

COLWICH PARISH COUNCIL



PD018 WHISTLEBLOWER POLICY

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Parish Centre, St. Mary's Road, Little Haywood, Staffordshire, ST18 0TX
Telephone: 01889-882665.
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WHISTLEBLOWER POLICY

Whistleblower Policy – PD018

Revision history

This document was originally written by:

| Name | Position | Date |
|----------------|-----------------|-------------|
| Michael Lennon | Clerk | March 2017 |

This document version was reviewed by:

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| Policy Committee | January 2026 |
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This document version was approved by:

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| Full Council | February 2026 |
| Chairman of Council | W Plant |

Document Review Schedule:

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|---------------------------|---------------|
| Next Mandatory Review by: | February 2027 |
|---------------------------|---------------|

Revision History

| Version | Issue Date | Document ID | Reason for Change | Section(s) Changed |
|----------------|-------------------|--------------------|-------------------------------|---------------------------|
| 2 | 09/2018 | PD113-02 | Initial Issue | NA |
| 3 | 10/2021 | PD113-03 | Annual review New Chairman | None |
| 4 | 10/2022 | PD113-04 | Annual review | None |
| 5 | 12/2023 | PD113-05 | Annual review | 4.13 |
| 6 | 02/2025 | PD018-06 | Annual Review New Number | All |
| 7 | 02/2026 | PD018-07 | Annual Review | All |

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WHISTLEBLOWER POLICY

1 POLICY STATEMENT

- 1.1 Colwich Parish Council (the Council) is committed to operating with honesty and integrity. It expects all Councillors and officials to operate on this basis and to adhere to the council's policies, procedures and, where appropriate, the code of conduct (PD012). Fraud, misconduct or wrongdoing will not be tolerated.
- 1.2 Any reference to "colleague" refers to either a Councillor or an official.
- 1.3 The aim of this policy is to encourage colleagues to report suspected wrongdoing internally, rather than externally, as a first resort. Any concerns raised under this policy will be treated seriously and dealt with confidentially.
- 1.4 Any colleague raising a concern under this policy will not be treated less favourably for doing so, as outlined below. This means that any colleague who raises a concern under this policy will not be subjected to a detriment, nor will they be dismissed for doing so.
- 1.5 This policy applies to colleagues of the Council, including agency workers, trainees or anyone working on a casual basis. The policy and procedure applies to all officials, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time.

2 WHAT IS WHISTLEBLOWING?

- 2.1 Whistleblowing is when a colleague reports suspected wrongdoing when undertaking Council business. For example, but not limited to:
 - 2.1.1 A criminal offence.
 - 2.1.2 A miscarriage of justice.
 - 2.1.3 Damage to the environment.
 - 2.1.4 Breach of a legal obligation.
 - 2.1.5 A danger to health and safety.
 - 2.1.6 A deliberate concealment of any of the above.
- 2.2 A colleague reports things that are not right, are illegal or if anyone undertaking Council business is neglecting their duties, including, but not limited to:
 - 2.2.1 Someone's health and safety is in danger.
 - 2.2.2 Damage to the environment.
 - 2.2.3 A criminal offence.
 - 2.2.4 The Council isn't complying with the law (e.g. not having the right insurance).
 - 2.2.5 Covering up wrongdoing.
- 2.3 A colleague who has a reasonable belief that a wrongdoing has or may be committed and raises a genuine concern relating to any of the above, is a whistleblower and is protected under this policy.
- 2.4 The Council will, at its discretion, consider disclosures that are made anonymously, although such disclosures are inevitably much less powerful. The Council will also

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treat every disclosure in confidence and only reveal the identity of the person making it if absolutely necessary (e.g. if required in connection with legal action).

3 RIGHTS OF THE WHISTLEBLOWER

- 3.1** All colleagues are encouraged to use this policy to raise genuine concerns and will not be treated less favourably for doing so, even if they are mistaken in their belief.
- 3.2** Any colleague who raises a concern under this policy will not be subjected to a detriment, nor will they be dismissed for doing so. Any colleague who believes that they have been subjected to a detriment for raising a complaint should raise the matter with the Chief Officer or Chairman of the Council.
- 3.3** Victimisation of a whistleblower, by any colleague, for raising a concern under this policy will in itself constitute a disciplinary offence.
- 3.4** Where the Council believes that an official has knowingly made a false allegation or acted maliciously, the official will be subject to disciplinary action (PD124), which may include dismissal for gross misconduct.
- 3.5** This policy does not deal with any complaints relating to an official's own treatment at work or own contract of employment. Those matters should be raised under the Grievance (PD125) procedure or the Bullying and Harassment (PD123) procedure, as appropriate. An exception to this will be when the matter of concern arises from the official's own treatment at work that is arising from the whistleblowing matter, they have raised previously.

4 MAKING A WHISTLEBLOWING COMPLAINT

- 4.1** To make a whistleblowing complaint the whistle-blower must the following conditions.
- 4.2** If the disclosure is made to the Council, it must be in the public interest and the person making the complaint ("the whistleblower") has a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur.
- 4.3** If the disclosure is made to a regulatory body, then as well as satisfying the conditions required for disclosure to the Council, the whistleblower must also honestly and reasonably believe that the information they provide, and any allegations contained in it are substantially true. For example, a colleague will be eligible for protection if:
 - 4.3.1** They honestly think what they're reporting is true.
 - 4.3.2** They think they're telling the right person.
 - 4.3.3** They believe that their disclosure is in the public interest.
- 4.4** If the disclosure is made to other external bodies, then as well as satisfying the conditions required for disclosure to the Council, in all circumstances it must be reasonable for them to make the complaint. Further the whistleblower must:
 - 4.4.1** Reasonably believe that they would be victimised if they raised the matter internally or to a regulatory body.
 - 4.4.2** Reasonably believe that evidence is likely to be concealed or destroyed.

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- 4.4.3 Have already raised the concern with the Council and/or relevant regulatory body.
 - 4.4.4 Reasonably believe that the information they provide, and any allegations contained therein, are substantially true.
- 4.5 If the disclosure is made to other external bodies and is of an "exceptionally serious" nature – which in a local government setting could include, for example, the alleged abuse of children or vulnerable adults in an authority's care or corruption - then the whistleblower will not be required to:
 - 4.5.1 Have raised the matter concerned internally first.
 - 4.5.2 Believe that they will be subject to a detriment for raising the disclosure internally.
 - 4.5.3 Believe that the evidence is likely to be concealed or destroyed.
- 4.6 An official who wants to raise a wrongdoing should inform the Chief Officer or the Chairman of the Council. The initial contact can be by telephone and followed up in writing which must be in a sealed envelope addressed to the Chief Officer or the Chairman of the Council marked: "PIDA – Strictly Private and Confidential" where PIDA means **PUBLIC INTEREST DISCLOSURE ACT 1998**.
- 4.7 The Chief Officer or the Chairman of the Council who has received a disclosure will:
 - 4.7.1 Acknowledge its receipt, in writing, within 5 working days.
 - 4.7.2 Seek further information if required, which may include a personal interview, at which the colleague (whistleblower) can be accompanied by a representative of their trade union or professional association, or, in the case of an official, by a fellow official.
 - 4.7.3 When the precise nature of the alleged wrongdoing is established, refer the disclosure to the Complaints Committee.
 - 4.7.4 In liaison with the Chairman of the Complaints Committee, keep the individual informed regarding the progress and in all cases (subject to legal constraints) provide details of the outcome of any investigation.
- 4.8 On receipt of a disclosure from the Chief Officer or Chairman of the Council, the Complaints Committee will meet to determine what further action, if any, is needed, which may comprise:
 - 4.8.1 Internal investigation.
 - 4.8.2 Report to the Police.
 - 4.8.3 Report to the Monitoring Officer (Head of Law) at Stafford Borough Council.
 - 4.8.4 Report to external audit.
 - 4.8.5 Independent inquiry.
 - 4.8.6 Any combination of the above.
- 4.9 The Chairman of the Complaints Committee will also ensure that the Chief Officer or Chairman of the Council is advised of progress and outcome.
- 4.10 If the colleague reasonably believes that appropriate action has not been taken in relation to their concern, then they may raise it externally to the prescribed regulator or our external auditors. The charity, Protect, can advise the colleague about raising the concern externally. This will include advising who the appropriate prescribed regulator is.

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4.11 The website for Protect is <http://www.protect-advice.org.uk/>

4.12 Independent Internal Auditor:

- Toplis Associates Ltd, 27 Burton Rd, Streethay, Lichfield WS13 8LR 01543 419202

4.13 External auditor:

- Forvis Mazars LLP, The Corner, Bank Chambers, 26 Mosley Street, Newcastle upon Tyne NE1 1DF 0191 383 6348

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| SIGNED | <i>Wendy Plant</i> |
| COUNCILLOR WENDY PLANT, PARISH COUNCIL CHAIRMAN | |