

Standards Committee - 25th September 2006

Report of the Monitoring Officer

Confidential Reporting Policy

Purpose of Report

1. To monitor the operation of the Council's Confidential Reporting Policy.

Background

2. Within its terms of reference the Standards Committee is responsible for advising the Council on its Confidential Reporting (i.e. Whistleblowing) Policy and monitoring its operation.
3. The Policy was first introduced in July 1999 and was last updated in February 2005. A copy of the current policy is attached at Appendix 1.
4. In my capacity as Monitoring Officer I regularly monitor the Policy by surveying each directorate and asking a number of standard questions. The latest survey was undertaken during the spring of 2006 and the results are set out below.

What is the outcome of your directorate's review of the Policy?

5. Each directorate has reviewed the Policy. Only 2 updates are proposed. First, Corporate Board recommend that paragraph 7.1 of the Policy should be amended to allow a complainant about a manager either to raise the issue with a more senior manager within the same Directorate or, as now, to pursue it externally with the Chief Executive, Director of Law and Property, Director of Finance or Internal Audit. The revised paragraph 7.1, therefore, would be:-

“As a first step you should normally raise concerns with your immediate manager (or in the case of schools, the Head Teacher), their superior or their Director. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. For example, if you believe that management is involved, you should approach their manager, or their manager's manager, or the Director. Alternatively you could approach the Chief Executive, Director of Law and Property, Director of Finance or Internal Audit. In the case of schools, staff should normally refer the matter to the Head Teacher, or where appropriate, to the Director of Children's Services, or appropriate Assistant Director direct.”

6. Secondly, paragraph 7.5 needs to be updated to reflect Linda Sanders's new title of Director of Adult, Community and Housing Services.

Are you aware of any use of the Policy by your staff and, if so, please supply appropriate details?

7. Within the last 12 months the Policy has been invoked on 2 occasions.
8. First, as the Committee will recall, I advised the Committee at its meeting in September 2005 of an anonymous complaint that I had received under the Policy alleging that certain elected members had used the Council's IT facilities for sending e-mails connected with the campaign for the General Election in 2005.
9. When I began to consider this complaint, it became clear that there was much confusion and uncertainty about the scope of the authorised use of the IT facilities provided to members by the Council.
10. Against that background I considered that the only reasonable response was to develop a Guide for members on internet access, use of e-mail and Councillors' websites. After a great deal of consultation the Guide was finalised and circulated to elected members in March 2006.
11. Secondly, within a directorate we received an anonymous referral regarding improper use of the clocking-in system by 2 members of staff. This was duly investigated and resulted in disciplinary action against the individuals concerned. As a result further written instructions were sent to all staff within that Division to remind them of the correct clocking-in procedures that must be followed.
12. Internal audit have also received occasional anonymous communications from "concerned" individuals and, where it is possible to do so, internal audit try to follow these up.

How are your staff reminded of the existence of the Policy e.g. newsletters and briefings?

13. Generally, directorates make use of briefings, newsletters, posters and leaflets. In addition the Policy is discussed at meetings of Directorate Management Teams. It is also included in the Corporate Induction for new staff and this is reinforced in the Directorate Induction for new staff in Children's Services and Adult Community and Housing Services.

Are there regular checks of posters and leaflets to make sure that they are up to date and readily available?

14. All directorates report that regular checks do take place though the Directorate of Adult Community and Housing Services have identified a difficulty in obtaining a supply of new posters. This problem is now being resolved corporately.

Finance

15. There are no financial implications arising from this report.

Law

16. The Council appoints employees in order to undertake its various statutory functions under Section 112 of the Local Government Act 1972. Section 111 of the 1972 Act enables the Council to do any thing which is calculated to facilitate or which is conducive or incidental to the discharge of its functions.

Equality Impact

17. This report takes into account the Council's policy on equality and diversity.
18. To ensure that the Confidential Reporting Policy is accessible to young people we will work with the Dudley Youth Council to develop a young person's version with appropriate publicity to share this.

Recommendation

19. It is recommended that the Committee note the outcome of the recent monitoring of the Confidential Reporting Policy, consider the updates to paragraphs 7.1 and 7.5 of the Policy, and the update to paragraph 7.5 of the Policy, and refer the report to the Cabinet.

John Polychronakis

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J. Polychronakis.
Monitoring Officer

Contact Officer: John Polychronakis.
Telephone: 01384 (81)5300
Email: john.polychronakis@dudley.gov.uk

List of Background Papers

1. Various e-mails from Council directorates in 2006

**DUDLEY METROPOLITAN
BOROUGH**

**CONFIDENTIAL REPORTING
POLICY**

February 2005

1. INTRODUCTION

- 1.1. Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up 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 what may just be a suspicion of malpractice.
- 1.2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3. This Policy makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. *This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns **within** the Council rather than overlooking a problem or "blowing the whistle" outside.*
- 1.4. This Policy applies to all employees (which includes school staff where the local education authority is the employer), and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers. It also cover suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
- 1.5. These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments. You are responsible for making service users aware of the existence of these procedures.
- 1.6. This Policy has been discussed with the relevant trade unions and has their support.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1. This Policy aims to:
 - Encourage you to feel confident in raising concerns and to question and act upon concerns about practice
 - Provide avenues for you to raise those concerns and receive feedback on any action taken
 - Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
 - Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2. There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:-

- Conduct which is an offence or a breach of law, including data protection
- Disclosures related to miscarriages of justice
- Significant health and safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and corruption
- Sexual or physical abuse of clients, or other unethical conduct.

2.3. Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council, or others acting on behalf of the Council, can be reported under the Confidential Reporting Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders, Financial Regulations and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

2.4. This Policy does **not** replace the corporate complaints procedure.

3. SAFEGUARDS

3.1. Harassment or Victimisation

3.1.1 The Council is committed to good practice and high standards and wants to be supportive of employees.

3.1.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, or if you have reasonable grounds for believing that it is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

- 3.1.3 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.1.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. CONFIDENTIALITY

- 4.1. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may be asked to come forward as a witness.

5. ANONYMOUS ALLEGATIONS

- 5.1. This Policy encourages you to put your name to your allegation whenever possible.
- 5.2. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 5.3. In exercising this discretion, the factors to be taken into account would include:
- the seriousness of the issues raised
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

6. UNTRUE ALLEGATIONS

- 6.1. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. HOW TO RAISE A CONCERN

- 7.1. As a first step you should normally raise concerns with your immediate manager (or in the case of schools, the Head Teacher), their superior or their Director. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Director of Law and Property, Director of Finance, or Internal Audit. In the case of schools, staff should normally refer the matter to their Head Teacher or, where appropriate, to the Director of Education and Lifelong Learning, or appropriate Assistant Director direct.

- 7.2. Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:
- the background and history of the concern (giving relevant dates), and
 - the reason why you are particularly concerned about the situation.
- 7.3. The earlier you express the concern the easier it is to take action.
- 7.4. Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.5. Advice or guidance on how to pursue matters of concern may be obtained internally from:-

Andrew Sparke, Chief Executive

Tel: 01384 815200 andrew.sparke@dudley.gov.uk

John Polychronakis, Director of Law and Property and Monitoring Officer

Tel: 01384 815300 john.polychronakis@dudley.gov.uk

Mike Williams, Director of Finance

Tel: 01384 814800 mike.s.williams@dudley.gov.uk

Richard Clarke, Head of Audit Services

Tel: 01384 814839 richard.clarke@dudley.gov.uk

Linda Sanders, Director of Social Services

Tel: 01384 815800 linda.sanders@dudley.gov.uk

Rt.Rev.David Walker, Bishop of Dudley

Tel: 0121 550 3407 bishopsofficedudley@cofe-worcester.org.uk

If you are unsure whether or how to use this Policy, you may seek free confidential help from the independent charity, **Public Concern at Work**
Tel: 0207-404-6609 whistle@pcaw.co.uk

Public Concern at Work will also be able to help if you feel that it would be inappropriate to speak to any of the officers referred to above.

- 7.6. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 7.7. You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

8. HOW THE COUNCIL WILL RESPOND

- 8.1. The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2. Where appropriate, the matters raised may:

- be investigated by management, internal audit or through the disciplinary process
 - be referred to the police
 - be referred to the external auditor
 - form the subject of an independent inquiry.
- 8.3. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 8.4. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5. Within ten working days of a concern being raised, the responsible person (the Chief Executive) will write to you:
- acknowledging that the concern has been received
 - indicating how we propose to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - supplying you with information on staff support mechanisms, and
 - telling you whether further investigations will take place and, if not, why not.
- 8.6. The amount of contact between the officers considering the issues 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 Council will seek further information from you.
- 8.7. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 8.8. The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive advice about the procedure.
- 8.9. The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

9. THE RESPONSIBLE OFFICER

- 9.1. The Chief Executive has overall responsibility for the maintenance and operation of this Policy. The Chief Executive maintains a record of concerns raised and the

outcomes (but in a form which does not endanger your confidentiality) and will report to the Standards Committee.

10. HOW THE MATTER CAN BE TAKEN FURTHER

10.1. This Policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- the external auditor
- your trade union
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police
- Public Concern at Work (see paragraph 7.5 above).

10.2. If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

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The Rt. Rev. David Walker
Bishop of Dudley
Independent Chair of the
Standards Committee
Dudley MBC.

February 2005

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Andrew Sparke
Chief Executive,
Dudley MBC.

February 2005