

## **“WHISTLEBLOWING” POLICY AND PROCEDURE**

### **1. INTRODUCTION**

- 1.1 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council’s work to come forward and voice those concerns (but not complaints made maliciously). Employees are often the first to realise that there may be something seriously wrong within a Council. However, they may not feel able to express their concerns because they believe that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Although in the large majority of cases staff with concerns should share those concerns with their immediate manager, it is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that staff can do so without fear of reprisal. This Whistleblowing Policy is intended to encourage and enable Council staff and staff of firms, companies or other organisations providing goods and services to the Council to raise serious concerns **within** the Council rather than overlooking a problem or blowing the whistle outside.
- 1.3 The Borough Solicitor in his/her capacity as Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

### **2. AIMS AND SCOPE OF THIS POLICY**

- 2.1 This policy aims to
- provide avenues for you to raise concerns and receive feedback on any action taken;
  - allow you to take the matter further if you are dissatisfied with the Council’s response; and
  - reassure you that you will be protected from reprisals or victimisation for Whistleblowing in good faith.
- 2.2 For employees of the Council, there are existing procedures in place to enable you to lodge a grievance relating to your own employment. This Whistleblowing Policy is intended to cover concerns that fall outside the scope of those procedures.

- 2.3 That concern may be about something that:
- is unlawful; or is against the Council's Standing Orders or Financial Regulations; or
  - falls below established standards; or
  - amounts to impropriety (for example, where a decision is proposed to be taken on the basis of personal friendship rather than on merit); or
  - places the health or safety of any person at risk.

### **3. SAFEGUARDS**

#### ***Harassment or Victimisation***

- 3.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least, because of the fear of reprisal from those responsible for the alleged malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.
- 3.2 This does not mean that if you are already the subject of disciplinary or redundancy procedures that those procedures will be halted as a result of your whistleblowing.

#### ***Confidentiality***

- 3.3 The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It should be appreciated that if an investigation is conducted as a result of whistleblowing, the investigation may reveal the source of the information and a statement by you may be required as part of the evidence.

#### ***Anonymous Allegations***

- 3.4 The Council encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Borough Solicitor. In exercising the discretion, the factors to be taken into account will include:
- the seriousness of the issues raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources.
- 3.5 Allegations which do not appear to be motivated by personal animosity and which, if true, would have serious implications for the Council are more likely to be considered, even though made anonymously.

### ***Untrue Allegations***

- 3.6 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you.

## **4. HOW TO RAISE A CONCERN**

- 4.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that management is involved, you should approach the Director of Corporate Services and Resources, Borough Finance Officer, Borough Solicitor (who is the Council's "Monitoring Officer"), Internal Audit or any specialist units the Council may have established (e.g. an Anti-Fraud Team).
- 4.2 Concerns are better raised in writing but if you do not feel able to put your concern in writing the Borough Solicitor may at his/her discretion decide to receive a complaint made by telephone or in person at a meeting. If the concern is expressed in writing you should set out the background and history of the concern, giving names, dates and places (if known) when it would be helpful to do so to establish the truth of the complaint, and the reason why you are particularly concerned about the situation. In order to ensure the confidentiality of your expression of concern it is suggested that you send your letter/written note in a sealed envelope addressed to the Borough Solicitor and clearly mark it "Strictly Private and Confidential - To be opened by Addressee Only". You need not sign or give your name although, as advised on page 2, in the section titled "Anonymous Allegations". If you do not do so the Borough Solicitor may exercise his/her discretion not to investigate an anonymous complaint. It is a serious disciplinary offence for any person to seek to prevent a communication of concern reaching the Borough Solicitor or to impede any investigation which he/she or anyone on his/her behalf may make.
- 4.3 The earlier you express the concern, the easier it is to take action.
- 4.4 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the Borough Solicitor or the officer he/she appoints to investigate the matter that there are sufficient grounds for your concern.
- 4.5 Advice and guidance on how matters of concern may be pursued can be obtained from the following:
- Director of Corporate Services and Resources;
  - Borough Solicitor;
  - Borough Human Resources Manager;
  - Borough Finance Officer; or
  - Head of Audit.

- 4.6 You may invite your trade union or professional association or a third party to raise a matter on your behalf.

## **5. HOW THE COUNCIL WILL RESPOND**

- 5.1 The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to the External Auditor; and/or
- form the subject of an independent inquiry.

- 5.2 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 Director of Corporate Services and Resources (after discussion with the Borough Solicitor), may designate the Borough Finance Officer, the Borough Human Resource Manager or the Head of Audit to make the initial enquiries and to conduct any subsequent investigation (unless it is inappropriate for them to do so). Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

- 5.3 Some concerns may be resolved by agreed action without the need for investigation.

- 5.4 The Borough Solicitor or the person he/she has designated to investigate the complaint will write to you, wherever reasonably practicable or within ten working days of the concern being received:

- acknowledging that the concern has been received;
- advising whether or not the matter is to be investigated further and if so what the nature of the investigation will be;
- giving an estimate of how long the Council will take to provide a final response;
- telling you whether any initial enquiries have been made, and
- telling you whether further investigations will take place, and if not, why not.

- 5.5 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

- 5.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

- 5.7 If you should become involved in further investigations or procedures (e.g. disciplinary proceedings or a criminal trial) as a result of using the Whistleblowing Procedure, the Council will give you every proper support and assistance. The Council is concerned to ensure that no one using the Whistleblowing Procedure is disadvantaged or unfairly treated.
- 5.8 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

## **6. HOW THE MATTER CAN BE TAKEN FURTHER**

- 6.1 This policy is intended to provide you with an avenue to raise concerns **within** the Council. The Council hopes you will be satisfied that the Whistleblowing Procedure is a satisfactory way of dealing with concerns. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:-
- the External Auditor;
  - relevant professional bodies or regulatory organisations (including the Ombudsman);
  - your solicitor;
  - the Police; or
  - Public Concern at Work (an independent registered charity who can give advice).
- 6.2 The disclosure of confidential information would normally constitute a grave disciplinary offence which could result in dismissal or other disciplinary action. Accordingly, if you do take the matter outside the Council you need to ensure that either no confidential information is disclosed or that there are wholly exceptional circumstances which the Council would consider justified the disclosure.