

POLICY & PROCEDURE: WHISTLEBLOWING

PURPOSE: To describe the framework and freedoms that enable employees of Melbourn Parish Council to report openly, and without fear of reprisals, on serious matters that they believe to be of public concern.

SCOPE: Employees of Melbourn Parish Council

POLICY:

1. Background

- 1.1 Melbourn Parish Council is committed to the highest standards of openness, integrity and accountability. An important aspect of accountability and transparency is a mechanism to enable staff and other members of the Council to voice concerns in a responsible and effective manner.
- 1.2 It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. **Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal**, and there should be arrangements to enable this to be done independently of line management (although in relatively minor instances the line manager would be the appropriate person to be told).
- 1.3 The Public Interest Disclosure Act, which came into effect in 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns.

2. Endorsement

- 2.1 Melbourn Parish Council endorses the rights and provisions laid out in the Public Interests Disclosure Act. In so doing, it provides guidance on the Scope, Safeguards to protect the rights and security of whistle-blowers and offers a procedure for potential whistle-blowers to bring issues to public notice.

It should be emphasised that this policy and procedure is intended to assist individuals who believe they have discovered **malpractice or impropriety**. It is **not** designed to question financial or business decisions taken by the Council nor should it be used to reconsider any matters which have already been addressed under harassment,

complaint, disciplinary or other procedures. Once the "whistleblowing" procedures are in place, it is reasonable to expect staff to use them responsibly rather than air personal complaints outside the Council. Note: The person should be warned, where and only if deemed appropriate, that an unjustified malicious or vexatious complaint could result in action being taken against the person raising the issue (see 4.2 below).

3. Framework and Scope

3.1 This policy is designed **to enable employees of the Council to raise concerns internally and at a high level and to disclose information that the individual believes shows malpractice or impropriety. This policy is intended to cover concerns that are in the public interest and may at least initially be investigated separately but might then lead to the invocation of other procedures e.g. disciplinary.**

3.2 These concerns could include:

- Financial malpractice or impropriety or fraud
- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment
- Criminal activity
- Improper conduct or unethical behaviour
- Attempts to conceal any of these

This is not intended to be an exhaustive list.

4. Safeguards

4.1 **Protection:** This policy is designed to offer protection to those employees of the Council who disclose such concerns provided the disclosure is made (a) in good faith (b) in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and (c) if they make the disclosure to an appropriate person (see below). It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure. In an extreme case malicious or wild allegations could give rise to legal action on the part of the persons complained about.

4.2 **Confidentiality** The Council will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required. Confidentiality can be sacrificed if the matter raised is found to be malicious or vexatious (see 2.1 above).

4.3 **Anonymous Allegations** This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered **at the discretion of** the Council. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

4.4 **Untrue Allegations** Should an individual make an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

PROCEDURE:

5. Selecting an appropriate person to investigate:

On receipt of a complaint of malpractice the member of staff who receives and takes note of the complaint must pass this information on as soon as is reasonably possible. An appropriate 'investigating officer' will be selected and appointed as follows:

- 5.1 The Clerk will investigate complaints of malpractice unless the complaint is against the Clerk or is in any way related to the actions of the Clerk. In such cases, the complaint should be passed to the Council Chairman for referral.
- 5.2 In the case of a complaint, which is any way connected with but not against the Clerk, the Council Chairman will nominate a Senior Councillor to act as the alternative investigating officer.
- 5.3 Complaints against the Council Chairman should be passed to the Council Vice Chairman who will nominate an appropriate investigating officer. In such cases it is also appropriate for external advice to be sought.
- 5.4 The complainant has the right to bypass the line management structure and take their complaint direct to the Council Chairman. The Council Chairman has the right to refer the complaint back to Clerk if he/she feels that the Clerk without any conflict of interest can more appropriately investigate the complaint.
- 5.5 If the complainant has evidence that leads them to believe that neither the Clerk nor Councillors will investigate their complaint in an unbiased way, they should raise their concern with the appropriate outside body (see **6.10** below).

Note: Due to the varied nature of whistle-blowing complaints, which may involve internal investigators and/or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer, once selected, should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

6. Investigation Procedure

- 6.1 The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded. Full details and clarifications of the complaint should be obtained.
- 6.2 The investigating officer should inform the member of staff or Councillor against whom the complaint is made as soon as is practically possible. The member of staff or Councillor will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
- 6.3 The investigating officer should consider the involvement of the Council auditors and the Police at this stage and should consult with the Council Chairman.
- 6.4 The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
- 6.5 The investigating officer will make a judgement concerning the complaint and validity of the complaint. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will normally be passed to the Clerk & the Council Chairman, except where other arrangements have been needed (see 5.3 above).
- 6.6 The Council Chairman, or other nominated person if this has been necessary, will decide what action to take. If the complaint is found to be justified, then they will invoke the Disciplinary Procedure (5.5).
- 6.7 The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome. All responses to the complainant should be in writing and sent to their home address.
- 6.8 If appropriate, a copy of the outcomes will be passed to the Council Auditors to enable a review of the procedures.
- 6.9 If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the Council Chairman, or one of the designated persons described above. In this situation the complainant can raise the matter through the Parish Council Grievance Procedure (5.4). Alternatively, the complainant should seek further assistance as described in 6.10 below.

- 6.10 If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, the Council recognises the lawful rights of employees (and ex-employees) to make disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission, or the utility regulators), or, where justified, elsewhere.

Document Approval:

**(Chair to Melbourn
Parish Council)**

Date of Parish Council Meeting: