

# Whistleblowing Policy

## 1. Introduction

The Council is committed to delivering high quality services to its customers and to that end expects high standards from its employees and contractors. In order to maintain those high standards a culture of openness and accountability is vitally important. The council wishes to encourage workers to disclose information about (for example) a possible fraud, crime, danger or other serious risk that could threaten colleagues, members of the public, councillors or the Council's own reputation. This is sometimes called "whistleblowing".

The aims of this policy are threefold:

- to assure you that if you raise concerns you can do so without fear of reprisals
- to assure you that your concerns will be taken seriously
- to provide information about how to raise your concerns and explain how the Council will respond

## 2. Scope of the Policy

This policy applies to all Council employees, former employees, agency workers, consultants and individual contractors engaged by the Council. The policy also applies to any other individuals within the definition of "worker" contained within section 43K of the Employment Rights Act 1996.

## 3. What is Whistleblowing?

The formal legal jargon is "protected disclosure", and that term is defined by the Employment Rights Act 1996.

It relates to a disclosure of information to the Council (or sometimes to another person or organisation) by a worker, where the worker reasonably believes that the disclosure is made in the public interest.

Whistleblowing covers a wide range of concerns that have a public interest dimension. It does not cover grievances or private complaints that have no additional public interest. Neither is it a mechanism for challenging decisions, practices and policies with which you disagree. Rather, the purpose is to provide a way in which matters can be drawn to the Council's attention (regardless of whether the worker believes that the Council was already in possession of the relevant information or not). The types of activity that should be disclosed include, but are not limited to, the following:

- fraud or corruption (see also the Counter Fraud and Corruption Policy, Anti – Money Laundering Policy)
- financial maladministration
- failure to comply with legal obligations
- endangering of an individual's health and safety
- damage to the environment
- a criminal offence
- failure to follow financial and contract procedure rules
- miscarriages of justice
- deliberate concealment of information relating to any of the above

Some examples might be:

- A danger in the workplace
- An act of fraud within the Council, or affecting the Council
- Someone who is offering, taking or soliciting bribes
- Misreporting performance data
- Inappropriate conduct or behaviour affecting children or vulnerable adults

The following are examples of matters which should not be reported as whistleblowing concerns and ought properly to be dealt with through normal line management channels or the Council's grievance or complaints procedure:

- You are aggrieved at the way you have been treated by your manager or a colleague
- You are a Council contractor and an invoice you have submitted has not been paid
- You are unhappy with the service provided by a Council department

#### **4. How to 'Blow the Whistle'**

You should raise your concerns as soon as they arise with the Director of Legal and Democratic Services or the Head of Internal Audit.

The Director of Legal and Democratic Services is Helen Harris. Her contact details are: Tel: 0208 825 5000; Email: [harrish@ealing.gov.uk](mailto:harrish@ealing.gov.uk).

The Assistant Director of Audit and Investigations is Mike Pinder. His contact details are Tel: 0208 825 8571. Email: [pinderm@ealing.gov.uk](mailto:pinderm@ealing.gov.uk)

If you prefer you can report your concern directly to your manager. Your manager will then notify the Assistant Director of Audit and Investigations or the Director of Legal and Democratic Services about the concerns, when they were raised and by whom. Alternatively, you may wish to contact the Audit and Investigation team on the Council's free 24 hour confidential hotline number: 0800 328 6453 or send an email to: [fraudreferrals@ealing.gov.uk](mailto:fraudreferrals@ealing.gov.uk).

You do not need to wait for proof that you are correct before raising your concerns provided you are satisfied that you have reasonable grounds for your suspicion. Remember that you (the whistleblower) are a witness to events and not an investigator.

When reporting a concern, you should do so as soon as possible and provide as much information and detail as possible, for example, full names, dates of events and any relevant documentation. This will help the investigator to focus their investigation on the main issues quickly.

Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. When making a decision the Council will consider whether continuing with an investigation is in the public interest. Depending upon the nature of the matter it may be referred to the external auditor or the police or another appropriate third party for investigation.

You will be advised whether an investigation takes place or not and asked whether you would like to be provided with feedback. However, depending upon the nature of the matter raised, we may not be able to provide you with details of the action taken. If that happens, please be assured that this does not mean that the matter is not being taken seriously. Where it is permissible to do so you will be advised of the action taken at the conclusion of the matter.

In some circumstances, you may be able to make a “protected disclosure” to someone outside the Council (see paragraph 10 below).

## **5. Confidentiality**

The Council understands that you may be reluctant to come forward with information about the wrongdoing of a colleague or manager or indeed at all. As such, the Council recognises that whistleblowers may wish to raise concerns in confidence. As such, your identity will not be disclosed without your consent or until such time as there is an overriding legal reason why it should be disclosed.

## **6. Anonymous Allegations**

You are encouraged to give your name when raising concerns. This is because anonymous allegations are more difficult to investigate and so that you can be provided with assurance that your concerns are being taken seriously. In the event that concerns are raised anonymously, the decision whether to investigate an anonymous allegation will be made by the Assistant Director of Audit and Investigations.

## **7. Protection for the Whistleblower**

The Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998) provides legal protection for workers who raise concerns about matters which are 'qualifying disclosures'. Such disclosures might be "protected disclosures" even if the worker is mistaken.

All concerns raised under this procedure will be treated seriously. The Council will not tolerate the harassment or victimisation of anyone who has made a protected disclosure and will take action to protect you. Any employee who is found to have victimised or harassed someone because they made a protected disclosure will face disciplinary action.

## **8. Allegations known to be untrue**

Concerns that are raised which are known to be untrue, or where the whistleblower knows that there are no reasonable grounds for the allegation, may result in disciplinary action or, in the case of agency workers, the termination of the agency contract. In the case of contractors, the matter will be reported to the Council's relevant contract manager so that a decision can be made about the appropriate action to take.

## **9. Advice and Support**

The Council recognises that employees may wish to seek advice and support from their trade union before blowing the whistle. Alternatively, employees may wish to seek advice from Protect, an organisation which is entirely separate from the Council. Protect have lawyers who provide confidential advice, free of charge, to people concerned about wrongdoing at work. [Protect's](#) contact details are available via their website, [Protect - Speak up stop harm - Protect - Speak up stop harm \(protect-advice.org.uk\)](#), which supplies phone and contact details.

## **10. Blowing the Whistle Outside the Council**

In certain circumstances it may be reasonable to raise concerns outside the Council to the appropriate 'prescribed regulator'. This should only be done where you believe that the information being passed on is substantially true, ie. more than just suspicion.

The specific identities of "prescribed regulators" are set out in legislation and are varied from time to time by the government. The identity of the correct prescribed regulator depends on the nature of the alleged wrongdoing that is being reported, and it is important to take reasonable care when attempting to select the correct regulator to which a disclosure is to be made.

Some examples of prescribed regulators are set out below, and the full list is contained within the Public Interest Disclosure (Prescribed Persons) Order 2014:

- Disclosures relating to local authorities can be made to the external auditor of the relevant authority or the Comptroller and Auditor General.

To make a disclosure to the authority's external auditor, please contact the local authority, who will have a record of who to contact. You can also ask Public Sector Audit Appointments Limited (PSAA)\*, the company now responsible for appointing auditors to local government, police and local NHS bodies for the name of the auditor of the relevant local authority see <https://www.psa.co.uk/contact-us/whistleblowing/> for details.

\*It should be noted that PSAA is not a prescribed person under the Public Interest Disclosure Act and their role in this is only to signpost individuals to the external auditor appointed to the local authority in question.

To make a disclosure to the Comptroller and Auditor General, please contact the National Audit Office [www.nao.org.uk](http://www.nao.org.uk).

- The Information Commissioner's Office is an independent public body set up to promote access to official information and protect personal information. For contact information see their website [www.ico.org.uk](http://www.ico.org.uk).
- The Health and Safety Executive is responsible for enforcing health and safety in the workplace. For contact details see their website <http://www.hse.gov.uk/contact/concerns.htm>
- The Care Quality Commission is the independent regulator of all health and adult social care in England. For contact details see their website: <https://cqc.org.uk/contact-us>
- Charity Commission for England and Wales
- Commissioners for Her Majesty's Revenue and Customs
- Director of the Serious Fraud Office
- Environment Agency
- Food Standards Agency
- Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector")

- National Crime Agency
- National Health Service Commissioning Board
- Pensions Regulator

Disclosures may be raised outside the Council to someone other than a prescribed regulator if, in addition to the conditions above, they meet one of three preconditions.

Provided the disclosure is reasonable in all the circumstances and is not made for personal gain, the preconditions are that you:

- reasonably believed that you would be victimised if you raised the matter internally within the Council; or
- reasonably believed that the matter would be 'covered up' and there is no prescribed regulator; or
- you have already raised the matter internally or with a prescribed regulator.

This is an option of last resort and you are advised to seek guidance from Protect, a Trade Union or a solicitor before making external disclosures.

## 11. Complaints, Grievances and Members

This policy should not be confused with other policies that exist for dealing with complaints or grievances. For example, complaints about the quality of service delivery should be addressed through the Council's corporate complaints procedure. Guidance on handling complaints about Councillors can be found in the Convention on Working Relations, in the Constitution, and on the council's website. Employees who are aggrieved about their own employment situation should consider whether to use the grievance procedure.

## 12. Review of this Policy

The Director of Legal and Democratic Services has overall responsibility for the operation of this policy and will review it from time to time to ensure its continuing relevance and in response to changes in the law.

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