



Whistleblowing Policy & Procedure

Policy / File Status

Version	0.1	Approving Body	Full Council
Date	20/05/2025	Date of Approval	17 th June 2025
Responsible Officer	Town Clerk	Minute Reference	55
Oversight Committee	Personnel Committee	Review Date	May 2026

Version History

Date	Version	Author/Editor	Comments
20/05/2025	0.1	Town Clerk	New policy drafted and approved by Full Council

Review Record

Date	Type of Review Conducted	Summary of Actions Taken or Decisions Made	Completed By

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1. Definition of Whistleblowing

- 1.1. Whistleblowing refers to a disclosure made in good faith and in the public interest by one or more of the Council's employees, contractors, volunteers or Members, regarding malpractice, illegal acts or omissions at work. Whistleblowing refers to issues that are of such importance that the public interest is served by reporting the issue.
- 1.2. A whistleblower is a witness and not a complainant. Whistleblowing is not the same as making a complaint or raising a grievance, where the individual is saying that they have been personally poorly treated. A whistleblower is usually not directly or personally affected by the matter concerned, although they may be indirectly.

2. Statement of Commitment

- 2.1. Keynsham Town Council is committed to achieving the highest possible standards of service and ethical standards in all its practices. Misconduct and wrongdoing are taken very seriously by the Council.
- 2.2. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff and others working on behalf of the Council should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of. All new staff should be advised this policy relates to clause 1.5 in the Employee Handbook.
- 2.3. It is important that any fraud, misconduct or wrongdoing by staff or others working on behalf of the Council is reported and dealt with. We therefore, require all individuals to raise any concerns that they may have about the conduct of others in the Council. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.
- 2.4. Keynsham Town Council recognises that, in many cases, the Council's Employees, Councillors, Volunteers or Contractors will be the people most likely to become aware of wrongdoing or malpractice. The Council encourages people in those groups to use this policy to report malpractice by its Councillors, Employees or ex-Employees with confidence that it will be investigated properly and within a culture and environment free of the fear of being victimised, discriminated against or disadvantaged in any way as a result.
- 2.5. Employees who raise a concern under this policy are entitled not to be subjected to any detriment as a result. Even if your concern proves to be unfounded you will be protected against any reprisals from your manager, colleagues or any other employee of the organisation. Making a deliberately false allegation, however, against the Council, a fellow employee or any other person will be treated as an act of gross misconduct which will usually result in dismissal.
- 2.6. Similarly, the Council expects its Employees and Councillors to report any suspicions or concerns they may have, relating to matters covered by this policy. The Council will treat a failure to report wrongdoing or misconduct as a serious and potentially disciplinary matter.

- 2.7 If you are the subject of an allegation of wrongdoing, then you will be informed of the allegation and given every opportunity to explain the situation and put your side of the story. Disciplinary action will only be taken following a full investigation in accordance with the disciplinary procedure.

3. Legal Framework

- 3.1 Under the Public Interest Disclosure Act 1998, the Employment Rights Act 1996 was amended to provide protection for workers who raise legitimate concerns about misconduct at work and have statutory protection against victimisation and dismissal. Legitimate concerns about specified matters in the public interest are called "qualifying disclosures". A qualifying disclosure is one made by an Employee who has a reasonable belief that:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach of any other legal obligation or
- concealment of any of the above

is being, has been, or is likely to be, committed. It is not necessary for them to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient.

- 3.2 A Whistleblower has no responsibility for investigating the matter - it is the Council's responsibility to ensure that an investigation takes place.
- 3.3 If you make a protected disclosure, you have the right not to be dismissed, subjected to any other detriment, or victimised, because you have made a disclosure.
- 3.4 A Whistleblower will not be protected under the Act if they break the law when making a disclosure.

4. Policy Scope

- 4.1. Keynsham Town Council has a range of policies and procedures in place to deal with standards of behaviour at work, including a Grievance Policy and Procedure, Disciplinary Policy and Procedure and Bullying and Harassment Policy. Employees are encouraged to use these procedures when appropriate. Service users should make complaints or raise concerns through the Complaints Policy.
- 4.2. The aim of the Whistleblowing Policy and Procedure is to enable Employees/Councillors/Contractors/Volunteers to report an issue if other procedures are not appropriate or inadequate. Therefore, the Whistleblowing Policy and Procedure will not be used to deal with complaints or grievances, which employees may have about their employment and contractual terms, in most circumstances.
- 4.3. The following is a list of examples of when this policy can be used (please note that this list is not exhaustive):
- any unlawful act, whether criminal or a breach of civil law, has been

- committed, is being committed or is likely to be committed
 - suspected corruption or fraud
 - disregard for legislation, particularly that of health & safety at work
 - a breach of a code of conduct
 - misuse of assets or theft, including stores, equipment, vehicles, buildings, computer hardware and software
 - causing damage to the environment
 - breach of financial regulations
 - showing undue favour over a contractual matter or to a job applicant
 - failure to properly disclose conflicts of interest
 - breach of, or failure to implement or comply with, any policy determined by the Council
 - failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income, to the Council or would otherwise seriously prejudice the Council
 - abuse of power, or the use of the Council's powers and authority for any unauthorised or ulterior purpose
 - deliberately concealing information in relation to any of the items on this list.
- 4.4. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager you should not agree to remain silent. You should report the matter to the Town Clerk or the Chair of the Council, or Chair of the Finance and Policy Committee.
- 4.5. Whilst volunteers are not covered by the Public Interest Disclosure Act, this Council's policy has been written to encompass both Councillors and Volunteers.
- 4.6. If you believe a Councillor has breached the Councillor Code of Conduct, then raise it with the Town Clerk and they will deal with the complaint accordingly. Concerns relating to an alleged breach of the Councillor Code of Conduct will be referred to the Monitoring Officer for investigation.

5. Who a Disclosure can be made to:

5.1. Town Clerk or Line Manager

Any initial concern should be raised with the Town Clerk or your line manager. However, if this is not appropriate then you should contact the Chairman of the Council who will ensure that your concern is properly addressed.

5.2. The Town Council

The Public Interest Disclosure Act directs workers towards raising matters internally in the first instance, and to use internal Whistleblowing policies. For a disclosure to be protected by law, a whistleblower must make the disclosure in good faith and reasonably believe that the information is substantially true.

5.3. A Legal Advisor

A disclosure of information for the purpose of obtaining legal advice is

protected.

5.4. Prescribed Persons

The Town Council strongly encourages disclosures to be made internally in the first instance. The policy and procedure set out the stages which should be followed in all circumstances where it is possible to do so. If a whistleblower feels unable to use the procedure outlined in this policy, they can make a disclosure to other people/organisations as prescribed by the Government. Details of this are set out above and are covered in more detail under Stage 3 of the procedure below.

5.5. Wider Disclosures

A Whistleblower is also to be protected under the Act if they make wider disclosures, e.g. to a professional body, the Police or an MP, etc., provided that the Whistleblower:

- makes the disclosure in good faith
- reasonably believes that the information is substantially true
- does not act for personal gain
- acts reasonably taking into account the circumstances.

In order to make a protected wider disclosure, the Whistleblower must either:

- reasonably believe that the Council would treat them unfairly if they made a disclosure internally or to a prescribed person
- reasonably believe that an internal disclosure would result in the destruction or cover-up of evidence
- have previously disclosed the same or very similar information internally or to a prescribed person.

6. Whistleblowing Procedure

6.1. Confidentiality

If the Whistleblower requests confidentiality, the Council will not reveal their name or personal details without their permission. It is, however, easier to pursue and verify complaints if the whistleblower provides their name. Unsupported, anonymous complaints and allegations will always be investigated but may be difficult to progress.

There may be circumstances when the Council is legally obliged to disclose the name of a Whistleblower, e.g. when ordered to by court.

6.2. Protection for Whistleblowers

Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the person who raised the issue.

If an Employee, Councillor, Volunteer or Contractor raises a concern which they believe to be true, the Council will take appropriate action to protect the individual from harassment, victimisation and bullying.

No Employee or other person working on behalf of the Council will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the staff member will not be prejudiced because they have raised a legitimate concern.

Victimisation of an individual for raising a qualified disclosure will be a disciplinary offence.

A Whistleblower will not, however, be protected from the consequences of making a disclosure if, by doing so, they commit a criminal offence.

6.3. Involvement of Trade Unions

Keynsham Town Council recognises the right of Whistleblowers to be advised and represented by their union when raising concerns under the whistleblowing procedure.

6.4. Designated Officer

The Town Clerk is the Designated Officer for concerns raised under this procedure.

6.5. Raising a Concern

An employee should normally raise their concerns about wrongdoing or misconduct with the Town Clerk or their immediate line manager. Whilst the whistleblower is not expected to prove the truth of an allegation or to investigate the matter themselves, the whistleblower should have a reasonable belief and some evidence to back it up before raising their concerns. The manager will notify the Designated Officer/Town Clerk within two working days whenever possible.

Where it is not appropriate to use normal management reporting channels (e.g. if the whistleblower believes that their manager is involved), they should contact the Designated Officer. Councillors, volunteers and contractors should contact the Designated Officer.

The Designated Officer and line managers must take all concerns seriously.

Where the concern is about the Designated Officer, the concerns should be reported to the Chair of the Finance and Policy Committee, who will decide how the investigation will proceed. This may include an external investigation.

6.6. Employer's Response

If reported to a Manager, the matter will be referred the same day or as soon as possible thereafter to the Designated Officer/Town Clerk unless they are implicated in the allegation(s). Within five working days, the Designated Officer will arrange an initial interview to ascertain the nature of the whistleblower's concern. The interview will be confidential if

requested by Whistleblower, who will have the right to be accompanied by a friend or union representative along with them. All participants must observe confidentiality.

At this stage, the Whistleblower will be asked whether they wish their identity to be disclosed and will be reassured about protection from possible reprisals or victimisation.

The Whistleblower will be asked if they wish to make a written or verbal statement. In either case, the Designated Officer/Town Clerk will write a brief summary (dated) of the interview, the contents of which will be agreed by both parties.

If no action is to be taken, the reason for this will be explained.

7. Stage 1

Following the initial interview, the Designated Officer will be responsible for the commission of any further investigation.

7.1. Investigation

The investigation may need to be carried out under strict confidentiality, i.e. the subject of the investigation will not be informed until, or if, it becomes necessary to do so. This may be appropriate in cases of suspected fraud.

The investigation may involve the Whistleblower and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. Your statement will be taken into account, and you will be asked to comment on any additional evidence obtained.

The Town Clerk will take any necessary action, including reporting the matter to the Council, or any appropriate government department or regulatory agency. The Town Clerk will also invoke any disciplinary action if required. On conclusion of any investigation, insofar as confidentiality allows, you will be told the outcome and what the Council has done, or proposes to do, about it.

If the investigation identifies that there is no case to answer, but that the Whistleblower held a genuine concern and was not acting maliciously, the matter will be closed. The Designated Officer will ensure that the whistleblower suffers no reprisals or victimisation.

If the investigation discovers that an employee has made false accusations with malicious intent, appropriate disciplinary action will be taken in accordance with the Council's Disciplinary Procedure.

If the concern raised is very serious or complex, it may be necessary for an inquiry to be held. The Designated Officer may refer the issue to the police or other agencies in serious cases.

7.2. Following the Investigation

The Designated Officer will arrange a meeting with the Whistleblower within ten working days of the conclusion of the investigation in order to feedback on any action taken. This will not include details of any disciplinary action, as this is confidential.

8. Stage 2

If you are concerned that the Town Clerk is involved in the wrongdoing, has failed to make a proper investigation as set out in stage 1, or has failed to report the outcome of the investigations to the relevant person, you should escalate the matter to the Chair of the Council. They will arrange for a review of the investigation to be carried out and make any necessary enquiries.

If the Whistleblower is not satisfied with the outcome of the investigation, they may make disclosures to prescribed persons, or wider disclosures, under the conditions outlined in section 5 above.

9. Stage 3

If, in conclusion of stages 1 and 2, you reasonably believe that the appropriate action has not been taken, you should report the matter to the relevant body. This includes:

- HM Revenue & Customs
- The Health and Safety Executive
- The Environment Agency
- The Serious Fraud Office
- The Charity Commission
- The Pensions Regulator
- The Information Commissioner
- The Financial Conduct Authority

You can find the full list in The Public Interest Disclosure (Prescribed Persons) Order 2014:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

To make a protected disclosure to a prescribed person, the Whistleblower must:

- make the disclosure in good faith
- reasonably believe that the information is substantially true
- reasonably believe that the information is being disclosed to the right person or organisation.

10. Data protection

- 10.1 When an individual makes a disclosure, we will process any personal data collected in accordance with the data protection policy. Data collected from the point at which the individual makes the report is held