

Whistleblowing



Whistleblowing	Applies to all Council employees, contractors, partners and those supplying goods and services
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Introduction

This policy explains how an employee may report – “blow the whistle” – instances of malpractice or wrong doing within their workplace.

This policy has been prepared in response to the Public Interest Disclosure Act 1998, and it provides a safeguard for employees who ‘Blow the Whistle’ when instances of malpractice are reported in the public interest. This policy explains the process for an employee – who acting in the public interest – and who genuinely believes that wrongdoing is evident or has occurred - to make a disclosure in confidence, **without fear of detriment or victimisation**. The Council is committed to the highest standards of openness, integrity and accountably. Malpractice is taken very seriously. In line with this commitment, all employees, Contractors, suppliers and those providing services under a contract with the Council within their own premises (e.g. Care Homes) and partner agencies who wish to make a disclosure of malpractice, in the public interest, should come forward and voice their concern(s).

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1 The Policy

1.0 Policy Statement

This policy applies to all employees of the Council, Contractors working for the Council, the Council's Partners and those supplying goods and services to the Council. The Council is committed to the highest standards of openness, integrity and accountability. Malpractice is taken very seriously. In line with this commitment, all employees and other agencies who wish to make a disclosure of malpractice, in the public interest, should come forward and voice their concern(s).

1.1 The purpose of this policy is to:

- Draw employees' attention to the Public Information Disclosure Act 1998;
- Meet Statutory obligations and ensure compliance with relevant codes of practice;
- Provide avenues for employees to raise concerns of wrongdoing and malpractice;
- Ensure that employees receive a response to their concerns and disclosures;
- Provide support to employees who raise concerns about wrongdoing or malpractice;
- Promote accountability and integrity throughout the Council;
- Help to uphold the reputation of the Council and maintain public confidence;
- Deter Malpractice.

All concerns/disclosures raised with the Council will be treated in the strictest confidence, and every effort will be made to conceal the identity of the discloser if anonymity is requested. If the Council is unable to resolve an employee's concern/disclosure without revealing their identity, (for example, where the evidence may be needed in Court), this will be discussed with the employee, in confidence, before court proceedings commence.

1.2 You can get further support from:

- The Council's Assurance Service
- The Council's Human Resources Service
- Department for Business, Energy & Industrial Strategy ACAS website – www.acas.org.uk
- Protect (formerly Public Concern at Work) - <https://protect-advice.org.uk/>
- Public Interest Disclosure

2 The Procedure

2.0 The purpose and principles of this procedure :

- Enable employees, Contractors working for the Council, the Council's Partners and those supplying goods and services to the Council to report any serious concerns they have about service provision, conduct of Officers and representatives of the Council; Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should

be watchful for illegal or unethical conduct and report anything of that nature that they become aware of;

- Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially;
- No employee will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern;
- Victimisation of an employee for raising a qualified disclosure will be a disciplinary offence.
- If misconduct is discovered as a result of any investigation under this procedure the organisation's disciplinary procedure will be used, in addition to any appropriate external measures;
- Maliciously making a false allegation is a disciplinary offence;
An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees contractors, Council partners and those supplying goods and services to the Council should not agree to remain silent. They should report the matter to the Head of Assurance.

2.1 What is not covered:

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 his/her own contract has been, or is likely to be, broken, he/she should use the organisation's grievance procedure.

You cannot use this procedure to deal with serious and/or sensitive matters that are covered by other Council policies and procedures, for example:

- Staff complaints about their employment;
- Customer complaints about Council services should be dealt with via the Council's Complaints Procedure;
- Issues that have already been settled by means of other Council procedures;
- Where a manager has concerns about a member of staff whom they manage;

2.2 The Council's expectations:

The Council has an obligation to its employees and service users. The Council expects its employees and other organisations that it deals with to bring to its attention any issues of concerns of malpractice, in the public interest. The Council is committed to the highest possible standards of openness, probity and accountability. For this reason, concerns/disclosures about malpractice will be taken very seriously. The organisation encourages employees to raise their concerns under this procedure in the first instance.

2.3 The Council's commitment:

The law provides protection for employees who raise legitimate concerns about specified matters (Qualifying disclosures – see 2.6). Employees who raise a concern and/or make a disclosure can be assured that they will not suffer any form of retribution, victimisation or detriment as a result of making a general disclosure about something they consider being of real concern, in the public interest.

2.4 Confidentiality

The Council will do its best to protect Whistle-blower's identities when they raise a concern or make a disclosure and wish to remain anonymous. Every effort will be made to preserve confidentiality. However if the evidence is required in Court proceedings then it may not be possible to maintain anonymity; this will be subject to the decision of the Courts.

2.5 Harassment and Victimisation

The Council will not tolerate any harassment, victimisation or informal pressures of its employees. The Council recognises that the decision to report a concern can be a difficult one to make. An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure.

The Council will initiate appropriate action to protect any employee who blows the whistle in the public's interest.

Any investigation undertaken in response to a concern or a disclosure, will not influence, or be influenced by any disciplinary or redundancy procedures that already affects an employee.

2.6 Qualifying Disclosures

A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed. It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter - it is the organisation's responsibility to ensure that an investigation takes place.

2.7 Contact Officers

The Council have officers who are a point of contact for concerns and disclosures raised under this whistleblowing policy and procedure. Contact Officers will be impartial, and will take an independent view of any concern or disclosure that an employee brings to their attention. (**See Appendix 1**).

2.8 How to raise a concern or disclosure

In the first instance you should raise your concern/disclosure with one of the Council's 'Contact Officers' (**See Appendix 1**).

You can raise your concern and/or disclosure verbally, or in writing by stating the:-

- Reason why you are concerned about a situation;
- Background and history of the concern, providing relevant dates ;
- Extent to which you have personally witnessed or experienced the problem (**if possible provide documentary evidence**).

On receipt of your concern and/or disclosure, the Council will undertake a preliminary enquiry to establish whether a formal investigation is appropriate and what form it should take. Concerns/disclosures that fall within the scope of specific procedures (for example child protection, or unlawful discrimination issues) will normally be referred for consideration under those procedures.

The earlier your concern is raised with a contact person, the easier it is to take action. You should demonstrate to the contact person your reasonable grounds for concern. Some concerns may be resolved by agreed action without the need for formal investigation. The Whistleblower will not be consulted on the Council's approach to dealing with concerns raised

Complaints against Councillors raised under the Whistleblowing Policy will be reviewed by the Council's Monitoring Officer (MO) in the first instance. If the MO determines that the complaint falls within the Code of Conduct then it can be considered under the Code, however may also be considered under the Whistleblowing Policy where a qualifying disclosure is met (e.g. in a case of fraud in the member's official capacity).

Guidance on how to raise matters of concern and/or disclosure can be obtained from:

Human Resources
Service Heads
Assurance Services (Internal Audit/Counter Fraud)
Public Concern at Work

2.9 How will the Council respond?

The Council will acknowledge receipt of your concern/disclosure, where possible, **within 5 working days** of your written or verbal communication.

The Head of Assurance, in liaison with Human Resources, will nominate an Investigation Officer to undertake a preliminary investigation to determine whether a full investigation is required, and to protect both the individual(s) accused and the discloser.

All concerns and disclosures received:

- Will be looked into/investigate as speedily and sensitively as possible;
- May involve the Council's Counter Fraud; and/or
- The Metropolitan Police and/or appropriate external agencies.

Every effort will be made to minimise any difficulties that the Whistle-blower may experience as a result of raising a concern. For instance, if the formal investigation finds that malpractice/wrongdoing has occurred, the Whistle-blower may be required to give evidence at a disciplinary hearing or at court. In such circumstances the Council will arrange for the Whistle-blower to receive advice and support throughout the process.

The Council will endeavour to complete any investigations as soon as is practicably possible.

2.10 Outcome of Review of concerns/Investigation:

If the investigation finds that misconduct and/or gross misconduct has occurred, disciplinary action may be initiated in accordance with the Council's Disciplinary procedures.

In all cases the Council will seek the most appropriate sanction against employees that it considers guilty of malpractice. This includes instigating disciplinary action, which may include dismissal, and, in conjunction with Counter Fraud and law enforcement agencies, instituting criminal proceedings.

The whistle-blower will be informed on completion of the investigation. The nature of any action taken will remain confidential.

Where an investigation relates to abuse against either a vulnerable adult or a child at risk which has been substantiated, the Council has a duty of care to make a referral to the Disclosure and Barring Service. Any referral will be approved by the Director of the Service with appropriate advice from HR.

2.11 Appeal (Internal procedure)

If on conclusion of the investigation the Whistle-blower reasonably believes that the appropriate action has not been taken, he/she should raise their concerns, in the first instance, with the Director of Legal and Governance.

An employee who is dismissed, following an allegation under this policy and procedure will have the right of appeal against dismissal, as set out in the Council's Disciplinary Policy

2.12 Anonymous – Confidential Disclosures

Employees are encouraged as individuals to put their name to any disclosures they make. Concerns/disclosures that are expressed anonymously are much less powerful, and will be considered at the discretion of the Head of Assurance.

In exercising this discretion, the factors for consideration will include the :

- seriousness of the concern;
- credibility of the concern;
- likelihood of confirming the disclosure satisfactorily.

If a Whistle-blower requests to have their identity concealed, all possible steps will be taken to comply with the request.

2.13 Malicious Disclosures

Employees, who victimise others for blowing the whistle or who knowingly make a malicious disclosure against another employee, may be disciplined under the Council's Disciplinary Procedure.

2.14 Monitoring the Policy – who is responsible?

- The Chief Executive has overall responsibility for the Whistleblowing Policy;
- The Head of Assurance will be responsible for undertaking formal assessment of the effectiveness of the policy, identifying any patterns and reporting this to the Audit Board and Chief Executive;

- The Council's Assurance Service will maintain a central register of all matters raised under the Whistleblowing Policy in order to assess the effectiveness of this policy and any emerging pattern;
- For further information on the Whistleblowing Policy, you should contact Assurance on Ext: 32616

Note: It is not the responsibility of Members to monitor this Policy or the disclosures made

2.15 How the matter can be taken further (external procedure)

This policy is intended to provide employees with a process for raising whistleblowing concerns. If, after exhausting the Council's Whistleblowing Policy internally, the Whistle-blower would like to take the matter further i.e., outside the Council, the list of 'Prescribed Persons' can be found at **Appendix 2:**

2.16 Making allegations outside of the procedure

An employee making an allegation, or passing on any allegation, by any means other than under this agreed Council procedure is strongly encouraged to seek the advice of a Council Contact Officer (see Appendix 1) before making an allegation outside of this procedure.

2.17 GDPR/Data Protection

When an individual makes a disclosure, the Council will process any personal data collected in accordance with its data protection policy, which is GDPR compliant. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with disclosure.

Appendix 1

WHISTLEBLOWING CONTACT OFFICERS (Internal)

Head of Assurance, Tel: 01708 433307

Section 151 Officer: Tel: 01708 431994

Executive Director, oneSource, Tel: 01708 433754

Director, Legal and Governance, Tel: 01708 432714

Director, Human Resources & Organisational Development, Tel: 01708 434603

Or in writing' In Strictest confidence- Addressee Only' to:

The Head of Assurance
London Borough of Havering Council
Town Hall
Main Road
Romford
Essex
RM1 3BD

Appendix 2

LIST OF PRESCRIBED BODIES (External)

The Public Interest Disclosure Act 1998 provides for whistle-blowers to be able to contact specific organisations and enjoy the protection of the legislation.

The Public Interest Disclosure (Prescribed Persons) Order 2014 contains the list of prescribed persons: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

The list is not exhaustive; it identifies organisations that are most relevant to the local authority environment, and the matters that they deal with.

Organisation	Matters Dealt With
Following the Audit Commission's closure on 31 March 2015, disclosures relating to local authorities can be made to the external auditor of the relevant authority or the Comptroller and Auditor General.	
Commissioners for Her Majesty's Revenue and Customs (HMRC) HMRC Fraud Hotline Cardiff CF14 5ZN Tel: 0800 788 887 Website: www.gov.uk/government/organisations/hm-revenue-customs/contact/reporting-tax-evasion	<ul style="list-style-type: none"> • the administration of UK taxes • the administration of national insurance and tax credits systems • customs and border-related functions • criminal investigations
The Director of the Serious Fraud Office The Director of the Serious Fraud Office 2-4 Cockspur Street London SW1Y 5BS Website: www.sfo.gov.uk/contact-us/reporting-serious-fraud-bribery-corruption	Contact them about serious or complex fraud, including bribery and corruption, in England, Wales or Northern Ireland and civil recovery of the proceeds of unlawful conduct.

<p>The Environment Agency</p> <p>National Customer Contact Centre PO Box 544 Rotherham S60 1BY</p> <p>Tel: 03708 506 506 Website: www.gov.uk/environment-agency</p>	<p>Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to pollution, abstraction of water, flooding, the flow in rivers, inland fisheries and migratory salmon or trout.</p>
<p>The Food Standards Agency (FSA)</p> <p>Food Standards Agency Floors 6 and 7 Clive House 70 Petty France London SW1H 9EX</p> <p>Tel: 020 7276 8829 Email: helpline@food.gov.uk Website: www.food.gov.uk</p>	<p>Matters which may affect the health of any member of the public in relation to the consumption of food and other matters concerning the protection of the interests of consumers in relation to food.</p>
<p>The Health and Safety Executive</p> <p>Tel: 0300 003 1647 Online form: www.hse.gov.uk/contact/concerns.htm</p>	<p>Matters which may affect the health or safety of any individual at work; matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.</p>
<p>Homes and Communities Agency</p> <p>Arpley House 110 Birchwood Boulevard Birchwood Warrington WA3 7QH</p> <p>Tel: 0300 1234 500 Email: mail@homesandcommunities.co.uk</p>	<p>Contact them about the conduct of the business of registered providers of social housing in England.</p>
<p>The Information Commissioner</p> <p>The Information Commissioner's Office Wycliffe House Water Lane Wilmslow</p>	<p>Compliance with the requirements of legislation relating to data protection and to freedom of information.</p>

<p>SK9 5AF</p> <p>Tel: 0303 123 1113</p> <p>Email: casework@ico.org.uk</p> <p>Website: www.ico.org.uk</p>	
<p>Care Quality Commission</p> <p>CQC National Customer Service Centre Citygate Gallowgate Newcastle upon Tyne NE1 4PA</p> <p>Tel: 03000 616161</p> <p>Website: www.cqc.org.uk</p>	<p>Contact them about matters relating to the provision of health and social care.</p>
<p>Protect (formerly Public Concern at Work)</p> <p>Tel: 020 3117 2520</p> <p>Email:</p> <p>Website: https://protect-advice.org.uk/</p>	<p>Protect is an independent authority on whistleblowing. They provide free help to prospective whistle blowers, advice on whistleblowing laws and help organisations create a culture where it is safe and accepted for staff to blow the whistle.</p>
<p>The Local Government Ombudsman</p> <p>Tel: 03000610614</p> <p>Website: www.lgo.org.uk</p>	<p>Any concerns about maladministration</p>
<p>Children's Commissioner for England</p> <p>The Office of the Children's Commissioner Sanctuary Buildings 20 Great Smith Street London SW1P 3BT</p> <p>Tel: 020 7783 8330</p> <p>Email: info.request@childrenscommissioner.gov.uk</p> <p>Website: www.childrenscommissioner.gov.uk</p>	<p>Contact them about matters relating to the rights, welfare and interests of children in England.</p>
<p>The Comptroller and Auditor General</p> <p>The Comptroller and Auditor General National Audit Office 157-197 Buckingham Palace Road London</p>	<p>Contact them about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.</p>

SW1W 9SP Tel: 020 7798 7999 Website: www.nao.org.uk/contact-us/whistleblowing-disclosures/	
Disclosure and Barring Service Customer Services customerservices@dbb.gsi.gov.uk Telephone: 0870 909 0811 Minicom: 0870 909 0344	

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