find out if it is significant. A concern will be significant if important issues are affected, and if wrongdoing seems to have occurred, to be occurring, or likely to occur. In this event, the MO will organise a prompt, proportionate and fair investigation to establish the facts. If initial enquiries find the concern is not significant, the MO and HRM may seek to resolve the situation without the need to carry out a full investigation.

- 9.2 Because of the wide range of whistleblowing allegations which we could receive, it is difficult to specify the exact investigative arrangements we will follow in this policy. The way that an allegation is investigated will need to be tailored to the specific issues of each case, so a flexible approach is vital. To achieve this, our main considerations will be whether the investigators are 1) trained to a suitable skill level, and 2) independent of the affected area(s), or independent of SSDC if necessary.
- 9.3 Those responsible for the investigation will:
- Initiate enquiries promptly once aware of the concern;
  - Prepare a plan to consider the likely steps within the investigation, which may result in disciplinary action and/or prosecution;
  - Regularly liaise with the MO, HRM, and the relevant Director, providing appropriate progress updates;
  - Record all evidence received to the standards of the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996 etc;
  - Ensure other legal requirements are met, such as the Human Rights Act 1998;
  - Notify SSDC's insurers where appropriate;
  - Notify the whistleblower of any relevant points throughout the investigation, especially where decisions may impact on them;
  - Keep the person under investigation aware of developments, so long as this does not prejudice the investigation, or potentially put the whistleblower at risk.
- 9.4 We will not consider formal disciplinary action until the facts are fully established. Should we need to take urgent action to remove a threat, the MO can recommend and authorise appropriate measures before the investigation is completed.

## 10. Concluding an Investigation

- 10.1 After an investigation has been concluded, if an employee is proven to be involved in wrongdoing, we will consider the range of actions set out in the [Disciplinary Procedure](#). Section 9 of this procedure sets out the appeal process for employees.
- 10.2 If we find that an allegation is unfounded after an investigation, we will make sure support is available to the persons involved through the key contact, as well as to the person whose conduct has come under question as a result of the whistleblowing. We will also monitor relationships within the relevant services to make sure that a concern being raised has not resulted in issues for the team.
- 10.3 At the end of every investigation, we will take all necessary steps to address any vulnerability which may have come to light.

## 11. Equalities

- 11.1 We will take the various needs and requirements of our employees into consideration throughout the whistleblowing process, and will monitor our procedures to ensure that people with protected characteristics are not disadvantaged.

## 12. Information for Non-Employees

- 12.1 While we have written this policy with employees in mind, we still want to hear from councillors, contractors, partner organisations or members of the public who have concerns about wrongdoing at SSDC. The legal protections were designed for workers, but we will seek to treat non-employees in the same way. Where information is reported to us by non-employees, we will follow the spirit of this policy by supporting them throughout the process. There are legal protections available to non-workers, and advice on these can be sought from Citizens' Advice or Public Concern at Work.
- 12.2. If you know of wrongdoing which could affect the work that we do, then please use the following guidance to contact the officer we specify, which will depend on the category you fall within. You can raise your concerns in the following ways:
- By arranging an appointment with the specified officer
  - By phoning 01935 462462 and asking to be transferred to the specified officer
  - By writing to the specified officer at *SSDC, Brympton Way, Yeovil, BA20 2HT*

### **Members:**

The ['Members Code of Conduct'](#) sets out the behaviour which is expected of elected members. If you become aware of any wrongdoing at SSDC, you should report the information directly to the MO. The MO will then advise how the matter will be dealt with, and if the concerns are serious enough, may make the decision to refer the matter to the police or other relevant agencies.

### **Contractors:**

The ['Procurement Procedure Rules'](#) set out the processes to be followed in the purchasing of goods and services. If you become aware of any wrongdoing at SSDC while working in a company who has been, might be, or currently is contracted by us, you should report that information directly to the S151 Officer. The S151 Officer will advise how the specific situation will be handled, and whether any contractual arrangements should be suspended.

### **Partner Organisations:**

There are a variety of working arrangements for organisations not in a contractual relationship with us. If you become aware of any wrongdoing at SSDC while working as an employee of another local authority, a branch of



central government, a housing association, or a 'third sector' organisation, such as an NGO or a charity, you should report the information directly to the MO. The MO will advise how the matter is to be dealt with, and whether any working arrangements should be suspended.

**Members of the Public:**

The '[Complaints Procedure](#)' sets out how members of the public can make a complaint about their personal circumstances, or against the actions of a particular service provided by us. If the concern does not fall within these categories, and is not general enough to be dealt with by contacting our Customer Services team, please email [whistleblowing@southsomerset.gov.uk](mailto:whistleblowing@southsomerset.gov.uk)

### 13. Additional Information

**13.1 Internal:**

For clarification on the content of this policy, contact the Monitoring Officer. For further information on whistleblowing support and guidance, contact the HRM.

**13.2 External:**

At any stage of the concern, you can obtain additional information and support from Protect (formerly Public Concern at Work), the independent Whistleblowing Charity:  
*<https://www.advicefinder.turn2us.org.uk> or 020 3117 2520.*