

Harrow Council

Whistleblowing Procedure

Policy Statement

The Council is committed to the highest possible standards of conduct, openness, honesty and accountability and takes seriously any issues of malpractice or wrongdoing. Workers are often the first to realise there may be something seriously wrong within the workplace and the Council expects workers who have serious concerns about any aspect of the Council's work to come forward and voice those concerns and to feel supported when doing so.

The Public Interest Disclosure Act 1998 (PIDA) protects workers who 'blow the whistle' about malpractice or wrongdoing within an organisation. This Act makes provision on the kinds of disclosures which may be protected, the circumstances in which such disclosures are protected and persons who may be protected.

1. Who is covered by the Policy?

This policy and procedure applies to all Council employees, permanent and temporary, agency workers, contractors and their staff and Elected Members. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes. The term "worker" within this document is used to describe any of the above.

This policy does not form part of an employee's contract of employment.

Schools

This policy and procedure is strongly recommended for adoption by School Governing bodies, following consultation with their staff. Governing bodies are urged to adhere to the principles outlined within this policy and procedure.

Where this policy and procedure makes reference to a manager, in schools this normally will be the Head Teacher.

2. Why do we need a Policy?

This policy and procedure is intended to encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem or feeling the need to “blow the whistle” outside.

This policy and procedure aims to:

- encourage workers to feel confident in raising serious genuine concerns and to question and act upon concerns;
- provide avenues for workers to raise those concerns and receive feedback on any action taken;
- encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem or taking it outside of the organisation.
- ensure that workers are aware of how to pursue concerns if they are not satisfied with the action taken;
- reassure workers in the strongest terms that they will be protected from possible reprisals or victimisation, by either the organisation or individual co-workers, for Whistleblowing in accordance with this procedure.
- ensure for consistency and fairness in dealing with Whistleblowing across the council.

It is recognised that cases may have to proceed on a confidential basis.

3. What is covered by this Policy?

The PIDA and this Policy provide protection for a worker who makes a qualifying disclosure. This means any disclosure of information which, in the reasonable belief of the worker making the disclosure **is made in the public interest and** 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 s/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, or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged; or
- that information tending to show the matter falling within any one of the above has been, is being or is likely to be deliberately concealed.

Although not covered by PIDA, it should be noted that Council employees have a duty to report to the authority any impropriety, breach of procedure or failure of the manner in which services are being provided without fear of recrimination (see Code of Conduct 2.3).

For the avoidance of doubt, this includes a duty to report a suspected breach of the Council's Constitution (including Contract Procedure Rules and Financial Regulations). The Financial Regulations require Council employees to report financial impropriety to Internal Audit/Corporate Anti Fraud Team.

Issues not covered in the above list will be dealt with in one of the ways outlined in Section 8.5 below.

This Policy and Procedure applies to disclosures about matters other than a breach of an employee's own contract of employment. Any concerns that an employee may have that his/ her own contract has been, or is likely to be, broken should be raised using the Council's Dignity At Work Procedure.

Council employees can seek guidance and advice on how to pursue matters of concern from Human Resources & Development.

4. Safeguards against Harassment or Victimisation

The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action, within its power, to protect workers when a concern is raised. Workers who suffer harassment or victimisation should inform the individual with whom they raised their initial concern.

Workers raising an issue, which they reasonably believe to be in the public interest, as set out in Section 4 and in accordance with the PIDA, are protected from harassment, victimisation or any other detrimental treatment, even if their disclosure of any wrongdoing or malpractice is not substantiated after investigation.

Victimisation of a worker for raising a concern under this Policy and Procedure will be a disciplinary offence.

PROCEDURE FOR RAISING A CONCERN

See Appendix 1

5. How to Raise a Concern

- Concerns may be raised orally or in writing.
- The worker needs to ensure that the person with whom they raise the concern is fully aware that they are using this procedure.
- Harrow employees may wish to discuss their concern in confidence with their Trade Union/Professional Association representative or work colleague and/or invite their trade union/Professional Association representative or work colleague to be present during any meetings or interviews in connection with the concerns raised. Individuals may also wish to contact a statutory body such as the General Medical Council (GMC) or the Nursing and Midwifery Council (NMC).
- Harrow employees can seek guidance or advice on how to pursue matters of concern from Human Resources and advice/support may also be sought from a Trade Union/Professional association Representative or a statutory body such as the General Medical Council (GMC) or Nursing and Midwifery Council (NMC).

- The earlier the concern is raised the easier it is to take action.
- It will be helpful to provide the background and history of the concern (giving relevant dates, names & locations), the reasons for the particular concern about the situation and details of evidence / witnesses.
- Harrow employees may seek assistance with preparing this information from HR or Trade Union/Professional Association representative.

6. To whom do I Report my concerns?

Concerns should normally be raised with a Senior Council Officer, for employees this would normally be their immediate manager.

Council employees

Council employees who do not wish to raise the issue with their manager because of the nature, seriousness or sensitivity of the issues involved, can raise their concerns with their Director, or go direct to the Director of Finance (151 Officer) or the Director of Legal and Governance Services (Monitoring Officer).

Schools

In the case of schools if the concern relates to the Headteacher, this should be referred to the Chair of the Governing Body.

Council Members

Where Council Members have concerns they may wish to first discuss matters with their Group Leader, but this does not discharge the responsibility to report serious matters urgently to either to the relevant Director or the Director of Legal and Governance Services.

For guidance on raising concerns outside the Council, see Section 9 below.

7. How the Council will Respond

- 8.1 Within 5 working days, the person with whom the concern was raised will acknowledge its receipt in writing, irrespective of how the concern was raised.
- 8.2 Where the concern has been raised with a manager, (s)he together with an HR Adviser (or other relevant representative eg from Audit or Child Protection Unit) will decide whether the matter needs to be referred to a more senior officer e.g. Director, Director of Finance (151 Officer), Director of Legal and Governance Services (Monitoring Officer), Chief Executive, Head Teacher, Chair of Governors.
- 8.3 Investigation does not imply either acceptance or rejection of an individual's concerns
- 8.4 The initial enquiry will be undertaken, wherever possible within 10 working days, by the most appropriate Officer(s). This will not involve a detailed investigation,

however, sufficient information will need to be gathered in order that a decision can be made as to whether further investigation will take place.

8.5 Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process
- be referred to the police
- be referred to the external auditor or other external investigation
- form the subject of an independent inquiry
- be investigated under another procedure e.g. child/adult protection
- be investigated under other forms of prosecution and inspection e.g. to protect public health and safety

8.6 In order to protect individuals and those accused of misdeeds or possible malpractice or wrongdoing, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. 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.

8.7 Within fifteen working days of a concern being raised, the person with whom the concern has been raised will write to the individual who raised the matter:

- indicating how they propose to deal with the matter
- giving an estimate of how long it will take to provide a final response
- informing them whether any initial enquiries have been made
- supplying them with information on staff support mechanisms, and
- informing them whether further investigations will take place and who will conduct that investigation, or
- explaining the reasons why no investigation is to be carried out.

8.8 It may be necessary, as part of the investigation, to obtain additional information from the individual who raised the concern.

8.9 The investigation may need to be carried out under the terms of strict confidentiality i.e. by not informing the subject of the concern until (or if) it becomes necessary to do so. This may be appropriate in cases of suspected fraud.

8.10 The Council accepts that individuals who raise a concern need to know that the matter has been properly addressed. Thus, subject to legal constraints, the worker will be given feedback on any action taken. However, it will not include information relating to specific individuals, which will remain confidential.

8. How the Matter can be taken Further

This policy and procedure is intended to provide workers with an avenue within the Council to raise concerns. The Council hopes workers will be satisfied with any action taken. If not, and they feel it is right to take the matter outside the Council, the matter can be raised with the relevant organisation(s) as listed in Appendix 2.

There may be circumstances where a worker considers that (s)he needs to raise the matter externally. This may be because, for example, there is a need to involve the appropriate external regulatory body, or the worker considers that the matter has not been properly addressed, or that a worker reasonably believes that the matter will be covered up.

If a worker is unsure whether or how to raise a concern or wants confidential advice, contact can be made with the independent charity Public Concern at Work on 020 7404 6609 or at helpline@pcaw.co.uk. Their lawyers can provide free confidential advice on how to raise a concern about serious malpractice or wrongdoing at work.

Further information can also be obtained from the website of the employment service, ACAS (the Advisory, Conciliation and Arbitration Service) at www.acas.org.uk.

In circumstances where a worker decides to raise the matter externally, (s)he will only be protected under this procedure, and under employment law, where the disclosure is made in accordance with the PIDA. This means that the disclosure must fall under one of the categories listed in paragraph 4 above and must be made in one of the following ways:

- a) in the course of obtaining legal advice
- b) to a prescribed regulatory body (listed in Appendix 2) provided the worker reasonably believes the prescribed body is responsible for the matter of concern and that the allegations are substantially true;
- c) to other third parties where the worker makes the disclosure;
 - with reasonable belief that the information and allegations are substantially true, and
 - does not make the disclosure for personal gain, and
 - has already raised the matter with the Council or prescribed regulator, unless the worker reasonably believes that (s)he will suffer a detriment, or there is not prescribed regulator and (s)he reasonable believes that evidence will be concealed or destroyed if (s)he makes the initial disclosure to the Council, and
 - in all of the circumstances it is reasonable to make the disclosure.
- d) The disclosure is of an exceptionally serious nature and the whistleblower makes the disclosure:
 - with reasonable belief that the information and allegations are substantially true, and
 - does not make the disclosure for personal gain, and
 - in all of the circumstances it is reasonable to make the disclosure.

Council employees who wish to take the matter outside the Council should check with their Trade Union/Professional Association Representative, Human Resources or statutory body that they are not in breach of the Council's Code of Conduct.

Council employees should not, in any circumstances, approach the media/press.

9. Support for Workers raising a Concern and others affected by the Raising of a concern

- The Council is committed to good practice and high standards and wants to be supportive of individuals who raise concerns.
- The Council will also support individuals affected by the raising of a concern as appropriate.
- Council employees experiencing stress as a result of their involvement in this process can seek counselling and support through the Council's Employee Assistance Programme.
- Council employees can also approach their Trade Union or a statutory body such as the General Medical Council (GMC) or Nursing and Midwifery Council (NMC) for advice/support throughout the procedure.
- Council employees may also approach their Employee Support Group for support throughout the procedure.
- The employee may find it helpful to involve his or her manager, particularly if they can identify specific support that would be helpful and which the manager feels are reasonable.
- The Council will take steps to minimise any difficulties which individuals may experience as a result of raising a concern, eg if they are required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure and, if necessary, be fully prepared for a Court appearance.
- Where the raising of a concern affects a group of staff, the relevant manager will, having made an assessment, take appropriate action to support the workgroup.

10. Confidentiality

If a worker raises an issue, every effort will be made not to reveal their identity. It must be recognised, however, that in order to investigate the matter, information must be obtained and/or other workers questioned, therefore total confidentiality cannot be guaranteed. If criminal proceedings require that information is passed on it may become necessary to reveal the worker's identity. In such situations the worker will be consulted before this action is taken, however, the Council will endeavour to maintain confidentiality whenever possible. Any Trade Union representative or work colleague supporting the worker must maintain confidentiality.

11. Anonymous Allegations

Where a concern is raised anonymously, these will be considered at the discretion of the Council taking into account the seriousness of the issues raised; the credibility of the concern; and the likelihood of confirming the allegation from attributable sources.

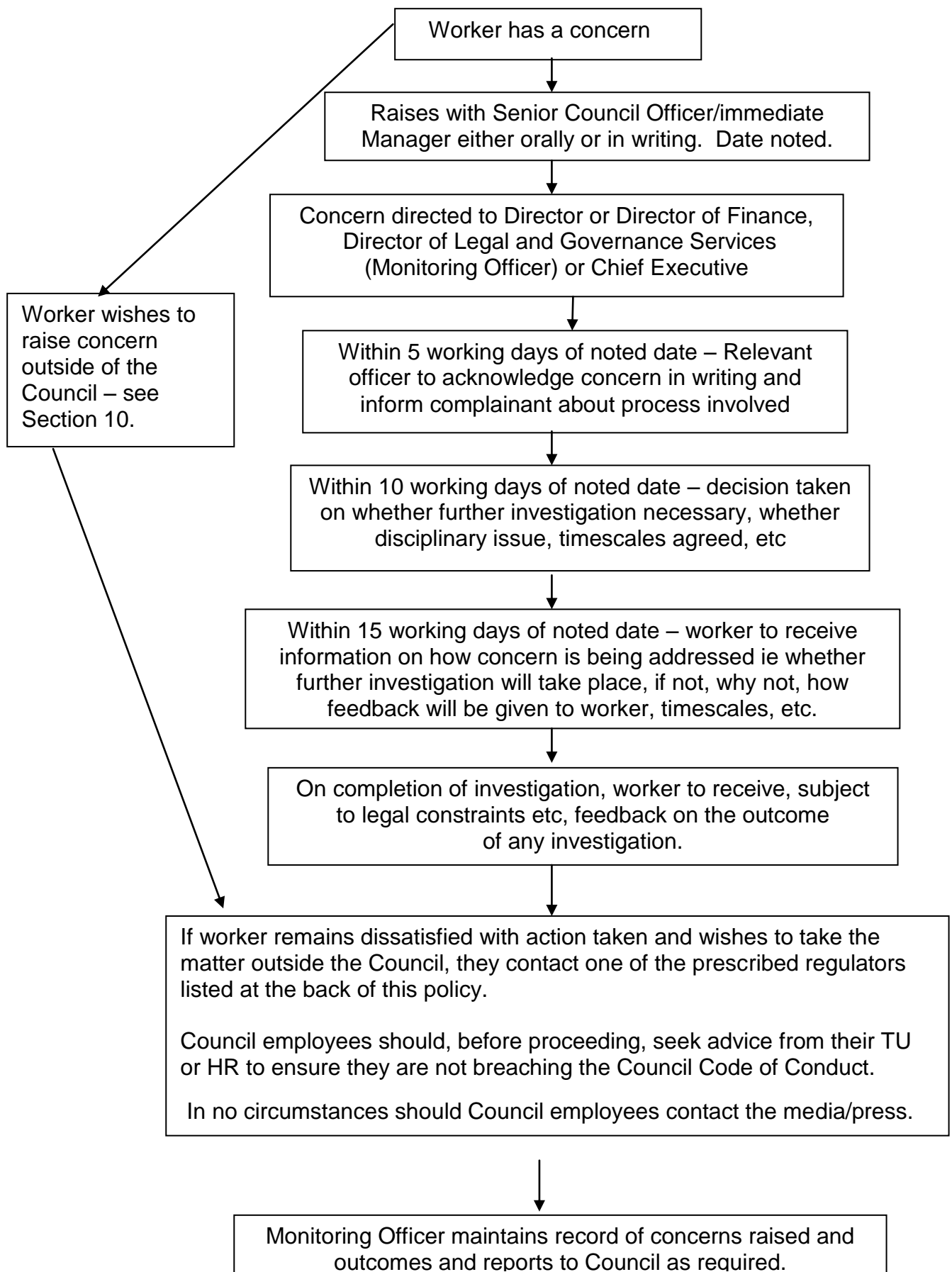
12. Untrue Allegations

This Policy and Procedure must not be misused for making false allegations in which the worker has no reasonable belief. The Council will treat abuse of the Whistleblowing procedure extremely seriously. The Council reserves the right to take appropriate action against the whistleblower if they are found to be acting maliciously.

13. The Responsible Officer

The Director of Legal and Governance Services who is the Council's Monitoring Officer, has overall responsibility for the maintenance and operation of this policy and procedure. This officer maintains a record of concerns raised and the outcomes and will report as necessary to the Council (but in a form which does not endanger confidentiality). All concerns raised through this policy and procedure should be reported to the Monitoring Officer by the manager with whom the concern was originally raised.

APPENDIX 1



APPENDIX 2

This is an edited list of the Prescribed Regulators for England, Scotland and Wales. The full list is available on the Public Concern at Work website

<http://www.pcaw.org.uk/files/prescribedengscotwales.doc>

Prescribed Regulator	Matters in respect of which regulator is prescribed
<p>The Charity Commission Charity Commission Direct PO Box 1227 Liverpool L69 3UG Tel: 0845 300 0218 www.charity-commission.gov.uk</p>	<p>The proper administration of charities and of funds given or held for charitable purposes.</p>
<p>Independent Police Complaints Commission 90 High Holborn London WC1V 6BH Tel: 08453 002 002 www.ipcc.gov.uk</p>	<p>Matters relating to the conduct of a person serving with the police (as defined in section 12(7) of the Police reform Act 2002) or of any other person in relation to whose conduct the Independent Police Complaints Commission exercises functions in or under any legislation.</p>
<p>The competent authority under Part IV of the Financial Services and Markets Act 2000 London Stock Exchange 10 Paternoster Square London, EC4M 7LS Tel: 020 7797 1000</p>	<p>The listing of securities on a stock exchange; prospectuses on offers of transferable securities to the public</p>
<p>Care Quality Commission 103-105 Bunhill Row London EC1Y 8TG Tel: 020 7448 9200 03000 61 61 61 enquiries@cqc.org.uk www.cqc.org.uk</p>	<p>Regulator for hospitals, care homes, dental and GP surgeries, and all other care services in England provide people with safe, effective, compassionate and high-quality care</p>

<p>The Commissioners for Her Majesty's Revenue and Customs Cross Cutting Policy Room 1E/04 1 Parliament Street London SW1A 2BQ Freephone: 0900 595 000 Free fax: 0800 523 0506 E-mail: customs.confidential@hmrc.gov.uk</p>	<p>Value added tax, insurance premium tax, excise duties and landfill tax. The import and export of prohibited or restricted goods. Income tax, corporation tax, capital gains tax, petroleum revenue tax, inheritance tax, stamp duties, national insurance contributions, statutory maternity pay, statutory sick pay, tax credits, child benefits, collection of student loans and the enforcement of the national minimum wage.</p>
<p>Controller and Auditor General of the National Audit Office 157-197 Buckingham Palace Road Victoria London SW1W 9SP Tel: 020 7798 7000 www.nao.gov.uk</p>	<p>The proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally funded public services.</p>
<p>Director General of Water Services Office of Water Services Centre City Tower 7 Hill Street Birmingham B5 4UA Tel: 0121 644 7500 Fax: 0121 644 7559 www.ofwat.gov.uk</p>	<p>The supply of water and the provision of sewerage services.</p>
<p>The Director of the Serious Fraud Office Elm House 10- 16 Elm Street London WC1X 0BJ Tel: 020 7239 7272 Fax: 020 7837 1689 SFO confidential: 020 7239 7388 www.sfo.gov.uk</p>	<p>Serious or complex fraud.</p>
<p>The Environment Agency Rio House Waterside Drive Aztec West Almondsbury Bristol BS12 4UD Tel: 0800 807060 (24 hour line) or enquiries 03708 506 506 www.environment-agency.gov.uk</p>	<p>Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment including those relating to pollution, abstraction of water, flooding, the flow of rivers, inland fisheries and migratory salmon or trout.</p>

<p>Food Standards Agency Aviation House 125 Kingsway, London WC2B 6NH Tel: 020 7276 8000 Emergencies only: 020 7270 8960 www.food.gov.uk</p>	<p>Matters which may affect the health of any member of the public in relation to the consumption of food and other matters concerning the protection of the interests of consumers in relation to food.</p>
<p>Health and Care Professions Council Park House, 184 Kennington Park Road, London, SE11 4BU 44 (0)845 300 6184* www.hpc-uk.org</p>	<p>Regulator for social workers, biomedical scientists, chiropodists / podiatrists, clinical scientists, dietitians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists / orthotists, radiographers, in England and speech and language therapists.</p>
<p>Health and Safety Executive Caerphilly Business Park Caerphilly South Wales CF83 3GG Tel: 0845 300 9923 www.hse.gov.uk/workers/whistleblowing</p>	<p>Matters which may affect the health or safety of any individual at work; matters which may affect the health and safety of any member of the public arising out of, or in connection with, the activities of persons at work.</p>
<p>Tenant Services Authority Referrals and Regulatory Enquiries Team 2nd Floor Lateral 8 City Walk Leeds LS11 9AT Tel: 0845 230 7000</p>	<p>The registration and operation of registered social landlords, including their administration of public and private funds and management of their housing stock.</p>
<p>Local Authorities (The local authority which under section 18 of the Health and Safety at Work etc Act 1974 is responsible for the enforcement of the relevant statutory provisions)</p>	<p>Matters which may affect the health or safety of any individual at work; matters which may affect the health and safety of any member of the public arising out of, or in connection with, the activities of persons at work.</p>
<p>Information Commissioner The Office of the Information Commissioner Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Tel: 01625 545745 Fax: 01625 524510 E-mail: mail@ico.gsi.gov.uk www.informationcommissioner.gov.uk</p>	<p>Compliance with the requirements of legislation relating to data protection and to freedom of information*. (*Data protection legislation regulates the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information) (*Freedom of information legislation provides for the disclosure by public authorities of the information that they hold).</p>

<p>Social Care and Social Work Improvement Scotland Compass House 1 Riverside Drive Dundee DD1 4NY Tel: 0845 600 9527 Email: enquiries@ncsc.gsi.gov.uk</p>	<p>Matters relating to the provision of regulated care services, as defined in the Regulation of Care (Scotland) Act 2000.</p>
<p>The Pensions Regulator Napier House Trafalgar Place Brighton BN1 4DW Tel: 0845 600 0707 Fax: 0870 2411144 www.thepensionsregulator.gov.uk</p>	<p>Matters relating to occupational pension schemes and other private pension arrangements.</p>
<p>Standards Board for England 11th Floor Portland Tower 53 Portland Street Manchester M1 3LF Tel: 0161 212 7000 www.standardsboard.co.uk NOTE: The Standards Board for England's Regulatory role is anticipated to cease operation from 31st January 2012. From that date existing referrals and/or open investigations will be passed to the relevant local authority.</p>	<p>Breaches by a member or co-opted member of a relevant authority (as defined in section 49(6) of the Local Government Act 2000) of that authority's code of conduct.</p>
<p>HM Treasury 1 Horse Guards Row London SW1A 2HQ Tel: 020 7270 5000 public.enquiries@hm-treasury.gov.uk www.hm-treasury.gov.uk</p>	<p>The carrying on of insurance business.</p>
<p>Secretary of State for Business, Innovation and Skills Companies Investigation Branch Department of Business, Innovation and Skills 1 Victoria Street London SW1H 0ET Tel: 020 7215 5000</p>	<p>Fraud and other misconduct in relation to companies, investment business, insurance business, or multi-level marketing schemes (and similar trading schemes); insider dealing.</p>

LOCAL AUTHORITIES WHICH HAVE RESPONSIBILITY FOR ENFORCEMENT OF CONSUMER PROTECTION LEGISLATION	Compliance with the requirements of consumer protection legislation.
Local authorities which are responsible for the enforcement of food standards	Compliance with the requirements of food safety legislation.