



## WINSHAM PARISH COUNCIL



### WHISTLEBLOWING POLICY

#### What is Whistleblowing?

This is a term which is short-hand for making a disclosure in the public interest. It is covered by law in the Public Interest Disclosure Act 1998 (PIDA). The law supports people who speak out openly about wrong-doing in organisations and to do so without fear of reprisals. To be protected by the law, the act of whistleblowing must fall within the legal rules set out below and the whistleblower must reasonably believe that their disclosure of wrongdoing is made in the public interest.

#### When can you blow the whistle?

Any employee or worker can report concerns that:

- A criminal offence was committed or is being or is likely to be committed
- A person has failed or is failing or is likely to fail to comply with a legal obligation
- A miscarriage of justice has occurred or is or is likely to occur
- The health and safety of any individual has been or is being or is likely to be endangered
- The environment has been, is being or is likely to be damaged
- That information tending to show any matter falling within any one of the above categories has been, is being, or is likely to be deliberately concealed.

#### Reporting concerns in the public interest?

The first person to tell is the employer. In the case of a council this would probably be the Town Clerk/ Chair/Mayor and/or Staffing committee – it would be advisable if the Council has a designated staff member to whom concerns should be raised.

In situations where the wrong-doing is being done by the person to whom the complaint should be made or there is a concern that the matter will not be dealt with or be covered up, you can make the disclosure to a “prescribed person”: a legal adviser in the course of getting legal advice, a Minister of the Crown, the Health and Safety Executive (for disclosures of a danger to health and safety); Secretary of State for Business, Innovation and Skills (relating to fraud) or HM Revenue & Customs (for breach of tax rules).

#### How to report a disclosure?

Guidance on the process of making a disclosure ought to be set out within a Handbook specifying to whom the report should be made within the Council – usually either orally or in writing and the procedure to be followed. Provided that the person making the disclosure holds a reasonable belief that the disclosure is in the public interest they will be protected under the PIDA legislation.

#### What rights does being a whistleblower have?

A concern must fall within one of the above categories to protect an employee from suffering a detriment in the workplace. The detriment may relate to unfavourable treatment, disciplinary action or dismissal, bullying, harassment or victimisation on the basis that you have ‘blown the whistle’.

Should an employee consider that they have suffered a detriment, they can make a complaint to the Employment Tribunal. It would however be advisable to first submit a grievance and this procedure be followed.

Should the Employment Tribunal find that a dismissal (or selection for redundancy) has arisen from whistleblowing it can conclude that the dismissal was automatically unfair. You can take a claim to a tribunal for detriment arising from a public interest disclosure without needing the 2 years service which is necessary for most other employment claims.

#### How to make sure everyone in the organisation understands PIDA?

It is advisable to have a Whistleblowing Policy for your council which explains peoples’ rights and obligations where they reasonably believe wrongdoing is taking place or has taken place. This should be shared with employees, agency workers, contractors, apprentices and elected Members so that the council’s position on public interest disclosures is fully understood.

Reviewed and Adopted by Winsham Parish Council on 1<sup>st</sup> August 2018. Minute Number: 3624

Signed ..... (Chairman)