

Changes to Gloucestershire County Council Constitution by the Monitoring Officer

In the exercise of my powers set out in Article 14.02.01 of the Council's Constitution, I make the following amendments to the Council's Constitution:

1. The Confidential Reporting Procedure for Employees (Whistle blowing) shall be amended in accordance with the tracked changes shown in Annex A.
2. In Article 6.03.1 the words "but normally only in the event of a change of political control of the Council" shall be deleted.



Jane Burns
Monitoring Officer
Gloucestershire County Council

27 November 2013

90. Failure to comply with any of the standards detailed in this Code may result in formal disciplinary action, under the Managing Performance Improvement Procedure, including dismissal.

APPENDIX 1

CONFIDENTIAL REPORTING PROCEDURE FOR EMPLOYEES (WHISTLE BLOWING)

1. Employees are often the first to realise that there may be something wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation and it may be easier, therefore, to ignore the concern rather than report what may just be a suspicion of malpractice.
2. The Council is committed to the highest standards of openness, probity and accountability. It expects employees, and others that it deals with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns. The phrase 'whistle-blowing' in this procedure refers to the disclosure internally or externally by employees of malpractice, as well as illegal acts or omissions at work.
3. This Procedure makes it clear that employees can report, in a confidential manner, their concerns without fear of victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable serious concerns to be raised with the Council, rather than overlooking a problem or 'blowing the whistle' outside. ~~It is stressed that under the Public Interest Disclosure Act 1998, employees of the Council who, in good faith, speak out against corruption or malpractice at work have statutory protection against victimisation and dismissal.~~

AIMS AND SCOPE OF THIS PROCEDURE

4. This Procedure aims to:
 - encourage employees to feel confident in raising serious concerns in those cases where they do not wish to use the normal reporting routes within their service area
 - provide alternative avenues for raising concerns
 - ensure that responses to concerns are made
 - to reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have raised a concern in good faith the public interest
5. There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. This Procedure is intended to cover concerns that fall outside the scope of other procedures and include:
 - conduct which is an offence or a breach of law
 - disclosures related to miscarriages of justice

CONFIDENTIALITY

11. All concerns will be treated in confidence and every effort will be made to protect an employee's identity if that is their wish. However this cannot be guaranteed if say following an investigation a case is taken to Court, where the employee may need to be called as a witness.

ANONYMOUS ALLEGATIONS

12. In order to ensure that employees receive protection of the Public Interest Disclosure Act 1998 employees should put their name to their allegation. Concerns expressed anonymously are sometimes less credible. Anonymous concerns and allegations, whether made to the Monitoring Officer or Head of Internal Audit, will therefore be investigated at the discretion of the Council.
13. 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 sources² factual evidence.

UNTRUE ALLEGATIONS

14. If an employee makes an allegation in ~~good faith~~ the public interest, but it is not confirmed by the investigation, no action will be taken against them. If, however, an allegation is frivolous, malicious or for personal gain, disciplinary action may be taken against them.

HOW TO RAISE A CONCERN

15. Employees who wish to raise a serious concern should do so verbally or in writing (marked 'Confidential') to the:

Monitoring Officer
 Gloucestershire County Council
 Shire Hall
 Gloucester GL1 2TZ
 Telephone: (01452) 328472

The Monitoring Officer will refer all concerns in relation to possible financial impropriety to the Director: Strategic Finance and/or the Head of Internal Audit.

16. Alternatively employees may wish to use the Council's 24 hour "whistleblowing" answerphone service on Gloucester 01452 - 427052 to report any concern relating to possible fraud, corruption, conduct or mal-practice/administration.
17. Employees who wish to make a written statement/report are invited to set out:

- the background and history of the concern
- relevant dates, person involved
- details of supporting evidence

18. Although employees are not expected to prove an allegation they will need to demonstrate that ~~there are reasonable grounds for their concern~~ the disclosure is in the public interest.

HOW THE COUNCIL WILL RESPOND

19. The Council will respond to such concerns and, where appropriate, the matters raised may be:

- ~~be~~ investigated by management, Internal Audit, or through the disciplinary process
- ~~be~~ referred to the Police
- ~~be~~ referred to the District Auditor
- ~~be~~ the subject of an independent inquiry

20. In order to protect individuals and those involved in the concern, 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 take into account is public interest; however, the Council has a zero tolerance attitude to any fraudulent activity. Concerns or allegations which fall within the scope of specific procedures (for example, child protection) will normally be referred for consideration under those procedures.

21. Within 10 working days of a concern being raised, the Monitoring Officer will write to the employee concerned at their private address:-

- acknowledging that the concern has been received
- indicating how s/he proposes to deal with the matter
- telling the employee whether any initial enquiries have been made
- telling the employee whether further investigations will take place and, if not, why not

22. If the matter is subject to further investigation the employee will be informed of any progress and proposed timescale for the investigation. The amount of contact between the officers considering the issues and the employee raising the concern 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 the employee raising the concern.

23. A representative of a ~~T~~trade Union recognised by the Council or work place colleague may accompany an employee during any stage of an investigation conducted under this Procedure.

24. The Council will take steps to minimise any difficulties which may be experienced as a result of raising a concern. For instance, where an employee is required to give

evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedures involved.

25. The Council accepts that employees need to be assured that matters of concern have been properly addressed and, therefore, subject to legal constraints, employees will be informed of the outcome of any investigation.

THE RESPONSIBLE OFFICER

26. The Monitoring Officer has overall responsibility for the maintenance and operation of this Procedure. S/Hhe will ensure that a record of concerns raised and the outcomes recorded is maintained in a form that does not breach confidentiality.

FURTHER ACTION

27. This Procedure is intended to assist employees who wish to raise concerns within the Council. The Council hopes employees will be satisfied with any action taken. However, if they are not, and they feel it is right to take the matter outside the Council, the following organisations are possible contact points:

- Health & Safety Executive
- Environment Agency
- District Audit/Audit Commission/External Auditors
- Financial Services Authority
- DSS Benefits/Contributions Agencies
- Serious Fraud Office
- Trade Union
- Inland Revenue
- Relevant Voluntary Organisation
- Charity Commission
- Police
- Customs & Excise
- 'Public Concern at Work' (tel: 0207 404 6609)

28. If employees do decide to take the matter outside the Council, they must ensure that they do not disclose to a third party any Council confidential information. If employees are in any doubt, they are strongly advised to seek the confidential advice of the Monitoring Officer before taking any action to ensure that they are not putting themselves in a vulnerable position.