

## **WHISTLEBLOWING PROCEDURE**

### **1.1 OVERALL CONTEXT**

The Council expects the highest standards of behaviour of all employees, councillors and its contractors.

The Whistleblowing Procedure is intended to encourage employees and others to report inappropriate action by any of the above which would not normally be revealed due to fears of victimisation or retribution.

The Procedure provides a framework to ensure that the Council and those who act on its behalf conduct themselves in a proper manner.

The Council makes clear that no employee will be subject to victimisation or other detriment by making a report under this procedure which they reasonably believe to be true.

### **1.2 LEGAL CONTEXT**

The Public Interest Disclosure Act 1998 and the Human Rights Act 1998.

### **1.3 ADVERSE IMPACT ANALYSIS**

The Council wishes to ensure that its policies and procedures do not impact unfairly on employees with reference to race, sex, religion or belief, sexual orientation or disability. Managers must therefore ensure that their application of this procedure does not have this adverse impact on particular groups. The annual review of the procedure would include assessing the overall impact.

### **1.4 SCOPE OF THE PROCEDURE**

The procedure applies to a report where it is the reasonable belief of the employee or other person making the report that it relates to:

- a criminal offence
- a failure to comply with a legal obligation
- a miscarriage of justice
- a danger to the health and safety of an individual
- damage to the environment
- a failure to comply with the Council's policies and procedures
- any conduct which may damage the Council's reputation
- deliberate concealment of information relating to any of the above

in relation to the conduct of the Council's business, including activities carried out by contractors on its behalf.

### **1.5 MATTERS OUTSIDE THE SCOPE OF THE PROCEDURE**

The procedure does not cover:

- Matters that concern day to day issues relating to an employee's terms and conditions of employment or a complaint about another

employee which can usually be referred to their line manager, or if necessary be pursued using the Council's Grievance Procedure

- Matters that would normally be dealt with by the Council's collective bargaining arrangements with its recognised trade unions
- Matters relating to child abuse which should be reported to the Service Manager for Child Protection in the Council's Children and Families Department or in his/her absence to the Assistant Director, Family Support Telephone 020 8937 4091.
- Matters relating to the Protection of Vulnerable Adults should be referred to Service Manager in the Adult and Social Care Department or the Assistant Director of Community Care Telephone 0208 4230
- Allegations which you would normally make to the Audit and Investigations Team concerning fraud or financial irregularity. In such cases contact should be made direct to an Audit Investigations Manager on 020 8937 1261. (the protection provided under the Public Interest Disclosure Act 1998 would apply in this case)
- Complaints from the public that relate to standard of service delivered by the Council or its contractors which should be reported through the Council's Complaints procedure.

#### 1.6 **WHO IS COVERED BY THE PROCEDURE**

All employees, contractors (and their staff), partner agencies (including the Health Authority and voluntary sector groups), agency workers, consultants, trainees and self employed people providing work for the Council may make reports under this procedure outlining any concerns.

#### 2. **OUTLINE OF PROCEDURE**

The Whistleblowing Procedure covers the following:

- Reporting a concern within the management structure of your own Service Area
- Reporting a concern to the Chief Executive or the Whistleblowing Officer (the Head of Audit and Investigations)
- What will happen when you report a concern to the Chief Executive or the Whistleblowing Officer
- Conclusion of the investigation
- Anonymous reports
- Anonymity
- Statutory protection
- Protection of Council employees
- Advice
- Reporting outside the Council
- Review of Whistleblowing Procedure

### **3. REPORTING A CONCERN WITHIN THE MANAGEMENT STRUCTURE OF YOUR OWN SERVICE AREA**

- 3.1 In the first instance you should normally report any concerns to your line manager or their manager, preferably in writing.
- 3.2 However, if you feel the matter is extremely serious or sensitive or involves your line manager or their manager, you may report the matter to the Service Area Director.
- 3.4 Before raising your concern you may wish to take advice on the matter from any of those listed in paragraph 10 of this procedure or discuss your concerns with a colleague first. If you are not the only person affected, you may wish to make a joint report.
- 3.5 It is advisable that you report your concern as early as possible. A significant delay in reporting the matter may make the subsequent investigation difficult to pursue.
- 3.6 In raising your concern in writing, you should give as much detail as possible, ie the background and history, giving names and relevant dates and the reasons why you are particularly concerned about the situation.
- 3.7 If you feel hesitant about putting your concern in writing at this stage you should telephone the manager to whom you wish to make the report and arrange to meet them. Do bear in mind you may be asked to put the details in writing later.

### **4. REPORTING A CONCERN TO THE CHIEF EXECUTIVE OR TO THE COUNCIL'S WHISTLEBLOWING OFFICER**

- 4.1 The Council's Whistleblowing Officer is the Head of Audit and Investigations
- 4.2 You may make a written report to the Council's Whistleblowing Officer if you:
  - Have previously raised an issue to management within your Service Area and feel that it has not been dealt with properly or the matter involves your Service Area Director; or
  - Fear that you will be victimised if the matter is raised within your management structure; or
  - Fear that relevant information may be concealed or destroyed if the matter is raised within your management structure.

You should write to, email or telephone the Chief Executive outlining your concerns. She/He will refer the matter to the Head of Audit and Investigations (The Whistleblowing Officer).

- 4.2 Alternatively, you may report the matter direct to the Whistleblowing Officer (or any of the officers within the Internal Investigation Team).

### **5. WHAT WILL HAPPEN WHEN YOU REPORT A CONCERN TO THE CHIEF EXECUTIVE OR THE WHISTLEBLOWING OFFICER**

- 5.1 You will be advised whether the referral is appropriate for this procedure.

- 5.2 Receipt of your report will be logged by the Whistleblowing Officer, following which you will normally be interviewed by a member of the Audit and Investigations Team. You may be accompanied at the interview by a trade union representative or friend if you feel this would help.
- 5.3 In most cases you will be asked to provide a written statement detailing the allegations following the interview.
- 5.4 You will receive a written acknowledgement of your report and will be informed of the action that will be taken to investigate your concern within 10 working days of receipt. You will also be given an estimate of the likely timescale of the investigation, although this cannot be guaranteed.
- 5.5 The allegation will normally be investigated by the Head of Audit and Investigations or a member of his investigating team.
- 5.6 Where appropriate, the Audit and Investigations Team may refer the matter to other investigations, such as Health and Safety Officers, in which case you may be interviewed by those officers.
- 5.7 Wherever possible, you will be kept informed of the progress of the investigation, unless the Head of Audit and Investigations considers that there is a risk of the investigation being prejudiced by disclosures of the process being taken. You may not receive full details of the progress or the outcome of the investigation if provision of details would be inconsistent with obligations of confidentiality in relation to others.
- 5.8 In some circumstances the matter may be referred to an external agency, such as the police if crime is involved. Wherever possible the Whistleblowing Officer will advise you of this before doing so.
- 5.9 If you are not satisfied with the response from the Whistleblowing Officer, you may report this in writing to the Director of Human Resources & Diversity (if your report concerned council staff); Borough Solicitor (if your report concerned a councillor) or the Director of Finance and Corporate Resources (if your report concerned one of the Council's contractors). (please see the contact details in paragraph 10.1)

## **6. CONCLUSION OF INVESTIGATION**

- 6.1 If your allegation is not proven or there is insufficient evidence on which to base a conclusion, you will be advised accordingly. It will not be necessary in these cases for a report to be prepared as this could compromise your identity unnecessarily.
- 6.2 In cases where action is necessary as a result of your allegation, a report will usually be sent to the Service Area Director responsible for the area under investigation. The Service Area Director will be responsible for implementing the recommendations in the report. You will be advised when the investigation is complete but it may not always be possible to tell you the details of the findings as this may be confidential.
- 6.3 If the investigation concerns inappropriate action by the Service Area Director, the report will be sent direct to the Chief Executive. If you are concerned about the Service Area Director receiving the report you should discuss this with the investigator.

## 7. **ANONYMOUS REPORTS**

- 7.1 Whilst it is accepted that anonymous allegations do not carry the same weight, any such reports received by the Council will be considered at its discretion and where such a decision is made, appropriate investigations made as far as possible into the circumstances. In exercising this discretion account will be taken of the seriousness, credibility of the matters raised and the likelihood of confirming the allegation from the sources quoted.

## 8. **ANONYMITY**

- 8.1 During the initial stages of the investigation, if you so wish, the Council guarantees that your identity will only be disclosed to those directly involved in investigating the allegation. We will do our best to maintain your anonymity throughout the enquiry **but this may not be possible as it may be obvious to those under investigation who has made the allegation.** We will always seek your permission before formally identifying you.
- 8.2 In cases where disciplinary action is taken, it may be necessary for you to provide witness evidence. We will try to gather evidence to support your allegation without requiring your attendance at a hearing, but this may not always be possible. We may also need to disclose your identify to other investigating agencies but will discuss this with you before doing so.

## 9. **STATUTORY PROTECTION**

- 9.1 The Public Interest Disclosure Act 1998 provides individuals with protection from victimisation, dismissal or any other detriment provided they have a reasonable belief that what they have reported is true and the report is made in good faith.

## 10. **PROTECTION TO COUNCIL EMPLOYEES**

- 10.1 No action will be taken against you by the Council if you make a report in good faith but it is not confirmed by the investigation.
- 10.2 If you consider that you have been, are being or are likely to be victimised, dismissed, made redundant or made to suffer some other detriment as a result of making a report under this procedure, you should report your concerns to the Whistleblowing Officer. The matter will then be dealt with as a new referral under this procedure.
- 10.3 The Council will treat any victimisation or harassment of an employee who has made a report in good faith under this procedure as a serious disciplinary offence.
- 10.4 Employees should not make reports which they do not reasonably believe to be true or which are malicious. Disciplinary action may be taken against an employee who makes an allegation frivolously, maliciously or for personal gain.
- 10.5 If you are already the subject of a disciplinary, capability or redundancy procedure, this will not normally be halted as a result of your report.

## 11. **ADVICE**

- 11.1 If you wish to receive advice from a relevant professional in the Council before making a report under this procedure, you should contact any of the following:

The Borough Solicitor (Tel: 020 8937 1292)  
The Director of Human Resources & Diversity (Tel: 020 8937 1089)  
The Director of Health, Safety & Licensing (Tel: 020 8937 5358)  
The Director of Finance & Corporate Resources (Tel: 020 8937 1424)

Alternatively, you may wish to ask for confidential help from your trade union or professional organisation.

You may also contact any of the following organisations outside the Council for assistance with your concern:

Audit Commission Public Interest Disclosure Act Hotline  
Tel: 020 7630 1019

Public Concern at Work  
Tel: 020 7404 6609

## 12. REPORTING OUTSIDE THE COUNCIL

12.1 This procedure is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council following completion of the process set out earlier in this Procedure, the following are possible contact points:

- The Audit Commission
- The Health & Safety Executive
- The Environment Agency

Or other appropriate regulatory body.

12.2 A report made externally, ie to the police, media or Member of Parliament, will only be protected under the Public Interest Disclosure Act if the following apply:

- If you honestly and reasonably believed the information and any allegation contained in it to be substantially true
- The allegation has not been made for personal gain
- The allegation has already been raised with the Council, unless you believed you would be victimised or that there may be a cover-up or that the matter is exceptionally serious.

## 13. REVIEW OF WHISTLEBLOWING PROCEDURE

The procedure and reports made under it should be reviewed at least annually.