

WHISTLEBLOWING

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WHISTLEBLOWING

BACKGROUND

The Government's paper on an ethical framework for local government proposed that every local authority should institute a procedure for whistleblowing, which would enable workers to raise concerns about malpractice confidentially inside and, if necessary, outside the organisation. In line with these proposals, the Council designed a whistleblowing policy based on guidance from the Local Government Board (LGMB) and this was agreed by Personnel Sub Committee on 10 November 1998. The Council's whistleblowing policy is kept under review to ensure it complies with relevant guidance and best practice.

The Whistleblowing Policy is set out in full on page 3 with additional Guidance for Managers on page 7. Key points from the Policy are listed below together with information on the Public Interest Disclosure Act which provides protection for whistleblowers.

SUMMARY OF WHISTLEBLOWING POLICY

- Where a worker has concerns about malpractice (and it is not appropriate to raise them through other procedures) they should be raised with:
 - either (a) The worker's line manager
 - or failing that (b) The line manager's manager (grandparent role) or the director
 - 2nd step (c) Head of Audit and Risk Management, Human Resources or Head of Legal Services
 - 3rd step (d) Members
 - final step (e) an external organisation - i.e. Grant Thornton. This is the Council's independently appointed External Auditor and can be contacted at the following email address paul.dossett@gtuk.com.
- The Council will provide a written response to the whistleblower, assuming the referral is not made anonymously, within ten days indicating how it proposes to deal with the concerns raised.
- The Council will seek to protect the worker's identity when they raise a concern and do not want their name to be disclosed. However, during the investigation the source of the information may be revealed and individuals may be required to provide a statement.
- The Council will not tolerate harassment or victimisation and will take action to protect a worker raising a concern in good faith.

- Investigations conducted under this Policy will follow the same process as the Disciplinary Procedures for investigating cases of misconduct/gross misconduct .
- If employees make an allegation which they believe to be genuine but is then not proven, no action will be taken against them. However, employees who maliciously raise an unfounded concern may have disciplinary action taken against them.

PUBLIC INTEREST DISCLOSURE ACT Protection for Whistleblowers

Under the Public Interest Disclosure Act 1998, a worker will have the right not to suffer detriment or be unfairly dismissed as the result of speaking out about crime, fraud, miscarriages of justice, dangers to health and safety, breaches of civil service code or risks to the environment.

The Whistleblower must reasonably believe that one of the conditions that constitutes a qualifying disclosure is occurring, and must make the disclosure in good faith and not for personal gain.

A qualifying disclosure means any disclosure of information which in the reasonable belief of the worker making the disclosure tends to show one or more of the following:

- that a criminal offence has been committed, is being committed, or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health or safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged.

If workers wish to raise the matter externally rather than internally, they will be protected only if they can show that they are not motivated by personal gain and that they reasonably believe the information they are giving is true.

If victimised by their employers, whistleblowers can bring a claim to an employment tribunal for compensation. Awards will be uncapped and based on the losses suffered. Gagging clauses in employment contracts and severance agreements will be void.

WHISTLEBLOWING POLICY

INTRODUCTION

Workers of the Council have an important role in helping the organisation to promote good practice while providing a service to the community and protecting its vulnerable clients.

Workers are usually the first to know when something is going seriously wrong - be it a serious danger to the public or a major fraud. All too often the alarm is not sounded on malpractice. The result is that the people in charge do not get the chance to take action before real damage is done.

Whistleblowing policies aim to ensure that serious concerns are properly raised and addressed in the workplace and are increasingly recognised as a key tool to deliver good practice. It is essential for Haringey that a whistleblowing policy/procedure is in place and well publicised so all staff are aware of what is required of them.

We must ensure that the code meets the requirements of the Council's equality policies and is not misused in any way to discriminate against minority groups.

1. Who it applies to

This policy applies to all Council workers which includes senior and junior members of staff. The following sections set out what you should do and how the council will respond in cases which are referred under this policy.

2. How you identify matters of concern

That concern may be something that:-

- is unlawful
- is against the Council's standing orders or policies
- falls below established standards or practice
- amounts to improper conduct
- involves clients or the public being put in danger
- involves funds being stolen or wasted.

This is not an exhaustive list and you should speak to your manager, or contact one of the people or organisations listed below, if you need further advice.

3. How to raise your concern

Where you have concerns about malpractice and it is not appropriate to raise them through other procedures such as grievance procedures, they should be raised with:-

either (a) your line manager
or failing that (b) the line manager's manager (grandparent role) or the director

2nd step (c) the Head of Audit and Risk Management, Human Resources, or the Head of Legal Services

3rd step (d) Members

- final step e) an external organisation - Grant Thornton. This is the Council's independently appointed External Auditor and can be contacted at the following email address paul.dossett@gtuk.com

The decision to raise concerns with the managers listed above, will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you believe that management is involved, you could approach any of the following: the Head of Legal Services, the Head of Audit and Risk Management, Human Resources or Grant Thorntons, the Council's external Auditors.

4. How the Council will respond

Within ten days of a concern being raised the responsible person will:-

- Assess the complaint and identify the most effective process to use to investigate the allegations raised.
- Notify the Head of Audit and Risk Management that a complaint has been raised to ensure it is recorded properly in accordance with this policy.
- write to the person raising the complaint, assuming that the referral has not been made anonymously, to acknowledge their complaint
- indicate how they propose to deal with the matter raised
- give an estimate of how long it will take to provide a final response
- provide individuals with information on staff support mechanisms.

There are existing procedures in place to enable individuals to lodge a grievance relating to their own employment. A grievance should be seen as a direct concern to individuals whilst whistleblowing concerns the wider organisation.

This Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures These include:-

- conduct which is an offence or a breach of law
- health and safety risks, including risks to the public as well as other employees
- the unauthorised use of public funds
- possible fraud and corruption
- damages to the environment
- sexual or physical abuse of clients
- other unethical conduct.

5. Investigating the case

Following an allegation, where appropriate, an independent and impartial manager will be involved in the investigation.

Managers will make sure that the investigation is carried out as quickly and as thoroughly as possible.

Once an investigation commences, every effort will be made to bring it to an early conclusion.

To conduct an investigation under the Whistleblowing Policy, managers will follow the same process as the Disciplinary Procedures for investigating cases of misconduct/gross misconduct.

An investigation may conclude that, potentially, there has been a breach of the Council's Code of Conduct and Disciplinary Rules. In these circumstances, management would invoke the disciplinary process.

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.

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.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the progress and outcome of any investigation.

6. The responsible officer

The Head of Legal Services, (Monitoring Officer), has overall responsibility for the maintenance and operation of this policy. The Head of Audit and Risk Management will maintain a record of concerns raised and the outcomes (but in a form which does not breach your confidentiality) and will report as necessary to the Council

7. How the matter can be taken further

This policy 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, the following are possible contact points:

- Grant Thornton – The Council's External Auditors
- your trade union
- your local Citizens Advice Bureau
- the District Auditor
- the Police.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

8. Protection for Whistleblowers - Confidentiality

The Council will seek to protect an individual's identity when they raise a concern and do not want their name to be disclosed. However, during the investigation the source of the information may be revealed and the individual may be required to provide a statement.

9. Untrue Allegations

If you make an allegation which you think is genuine but is not proven, no action will be taken against you. If, however, you maliciously raise an unfounded concern, then disciplinary action may be taken against you.

10. Anonymous Allegations

The policy encourages individuals to put their name to their allegations. However, it is understood that some people may wish to remain anonymous. Concerns expressed in this way are much less powerful, but will be considered, at the discretion of the Council.

In exercising the discretion the factors to be taken into account would include: the seriousness of the issues raised, and the credibility of the concern.

11. Victimisation

The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.

If you do receive reprisals from those responsible for the malpractice or any other member of staff, they may be disciplined under the Council's procedures.

12. Contracting Organisations

These arrangements will be extended, with appropriate variations, to staff of contracting organisations. Such arrangements will be carefully confined to those areas of activity relating specifically to contractors' relationships with the Council and should not extend to contractors' internal arrangements.

It is necessary for all involved in the process, i.e. Council staff, whistleblowers and anyone accused of malpractice, for whistleblowing to be dealt with properly, quickly and discreetly to make the process efficient, fair and effective.

WHISTLEBLOWING - GUIDANCE NOTES FOR MANAGERS

WHAT IS WHISTLEBLOWING

Whistleblowing is when a worker discloses, i.e. 'blows the whistle' on, any wrongdoings such as fraud, malpractice, mismanagement, breach of any health and safety law or any other illegal act, either on the part of management or by fellow workers.

It often happens when:-

- i) workers have tried to complain through internal channels and have failed
- ii) the organisation's culture persuades workers that complaints will be ignored
- iii) the person committing malpractice is the worker's direct boss and/or at the top of the organisation, so again workers feel to complain directly would be useless and result in victimisation.

Management Responsibility

When workers discover something is wrong they should be encouraged to report the malpractice. This gives managers the chance to correct any malpractice before the issue escalates.

Managers must try to ensure that workers who make a complaint have confidence that:

- a) it is going to be properly investigated and addressed
- b) they will suffer no detriment as a result of speaking out.

N.B Victimising or deterring workers from raising legitimate concerns is a serious disciplinary offence. Whistleblowers are also afforded protection under the Public Interest Disclosure Act (see page 2).

Managers must have respect for the confidentiality of workers raising concerns if they (the workers) so wish. However, workers should be made aware that during the investigation the source of the information may need to be revealed and the individual may be required to provide a statement.

In all cases where an employee uses the Council's Whistleblowing policy to raise their concerns, the person receiving the concern must notify the Head of Audit and Risk Management. They are the Council's nominated officer for recording any Whistleblowing referrals and are required to maintain a log, which ensures confidentiality, and provide periodic information on the use of the Whistleblowing policy.

Internal reporting mechanisms for dealing with whistleblowing complaints

As a first step, individuals should normally raise concerns with their line manager or their manager's manager (grandparent role) or the Director. Secondly, if for example they believe management is involved, they should approach the Head of Legal Services, Human Resources, or the Head of Audit and Risk Management. The next step should be to Members and finally to an external agency (see below).

Depending on the seriousness of the allegation and who is suspected of the malpractice, individuals may wish to report directly to the Head of Legal Services or Members.

It must be emphasised that, before deciding on using external mechanisms, a final request to the Head of Legal Services or members should be encouraged.

If whistleblowers fear that their employer will bring retribution, they can make a wider disclosure to the police, the media or MPs.

External Reporting Mechanisms

If individuals do not feel confident using the internal reporting channels they should contact **Grant Thornton**, an external organisation who are the Council's independently appointed External Auditor and can be contacted via email at paul.dossett@gtuk.com.