

# Whistle-Blowing Policy



EAST RIDING

OF YORKSHIRE COUNCIL

Lead Directorate and Service:	Corporate Resources - Human Resources
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Contact Officer/Number:	Head of Finance/ 394100
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## **I. Background**

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Employees are often the first to realise that there may be something wrong within the Council. However, they may decide not to 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. The Public Interest Disclosure Act 1998 provides statutory protection to employees making disclosures and the Council extends the principles of that Act into this policy to give elected members, school governors, partners, service users and citizens the same route to raise concerns.

## **2. Definitions for the Purposes of this Policy**

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Irregularities fall within the following categories, of which the majority are criminal offences:

### **Fraud (Fraud Act 2006)**

Fraud can be committed in various ways including:

- Fraud by false representation.
- Fraud by failing to disclose information.
- Fraud by abuse of position.
- Possession of articles for use in frauds
- Making or supplying articles for use in frauds
- Participating in a fraudulent Business carried on by a sole trader
- Obtaining services dishonestly

### **Theft (Theft Act 1968)**

Theft occurs when a person dishonestly appropriates the property belonging to another with the intention of permanently depriving them of it. This may include the removal or misuse of funds, assets or cash.

### **Handling Stolen Goods (Theft Act 1968)**

A person handles stolen goods if (otherwise than in the course of stealing) knowing or believing them to be stolen goods, he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.

### **False Accounting (Theft Act 1968)**

Where a person dishonestly with a view to gain for himself or another or with intent to cause loss to another;

- Destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose, or
- In furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading false or deceptive in a material particular.
- A person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document.

### **Bribery (Bribery Act 2010)**

Bribing another person:

- To offer, promise or give a financial or other advantage to another person, and intending the advantage:
  - To induce a person to perform improperly a relevant function to activity, or
  - To reward a person for the improper performance of such a function or activity, or

- To offer, promise or give a financial or other advantage to another person, and knowing or believing that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

#### Being bribed

- To request, agree to receive or accepting a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by you or another person)

- To request, agree to receive or accept a financial or other advantage, and

The request, agreement or acceptance itself constitutes an improper performance of a relevant function or activity.

- To request, agree to receive or accept a financial or other advantage as a reward for the improper performance of a relevant function or activity.
- In anticipation of or in consequence of requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly.

#### **Money Laundering (Offences – Regulation 45 Money Laundering Regulations 2007)**

The conversion or transfer of property, knowing that such property is derived from serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, and the

concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from serious crime. (Money Laundering Regulations 2007).

#### **Benefit Related Fraud**

All benefit related fraud including Council Tax Reduction and Discounts, Tenancy Fraud, Blue Badge Fraud etc, the list is not exhaustive

Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England Regulations 2013, Housing Act 1985, Prevention of Social Housing Fraud Act 2013, Social Security Administration Act 1992 and associated regulations, Fraud Act 2006, Road Traffic Regulation Act 1984, Forgery & Counterfeiting Act 1981 etc.

**Collusion** - The term “collusion” in the context of reporting fraud is used to cover any case in which someone incites, instigates, aids and abets, conspires or attempts to commit any of the crimes and associated crimes above.

**Failure to observe** the laws of the land.

**Failure to observe**, or breaches of, The Constitution, Scheme of Delegation, Contract Procedure Rules and Financial Procedure Rules.

**Failure to observe**, or breaches of, departmental procedures or Health and Safety Regulations - in some circumstances can constitute an irregularity, with potentially significant financial consequences.

**Failure to comply** with the authorities employment policies including cases of harassment and bullying.

**Failure to comply** with the authority’s policy and legal requirements in relation to

the protection of children and vulnerable people.

### **3. Policy Statement**

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The Council is committed to the highest possible standards of openness, probity and accountability and expects that members and officers at all levels will protect the Council and its resources and lead by example, ensuring high standards of personal conduct and adherence to the Council’s policies, procedures and rules.

In line with this commitment, we encourage employees, elected members, school governors, partners, service users and citizens with any concerns about any aspect of the Council’s work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.

The Council will not tolerate any occurrence of irregularities, and operates a ‘zero tolerance’ approach to known instances and attempts. The Council will take all appropriate measures to protect both its clients, including children and vulnerable people, and public funds and to reduce the risk of an irregularity occurring from either internal or external sources. Whenever an irregularity of any description is detected it will be investigated and appropriate prosecution, disciplinary and recovery action will be taken.

This Whistle-blowing Policy applies to all employees, (including those designated as casual, temporary, agency, authorised volunteers or work experience), contractors/partners working for the Council on or off Council premises, members and the public and is intended to encourage and enable you to raise any concerns within the Council rather than overlooking a problem or blowing the whistle outside without fear of reprisals or victimisation.

This policy aims to:

- Encourage you to feel confident in raising concerns;
- Provide avenues for you to raise concerns in confidence (and if necessary anonymously) and receive feedback on any action taken;
- Allow you to take the matter further if you are dissatisfied with the Council’s response, and
- Reassure you that you will be protected from reprisals or victimisation for whistle blowing and appropriate action will be taken should this occur.

There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. This whistle-blowing policy is intended to cover concerns that fall outside the scope of other procedures.

### **4. What is covered by the Policy**

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A concern may be about something that:

- Is unlawful; or
- Is against the Council’s Constitution or policies; or
- Falls below established standards or practice; or
- Amounts to improper conduct.

A concern can therefore relate to any unethical or unprofessional conduct relating to the Council, including malpractice, and abuse. This not only covers acts that have actually occurred but also those that may potentially occur.

Examples of malpractice in this context may include concerns about possible fraud and corruption, financial irregularities,

dangerous procedures risking health and safety to the public as well as to other employees, abuse or bullying of clients including children and vulnerable people, evasion of statutory responsibilities, environmental issues, etc.

The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

The Whistle blowing policy is not intended to be used as substitute for other existing policies under which action can be taken. For example, where action is more appropriate to be addressed under the Disciplinary Policy or Procedure or the Harassment/Bullying Policy and Procedure. These processes should be followed in the first instance.

## **5. Public Interest Disclosure Act 1998**

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This Act commenced on 2 July 1999 and gives statutory protection, within defined parameters, to employees who make disclosures about a range of subjects, which they believe to be happening within the authority employing them.

The Act has rules for making a protected disclosure:

- You must reasonably believe the disclosure is in the public interest
- You must believe it to be substantially true
- You must not act maliciously or make false allegations
- You must not seek any personal gain

By regulations issued under the Act, the National Audit Office (NAO) has taken on new responsibilities as a “prescribed

person” that involves receiving disclosures from employees when those employees are unable or unwilling to make the disclosure internally.

The NAO, along with their appointed representatives, has the responsibility to ensure that disclosures are properly investigated and will report its findings to the person making the disclosure.

## **6. Safeguards**

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### **Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern.

This does not mean that if you as an employee are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your whistle-blowing.

### **Anonymous Allegations and Confidentiality**

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less capable of being investigated effectively, but they will be considered by the Council.

The factors to be taken into account in determining whether to proceed with an anonymous allegation would include:

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

It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.

### Untrue Allegations

When making an allegation you must have reasonable belief that your concerns are true, though you do not need any evidence to prove they are correct. You must be able to show that you believed that disclosing your concern was in the public interest and that it was a reasonable view to hold in the circumstances at the time. Note that it is not your responsibility to investigate the matter; that is the Council's responsibility.

If you do make an allegation that you believe is in the public interest, but it is not confirmed by the investigation, no action will be taken against you.

If, however, you make malicious or vexatious allegations, legal or disciplinary action may be taken against you.

### 7. How to Raise a Concern

This will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.

Employee concerns should firstly be raised within the Council with either:

Contact Position	Contact Details	Type of Concern
Your Line Manager		All
Your Director		All
Internal Audit Manager	01482 39 (4105)	All
Group Audit and	01482 39 (4107)	All

Governance Officer		
Fraud Investigation and Enforcement Manager	01482 39 (4602)	All
Monitoring Officer - Head of Legal and Democratic Services	01482 39 (3100)	All except employment policy related concerns
Section 151 Officer - Head of Finance	01482 39 (4100)	All except employment policy related concerns
Head of Human	01482 39 (1100)	Employment policy related concerns only
Chief Executive	01482 39 (1000)	All
Whistle blowing hotline 24 hr answer phone	01482 39 (4123)	All
Housing Benefit Fraud hotline 24 hr answer phone	01482 39 (4949)	Benefit related concerns only
e-form	Apps button on Insight home page	All
e-mail	Whistle blower @ eastriding.gov.uk hr.helpdesk @ eastriding.gov.uk	All Employment Policy related concerns
Your Trade		All

Union representative		
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School based staff should raise any concerns in accordance with the Schools Whistle Blowing Policy.

The concerns of elected members, school governors, service users, partners and citizens should be raised with either the Director of Corporate Resources, Internal Audit Manager, Chief Executive or Monitoring Officer.

Advice and guidance on how matters of concern may be pursued can be obtained from the same sources.

Whilst line managers should establish as many details as possible (by discussion with the notifying officer only) he/she should formally report the incident to the Director responsible for the area concerned. That Director should then notify the Internal Audit Manager who will then make the necessary disclosures to the Director of Corporate Resources, the Monitoring Officer and the Chief Executive, dependent on the potential seriousness of the referral.

Where a concern/multiple concerns is/are raised that contains an element of potential non-compliance with one or more of the Council's employment policies the Internal Audit Manager will liaise with Human Resources to determine who will lead the investigation.

If you have concerns regarding abuse to adults or children you may also contact the Safeguarding Adult and Children teams as follows:

- Adults - 01482 861103 (email - [safeguardadults@eastriding.gov.uk](mailto:safeguardadults@eastriding.gov.uk))
- Children - via Customer Services team - 01482 395500

- Out of Hours (Emergency Duty Team) - 01377 241273

If there is an immediate risk call 999 for emergency services or 101 for local police. If you feel unable to talk to anyone in the Authority, or are not satisfied with the Authority's response you can contact one of the following external contacts:

Contact	Contact Details
External Auditor	Mazars T: +44 (0)191 383 6300/ M: +44 (0)7815 878116
Public Concern at Work (they are an independent charity, which provides free advice for persons who wish to express concern about fraud and other serious malpractice)	020 3117 2520 <a href="mailto:helpline@pcw.co.uk">helpline@pcw.co.uk</a> <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a>
Humberside Police	0845 60 60 222 or 101 (Non emergency reporting line)

Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone the Internal Audit Manager or one of the officers listed above, or leave a recorded message on the 24 hour whistle-blowing hotline answer phone (telephone number **01482 394123**), complete the online form on the internet and intranet (there's an apps button on Insight home page) or email [whistleblower@eastriding.gov.uk](mailto:whistleblower@eastriding.gov.uk). These services are strictly confidential and



you will not be asked to give your name if you do not want to.

The earlier you express the concern, the easier it is to take action.

Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern. You do not need evidence just sufficient grounds for concern. Under no circumstances should you investigate a concern yourself as this may risk prejudicing any investigation, which could include a criminal investigation if it is warranted. Further, this will protect you from any repercussions.

You may invite your trade union, professional association or representative to assist you in raising a matter.

Details of matters discussed with the contact will be kept confidential.

## **8. How the Council Will Respond**

The action taken by the Council will depend on the nature of the concern. The matter raised may:

- Be investigated internally
- Be referred to the police
- Be referred to the external auditor
- Form the subject of an independent inquiry

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation.

Where contact details have been provided within ten working days of a concern being received, the Council will write to you:

- Acknowledging that the concern has been received
- Indicating how it proposes 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

The amount of contact between the employees 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, further information will be sought from you.

When any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union representative or a work place colleague who is not involved in the area of work to which the concern relates.

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 advise you about the procedure.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

## 9. How the Matter can be Taken Further

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

- An elected member of the Council.
- Relevant professional bodies or regulatory organisations.
- Your solicitor.
- The Police.
- Public Concern at Work.
- Trade Union/Professional Association.
- The Ombudsman.
- The Council's external auditor.

If you do take the matter outside the Council, you need to ensure that you do not disclose information that is privileged to the Council and if you are an employee, do not breach your obligations under the Council's Code of Conduct for Employees.

The Code of Conduct for Employees policy is available on the intranet. Whilst all of the code is important, the section concerning contact with the press and media is particularly relevant.

## 10. Responsibility

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The Responsible Officer, who is the Chief Executive, has overall responsibility for the maintenance and operation of this policy.

The Director of Corporate Resources will maintain a record of concerns raised and action taken in a form, which does not endanger your confidentiality and will report as necessary to the Council.

## 11. Corporate Requirements

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This policy supports the following Corporate Priorities:

- Growing the economy
- Valuing the environment
- Promoting healthy lifestyles
- Protecting the vulnerable
- Helping children and young people achieve

## 12. Policy Development including Consultation

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This policy was reviewed in line with the Council's Policy review program, by the Internal Audit Section, Human Resources and Legal Services Section within the Directorate of Corporate Resources, in consultation with Directors, Heads of Service and the recognised Trade Unions.

## 13. Links with other Policies

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The Authority is committed to preventing occurrences of irregularities. To help achieve this objective there is a clear network of systems and procedures in place.

The Council has agreed a Constitution, which sets out how the Council operates, how decisions are made, and the procedures to follow to ensure that these are efficient, transparent and accountable to local people. While some of these processes are required by law, others are a matter for the Council to choose. The constitution also has a number of codified rules and regulations to make sure that financial, working and organisational procedures are properly controlled. These are an important part of the internal control processes, and it is important that all members and staff know about them.

Along with the Constitution this document should also be read in conjunction with the Council's policies and procedures which include:

- Counter Fraud and Corruption Policy (G7).
- Fraud and Corruption Response Plan (G8).
- Code of Corporate Governance.
- Gifts and Hospitality Policy (D13)
- Risk Management Strategy.
- Policy and Guidelines on the use of Electronic Mail (Q2).
- Policy and Guidelines on the use of the Internet (Q1).
- Finance Procedure Rules.
- Contract Procedure Rules.
- Commissioning and Procurement Manual of Guidance.
- Code of Conduct for Employees (G4).
- Disciplinary Procedure (G1a).
- Finance Manual of Guidance.
- IT Security Policy.
- Harassment/Bullying Policy and Procedure (O2)

Information on these documents is available by contacting the Customer Service Centres or Call Centre. Employees may also access the documentation via the Council's intranet or their line manager.

## **14. Outcomes**

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The desired outcomes of this policy are to:

- Support the Council's 'zero tolerance' of irregularities.
- Reassure individuals that there is a safe alternative to silence.
- Promote the whistleblower as a witness not complainant.
- Encourage managers to be open to concerns.

- Support the Council in being a well-managed authority.
- Promote effective compliance.
- Support the Council's risk management strategy.

## **15. Policy Implementation**

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Training on and awareness of this policy for all employees will be through one or more methods, eg the Council's induction process, fraud awareness training, E-learning package, literature and team briefings.

Regular features on this policy will be publicised throughout a variety of channels open to the Council, eg intranet, the internet, grapevine, selling to the Council guide, pay advice slips etc.

## **16. Evaluation**

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The success of this policy may be assessed by:

- The number of reported incidents of malpractice.
- Monitoring whether individuals feel able to report occurrences without fear or favour.