

LONDON BOROUGH OF MERTON

WHISTLEBLOWING POLICY

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London Borough of Merton's

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 have 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 financial malpractice, 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, to 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. If something is troubling you, which you think we should know about, or look into, please use this procedure. If, however, you are aggrieved about your personal position, please use the Grievance Procedure. This Whistle Blowing procedure is primarily for concerns where the interests of others or of the Council are at risk.

2. Introduction

- 2.1. The London Borough of Merton seeks to ensure that all of its activities are conducted to a high standard and with integrity. In the event that employees or members of the public become aware of activities that give cause for concern, the following Whistleblowing policy, or code of practice, will be followed. This policy acts as a framework to allow concerns to be raised confidentially and provides for a thorough and appropriate investigation of the matter to bring it to a satisfactory conclusion.
- 2.2. Throughout this policy the term *Whistleblower* denotes the person raising the concern or making the complaint.
- 2.3. The London Borough of Merton is committed to tackling fraud and other forms of malpractice and treats these issues seriously.

- 2.4. The London Borough of Merton recognises that some concerns may be extremely sensitive. It has therefore, developed a system that allows for the confidential raising of concerns within the Council environment but also has recourse to an external party outside the management structure of the Council.
- 2.5. The London Borough of Merton is committed to creating a climate of trust and openness. A person who has a genuine concern or suspicion can raise the matter with full confidence that it will be appropriately considered.

3. Purpose of this policy

3.1. The purpose is as follows:

- To encourage the Whistleblower to feel confident in raising concerns.
- To provide the Whistleblower with a confidential method of raising concerns and receive feedback on any action taken.
- To enable people to confidentially raise concerns within the Council environment
- To ensure the Whistleblower receives a response to their concerns and if not satisfied they are aware of how to pursue them.
- To reassure the Whistleblower they will be protected from reprisals or victimisation for Whistleblowing in good faith.

4. Scope

- 4.1. Members of the public, Members, Council employees including schools, contractors and partners are covered by this policy.
- 4.2. The policy applies to contractors working for the Council on Council premises, for example, agency staff, builders or drivers. It also covers any suppliers and those providing services under a contract or in partnership with the Council in their own premises.
- 4.3. This policy is in addition to the Council's Complaints, Grievance and Dignity at Work procedures, and other statutory reporting procedures that may apply to some sections.
- 4.4. This policy is not part of the disciplinary procedures, although disciplinary action may result from the use of this policy.

5. What types of activity would Whistleblowing apply to?

- 5.1. The type of activity or behaviour that the Council considers should be dealt with under this policy includes:
 - 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.
 - Dangerous procedures risking Health and Safety, including risk to the public as well as other employees.
 - Services that fall below approved standards or practice.

- Sexual or physical abuse of clients, or
- Other unethical conduct, including deliberate concealment of information relating to the above.
- Damage to the environment.
- The unauthorised use of public funds
- Conduct which is a criminal offence or a breach of law.
- Disclosures related to miscarriages of justice.
- Involves possible fraud or corruption.

6. Raising unfounded malicious concerns

- 6.1. Individuals 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.

7. Harassment or Victimisation

- 7.1 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 7.2 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.
- 7.3 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 in good faith.

8. Principles

- 8.1. The following important principles are contained within this policy:
- a) The policy is complementary to the Council's Code of Conduct for employees, Code of Conduct for members and the Standards Committee procedures relating to Member complaints;
 - b) The Chief Executive has overall responsibility for the maintenance and operation of this policy;
 - c) It contains the provisions that are required from the Public Interest Disclosure Act 1998, and requirements under the common law "duty of care", e.g., to:
 - Draw attention to any matter considered damaging to the interest of service users, carers or colleagues,
 - Put forward suggestions which may improve quality of service,
 - Correct any statutory omission,
 - Prevent malpractice;

- d) That the Council is committed to tackling malpractice and that employees know that any matter regarding malpractice and other illegal acts will be dealt with seriously;
- e) A trade union representative or a work colleague who does not work in the area under investigation may accompany an employee as an observer either whilst the employee is making an allegation or is being investigated as a result of an allegation;
- f) If a matter raised results in any disciplinary action, the Council's disciplinary procedure will apply.

9. What protection has the *Whistleblower* got?

- 9.1 The Public Interest Disclosure Act 1998, has given protection to Whistleblowers, from victimisation and dismissal. This Act has both the support employers' organisations and Trade Unions.
- 9.2 The Council will not tolerate any harassment or victimisation (including informal pressures).
- 9.3 Under the Act, the Whistleblower will be required to resolve their concerns directly with the Council. Employees will be protected from victimisation if in the last resort they have to take their concerns to an outside body.
- 9.4 A disclosure will be protected if the Whistleblower has an honest and reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur. The Whistleblower will also be protected if they make their disclosures to an external body as long as they honestly and reasonably believe that the allegations are substantially true.
- 9.5. If appropriate, for members of staff, the Council's Dignity at Work procedure will apply to those who carry out unacceptable behaviour. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary, grievance, capability or redundancy procedures.

10. Support to Employees

- 10.1. 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.
- 10.2. Employees can also discuss their concerns with Public Concern at Work www.pcaaw.co.uk or telephone 0207404 6609.
- 10.3. 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.

- 10.3. 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.
- 10.5. An employee who is not satisfied with the action taken by the Council and feels it right to question the matter further may consider the following possible contact points:
- the Council's Monitoring Officer
 - Internal Audit and/or the District 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

11. Confidentiality

- 11.1 Wherever possible the London Borough of Merton seeks to respect the confidentiality and anonymity of the *Whistleblower* and will as far as possible protect him/her from reprisals. The Council will do its best to protect the Whistleblowers identity when they raise a concern and do not want their name disclosed. However, it must be appreciated that the investigation process may reveal the source of the information and a statement by the Whistleblower may be required as part of the evidence in criminal proceedings or Employment Tribunals.
- 11.2. The Council will endeavour to ensure the whistleblower's identity will not be disclosed to third parties without a court order.
- 11.3. The Council will not tolerate any attempt to victimise the *Whistleblower* or attempts to prevent concerns being raised and will consider any necessary disciplinary or corrective action appropriate to the circumstances.
- 11.4. The confidentiality of service users will not be compromised as employees have a duty in law and within their professional codes of conduct to maintain this.
- 11.5. Where the procedure allows a matter to be taken outside the Council, the Whistleblower 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.

12. Anonymous allegations

- 12.1. This policy encourages the *Whistleblower* to give their name when making an allegation. Concerns expressed anonymously are usually much less powerful, but they will be considered at the discretion of the investigating officers.
- 12.2. In exercising the discretion, the factors to be taken into account would include:
- the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.
 - the evidence base.

13. What action should the *Whistleblower* take?

13.1. The London Borough of Merton encourages the *Whistleblower* 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.

13.2. As a first step employees should normally raise concerns with their line manager or the line managers manager. If the circumstances make contacting a line manager not appropriate then the following officers can be contacted. Members of the public should also contact one of the following officers: -

Chief Executive	0208 545 3332
Leader of the Council	0208 545 3365
Head of Audit and Support	0208 545 3454
Head of Civic and Legal Services. (Monitoring Officer)	0208 545 3338
Head of Human Resources	0208 545 3370

13.3. The *Whistleblower* 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.

13.4. 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.

13.5. If staff need advice and guidance on how matters of concern may be pursued, this can be obtained from Departmental HR Managers or Internal Audit.

13.6. Because of the difficulty of raising a concern, a trade union or work colleague may raise the matter on behalf of the *Whistleblower*, or accompany the *Whistleblower* when making the allegation.

13.7. Employees who are not in a formal line management relationship because of their employment relationship, e.g., agency staff or contractors, should first discuss their concerns with a relevant colleague or manager within the service.

14. How will the Council respond?

14.1. The individual who receives the information or allegation will assemble the information made available to them. The details of the allegation is then immediately passed on to Internal Audit in order that it can be included on the central register. An appropriate investigating officer is then appointed. 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, Internal Audit, 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.

14.2. 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.

14.3. The Whistleblower (if known) will be informed that an investigation is being undertaken and (if appropriate), the action taken to address the matter. The Council will write to the Whistleblower acknowledging that the concern has been received and the name of the investigating officer.

14.4. The amount of contact between the officers considering the issues and the Whistleblower 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 the Whistleblower as part of the investigation process. If the Whistleblower is a Council employee, and the investigating officer has invited him/her to attend a meeting, he/she 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.

14.5. The Council will take steps to minimise any difficulties that the Whistleblower may experience as a result of raising a concern. For instance, if the Whistleblower is required to give evidence in criminal or disciplinary proceedings, the Council will advise on the procedure.

14.6. The Council accepts that the Whistleblower needs to be assured that the matter has been properly addressed. Subject to legal constraints, the Whistleblower will receive information about the outcomes of any investigations and the action that is to be taken against those whose actions caused concern. Also, if appropriate, what changes are to be made to monitor procedures to ensure that a similar concern is not raised in the future.

14.6. A central register of all Whistleblowing allegations will be held by the Internal Audit Section, this register will record the nature of the allegation and the action taken.

- 14.7. Whistleblowing allegations will be reported to the Audit Committee, so that they can ensure that the appropriate action has been taken in investigating the matter (the Whistleblowers identity will remain confidential).
- 14.8. If the Whistleblower is dissatisfied with the conduct of the investigation or outcome of the matter or has genuine concerns that the matter has not been handled appropriately, the concerns should be raised with the investigating officer(s) and/or directed to the Chief Executive or appropriate nominated officer.

15. How the matter can be taken further

- 15.1. This policy is intended to provide the Whistleblower with a way in which concerns can be raised and resolved within the Council.
- 15.2. In exceptional circumstances the Whistleblower 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).
- 15.3. Alternatively the Council's external auditors can be contacted at:-

Audit Commission,
1st Floor, Millbank Tower,
Millbank, London, SW1 4HQ
Millbank reception telephone: 0844 798 1212

Audit Commission - Dedicated Whistleblowing Line: 0845 0522 646

- 15.4. 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: -

The Local Government Ombudsman,
The Oaks No 2,
Westwood Way,
Westwood Business Park
Coventry.
CR4 8JB

Telephone. 024 7682 0000
Email: enquiries.coventry@lgo.org.uk

- 15.5. In addition, information and advice can be obtained from the charity Public Concern at Work. This charity provides free advice for employees who wish to express concerns about fraud or other serious malpractice. They can be contacted at:-

Public Concern at Work
Suite 301
16 Baldwins Gardens
London EC1N 7RJ

Telephone number: 0207 404 6609, E mail: whistle@pcaw.co.uk

16. Relationship with other employee procedures

- 16.1. The Whistleblowing Policy is not designed to replace the Grievance or Dignity at Work Procedures because it exists for clearly defined reasons.
- 16.2. An issue considered under the Whistleblowing Policy may lead to action under the Council's Disciplinary Procedure and/or action by the Council's Internal Audit Section and the police.
- 16.3. The Council's Code of Conduct outlines the approach employees must take regarding contact with the media. It is particularly important that disclosures are not made directly to the media but are initially directed through the Whistleblowing Policy if appropriate. Failure to do this may expose vulnerable clients to public view and may expose the employee to disciplinary action.

17. Conclusion

- 17.1 Existing good practice within the Council in terms of its systems of internal control both financial and non-financial and the external regulatory environment in which the Council operates ensures that cases of suspected fraud or impropriety rarely occur. This Whistleblowing policy is provided as a reference document to establish a framework within which issues can be raised confidentially internally and if necessary outside the management structure of the Council. This document is a public commitment that concerns are taken seriously and will be actioned.

18. 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 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 11.2
- 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
- Don't 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