

Harrietsham Parish Council

Whistleblowing Policy

Employees are often the first to realise that there may be something wrong within their organisation. However, they may not feel able to express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also be apprehensive about the consequences and they may mistakenly feel that it may be easier, therefore, to ignore the concern rather than report what may be no more than a suspicion of malpractice.

Harrietsham Parish Council is committed to the highest standards of openness, probity, and accountability. It expects employees, and others that it deals with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns. The word 'whistleblowing' in this procedure refers to the disclosure, internally or externally, by employees of malpractice, as well as illegal acts or omissions at work.

This policy makes it clear that all employees can report, in a confidential manner, their concerns without fear of victimisation, subsequent discrimination or disadvantage, and is intended to encourage and enable serious concerns to be raised with the Council, rather than overlooking a problem or 'blowing the whistle' outside.

It is stressed that under the Public Interest Disclosure Act 1998, employees of the Council who speak out against corruption or malpractice at work have statutory protection against victimisation, dismissal or other disadvantage.

This policy applies to employees of Harrietsham Parish Council. Agency workers, casual workers and other individuals performing functions for the Council, such as contractors, are also encouraged to use the procedure.

This policy aims to:

- Encourage employees to feel confident in raising serious concerns in those cases where they do not wish to use the normal reporting routes within their departments;
- Provide alternative avenues for raising concerns;
- Ensure that responses to concerns are made; and
- Reassure employees that they will be protected from possible reprisals or victimisation if they have made a qualifying disclosure to address their concerns.

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that one of the following is being, has been, or is likely to be committed:

- A criminal offence;
- A miscarriage of justice;
- An act creating a risk to health and safety;
- Unauthorised use of public funds
- Possible fraud or corruption
- Sexual, physical or verbal abuse, or bullying and intimidation
- Abuse of authority
- An act causing damage to the physical environment;
- Other unethical conduct

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- A breach of any other legal obligation; or
- Concealment of any of the above

An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment (e.g. disciplinary action), or victimised because he/she has made a disclosure.

The employee has no responsibility for investigating the matter; it is Harrietsham Parish Council's through the office of the Parish Clerk or Staffing Committee if the Parish Clerk is the subject of concern, responsibility to ensure that an investigation takes place.

The Council fully understands that employees who are members of a Trade Union may, in the first instance, wish to seek advice and guidance from their Union on the application of this procedure.

This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, broken, they should use the Council's Grievance Procedure.

Any employee that wishes to raise concerns outside of the Council, if they believe that it relates to a Member in their role as a Councillor, can do so through the Monitoring Officer at Maidstone Borough Council.

Examples of the difference between a Grievance and a Protected Disclosure Grievance Protected Disclosure:

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Grievance	Protected Disclosure
An employee's complaint about the type of work that he or she is being asked to do, for example if it is not covered by his or her contract	A disclosure that an individual has been instructed to carry out actions that he or she genuinely believes to be illegal, e.g. to falsify tax returns
An employee's complaint that he or she has received insufficient safety training	A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety
An employee's complaint about the hours that he or she is expected to work	A disclosure that the requirements imposed by the company on a group of staff represent a breach of the working time legislation

Reporting

Harrietsham Parish Council recognises that the decision to make an allegation can be a difficult one to make. However, whistleblowers who make serious allegations in the reasonable belief that it is in the public interest to do so have nothing to fear. Harrietsham Parish Council will take appropriate action to protect a whistleblower who makes a serious allegation in the reasonable belief that it is in the public interest to do so from any reprisals, harassment or victimisation.

Confidentiality

All allegations will be treated in confidence and every effort will be made not to reveal a whistleblower's identity unless the whistleblower otherwise requests. However, identification may be necessary if the matter is subsequently dealt with through other Parish Council procedures such as the Disciplinary Procedure.

Similarly, if the allegation results in court proceedings then the whistleblower may have to give evidence in open court if the case is to be successful.

Harrietsham Parish Council will not, without the whistleblower's consent, disclose the identity of a whistleblower to anyone other than a person involved in the investigation/allegation.

Anonymous Allegations

This procedure encourages whistleblowers to put their name to an allegation wherever possible as anonymous allegations may often be difficult to substantiate/prove. Allegations made anonymously are much less powerful but anonymous allegations will be considered at the discretion of the Parish Clerk.

In exercising discretion to accept an anonymous allegation the factors to be taken into account:

- The seriousness of the issue raised
- The credibility of the allegation; and
- Whether the allegation can realistically be investigated from factors or sources other than the complainant

Untrue Allegations

No disciplinary or other action will be taken against a whistleblower who makes an allegation in the reasonable belief that it is in the public interest to do so even if the allegation is not substantiated by an investigation. However, disciplinary action may be taken against a whistleblower who makes an allegation without reasonable belief that it is in the public interest to do so (e.g. making an allegation frivolously, maliciously or for personal gain where there is no element of public interest).

Procedure for Making an Allegation

It is preferable for allegations to be made to an employee's immediate Line Manager (Parish Clerk or Chair of Staffing Committee) to whom they report. However, this may depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the whistleblower believes that management is involved it would be inappropriate to raise it directly with them. The Line Manager of the above, after consideration, will discuss with the whistleblower and if they wish to proceed with the allegation will be investigated.

Allegation

Whether a written or oral report is made it is important that relevant information is provided including:

- The name of the person making the allegation and a contact point.
- The background and history of the allegation (giving relevant dates and names and positions of those who may be in a position to have contributed to the allegation);
- The specific reason for the allegation. Although someone making an allegation will not be expected to prove the truth of any allegations, they will need to provide information to the person they have reported to, to establish that there are reasonable grounds for the allegation.

Someone making an allegation may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation. However, if the matter is subsequently dealt with through another procedure the right to be accompanied will at that stage be in accordance with the relevant procedure.

Action on receipt of an Allegation

The Parish Clerk will record details of the allegation gathering as much information as possible, (within 5 working days of receipt of the allegation) including:

- The record of the allegation:
- The acknowledgement of the allegation;
- Any documents supplied by the whistleblower

The investigator will ask the whistleblower for the preferred means of communication and contact details and use these for all communications with the whistleblower in order to preserve confidentiality.

If the allegation relates to fraud, potential fraud or other financial irregularity the Responsible Finance Officer (RFO) will be informed of the allegation. The RFO will determine whether the allegation should be investigated and the method of investigation.

If the allegation discloses evidence of a criminal offence it will immediately be reported to Parish Councillors and a decision will be made as to whether to inform the Police. If the allegation concerns suspected harm to children the appropriate authorities will be informed immediately.

Timetable

- An acknowledge the allegation in writing within 10 working days with
 - An indication of how the Parish Council proposes to deal with the matter
 - An estimate of how long it will take to provide a final response
 - An indication of whether any initial enquiries have been made
 - Information on whistleblower support mechanisms
 - Indication whether further investigations will take place and if not, why not

Where the allegation has been made internally and anonymously, obviously the Parish Clerk will be unable to communicate what action has been taken.

Support

Harrietsham Parish Council will take steps to minimise any difficulties which may be experienced as a result of making an allegation. For instance, if a whistleblower is required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure and advise on the support mechanisms that are available. The Council accepts that whistleblowers need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform those making allegations of the outcome of any investigation.

Responsibility for the Procedure

The Clerk and Staffing Committee have overall responsibility for the operation of this procedure and for determining the administrative processes to be followed and the format of the records to be kept.