

## Whistleblowing Policy and Procedure

### 1. Introduction

- 1.1 If you have concerns about something that is happening at work which you think could be unlawful conduct, financial malpractice or be dangerous to the public or the environment, it is important that you know what you can do to bring it to the Council's attention. Further details on the type of issues that would be considered under this policy are disclosed below. This policy is designed to provide guidance to all those who work with or within Sutton Council (hereafter referred to as 'the Council') who may from time to time feel that they need to raise such issues relating to the organisation with someone in confidence.
- 1.2 The Council is committed to achieving the highest possible standards of service and ethical standards in public life. It encourages a free and open culture in dealings between Councillors, employees and all people with whom it engages in business and legal relations. In particular, this organisation recognises that effective and honest communication is essential if concerns about breaches or failures are to be effectively dealt with and the Council's success in providing services to its residents and clients is ensured.
- 1.3 Workers who in the public interest raise genuine concerns under this policy will not under any circumstances be subjected to any form of detriment or disadvantage (also see paragraph 4.7) as a result of having raised their concerns. The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern.
- 1.4 While the Council hopes that such disclosures will never be necessary, it also recognises that it may find itself in circumstances which are new to it. Each case will be treated on its own facts.
- 1.5 This policy is not intended to cover concerns that can be progressed through other procedures for dealing with employment related or other complaints including:-
  - Grievance Resolution and Dignity at Work Policy
  - Council complaints procedure (for use by members of the public)
  - Routine reporting on Health and Safety matters.

### 2. Scope

- 2.1 This policy will apply in cases where workers genuinely believe that one of the following sets of circumstances is occurring, has occurred or may occur within the Council that:

- a) a criminal offence has been committed, is being committed or is likely to be committed
- b) a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject
- c) a miscarriage of justice has occurred, is occurring or is likely to occur
- d) the health and safety of any individual has been, is being or is likely to be endangered
- e) the environment has been, is being or is likely to be damaged
- f) information tending to show any matter falling within any one of the preceding paragraphs has been is being or is likely to be deliberately concealed. i.e. any attempts to cover up the above or any offence likely to be committed

2.2 Examples can include but are not exclusively limited to:

- Child protection issues
- Conduct which is a potential offence or breach of law
- Risks to health and safety
- Unauthorised use of public funds
- Financial malpractice, fraud and corruption
- Abuse of clients.

2.3 Disclosures concerning Fraud and Bribery can be made using this policy, but it is normal practice that they are reported separately to the Head of Internal Audit or the Council's Monitoring Officer.

2.4 There is no need for a worker to prove that the breach or failure that they are alleging has occurred or is likely to occur; a reasonable suspicion will suffice, i.e. where the worker reasonably believes that the information disclosed is substantially true. Workers should, however, note that they are not entitled to make a disclosure if in so doing they commit a criminal offence.

### 3. **How to raise a Whistleblowing Concern**

3.1 If workers wish to raise or discuss any issues which might fall into one of the categories listed in paragraph 2.1, they should contact the Head of Internal Audit or the Council's Monitoring Officer (if you are using e-mail, you can report through the 'Whistleblowing' address on the Council's e-mail system). This person will, insofar as is possible, treat the matter in confidence.

3.2 Employees should set out the background of the concern, giving names, dates, times and places where possible, and the reason why they are particularly concerned about the situation so this can be registered. If an employee feels that they are not able to raise the concern in writing, they may

raise the matter with the Head of Internal Audit orally or the Council's Monitoring Officer.

- 3.3 We recognise that you may want to raise a concern in confidence. If you ask us to protect your identity, we will not disclose it without informing you. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.

#### 4. **Next Steps**

- 4.1 The Council will treat all anonymous allegations seriously, but a concern expressed anonymously is much less powerful and workers are encouraged to always put their name to a disclosure. It can prove difficult to investigate where all the facts are not known or further information is required and the person cannot be contacted to provide further details. Accordingly, while we will consider anonymous reports, it will not be possible to apply all aspects of this policy for concerns that are raised anonymously and for this reason it may only be possible for the Council to conduct a limited investigation.
- 4.2 Within ten working days of a concern being received, where the identity of the employee is known, the Council will write to the employee:
- acknowledging that the concern has been received;
  - indicating how it proposes to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;
  - telling the worker whether any initial enquiries have been made, and
  - telling the worker whether further investigations will take place, and if not, why not.
- 4.3 It is likely that an investigation will be necessary and the employee or worker who has made the disclosure may be required to attend an investigatory hearing and/or a disciplinary hearing (as a witness). Appropriate steps will be taken to ensure that the worker's working relationships are not prejudiced by the fact of the disclosure and action taken, where possible, against those that are responsible for detrimental treatment.
- 4.4 If a worker reasonably believes that the relevant failure (i.e. one of the set of circumstances listed above under paragraph 2.1) relates to a concern that is wholly or mainly outside of the legal responsibility of the Council, then they should seek advice on the appropriate body to make the disclosure to.
- 4.5 Free independent advice on all aspects of whistleblowing is available from the charity Public Concern at Work ([www.pcaw.org.uk](http://www.pcaw.org.uk)) on 020 7404 6609. They can provide free, confidential advice at any stage about how to raise a concern about serious malpractice at work.

4.6 Workers should be aware that the policy and procedure will apply where they reasonably believe that the information disclosed and any allegations contained in it are substantially true. If any disclosure is made in bad faith (for

instance, in order to cause disruption within the organisation such as solely due to personal antagonism towards the subject of the disclosure), or concerns information which employees do not substantially believe is true, or indeed if the disclosure is made for personal gain, then such a disclosure will constitute a disciplinary offence for the purposes of the organisation's disciplinary policy and procedures and may constitute gross misconduct for which summary dismissal is the sanction.

4.7 A worker who makes a disclosure is protected from detrimental treatment by the organisation, by a co-worker or by an agent of the organisation. An employer is vicariously liable for detrimental treatment. If this occurs, it should be raised immediately with the line manager so that the matter can be investigated thoroughly without undue delay. Detrimental treatment includes, for example, harassment and bullying or not complying with a person's rights and entitlements under their contract of employment.

4.8 A worker is also protected from dismissal by the organisation for making a protected disclosure. There is no qualifying period for an unfair dismissal claim to be made to an employment tribunal. A worker can only tell the prescribed person or body if they think their employer:

- will cover it up
- would treat them unfairly if they complained
- hasn't sorted it out and they've already told them.

Disclosures made to workers' legal advisors in the course of obtaining legal advice will be protected.

(a list of prescribed person or bodies can be found via the following link:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies> )

## 5. Review

5.1 The policy complies with the Public Interest Disclosure Act 1998; however it will be reviewed periodically in line with changes in legislation and/or in the light of practice.

## 6. Further Information

6.1 If you have any queries generally about the policy, you may raise them with your line manager or HR Business Partner or more specifically in confidence with the Head of Internal Audit or the Council's Monitoring Officer.

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Not Protectively

take part, take pride