



Whistleblowing Policy

Our policy on Handling Protected Disclosures under the Public Interest Disclosure Act



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About this policy

This policy sets out the Council's position on those situations where members of staff and others want to tell us about things, they're worried that the Council is doing wrong.

Although this policy sets out specific rights that arise under employment legislation, the Council sees *Whistleblowing* as a natural extension of a policy of seeking to provide the best possible service to the public, and to be the best possible employer to its staff and others.

Regardless of the law, the Council's position is, and always has been, that we want to know if something is going wrong, so please tell us.

The Council guarantees that it will never treat anyone unfairly as a result of them sharing their genuinely held concerns with it.

This policy tells you how, in addition to the Council's guarantees, the *Public Interest Disclosure Act* protects employees and other staff who make a *protected disclosure* about a matter of concern

This policy sets out what to do if staff and others or others have concerns about certain improper or unlawful activities covered by the *Public Interest Disclosure Act*.

The policy also signposts those procedures the Council will use in receiving, handling, and investigating disclosures and tells anyone wishing to make a disclosure the best way of going about it.

If you have concerns NOT covered by this policy, we still want to hear them. The Council has processes for dealing with crime against the Council, mistreatment of staff and others and inefficient working practices. Any manager or *Designated Whistleblowing Specialist* can give you further information about this.

If you have any questions about this policy or the processes involved, please contact the *Whistleblowing Lead* or any *Designated Whistleblowing Specialist* for advice and assistance.

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1. Formal statement of our policy

This policy aims to enable and encourage workers to raise concerns within the Council. It recognises a worker's legal rights to make a protected disclosure to certain prescribed persons or bodies under the *Public Interest Disclosure Act 1998* and any subsequent legislation, as incorporated into the *Employment Rights Act 1996*.

The Council is committed to the highest possible standards of openness, propriety, and integrity. In line with this commitment, workers with serious concerns about unlawful conduct, financial malpractice or dangers to the environment, employees and other Council workers, the public or the Council's reputation are encouraged to come forward and voice those concerns. The Council recognises that staff, and those working with us, are often the first to realise that there may be something seriously wrong within an organisation.

It is important to the Council that any fraud, misconduct or wrongdoing by workers or officers of the organisation is reported and properly dealt with. The Council is committed to tackle malpractice and wrongdoing. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. If any cases of wrongdoing are upheld, they will be seriously dealt with.

The Council encourages workers to use internal mechanisms for reporting malpractice or illegal acts or omissions by employees or ex-employees. Concerns will always be listened to and investigated appropriately. **The Council will never tolerate or support any mistreatment of those who raise genuine concerns.**

The Council will ensure that they have appointed and trained an appropriate number of specialists who are able to receive disclosures from workers and provide them with advice and support ('Designated Whistleblowing Specialists', see Appendix 1).

The Council will provide regular training to all managers to ensure that they may deal with disclosures appropriately.

This policy will be available to all staff on the Council's intranet, so that they are aware of whistleblowing law and know how to use this policy. It will, from time to time, provide appropriate refresher training.

Adequate resources will be made available to fulfil the aims of this policy. The policy will be widely promoted, and copies will be freely available through the Council's intranet.

The Council understands that raising a concern can feel difficult to do, especially if there is fear of reprisal from those responsible for the malpractice. We will not tolerate harassment and victimisation of anyone raising a concern, or any attempts to bully a person into not making a report, and there should be no impact on the continued employment and opportunities for future promotion or training of anyone raising a concern. Any such behaviour is a serious breach of the Council's values and, if upheld following investigation, will result in disciplinary action potentially leading to dismissal.

2. Definitions and explanations

Whistleblowing is the common name given to statutory law. This policy has been prepared in response to the Employment Rights Act 1996 and the Public Interest Disclosure Act 1998. These documents set out a framework for raising genuine concerns and providing guarantees of full protection to employees and other Council workers who raise such issues. This policy also incorporates the principles and timescales set out in the EU Whistleblowing Directive 2019/1937.

This policy applies to all individuals who could find themselves in a position of economic vulnerability if retaliatory measures occur as a consequence of reporting a concern. This includes staff, former staff, temporary and casual staff, agency workers, volunteers, trainees, self-employed persons providing services, freelance workers, contractors, subcontractors and suppliers. This policy uses the term *worker* to encompass all the above.

The Council has appointed a number of *Designated Whistleblowing Specialists* and a *Whistleblowing Lead* – who leads the *Designated Whistleblowing Specialists* group in whistleblowing matters. Details of who has been appointed and how to contact them are given in Appendix 1.

For the purpose of this policy, whistleblowing is the passing on of information by a worker about wrongdoing at work in the statutory categories set out in the Public Interest Disclosure Act. Passing on of such information is called a *protected disclosure* and the person making the disclosure is called a *whistleblower*.

The **statutory categories** for wrongdoing are:

- a criminal offence (such as insurance fraud or illegal tax evasion)
- a breach of any legal obligation
- a miscarriage of justice
- endangering an individual's health and safety
- damage to the environment
- deliberate concealment of information about any of the above.

The following are examples (and not an exhaustive list) of issues that may be raised:

- Health and safety risks, including risks to the public or other employees
- Sexual or physical abuse of both employees and clients
- Damage to the environment
- Unauthorised use of public funds
- Theft or abuse of Council property
- Possible fraud and corruption
- Other unethical conduct
- Abuse of children and vulnerable adults
- Actions which are intended to conceal any of the above.

To be a **protected disclosure**, the following additional conditions must also be fulfilled:

- The person making the disclosure must be an employee or other Council worker as defined
 - The disclosure must be made lawfully and without breaching legal professional privilege
 - It must be made in the public interest
 - The person making the disclosure must not act maliciously or make false allegations; and
- The person making the disclosure must not seek any personal gain for it (where a disclosure has been made to a third party) such as financial payments, gifts or any other benefit or advantage

In order to raise the concern a worker should have reasonable belief that wrongdoing is being, has been, or is likely to be committed. However, it is not necessary to have proof or certain knowledge. The whistleblower has no responsibility for investigating the wrongdoing and **MUST NOT** do so. It is the Council's responsibility to investigate reports.

A member of staff who makes a protected disclosure has the right in law not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. This includes cases where the subsequent investigation into the concern did not identify wrongdoing.

The Council recognises that any so-called 'gagging' or confidentiality clauses in settlement agreements or non-disclosure agreements with individuals do not prevent workers from making disclosures in the public interest and are void in such circumstances.

If the wrongdoing that a worker wants to disclose is not included in the list above, they should use another route to raise their concerns or seek advice. For example, this policy does not cover any concerns staff might have about employment matters that affect only them (unless these also fall into one of the categories set out above); those types of concern should be addressed through the Council's grievance policy, which may be found on the intranet.

If a worker is unsure of the correct route to take, advice is available from their line manager, from a *Designated Whistleblowing Specialist* (see appendix 1) or from an external advice body (see appendix 2).

The Council recognises that employees may feel nervous when reporting concerns in line with this policy and are happy for them to be supported by a colleague when going through the process.

This policy complements but does not replace the Council's procedures for internal and external complaints.

Other relevant policies and routes

To tell us about **inefficient business practice**, you should speak first to your line manager.

If you are not satisfied with the outcome, you may approach any relevant member of the senior leadership team.

Complaints about treatment at work are covered by the Council's ***Grievance Procedures***, which may be found on SharePoint.

For help or advice, you could approach someone in your line of management, the Council's *human resources* team, a union representative or your professional body.

External complaints are covered by the Council's ***Customer Feedback Process and Procedure***, which may be found on SharePoint.

Further advice may be sought from the Council's Customer Feedback Team.

Covert Human Intelligence Sources who provide the council with **intelligence** are covered by the ***Covert Investigation Policy***, which may be found on SharePoint.

Further advice may be sought from the Council's Corporate Fraud team.

3. Roles and responsibilities

Adoption, review and revision

The responsibility for adopting this policy and ensuring that it is kept up to date rests with the Audit & Governance Committee.

This policy will be reviewed periodically by the Council's Audit & Governance Committee, with advice from the *Whistleblowing Lead*.

The *Whistleblowing Lead* will ensure that the policy remains both up-to-date with the current legal position and an example of best practice in the field. This includes appointing *Designated Whistleblowing Specialists* who are appropriately trained.

The Corporate Leadership Team is responsible for ensuring that the policy is drawn to the attention of, and appropriately explained to, all relevant people. Senior managers will, through their actions, demonstrate their commitment to developing an open culture within the organisation.

Workers

People who work for or alongside an organisation are often the first to know about any unlawful activities or abuse of law and are, therefore, in a privileged position to inform those who can address the problem.

This policy is designed to show workers that they will be protected if they report an issue in good faith. Workers should report wrongdoing in line with this policy. As public servants, and as those working alongside a local authority, it is not acceptable for workers to ignore wrongdoing.

The Council directs all staff to cooperate fully with any whistleblowing investigation. Except insofar as the law allows a person not to self-incriminate, failure to cooperate is likely to amount to misconduct which would lead to a disciplinary investigation.

Line Managers

Line managers are responsible for:

- ensuring all workers are aware of this policy and procedure and their responsibilities
- accurately recording in writing any whistleblowing concerns raised to them, and reporting those concerns promptly to the *Whistleblowing Lead*
- investigating issues, but only when asked to do so by the *Whistleblowing Lead*
- fostering an open culture within their teams
- ensuring any whistleblower is not subject to detriment

Whistleblowing Lead

The *Whistleblowing Lead* has lead responsibility for the whistleblowing procedure and for dealing with issues raised. If the *Whistleblowing Lead* is unavailable for any reason, a *Deputy Whistleblowing Lead* will fulfil the following responsibilities. The *Whistleblowing Lead* will:

- oversee and review the whistleblowing policy and procedure
- provide advice and support to managers and employees

- ensure learning from whistleblowing cases is fed back to the wider organisation
- designate a competent and impartial person or department to investigate any reported issues promptly and thoroughly
- follow up any reported concerns
- ensure managers are only asked to investigate matters if they have been trained in dealing with such issues
- inform the *Chief Executive* of any findings of wrongdoing and the actions being taken
- ensure the process is monitored and improved where required

Designated Whistleblowing Specialists

Appendix 1 lists all those appointed as *Designated Whistleblowing Specialists*. These specialists will act as an independent and impartial source of advice to workers at any stage of raising a concern. They will:

- treat the concern confidentially unless otherwise agreed.
- ensure the worker receives timely support to progress their concern.
- escalate to senior management any indications that a whistleblower is being subjected to detriment for raising their concern.
- remind the organisation of the need to give the whistleblower timely feedback on how their concern is being dealt with; and
- advise the whistleblower on how to access to personal support as it is recognised that raising such a concern may be stressful.

4. Raising a concern

For the effective detection and prevention of improper acts or omissions, it is vital that the relevant information reaches swiftly those closest to the source of the problem, most able to investigate and with powers to remedy it, where possible. For that reason, workers are encouraged to raise any concerns internally if appropriate to do so.

Initially, current and former staff should raise any concern with their immediate line manager. Workers who are not directly employed by the council may raise a concern with the relevant East Suffolk Council line manager for the area the worker has been involved in. This does depend however on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If a worker believes that their management is involved or are uncertain who to contact they should approach any *Designated Whistleblowing Specialist*.

Workers should raise concerns at the earliest opportunity once there is reasonable belief that an issue exists or could exist in the future so that timely action can be taken.

Workers may raise concerns by leaving a message and contact details on the Council's **Whistleblowing Hotline**, in person by meeting with a line manager or any of the *Designated Whistleblowing Specialists*, or in writing by post or email to a line manager or any of the *Designated Whistleblowing Specialists*.

If a worker needs advice and guidance on how matters of concern may be raised or pursued, please contact any of the *Designated Whistleblowing Specialists* or leave a message on the Council's Whistleblowing Hotline.

Whistleblowing Hotline

01394 444222

To engage protection as a whistleblower, workers should have reasonable grounds to believe, in light of the circumstances and the information available to them at the time of reporting, that the matters reported by them are true. Appendix 3 gives a visual guide on how to report a concern and the initial steps that will be taken, whilst the table on the following page details the conditions for engaging protection as a whistleblower.

If a worker does not feel able to raise a concern internally, they may choose to raise concerns in the public interest externally with 'prescribed bodies'. These are listed in section 6. Before deciding to do this, workers should be aware when making an external report that to qualify for the protections available under the Public Interest Disclosure Act additional conditions need to be met in order.

If the disclosure is made to:

- **the employer** it must arise from a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur;
- **a regulator i.e. Health and Safety Executive**, in addition it must be honestly and reasonably believed that the information and any allegations contained are substantially true;
- **other bodies (Police, media, MP etc)**, in addition to the tests for regulatory disclosure, no personal gain will be made from the disclosure; and
- in all circumstances, that it is reasonable for the disclosure to be made.

If the disclosure is made to **other bodies**, further preconditions apply. It must be:

- reasonably believed that they would be victimised if the matter was raised internally;
- reasonably believed that the disclosure related to a criminal offence;
- the case that there is no prescribed regulator, and it was believed that relevant information would be concealed or destroyed;
- that the concern has already been raised with the employer or regulator; or
- that the concern is of an “exceptionally serious” nature.

5. How we deal with reports

When a worker makes a *protected disclosure*, the person it is reported to ('the receiving officer') will consult with the *Whistleblowing Lead*, or if unavailable the *Deputy Whistleblowing Lead*.

Protected disclosures must always be noted in writing by the receiving officer, who will pass the details to the *Whistleblowing Lead* within 24 hours. In cases where there is an immediate and serious risk disclosed, the receiving officer will contact the *Whistleblowing Lead* by telephone straight away, or the *Deputy Whistleblowing Lead* if the *Whistleblowing Lead* is unavailable.

The *Whistleblowing Lead* will nominate a competent and impartial person to investigate any reported issues promptly.

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest. Concerns raised or allegations made which fall within the scope of other specific procedures (for example harassment or discrimination issues) will normally be referred for consideration under those procedures. Regardless of the actions taken by the Council, whistleblowers will be protected by this policy and the law for all valid concerns they raise, even if these are subsequently determined to not be in the public interest or to be honest 'mistakes of fact' in reporting.

The person nominated to undertake initial enquiries will contact the reporting person **within seven days** of the disclosure to confirm receipt of the report and provide details of what will happen next.

If the *Whistleblowing Lead* believes it is appropriate so to do, they may advise the Chief Executive or other senior officer of the nature (and, in some cases, the content) of the disclosure. **Any person being so informed is bound by a strict duty of confidentiality and must not discuss the disclosure with any other person or organisation without the consent of the *Whistleblowing Lead*.**

Following initial enquiries by an impartial person the Council will respond to the concern, as appropriate. The action taken by the Council will depend on the nature of the concern. At the sole discretion of the *Whistleblowing Lead*, the matters disclosed may:

- Be investigated by the Council's Internal Audit and Corporate Fraud Team;
- Be investigated by a *Designated Whistleblowing Specialist*;
- Be investigated by another appropriate person (either from within or outside the Council);
- Be referred to the police or the external auditor;
- Be referred to two or more of these (to work together on the investigation); or
- Form the subject of an independent inquiry.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any detailed investigation is concluded.

If the investigation is internal to or under the control of the Council, the investigating officer nominated by the *Whistleblowing Lead* will maintain communication with the whistleblower and provide feedback. Wherever possible they will:

- indicate how the Council proposes to deal with the matter. (Where appropriate follow-up is still being determined, providing an estimate of when the whistleblower can expect this feedback);
- give an estimate of how long it will take to provide a final response (normally this should not exceed three months, however complex cases may require a longer timescale of up to six months),
- advise whether any initial enquiries have been made;
- advise whether further investigations will take place, and if not, explain this decision; and
- indicate how the Council will proceed where the informant has chosen to remain anonymous.

The amount of contact between the officers considering the issues and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If further contact is needed, it will be made in a way which does not arouse suspicion in the workplace. The whistleblower will normally be asked to suggest a method of contact that they feel comfortable with.

When any meeting is arranged with an employee or other Council worker, they have the right, if they so wish, to be accompanied by a trade union or professional association representative or a workplace colleague who is not involved in the area of work to which the concern relates. The measures for the protection of whistleblowers set out in this policy also apply, so far as is relevant, to those involved in supporting the whistleblower.

The Council will take steps to minimise any difficulties which whistleblowers may experience as a result of raising a concern. For instance, if whistleblowers are required to give evidence in criminal or disciplinary proceedings, advice about the procedure and support will be given.

If the investigation is internal to or under the control of the Council, the investigating officer nominated by the *Whistleblowing Lead* will detail the outcome of the investigation in a written report. The report will outline the findings of the investigations and reasons for the judgement made. This report is owned by the *Whistleblowing Lead* who will determine distribution.

Where an investigation identifies governance, risk management or internal control failures, the *Whistleblowing Lead* may supplement the whistleblowing investigation by commissioning a separate Internal Audit review.

The Council recognises that whistleblowers need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, whistleblowers raising a concern will receive information about the outcome of any investigation.

6. Reporting concerns to external bodies

This policy is intended to provide a route by which members of staff and others can raise concerns internally.

If a worker does not feel able to raise their concern internally they may choose to raise concerns externally with '**prescribed persons or bodies**'. Details are provided in section four about the additional requirements for gaining the protections available under the Public Interest Disclosure Act if reports are made other than to the Council. If a whistleblower does take the matter outside the Council, they should be careful not to disclose confidential information, and ensure that they comply with the requirements of the Public Interest Disclosure Act so that they do not lose the protection of the Act against dismissal or other detriment.

If a whistleblower has reported a matter internally but is not satisfied that the concern has been properly dealt with, they should first raise it with the *Whistleblowing Lead*. If still unsatisfied and it is necessary and in the public interest, the whistleblower may also consider raising concerns externally to **prescribed persons or bodies**.

The full list of **prescribed persons and bodies** can be found on the UK government website at www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies. This includes:

- ✓ HM Revenue & Customs
- ✓ the Comptroller and Auditor General
- ✓ the Director of the Serious Fraud Office
- ✓ the Charity Commission for England and Wales
- ✓ the Information Commissioner
- ✓ the Equality and Human Rights Commission
- ✓ the Health and Safety Executive
- ✓ the Care Quality Commission
- ✓ the Environment Agency

If, instead of going to a prescribed person a worker chooses to make a disclosure to an '**other body**', such as the media or a Member of Parliament (MP) they should note that further conditions (set out in the table under section 4) apply.

Note: those who receive payment for a disclosure (which may be especially relevant in dealings with the media) are unlikely to receive the protections discussed in this policy.

7. Confidentiality and anonymity

Workers may be concerned about reporting their concerns, notwithstanding the guarantees made by the Council and provided by law. That is why we want to reiterate how seriously we take those concerns and our commitment to protecting our *whistleblowers*.

As far as it is possible to do so, the Council will not reveal the identity of any *whistleblower* to the subject of the disclosure or to any other person or body that is not involved in the investigative process. **All Line Managers and Designated Whistleblowing Specialists must keep details of whistleblowing reports and the person who made them confidential.**

In the exceedingly unlikely circumstance that the Council considered it might be appropriate to disclose a *whistleblowers* identity to anyone not involved in investigating the concern, the designated investigating officer would ALWAYS discuss this with the whistleblower first and make sure protective measures were put in place and the reason for considering a disclosure was clearly explained.

Sometimes (if, for example, the Council was to discipline or prosecute someone) there might need to be a hearing and the *whistleblower* might be required to give evidence. If this were to happen, the council would take all reasonable steps to protect the identity of the *whistleblower* (such as screened or pre-recorded evidence, when available) but, on occasion, the Council might be required to disclose their identity.

The council asks that whistleblowers give us a name when making a *protected disclosure*. There are many reasons for this:

1. We want to make sure that we are able to look after you and protect your rights, and it's harder for us to do this if we don't know who you are.
2. When you make a disclosure, you will tell us what you think we need to know but, in our experience, *whistleblowers* often know other things that they don't realise are important to the investigation. If you were to accidentally omit a key detail when making a report, we may not properly understand what it is that you are telling us about and, therefore, not be able to investigate your concern properly. This is why the appointed investigator would like to be able to contact you, if they have any questions.
3. Sometimes the nature of a *protected disclosure* is such that, rather than an investigation (or prior to an investigation) immediate action could be taken; we would often want to agree this with you.
4. At the end of the investigation, we'd like to be able to tell you (as far as the law allows us to) of the outcome and the steps we've taken or are going to take. Sometimes we might want to discuss a proposed course of action with you before taking it.

Potential whistleblowers should be aware that the protection of confidentiality may not apply where an individual intentionally reveals his or her identity in the context of a public disclosure.

Although the Council encourages whistleblowers to provide contact details, a worker is still able to raise a concern anonymously. However, workers should be aware that if concerns are reported anonymously they may find it harder to argue that any subsequent unfair treatment was as a result of the whistleblowing.

The Council suggests a whistleblower wishing to remain anonymous should consider using an anonymous email account so that the Council can respond and communicate details of the investigation. Anonymous whistleblowers may wish to keep copies of all correspondence to demonstrate that a concern was raised.

Appendix 1 - Designated Whistleblowing Specialists

In addition to approaching your line manager, you may raise concerns with a senior manager in the Council. You may prefer to speak to a **Designated Whistleblowing Specialist**.

The Council has appointed the following **Designated Whistleblowing Specialists**.

Who	Whistleblowing Role
Siobhan Martin, Head of Internal Audit Services Email siobhan.martin@eastsoffolk.gov.uk Phone 01394 444254	Whistleblowing Lead; and Designated Whistleblowing Specialist
Sheila Mills-James, Corporate Fraud Manager Email sheila.mills@eastsoffolk.gov.uk Phone 01394 444292	Deputy Whistleblowing Lead; and Designated Whistleblowing Specialist
Laura Fuller, Audit Manager Email laura.fuller@eastsoffolk.gov.uk Phone 01394 444562	Deputy Whistleblowing Lead; and Designated Whistleblowing Specialist
Chris Bally, Chief Executive Email chris.bally@eastsoffolk.gov.uk Phone 01502 523210	Designated Whistleblowing Specialist
Chris Bing, Monitoring Officer Email chris.bing@eastsoffolk.gov.uk Phone 01394 444408	Designated Whistleblowing Specialist
Frances Wykes, Principal Auditor Email frances.wykes@eastsoffolk.gov.uk Phone 01394 444248	Designated Whistleblowing Specialist

Appendix 2 - Support and advice

Our *Designated Whistleblowing Specialists* are trained in how to support you, but we understand that you might like to seek advice or support from someone else before, during or after making a report. These are some other sources available.

Protect

Website: <https://protect-advice.org.uk>

Protect Advice email: whistle@protect-advice.org.uk

Protect Advice Line: 020 3117 2520 (* option 1)

UK Government

UK government advice on 'Whistleblowing for employees'

Website: <https://www.gov.uk/whistleblowing>

ACAS

ACAS guidance on 'Whistleblowing at work'

Website: <https://www.acas.org.uk/whistleblowing-at-work>

Employee Assistance Programme

Confidential support is available for individual employees from the employee assistance programme, and this may include counselling if appropriate, in addition to practical information and advice.

Details of the programme are available on the Council's Intranet HR Pages, or via HR@eastsuffolk.gov.uk

Ernst & Young LLP (The Council's External Auditor)

Telephone: 01582 643000

Address: Debbie Hanson, Ernst & Young LLP, 400 Capability Green, Luton, Bedfordshire LU1 3LU

The Comptroller and Auditor General

Telephone: 020 7798 7999

Website: <https://www.nao.org.uk/contact-us/whistleblowing-disclosures/>

Police

Telephone: 101

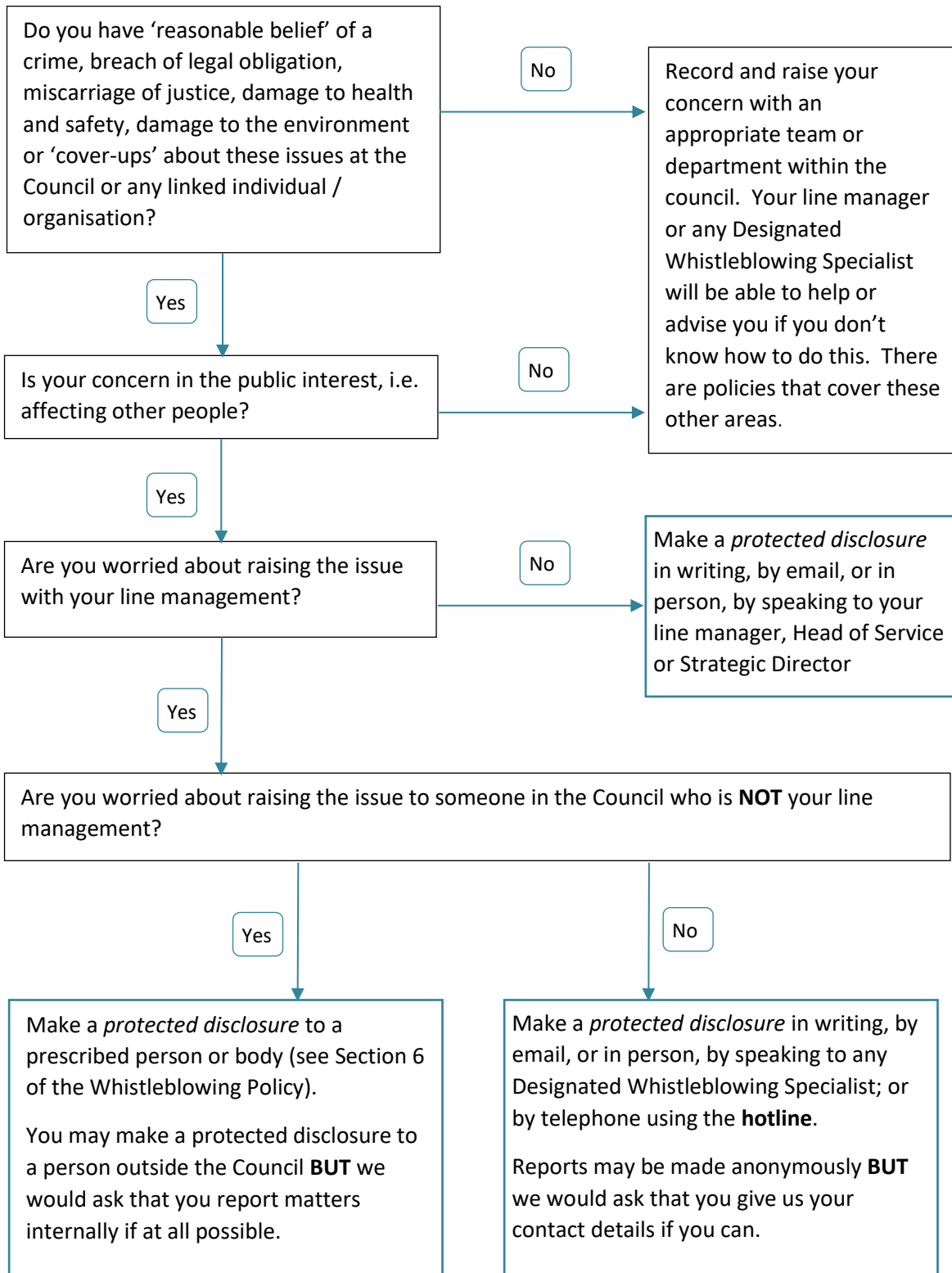
Website: <https://www.suffolk.police.uk/contact-us/report-something>

Member of Parliament

Contact details for any Member of Parliament are available online

Website: <https://members.parliament.uk/>

Appendix 3 - How to Report Whistleblowing



IF IN DOUBT, SEEK ADVICE BEFORE DISCLOSING ANYTHING THAT MIGHT BE CONFIDENTIAL.