

STANDARDS COMMITTEE AGENDA



Tuesday 19 August 2008

at 4.00 p.m.

**in Committee Room A,
Civic Centre, Hartlepool**

MEMBERS: STANDARDS COMMITTEE:

Councillors Coward, Lauderdale, Preece, Shaw, Sutheran, Wallace and Wright

Co-opted Members: Barry Gray, 2 vacancies

Parish Councillors A. Bell and R. Gilbert

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

3.1 To confirm the minutes of the meeting held on 24 June 2008

4. ITEMS FOR DECISION / INFORMATION

4.1 Business Paper – *Chief Solicitor*

4.2 Revisions to the Council's Corporate Whistle Blowing Procedure Document –
Chief Solicitor

STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

24 June 2008

The meeting commenced at 4.00 p.m. in the Civic Centre, Hartlepool

Present:

Mr Barry Gray (In the Chair)

Councillors Preece and Sutheran

In accordance with Para 4.2 (ii) Councillor Griffin was in attendance as substitute for Councillor Shaw

Officers Peter Devlin, Chief Solicitor
 Sarah Bird, Democratic Services Officer

Also present Mrs Joan Norman

1. Apologies for Absence

Councillors Shaw and Wright

2. Declarations of interest by members

None

3. Confirmation of the minutes of the meeting held on 22 April 2008

Confirmed.

Matters Arising – Seventh Annual Assembly of Standards Committees

It was agreed that Councillors Shaw and Sutheran should endeavour to attend the Assembly.

4. Changes to Role and Remit of Standards Committee (Chief Solicitor)

The Chief Solicitor reminded Members that changes had been introduced regarding the role and remit of local Standards Committees through the provisions of the Local Government and Public Involvement in Health Act, 2007 as well as applicable regulations and guidance issued through the Standards Board for England. The procedure for making a complaint which

also encompassed the Standards Committee for the Cleveland Fire Authority, had been advertised in Hartbeat, the Evening Gazette and the Hartlepool Mail. Details of the new code of conduct had already been circulated to members of the Standards Committee.

5. Change in Composition of Standards Committee *(Chief Solicitor)*

At the meeting of Council on 29 May 2008, notification had been given as to the change in the composition of the Standards Committee to incorporate an additional Parish Council Representative. Following communication from Hart Parish Council, Councillor Alan Bell had been nominated. The Council had also approved the appointment of Mr Barry Gray as an independent Member for a period of 4 years. The Council did not however approve the appointment of Mr Keith Fisher and therefore an advertisement was to be published to seek nominations. The Chief Solicitor stated that if it became necessary, independent members could be brought in from other Standards Committees operating within the Tees Valley region to assist in any local assessments of complaints.

6. Members' Training Day *(Chief Solicitor)*

The Chief Solicitor forewarned Members that there was to be a training day organised amongst the Tees Valley Authorities which would be attended by a Monitoring Officer from out of the area and a representative of the Standards Board for England. Details would be confirmed in due course.

7. Training Exercise *(Chief Solicitor)*

The Standards Board for England have developed a number of training exercises in order to assist Member development in assessing the new complaints procedures. The exercises contained a range of real, anonymised complaints that have previously been investigated by the Standards Board.

Members then participated in case studies A and D with a view to carrying out more exercises at future meetings.

The meeting concluded at 4.50 pm.

CHAIRMAN

STANDARDS COMMITTEE

19th August, 2008



Report of: Chief Solicitor

Subject: BUSINESS PAPER

1. APPLICATION AS AN INDEPENDENT MEMBER OF THE STANDARDS COMMITTEE AND THE INDEPENDENT REMUNERATION PANEL

- 1.1 Mrs Joan Norman has submitted an application to be considered for the above appointments and a formal interview process is therefore scheduled for the meeting of Standards Committee on 19th August, 2008. Copies of Mrs Norman's application will be submitted and circulated at the meeting, together with a list of questions as part of the interview process. Further, should Members decide the suitability for Mrs Norman for appointment then the same will form a recommendation to the Council.

2. STANDARDS COMMITTEE ASSESSMENT CRITERIA

- 2.1 Attached herewith as **Appendix 1** is 'assessment criteria' developed for use in the local assessment of complaints through the Standards Committees Assessment and Review Sub-Committees. Members will be aware, that in addition to locally developed criteria, Standards Committees must have regard to guidance issued through the Standards Board for England as well as the applicable regulations. Members are therefore invited to consider the appended document and whether the same should be adopted for use within the local assessment process.

3. TRAINING EXERCISE FOR ASSESSING NEW COMPLAINTS

- 3.1 The Standards Board for England as previously indicated, have developed a training exercise in order to assist Member development in their ability to assess the new complaints procedures. The exercises were developed following the findings of local assessment pilots and therefore consist of a range of real, anonymised complaints that the Standards Board has investigated. Each case includes a set of papers submitted by a complainant and a summary of each complaint to help the Standards Committee in arriving at its determination of the appropriate decision in each

particular case. Two appeal cases also give the Standards Committee practice at operating the appeal mechanism. The overall aim is for the Standards Committee to decide what action, if any, they would take in relation to the complaint.

- 3.2 Members at their meeting on 24th June, 2008, did consider cases A and B in the appended Schedule of Cases and are therefore invited to consider their deliberations upon the remaining cases as detailed below;

Case A - Hilton Borough Council – Councillor Peter Citrine
Case B - Borough of Selchester – Councillor Julie Harty
Case C - Marnham District Council – Councillor Davies
Case D - Coketown District Council – Councillors Yeo, Bailey and Malecka
Case E - Hook Parish Council – Councillor Dr Jon Rouse
Case F - London Borough of Walford – Councillor Pat Rix
Case G - Scawthorpe Borough Council – Councillor Lee Kreuz
Case H - Wessex Council – Councillor Douglas
Case I - Great Norton Parish Council – Councillor Jameson
Case J - Nettington Town Council – Councillor Gold
Case K - Central Barton Urban Parish Council – Councillor Robert Paxton
Case L - Ansty Metropolitan Borough Council – Councillor Mahmood Khan

- 3.3 Members were asked to retain the training documents at the last meeting and I would be grateful if Members could bring them to this meeting with their agenda papers.

Complaints about Elected Members, including the Mayor

(a) Complaints of Breach of the Code of Conduct

Anyone who considers that a Member of the Council may have breached the Code of Conduct may make a complaint through the Standards Committee. In turn, the Standards Committee are required to establish sub-committees to carry out the separate functions involved in the handling of such cases, as follows;

- (i) The initial assessment of the complaint.
- (ii) Any request from a complainant to review a decision to take no action in relation to a complaint.
- (iii) Any subsequent hearing of the Standards Committee to determine whether a member has breached the code and, where appropriate, to impose a sanction on that Member.

Consequently, a complaint should initially be directed to the Chair of the Assessments Sub-Committee who will determine whether or not to refer the matter for investigation or whether other action (for example, training, conciliation, instituting changes to procedures) should be taken or that no action should be taken. The aim is to complete the initial review within an average of 20 working days.

Where it is determined that no action should be taken, then a complainant has a right to request a review of that decision. It should be noted that the Standards Committee can only deal with complaints about the behaviour of a Member in relation to the Code of Conduct. A complainant has a right to request a review within 30 days from the date of the decision. As indicated above, a differently constituted sub-committee to that involved in the original decision will undertake a review and the sub-committee must carry out its review within a maximum of three months of receiving the request. It will then be for the Review sub-committee to determine whether the complaint should be referred to the Council's Monitoring Officer for the purposes of investigation or should be referred to the Standards Board for England.

STANDARDS COMMITTEE

19th August 2008



Report of: Chief Solicitor

Subject: REVISIONS TO THE COUNCIL'S CORPORATE WHISTLE BLOWING PROCEDURE DOCUMENT

1. PURPOSE OF REPORT

- 1.1 Members are asked to consider the “tracked changes” to the Council's Corporate Whistle Blowing Procedure, which document was initially adopted by the Council in 2005 (see **Appendix 1**). Consequently, it is considered timely for this document to be reviewed by the Council's Standards Committee, following submission to the Council's Corporate Management Team on 28 July, 2008. Further, if the Committee were to endorse the changes as indicated, that this document is brought to the attention of all employees within the Council via the Council's intranet and such other means of communication to embed this document within the applicable ‘human resource’ policies and procedures operating within the Council and its applicability and/or connection with other applicable stakeholders.

2. BACKGROUND

- 2.1 The Corporate Whistle Blowing Procedure document is intended to assist employees who have major concerns of any wrongdoings within the Borough Council relating to unlawful conduct, financial malpractice or dangers to the public or to the environment. Specific examples could therefore conceivably include the following;

- A criminal offence
- Miscarriage of justice has been/is likely to occur
- Health or safety of an individual has been/is likely to be endangered
- The environment has been/likely to be damaged
- Public funds are being used in an unauthorised manner
- The Council's Constitution (including that relating to contracts and financial procedure rules etc) have or are not being observed by being breached by a Member and/or Officers
- Sexual abuse of any member of staff or service recipient has taken place

- Discrimination is occurring to any member of staff or service recipient on grounds of sex, race, gender, sexual orientations or disability
- Any other form of improper action or conduct that is taking place

2.2 The appended document has accordingly been revised to incorporate a wider reference to the term “employee” and also to cover other stakeholders, including those the Council contract with for the provision of supplies and services. In addition, there is mention of a number of other organisations upon who an individual can call for assistance, notably the “whistle-blowing” charity ‘Public Concern at Work’. There is also general “up-dating” as to the various “contacts” in order to assist an individual raising concerns about such malpractice at an early stage and in the appropriate manner. Clearly, the document draws a distinction between matters of a grievance and those falling within the remit of the whistle-blowing procedure. The whistle-blowing procedure is therefore primarily concerned where the interests of others or of the organisation itself are in issue.

3. AIMS OF THE WHISTLE BLOWING CODE

3.1 As mentioned within the revisions to this document, the aims of the procedure should be as follows;

- To encourage employees to feel confident in raising serious concerns and to question and act upon their concerns.
- To provide ways for employees to raise those concerns and get feedback on any action taken as a result.
- To ensure that employees get a response to their concerns and that they are aware of how to pursue them if they know what to do if they are not satisfied with any actions.
- To reassure employees that if they raise any concerns in good faith and reasonably believe them to be true, they will be protected from possible reprisals or victimisation.

3.2 As a responsible authority, the Borough Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. The Public Interest Disclosure Act, 1998, protects employees against detrimental treatment or dismissal as a result of any disclosure. The Act only covers protected disclosures under six defined categories as mentioned within the revisions to the appended document, namely; crime, illegality, miscarriage of justice, damage to health and safety, damage to the environment, and “cover ups” about these issues. To obtain protection, employees must first disclose the information to the employer or to a body prescribed by the Secretary of State for the purposes of receiving such information. The ‘Corporate Whistle Blowing Procedure’ document was introduced and is revised in line with the provisions of the Act. The document therefore entails how an employee should raise a concern, how the Council would respond and how the concern can be taken further, if necessary.

4. RECORDING AND MONITORING

4.1 Departments of the Council should ensure that they have sufficient internal arrangements to address the requirements of the procedure document and that staff are sufficiently trained and developed to implement such procedures. The Chief Solicitor will maintain a record of all concerns that are brought to his attention. The Chief Solicitor in his role as Monitoring Officer will review this information and provide a report to the Council's Standards Committee and to any other relevant Forum in order to ensure;

- the Borough Council and/or the relevant service department do not repeat any concerns found against the same;

and

- the consistency of treatment is recognised across the Council.

4.2 Such recording of information and monitoring will also be available for inspection by Internal and District Audit, subject to requirements of confidentiality.

5. RECOMMENDATIONS

- (i) That Standards Committee do consider the proposed revisions to the Corporate Whistle Blowing Procedure document.
- (ii) Subject to the comments of the Committee, the revised Procedure be disseminated to all employees of the Council and where appropriate, to other stakeholders.
- (iii) That the Corporate Whistle Blowing Procedure document be further reviewed in the light of any legislative changes or any significant organisational or other changes within the Borough Council.



"CORPORATE WHISTLE BLOWING" PROCEDURE

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1. Introduction

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Hartlepool Borough Council is committed to ensuring that all its activities are lawful and that the highest possible standards are observed. A number of rules, regulations and procedures exist which are intended to promote high standards and to investigate and rectify any shortcomings.

Employees are often the first to realise when something is wrong within a Council but may not always voice their concerns. This might be because they fear reprisals or harassment or because they think speaking up is disloyal to colleagues.

This procedure provides a way in which concerns about malpractice or wrongdoing may be raised and investigated when other procedures are not sufficient or are inappropriate. It is intended to encourage employees to raise serious concerns and to protect them from any form of reprisal.

All employees of the Council may use this procedure. This includes permanent and temporary staff. It also covers agency personnel and staff seconded to a third party. Any concerns relating to the third party, if relevant to the individual's secondment, can also be raised under this procedure.

Contractors working for the Council may also use the provisions of these procedures to make the Council aware of any concerns that the Contractor's staff may have with regard to any contractual or other arrangement with the Borough Council.

2. Existing Procedures

The grievance procedure exists for employees to raise complaints about their employment. Copies of this are available in all departments and from the Personnel Division. The Employee Support Policy provides a special procedure for those wishing to make a complaint about harassment, victimisation or discrimination. Copies of this are available in all departments or can be obtained from the Employee Support Officer. This procedure does not replace the complaints procedure.

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Members of the public are encouraged to raise any matter of concern with their local Councillor, with the Director of the appropriate department, or with the Chairperson of the appropriate Committee.

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3. Aims of the Whistle Blowing Policy

- Encourage employees to feel confident in raising serious and to question and act upon their concerns.
- Provide ways for employees to raise those concerns and get feedback on any action as a result.
- Ensure that employees get a response to their concerns and that they are aware of how to pursue them if they know what to do if they are not satisfied with any actions.
- Reassure employees that if they raise any concerns in good faith and reasonably believe them to be true, they will be protected from possible reprisals or victimisation.

4. What is Malpractice or Wrongdoing?

Employees are encouraged, and expected, to report malpractice or wrongdoing and could in certain circumstances be subject to disciplinary action if they know of this and do not report it. Malpractice or wrongdoing might include any of the following. This is not a comprehensive list but gives examples of the sorts of things which could be raised, under the procedures listed in section 2, where appropriate, or under this procedure:-

- a) Unlawful acts or omissions, acts which are criminal or in breach of civil law or statutory duty.
- b) failure to comply with appropriate professional or other established standards;
- c) corruption or fraud;
- d) actions which are likely to cause physical danger to any person;
- e) failure to take reasonable steps to report and rectify any situation which is likely to cause a significant avoidable cost, or loss of income, to the Council or would otherwise seriously prejudice the Council;
- f) failure to draw relevant matters to the attention of Councillors or superior officers, or failure to comment appropriately on matters within an employee's responsibilities which might significantly affect an action or decision of, or on behalf of, the Council.
- g) abuse of power, or the use of the Council's powers and authority for any unauthorised or ulterior purpose;
- h) unfair discrimination in the Council's employment or services;
- i) other unethical conduct

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5. How do I Raise a Concern?

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If an employee has a concern then he/she should raise it with someone as soon as possible. If there are reasons why he/she cannot raise it with his/her manager, or through the procedures listed in section 2, then the following procedure should be followed.

5.1 Raise the matter with

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- The Council's Monitoring Officer
Mr P J Devlin- Chief Solicitor

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* or in the absence of the Council's Monitoring Officer, with the Deputy Monitoring Officer Ms A Carman – Legal Services Manager / Solicitor.

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5.2 Letters to the Chief Solicitor will not be opened by anyone else if marked Personal & Confidential. The Chief Solicitor can be contacted on tel: 266522 ext. 3003.

5.3 Whilst concerns may be raised verbally it is helpful to have details in writing.

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5.4 When a matter is raised with the Chief Solicitor he/she will arrange for one of the following to take place:-

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- his/her own investigations
- investigation by another officer or Internal Auditor as appropriate
- referral to the Police
- referral to the external Auditor
- referral for independent enquiry
- referral for consideration under another procedure (disciplinary, grievance, etc)
- no action

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5.5 The decision will be based upon the information provided, and an interview with the employee raising the concern (off site if necessary) if appropriate. In respect of a written report, or a verbal report which the Chief Solicitor has agreed to accept, the Chief Solicitor will advise the employee in writing within 10 days of what is to happen giving an estimate of the time any investigation is expected to take. The Chief Solicitor will report as necessary to Council Members.

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Some concerns may be resolved by agreed action without any need for investigation.

If urgent action is required this will be taken before any investigation is conducted.

6. Support and Safeguards

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It can be difficult for employees to raise concerns and Hartlepool Borough Council aims to support those who do so and to take steps to ensure that they are not victimised or harassed. The Chief Solicitor may take appropriate action to protect those raising concerns in good faith. An employee who raises concerns in good faith will not be penalised by the Council, eg. in relation to general treatment or to any job or promotion application, or any request for a reference.

This procedure does not override or affect an employee's rights to protection under the provisions of the Employment Rights Act 1996 inserted by the Public Interest Disclosure Act 1998. The Act protects employees against detriment as a result of making a "protected disclosure" and specifies a range of matters, which may be the subject of a protected disclosure. Namely:

a) that a criminal offence has been committed, is being committed or is likely to be committed,

b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

c) that a miscarriage of justice has occurred, is occurring or is likely to occur,

d) that the health or safety of any individual has been, is being or is likely to be endangered,

e) that the environment has been, is being or is likely to be damaged, or

f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

Some of the malpractice referred to in this procedure, e.g. commission of a criminal offence, would also be the subject of the statutory protection afforded by the Act; others, e.g. the provision of misinformation to the Council or causing financial loss to the Council, would not be subject to statutory protection. The Council believes that its

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employees are entitled to the additional protection afforded by the procedure.

6.1 Victimisation

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Disciplinary action will be taken against anyone victimising or harassing an employee because he/she has raised concerns.

6.2 Anonymous Allegations

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Anonymous allegations are necessarily difficult to investigate and, for that reason, cannot always be given the same consideration as attributed allegations. In considering whether any action is to be taken the seriousness and credibility of the allegations will be taken into account as will the feasibility of investigating them and the reason(s) for anonymity being requested.

6.3 Confidentiality

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It is much easier to investigate concerns when those raising them are willing for their names to be disclosed if necessary in the investigation. However if employees specifically ask for their names not to be disclosed then this will be respected subject only to any requirement to disclose having the force of law. This may, in some situations impede the investigation. If the only evidence of wrongdoing or malpractice is that of the complainant as an eyewitness of the complainant then he/she will usually need to be prepared to make a statement.

7. Links to Other Procedures

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7.1 Disciplinary Action

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Employees who are subject to disciplinary action and who raise concerns under this procedure should note that the disciplinary action will not necessarily be halted or delayed as a result. However in some circumstances this may be appropriate or necessary.

7.2 Unproven Allegations

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If an employee makes an allegation in good faith and this is not confirmed in the investigation no action will be taken against him/her. The Council will also try to minimise any negative effects of an allegation being investigated and not confirmed.

7.3 Deliberately False Allegations

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The Council will take disciplinary action against any employee deliberately making allegations they know to be false or unfounded, whether frivolously or maliciously. Action will also be taken against any employee inventing or otherwise falsifying facts in order to make a complaint.

7.4 Other Procedures

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If a matter is raised under the Whistle-Blowing procedure which could more appropriately be dealt with under another procedure the Chief Solicitor will consult the appropriate senior officer who would operate the other procedure and, if this is agreed, refer the matter on, advising the complainant accordingly.

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8. Taking Concerns/Complaints Further

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8.1 If employees are not able to have their concerns addressed satisfactorily through this or the Council procedures then they may need to consider taking matters outside the authority and consulting one of the following:-

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- the Audit Commission
- the Police
- the Local Government Ombudsman
- the Standards Committee (for issues regarding a councillor's conduct)
- the relevant professional bodies or regulatory organisations
- Public Concern at Work
- The employees Trade Union
- The Citizens Advice Bureau
- The Information Commissioner
- The Health and Safety Executive

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Adult and Community Services employees are encouraged to refer matters of concern to the Commission for Social Care Inspection since such referral is encouraged nationally.

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Details of how to contact the above is attached at Appendix 1

Note:

Public Concern at Work is the Whistle Blowing charity. The organisation has four primary activities:

- to offer free, confidential advice to people concerned about crime, danger or wrong doing at work.
- to help organisations deliver and demonstrate good governance.
- inform public policy and
- promote individual responsibility, organisational accountability and the public interest

Note:

In conjunction with Public Concern at Work, British Standards (BSI) has published a Code of Practice on Whistle Blowing arrangements under the classification PAS 1998/2008. Copies of the code can be downloaded from www.bsigroup.com/PAS1998

8.2 The Chief Personnel Officer, the Employee Support Officer or the Monitoring Officer can give advice on raising concerns externally, as can the trades unions and professional associations.

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8.3 Employees who raise concerns outside the Council should ensure that confidential information is not disclosed inappropriately. The Chief Solicitor or Chief Personnel Officer can advise on this.

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8.4 The Public Interest Disclosure Act 1998 also provides for protection under the Act to be extended to disclosure to a prescribed person identified by the Secretary of State in regulations made under the Act. For matters relating to the proper conduct of public business, value for money, fraud and corruption in local government bodies, the

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'prescribed person' is the Audit Commission for England and Wales.

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9. **Records of Complaints**

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The Chief Solicitor who is the Monitoring Officer will be responsible for maintaining records of concern raised and of outcomes. Records will be kept in a form, which does not compromise confidentiality.

10. **Trades Unions**

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This procedure has been agreed with the Hartlepool Joint Trade Union Committee and Trades Union representatives as indicated may give advice on the use of this or other procedures to raise concerns. Employees raising concerns may invite their Trades Union representative, or a colleague, to be present during any meetings or interviews.

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Appendix 1

Contact details for outside organisations as outlined in Paragraph 7.1 of the Whistle Blowing Procedure

Name of Organisation	Address	Telephone Number	E-mail Address	
Audit Commission	Audit Commission 1st Floor, Millbank Tower, Millbank, London SW 1P 4HQ	0844 798 1212 0207 828 1212	Complaints@audit- commission.gov.uk	Deleted: 020 7828 1212
Police – Cleveland Constabulary	P.O. Box 70 Ladgate Lane Middlesbrough TS8 9EH	(01642) 326326	enquiries@cleveland. pnn.police.uk	Deleted: police.gov
Local Government Ombudsman	Local Government Ombudsman PO BOX 4771 Coventry CV4 0EA	01904 380200	advice@lgo.org.uk	Deleted: enquiries@york
Chair of Standards Committee	Hartlepool Borough Council Civic Centre Victoria Road Hartlepool TS24 8AY	01429 523003		Deleted: Patricia Thomas Local Government Ombudsman Beverly House 17 Shipton Road York YO30 5FZ Deleted: 084 5078 8181
Public Concern at Work	Suite 301 16 Baldwins Gardens London EC1N 7RJ	020 7404 6609	whistle@pcaw.co.uk	Deleted: enquiries@standards board.co.uk Deleted: Board for England
Commission for Social Care Inspection	33 Greycoat Street London SW1P 2QF	0845 015 0120	enquiries@cscl.gov.uk	Deleted: 1st Floor, Cottons Centre Cottons Lane London SE1 2QG United Kingdom Deleted: 6
Relevant Professional bodies or regulatory organisations	Enquire for further information at Civic Centre Hartlepool	01429 523003	portal.master@hartlep ool.gov.uk	Deleted: 020 7979 2000

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