

# Item 5

ITEM NO:

REPORT TO STANDARDS  
COMMITTEE

5 FEBRUARY 2009

REPORT OF CHIEF EXECUTIVE  
OFFICER

All Portfolios

## REVIEW OF CONFIDENTIAL REPORTING POLICY

### 1 SUMMARY

- 1.1 This report provides details of the findings of a review of the Council's Confidential Reporting Policy.

### 2. RECOMMENDATIONS

It is recommended that the Standards Committee:

- 2.1 Notes the findings of the review of the Confidential Reporting Policy outlined at paragraphs 3.10 to 3.12.

### 3. DETAIL

#### **Background Information**

- 3.1 It is a constitutional obligation upon the Standards Committee to annually review the Council's policy in respect of confidential reporting arrangements.
- 3.2 An important element in the maintenance of probity in Local Government is the ability for individuals to be able to raise concerns where they perceive malpractice. The Employers Organisation published a Model Code on Whistleblowing (Confidential Reporting Code) shortly after the enactment of the Public Interest Disclosure Act 1998. The Act seeks to protect staff from being penalized by employers for raising concerns about serious misconduct or malpractice that threatens the public interest.
- 3.3 The Council is committed to the highest possible standards of openness, probity and accountability. Section 7 of the staff Code of Conduct outlines the Council's commitment to encourage and protect staff who disclose information in relation to matters which they feel breach the high standards expected within the Council. The Confidential Reporting Policy at Appendix 1 was introduced in April 2001 in accordance with the Employers Organisation model code and builds on the commitment and intention to encourage and enable concerns to be raised within the Council rather than overlooking a problem or "blowing the whistle" outside.

## **Current Position**

- 3.4 The Confidential Reporting Policy applies to all employees, contractors working for the Council on Council premises, suppliers and those providing services under a contract with the Council. The procedures are in addition to the Council's complaints procedure and other statutory reporting procedures applying to some departments.
- 3.5 There are other policies and procedures in place to enable employees to lodge a grievance relating to their employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside of the scope of other procedures. Examples of such concerns include:
- Conduct which is an offence or a breach of law
  - Disclosures relating to miscarriages of justice
  - Health and Safety risks
  - Damage to the environment
  - The unauthorised use of public funds
  - Possible fraud and corruption
  - Sexual or physical abuse, or
  - Other unethical conduct
- 3.6 In addition, serious concerns about any aspect of service provision or the conduct of officers or members of the Council can be reported under the Confidential Reporting Policy.

## **Confidential Reporting Procedure**

- 3.7 In accordance with the procedure, minor issues are dealt with by an immediate manager or supervisor, and more serious issues are reported to the Chief Executive Officer, Director of Resources or Monitoring Officer.
- 3.8 The Chief Executive Officer has overall responsibility for the maintenance and operation of the policy.
- 3.9 In the event that an employee is dissatisfied with action taken they have a right to refer the matter elsewhere, for example: to an external auditor.

## **Review of Current Policy**

- 3.10 The policy has only been invoked on two occasions to deal with a major issue since its introduction in April 2001. The policy was recently invoked in July 2008 when concerns were raised via an anonymous email. These concerns were successfully investigated and are currently being concluded by the Audit Department. In this case the policy operated effectively and the stages within it were found to be appropriate. A number of minor confidential reporting issues have been dealt with at a supervisory/managerial level.
- 3.11 Minor amendments have been made to the policy since April 2001 to reflect changes in the Council's organisation structure and the constitutional requirement that the Standards Committee reviews the policy on an annual basis.
- 3.12 Following discussions with the Audit Department, comparisons of the policy with neighbouring authorities and other partner organisations and with best practice

guidance, it is concluded that the policy remains appropriate and relevant and does not require amendment at this point in time.

#### **4. RESOURCE IMPLICATIONS**

None

#### **5. CONSULTATION**

The policies of neighbouring authorities and partner organisations have been consulted during the review. Discussions with the Audit Department following the recent invoking of the policy in July 2008 have also concluded that the policy remains appropriate.

#### **6. OVERVIEW AND SCRUTINY IMPLICATIONS**

Not Applicable

#### **7. OTHER MATERIAL CONSIDERATIONS**

##### **7.1 Links to Corporate Objectives/Values**

This report impacts on the following corporate values:

- Investing in our employees
- Being open, accessible, equitable, fair and responsive

##### **7.2 Equality and Diversity**

An Impact Needs Requirement Assessment of this policy has identified that the policy has no adverse impact in terms of gender, race, religion, disability, age, or sexual orientation.

##### **7.3 Risk Management**

No additional implications have been identified.

##### **7.4 Legal and Constiitutional**

It is a constitutional obligation upon the Standards Committee to annually review the Council's policy in respect of confidential reporting arrangements.

##### **7.5 Health and Safety**

No additional implications have been identified.

No other material considerations associated with this report have been identified.

## 8. LIST OF APPENDICES

Appendix 1 - Sedgefield Borough Council - Confidential Reporting Policy

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**Ward(s)** Contents are not ward specific.

**Key Decision Validation** Will not involve expenditure which exceeds current budget.  
Will not directly impact on more than two wards in the Borough.

### Background Papers

Employers Organisation – Model Code on Whistleblowing (Confidential Reporting Code)  
Public Interest Disclosure Act 1998  
Sedgefield Borough Council – Code of Conduct for Employees

### Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Sedgefield Borough Council Confidential Reporting Policy

### 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 Sedgefield Borough Council is committed to the highest possible standards of openness, probity and accountability. This commitment is outlined in the Council's Code of Conduct for Employees which has been endorsed by both elected members and trade unions.
- 1.3 Section 7 of the Code of Conduct outlines the Council's commitment to encourage and protect employees who disclose information in relation to matters which they feel breach the high standards expected within the authority. 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 The policy document 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 The policy applies to all employees and those contractors working for the Council on council premises. It also covers suppliers and those providing services under a contract with the Council.
- 1.5 These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments.
- 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 serious 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*
- *disclosures related to miscarriages of justice*
- *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, or*
- *other unethical conduct*

2.3 Any serious concerns that you have about any aspect of service provision or the conduct of employees 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 and policies; or*
- *falls below established standards of practice; or*
- *amounts to improper conduct.*

### **3. SAFEGUARDS**

#### **3.1 Harassment or Victimisation**

- 3.2 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 3.3 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying 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.
- 3.4 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.
- 3.5 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 need to come forward as a witness.

### **5. ANONYMOUS ALLEGATIONS**

- 5.1 This policy encourages you to put your name to your allegations 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 taken against you.

## 7. HOW TO RAISE A CONCERN

7.1 Minor issues will continue to be dealt with on a day to day basis by your immediate manager or supervisor. However, in relation to serious issues of the type likely to be reported under this policy, you should approach the Chief Executive, Director of Resources or Monitoring Officer. The Council believes that this high level reporting reflects the seriousness and sensitivity of the issues involved within the scope of the Confidential Reporting Policy.

7.2 Concerns may be raised verbally or in writing. If you wish to make a written report you are invited to use the following format:

- *the background and history of the concern (giving relevant dates)*
- *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/guidance on how to pursue matters of concern will be available from:***

- **The Chief Executive Officer, Mr. N. Vaulks**
- **Director of Resources, Mr. B. Allen**
- **Monitoring Officer, Mr. D Hall**

Any major issue will be dealt with by by a minimum of two of the above mentioned officers.

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.

7.8 **Should employees or others lack the confidence or trust to make their disclosure of information to an internal source the Audit Commission has set up a confidential hotline and the Council would suggest that this be your first contact rather than other external regulatory bodies. The number of the telephone hotline is 0171 630 1019.**



## 8. HOW THE COUNCIL WILL RESPOND

- 8.1 The Council will respond to your concerns. Do not forget that testing 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.
- 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 i.e. the Chief Executive, Director of Resources or Monitoring Officer will write to you:
- *acknowledging that the concern has been received*
  - *indicating how they 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, 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, will inform you of the outcome of any investigation.
- 8.10 Appendix A attached shows how the Council will manage any concerns raised.**

## 9. THE RESPONSIBLE OFFICER

- 9.1 The Chief Executive Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report to the Council.
- 9.2 In accordance with the constitution of the Council the Standards Committee will conduct an annual review of the policy.

## 10. HOW THE MATTER CAN BE TAKEN FURTHER

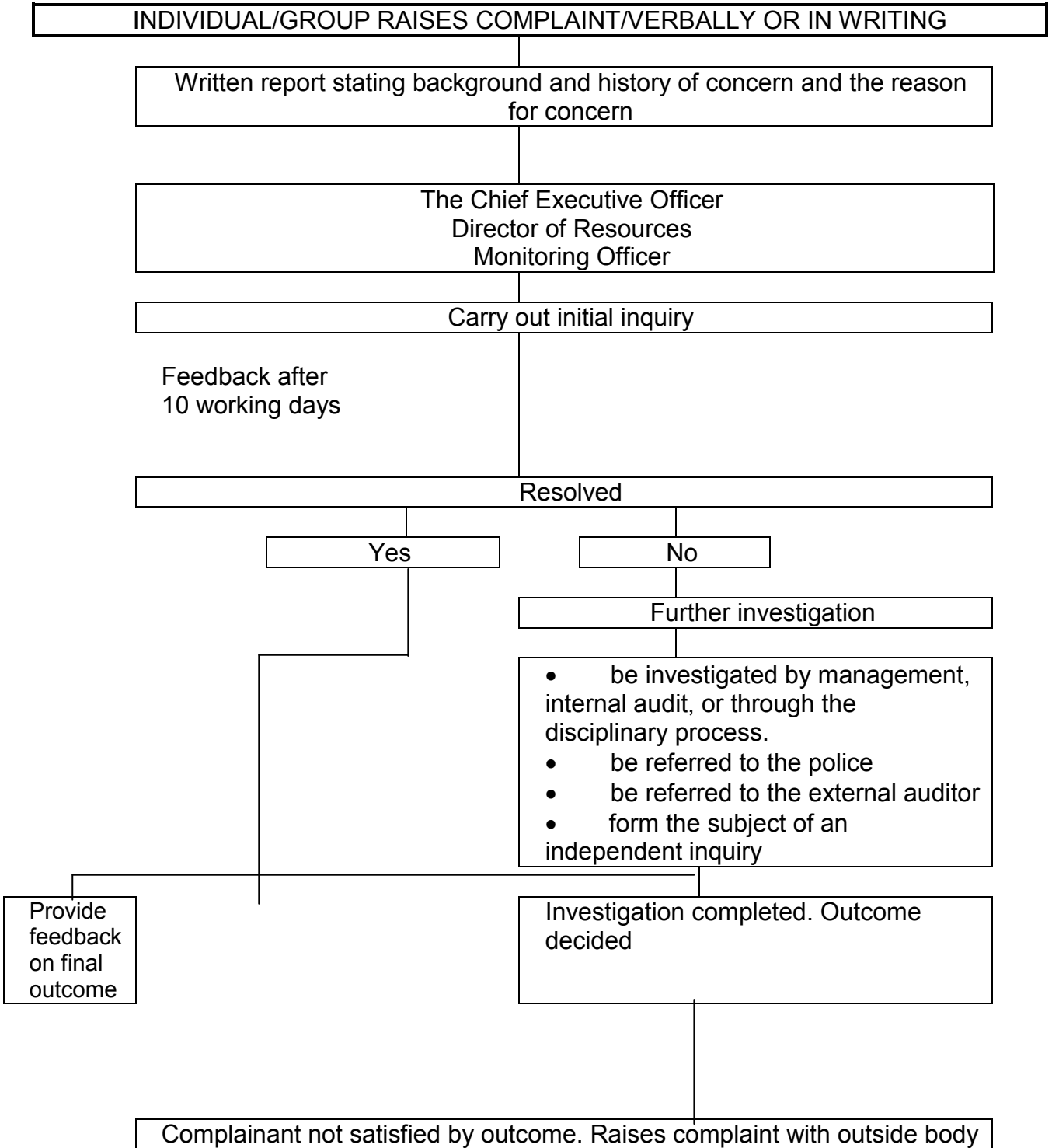
10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- *the external auditor*
- *your trade union*
- *your local Citizens Advice Bureau*
- *relevant professional bodies or regulatory organisations*
- *a relevant voluntary organisation*
- *the police.*
- *the Audit Commission*

10.2 **If you do take the matter outside the Council you should ensure that you do not disclose confidential information. The Council would suggest that the Audit Commission confidential hotline be your first contact rather than other external regulatory bodies. The number of the telephone hotline is 0171 630 1019.**

<b>Policy Effective from</b>	1 <sup>st</sup> April 2001					
<b>Revision Dates</b>	22/9/04					
<b>Review Date</b>	09/05	19/1/06				

**APPENDIX A**



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