

Whistleblowing

Policy and Procedure

Date of implementation: November 2020

London Borough of Merton

Whistleblowing Policy

1 Policy Statement

- 1.1 The London Borough of Merton is committed to achieving the highest possible standards of service, including honesty, openness and accountability, and recognises that employees have an important role to play in achieving this goal.
- 1.2 All of us at one time or another has concerns about what is happening at work. Usually these concerns are easily resolved. However, when you are troubled about something that involves a danger to the public or colleagues, misconduct or malpractice or wrongdoing which affects others, it can be difficult to know what to do.
- 1.3 You may be worried about raising such an issue, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what, if anything, to do next.
- 1.4 The London Borough of Merton has introduced this policy to enable everyone to blow the whistle safely so that such issues are raised at an early stage and in the right way. We know from experience that to be successful we must all try to deal with issues on their merits. The Council welcomes your genuine concerns and is committed to dealing responsibly, openly and professionally with them. Without your help, we cannot deliver a safe service and protect the interests of the public, staff and the Council. If you are worried, we would rather you raised it when it is just a concern than to wait for proof.
- 1.5 The Whistleblowing Policy is for use if you have a concern about danger or illegality that has a public interest aspect to it, usually because it threatens others (e.g. customers, stakeholders or the public). A grievance or private complaint is, by contract, a dispute about your own employment position and has no additional public interest dimensions. If you are aggrieved about issues relating to your employment, such as your working environment or terms and conditions of employment, please use the Council's Grievance policy.

2 Purpose of the policy

- 2.1 The purpose is as follows:
 - To encourage you to feel confident in raising concerns.
 - To enable you to confidentially raise concerns within the Council environment.

- To ensure you receive a response to your concerns and if not satisfied you are aware of how to pursue them.
- To reassure you that you will be protected from reprisals or victimisation where you reasonably believe the disclosure to be made in the public interest.

This Whistleblowing procedure is primarily for concerns where the interests of others or of the Council are at risk.

3 Who is covered by this procedure

- 3.1 Council employees including schools, agency staff, trainees, apprentices, volunteers, consultants and interim managers, or any self-employed staff employed on council business.
- 3.2 The policy applies to contractors working for the Council and partner agencies. It also covers any suppliers and those providing services under a contract or in partnership with the Council in their own premises.

4 Definitions

- 4.1 The Council has a range of policies and procedures, which deal with standards of behaviour at work; for example, discipline, grievance, discrimination, harassment and bullying, and recruitment and selection. Staff are encouraged to use these procedures when appropriate.
- 4.2 This policy is a means to deal with serious or sensitive concerns about matters such as the following:
- Fraud or financial irregularity
 - Corruption, bribery or blackmail
 - Failure to comply with legal or regulatory duty or obligation.
 - Malpractice or abuse of a client including improper discrimination or relationships with clients
 - Disclosures related to miscarriages of justice.
 - Dangerous procedures risking Health and Safety, including risk to the public as well as other employees.
 - Damage to the environment.
 - Other unethical conduct, including deliberate concealment of information relating to the above
 - Action which is contrary to the code of conduct for employees or members.
 - The inappropriate use of the Council's standing orders and financial procedures.
 - Conduct which is a criminal offence or a breach of law.
- 4.3 The policy does NOT apply to the following:
- Relationships between employees, their managers and the Council for which grievance and other dispute procedures are more appropriate.
 - Concerns or complaints by members of the public to which the Corporate Complaints Procedure would apply

- Concerns or complaints about the behaviour of Members of the Council (Councillors) to which the Member Code of Conduct would apply.

5 What protection do you have?

- 5.1 The Public Interest Disclosure Act provides workers with protection from dismissal or other damage as a result of making a disclosure of information in the public interest about wrongdoing at work. Such disclosures are protected if they are done according to the Act's provisions. Disclosures may be made to the employer, prescribed regulatory bodies or on a wider basis to the Police. The Act's protection is strongest where workers raise matters with their employers.
- 5.2. The Councils are committed to adhering to this Act and to provisions contained within this Policy. If you raise a genuine concern in accordance with this Policy, you will not be at risk of losing your job or suffering any form of retribution as a result. The Councils will not tolerate any reprisal against an employee because he or she has raised a concern under the Code and will treat any such reprisal as a disciplinary matter.
- 5.3 Provided you are acting honestly; it does not matter if you are mistaken or if there is an innocent explanation for your concerns. You will not be asked to provide proof. Of course, this assurance is not extended to someone who maliciously raises a matter they know is untrue. Disciplinary action will be taken against employees who knowingly make false allegations.
- 5.4 Giving out information about third parties to whom the Councils owe a duty of confidence may not be protected under the Public Interest Disclosure Act. This may lead to disciplinary action. If you are in any doubt you should seek advice from your manager, union or legal.

Raising unfounded malicious concerns

- 5.5 You are encouraged to come forward in good faith with genuine concerns with the knowledge they will be taken seriously. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. However, when it appears that there are clear grounds for suggesting that you may have acted frivolously, maliciously or vexatiously, this will be taken seriously and may constitute a disciplinary offence.

Harassment or Victimisation

- 5.6 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 5.7 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you provide a service.

- 5.8 The Council will not tolerate any harassment or victimisation (including informal pressure) and will take appropriate action to protect you when you raise a concern.

6 What action should *you* take?

- 6.1 The London Borough of Merton encourages you to raise the matter internally in the first instance. This allows staff and those in positions of responsibility and authority the opportunity to right the wrong and give an explanation for the behaviour or activity.
- 6.2 Where you make a disclosure, you are encouraged to give details of your identity. Anonymous disclosures are more difficult to investigate.
- 6.3 As a first step, you should normally raise concerns with your line manager, Head of Service or Director. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If the circumstances make contacting a line manager not appropriate, then you can use the Whistleblowing Hotline 020 8871 8383.
- 6.5 Concerns made in writing should set out the background and history of the concern, giving names, dates and places where possible and the reason why there are particular concerns about the situation. The earlier the concern is expressed, the easier it is for someone to take action.
- 6.6 If you need advice and guidance on how matters of concern may be pursued, this can be obtained from Departmental HR Managers, or the Shared Internal Audit service.
- 6.7 If you are not in a formal line management relationship because of your employment relationship, e.g., agency staff or contractors, you should first discuss your concerns with a relevant colleague or manager within the service.

7 How will the Council respond?

- 7.1 The individual who receives the information or allegation will assemble the information made available to them. The details of the allegation are then immediately passed on to the Head of Internal Audit in order that it can be included on the central Whistleblowing register.
- 7.2 An appropriate investigating officer is then appointed by the relevant service, dependent on the nature of the allegation. The investigating officer(s) will carry out a preliminary investigation. This will seek to establish the facts of the matter and assess whether the concern has foundation and can be resolved internally. The initial assessment may identify the need to involve third parties to provide further information, advice or assistance. This could involve for example members of staff, the Internal Audit service, external audit, legal or HR advisors, or the police. Concerns or allegations, which fall within the scope of specific procedures (e.g., child protection, Health and Safety or discrimination issues), will normally be referred for consideration under those procedures. It may be decided to employ an outside firm to undertake the

investigation or it may be passed to external audit to investigate, depending on the nature of the allegation.

- 7.3 Fraud allegations will be passed to the South West London Fraud Partnership (SWLFP) to carry out the investigation.
- 7.4 You will be informed within 4 weeks of receipt of the Whistleblowing, how and by whom the concerns will be handled and an estimate of how long the investigation will take and where no further action is proposed, reasons for this decision
- 7.5 Records will be kept of work undertaken and actions taken throughout the investigation. The investigating officer(s) will consider how best to report the findings and what corrective action needs to be taken. This may include some form of disciplinary action or third-party referral such as the police.
- 7.6 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 as part of the investigation process. If you are a Council employee, and the investigating officer has invited you to attend a meeting, you will have the right to be accompanied. This should be a representative of a recognised trade union, or a work colleague who is not involved in the area of work to which the concern relates.
- 7.7 The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise on the procedure.
- 7.8 We will keep a confidential record of your concern. This will be held in accordance with relevant data protection legislation.
- 7.9 Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.

8 Confidentiality

- 8.1 Wherever possible the London Borough of Merton seeks to respect the confidentiality and anonymity of the Whistleblower and will as far as possible protect you from reprisals. The Council will do its best to protect your identity when you raise a concern and do not want your name disclosed. However, it must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence in criminal proceedings or Employment Tribunals.
- 8.2 The Council will endeavour to ensure your identity will not be disclosed to third parties without a court order.

- 8.3 Where the procedure allows a matter to be taken outside the Council, you should not disclose confidential information unless the information relates to the matter under investigation and until the internal procedures have been exhausted. No confidential information shall be disclosed externally in a frivolous or vexatious manner.

9 Support for Employees

- 9.1 It is recognised that raising concerns can be difficult and stressful. Advice and Support is available via an employee's line manager, Departmental Human Resources or Trade Union representative. It must be recognised that employees who are subject to investigation following concerns being raised will also be entitled to support from the same sources, although not from the same individuals.
- 9.2 The Council provides Employee Assistance Programme (EAP) for members of staff which can provide support including regarding employment issues, consumer rights. Contact details are a free 24 Hour Confidential Helpline: 0800 030 5182. Information can be found at <https://healthassuredeap.co.uk/>. The login is **Merton** and the password is **EAP**.
- 9.3 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 9.4 Help will be provided to you in order to minimise any difficulties which you may experience. This may include advice on giving evidence if needed. Meetings may, if necessary be arranged off-site with you and with you being represented, if you so wish.
- 9.5 If you believe that you have suffered a detriment for having raised a concern, you should report this.
- 9.6 If you are not satisfied with the action taken by the Council and feel its right to question the matter further may consider the following possible contact points:
- External Auditor
 - the employee's Trade Union
 - the Citizens Advice Bureau and / or law centre / firm
 - relevant professional bodies or regulatory organisations
 - the Local Government Ombudsman
 - the Information Commissioner
 - a relevant voluntary organisation
 - the Police and/ or Health and Safety Executive

10 How the matter can be taken further

- 10.1 If you have raised your concern, but feel this has not been resolved or you feel the matter is so serious or sensitive that you cannot discuss it with your line managers please contact one of the following: -

- **Chief Executive** 020 8545 3332
 - **Head of Internal Audit** 020 8545 3149
 - **Monitoring Officer** 020 8545 3338
 - **Interim Head of HR** 020 8545 3152
 - **Chair of the Standards and General Purposes Committee** (contact democratic services on 020 8545 3864)
-
- If your concerns involve potential fraud or criminal activities the Councils Fraud hotline 020 8871 8383 or email swlfp@richmondandswandsworth.gov.uk

10.2 You may prefer to raise the matter in person, by telephone or in written form marked private and confidential and addressed to one of the above named individuals. All matters will be treated in strict confidence and anonymity will be respected wherever possible

11 Referral outside the Council

11.1 In exceptional circumstances you may consider the matter too serious or sensitive to raise within the internal environment of the Council. In this instance, depending on the nature of the concern, the matter could be directed to the police or local MP (contact through directory enquiries or local telephone directory).

11.2 The Comptroller and Auditor General is a prescribed person, to whom external persons can make disclosures relating to “the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services”. Their Whistleblowing hotline **020 7798 7999**

11.3 The Act does not require the C&AG to investigate every disclosure s/he receives; their decision whether or not to investigate is based upon various criteria designed to ensure the most effective use of the resources at their disposal in safeguarding the public interest.

The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London SW1W 9SP

11.4 The councils external auditor is Ernst & Young:- <http://ey.com>

Ernst & Young
1 More London Place
London SE1 2AF
Tel: 020 7951 2000

11.5 The Local Government Ombudsman can also be contacted, they will not however, take any action until the allegation has been dealt with internally first. They can be contacted at: - <http://www.lgo.org.uk/>

Telephone the LGO Advice Team on 0300 061 0614 or Text ‘call back’ to 0762 481 1595.

11.6 Further information may be obtained from the following:

Citizens Advice Bureau <https://www.citizensadvice.org.uk/about-us/contact-us/>
The Information Commissioner <http://www.ico.gov.uk/>
Health and Safety Executive <http://www.hse.gov.uk/>
Care Quality Commission <http://www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-public>
Ofsted (Whistleblowing hotline) 0300 123 3155 whistleblowing@ofsted.gov.uk

12 Communication, Recording, Monitoring and Review of Whistleblowing

12.1 This policy will be communicated as appropriate and will be subject to regular monitoring and review.

12.2 The Monitoring Officer will maintain a Corporate Register containing all concerns that are brought to their attention. This register will include details of who raised the concern/s (if available), the department the concerns relate to, a brief summary of the concern/s, conclusion of the investigation, any action taken and any other relevant information. The Monitoring Officer will report the number of whistleblowing cases received and a summary of the outcome to the Audit Committee on an annual basis.

13 In Summary

DO

- Make an immediate note of your concerns
 - a) Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of the parties involved.
 - b) Note any documentary evidence that may exist to support your claim but do not interfere with this evidence.
- Report your concerns
 - a) to your line manager or
 - b) to those listed above in 10.1
- Deal with the matter quickly. Any delay could allow the problem to continue and escalate and evidence to disappear
- Think about risks and outcomes before you act
- Follow the guidance provided and contact the appropriate officer

DON'T

- Do nothing and let it go unreported
- Be afraid of raising concerns
- Approach and accuse individuals directly
- Try and investigate the matter yourself
- Convey your suspicions to anyone except those of the proper authority as set out in our policy.
- Use the whistleblowing procedure to pursue a personal grievance

IF IN DOUBT – RAISE IT!