



STANSTED MOUNTFITCHET

PARISH COUNCIL

WHISTLEBLOWING PROCEDURE POLICY

Adopted by the Council on 31st October 2018

DEFINITION OF WHISTLEBLOWING

The word “whistleblowing” in this policy refers to a disclosure made in good faith and in the public interest by employees, contractors, volunteers or Members, of malpractice, illegal acts or omissions at work. A whistleblower is a witness and not a complainant. Whistleblowing is not the same as making a complaint or raising a grievance, where an individual is saying that they have been personally poorly treated. A whistleblower is usually not directly or personally affected by the matter concerned.

STATEMENT OF COMMITMENT

Stansted Mountfitchet Parish Council (SMPC) is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and all of its practices. As such, malpractice and wrongdoing will be taken very seriously by the Council. SMPC recognises that in many cases the Council’s employees, Members, volunteer helpers or contractors will be the people most likely to become aware of wrongdoing or malpractice. In light of this, the Council encourages its staff, Members, contractors and volunteers to use the mechanisms specified within this policy to report malpractice by its Members, employees or ex-employees, contractors or volunteers with confidence and without having to worry about being victimised, discriminated against or disadvantaged in any way as a result.

Where employees or Members are aware of, or suspect, malpractice, the Council expects them to report their suspicions. The Council will treat failure to report wrongdoing or malpractice as a serious matter.

SMPC will not tolerate any harassment or victimisation of a whistleblower (including informal pressures), and will treat this as a serious disciplinary offence. Appropriate disciplinary action may be taken in accordance with the Council’s Disciplinary Procedure.

LEGAL FRAMEWORK

Under the Public Interest Disclosure Act 1998 (PIDA), workers who raise genuine concerns about a range of misconduct or malpractice at work have statutory protection against victimisation and dismissal. An employee who blows the whistle will be protected by the Act if the disclosure is made in good faith about any of the following:

- 1 a criminal act
- 2 failure to comply with a legal obligation
- 3 miscarriages of justice
- 4 danger to health and safety
- 5 any damage to the environment
- 6 an attempt to cover up any of the above

A whistleblower will not be protected under the Act if they break the law when making a disclosure.

COVERAGE OF THIS POLICY

SMPC has policies in place to deal with standards of behaviour at work, including a Grievance Policy and a Disciplinary Policy. Employees are encouraged to use the provisions of those policies when appropriate. Service users should make complaints or raise concerns through the Complaints Procedure. Therefore, the Whistleblowing Policy and Procedure (WPP) should not be used to deal with complaints that employees may have about their employment in most circumstances. The aim of the WPP is to enable employees/members/contractors/volunteers to report an issue if they feel that it cannot be done using existing procedures, particularly if the matter is not about their personal employment position. Whistleblowing refers to issues that are of such importance that the public interest is served by reporting the issue.

The following is a list of examples when the WPP may be used (the list is not exhaustive):

- Any unlawful act, whether criminal or a breach of civil law, has been, is being or is likely to be committed
- Suspected corruption or fraud
- Disregard for legislation, particularly that of health and safety
- A breach of a code of conduct
- Misuse of assets, including stores, equipment, vehicles, buildings, computer
- Causing damage to the environment
- Breach of financial regulations
- Showing undue favour with regard to contracts or jobs
- 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.

Whilst volunteers are not covered by the PIDA, this Council's policy has been written to encompass them.

WHO A DISCLOSURE CAN BE MADE TO

1 The Parish Council

The PIDA 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
- Reasonably believe that the information is substantially true

2 A Legal Advisor

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

3 Prescribed Persons

Whilst the Parish Council strongly encourages disclosures to be made internally, if a whistleblower feels unable to use the procedure outlined within this policy they can make a disclosure to other people/organisations as prescribed by government.

4 Wider Disclosures

A whistleblower would also be protected under the Act if they made wider disclosures, eg to a professional body, the Police, an MP etc if 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 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

Confidentiality

If the whistleblower requests confidentiality, the Council will not reveal the whistleblower's name or position without their permission. It is, however, easier to pursue and verify complaints if the whistleblower provides his/her name. Unsupported, anonymous complaints and allegations will be treated with caution. There may be circumstances where the Council is legally obliged to disclose the name of a whistleblower, eg when ordered to by Court.

Protection for Whistleblowers

If an employee, member, 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. Employees who raise a genuine concern under this policy will not be at risk of losing their job. However, a whistleblower will not be protected from the consequences of making a disclosure if, by doing so, they commit a criminal offence.

Designated Officer

The Parish Clerk is the Designated Officer to be a point of contact for concerns raised under this procedure.

1 Raising a concern

Whilst the whistleblower is not expected to prove the truth of an allegation or to investigate the matter themselves, they should have a reasonable belief and some evidence to back it up before raising their concerns. Employees, Members, volunteers and contractors should contact the Designated Officer. The Designated Officer must take all concerns seriously. Where the concern is about the Designated Officer, the concerns should be reported to the Chairman of the Council to decide how the investigation will proceed. This may include an external investigation.

2 Employer's Response

Within ten 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 the whistleblower. The whistleblower has a right to bring a friend or union representative along with them and all parties must observe confidentiality.

At this stage the whistleblower will be asked whether he/she wishes his/her 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 verbal or written statement. In either case, the Designated Officer will write a brief, dated summary of the interview which will be agreed by both parties. The Designated Officer will be responsible for the commission of any further investigation.

3 Investigation

The investigation may need to be carried out under strict confidentiality, ie 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 Designated Officer will offer to keep the whistleblower informed about the investigation and its outcome.

If the investigation finds that there is a case to be answered by any employee, SMPC's Disciplinary Procedure will be used. 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 may 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.

4 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 any action taken. This will not include details of any disciplinary action as this is confidential.

If the whistleblower is not satisfied with the outcome of the investigation, he/she may make disclosures to prescribed persons, or wider disclosures, under the conditions outlined in the section "Who a disclosure can be made to".

POLICY REVIEW

This policy will be reviewed every four years. In the event that an incident of whistleblowing takes place, SMPC will take the opportunity to examine its policy, procedures and working methods to see if they can be improved.