

LONDON BOROUGH OF MERTON

WHISTLEBLOWING POLICY



March 2016

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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 with 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, 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 Whistleblowing procedure is primarily for concerns where the interests of others or of the Council are at risk.
- 1.6 The Council has an Anti-Fraud and Corruption Strategy and an Anti-Money Laundering Policy. These are available on the Council's website. Where a concern relates to an employee or Member of the Council failing to comply with the Anti-Money Laundering Policy this concern can be raised in accordance with this Whistleblowing Policy. The Anti-Fraud and Corruption Strategy sets out the ways in which the Council prevents, detects and investigates fraud and corruption. A concern about fraud and corruption can also be raised through in accordance with this Whistleblowing Policy.

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 The London Borough of Merton is committed to tackling fraud and other forms of malpractice and treats these issues seriously.
- 2.3 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.
- 2.4 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 the policy

- 3.1 The purpose is as follows:
 - To encourage you to feel confident in raising concerns.
 - To provide the you with a confidential method of 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.

4 Scope

- 4.1 Council employees including schools, agency staff, trainees, apprentices, volunteers, consultants and interim managers, or any self employed staff employed on council business.
- 4.2 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.
- 4.3 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.
- 4.5 This policy is not designed to be used for allegations that fall within the scope of other procedures (for example child or vulnerable adult protection) which will normally be referred for consideration under those procedures, unless there is good reason to believe that the procedure is not being followed or will not be followed effectively.

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

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.
- Corruption, bribery or blackmail
- 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 financial irregularity
- Failure to comply with legal or regularity duty or obligation..

6 Raising unfounded malicious concerns

6.1 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.

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.

8 Main 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 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) If a matter raised results in any disciplinary action, the Council's disciplinary procedure will apply.

9 What protection have you got?

- 9.1 The Public Interest Disclosure Act 1998 has given protection to Whistleblowers from victimisation and dismissal. This Act has both the support of employers' organisations and Trade Unions.
- 9.2 The Council will not tolerate any harassment or victimisation (including informal pressures).
- 9.3 Under the Act, you will be required to resolve your concerns directly with the Council and will be protected from victimisation if in the last resort you have to take your concerns to an outside body.
- 9.4 A disclosure will be protected if you have an honest and reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur. You will also be protected if you make your 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 for 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. The Council provides Employee Assistance Programme (EAP) for members of staff which can provide support including regarding employment issues, consumer rights. This service is free to employees and is available 24 hours a day, 7 days a week, 365 days a year. Contact details are available on the intranet at: <http://intranet/staffcounsellingservice>.
- 10.2 Employees can also discuss their concerns with Public Concern at Work. <http://www.pcaw.org.uk> or telephone 020 7404 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.
- 10.4 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.
- 10.5 If you believe that you have suffered a detriment for having raised a concern, you should report this.
- 10.6 If you are not satisfied with the action taken by the Council and feel it's 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

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 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.
- 11.2 The Council will endeavour to ensure your identity will not be disclosed to third parties without a court order.
- 11.3 The Council will not tolerate any attempt to victimise you 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, 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.

12 Anonymous allegations

- 12.1 This policy encourages you to give your 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 *you* take?

- 13.1 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.
- 13.2 As a first step you should normally raise concerns with your line manager or the line manager's manager.

- 13.3 If the circumstances make contacting a line manager not appropriate then you can use the Whistleblowing Hotline 020 8871 8383.
- 13.4 The following officers can be contacted: -
- **Chief Executive** 020 8545 3332
 - **Leader of the Council** 020 8545 3424
 - **Head of Audit** 020 8545 3149
 - **South West London Fraud Partnership hotline** 020 8871 8383
 - **Assistant Director Corporate Governance (Monitoring Officer)** 020 8545 3338 / 3163
 - **Head of Human Resources** 020 8545 3370
 - **Chair of the General Purposes Committee** (contact democratic services on 020 8545 3864)
- 13.5 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.
- 13.6 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.
- 13.7 If you need advice and guidance on how matters of concern may be pursued, this can be obtained from Departmental HR Managers, or the Audit service.
- 13.8 Because of the difficulty of raising a concern, a trade union or work colleague may raise the matter on behalf of you, or accompany you when making the allegation.
- 13.9 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.

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 are then immediately passed on to the Internal Audit service in order that it can be included on the central Whistleblowing register.
- 14.2 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 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.

- 14.3 Fraud allegations will be passed to the South West London Fraud Partnership to carry out the investigation.
- 14.4 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.
- 14.5 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.
- 14.6 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.
- 14.7 A central register of all Whistleblowing allegations will be held by the Audit service, this register will record the nature of the allegation and the action taken.
- 14.8 Whistleblowing allegations are reported annually to the General Purposes Committee, so that they can ensure that the appropriate action has been taken in investigating the matter (your identity will remain confidential).
- 14.9 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.
- 14.10 Subject to legal constraints, you will be informed of the outcome of the investigation however you will not be provided with specific details of any proposed disciplinary action, as these will remain confidential to the individual(s) concerned.
- 14.11 If you are dissatisfied with the conduct of the investigation or outcome of the matter or have genuine concerns that the matter has not been handled appropriately, or feel you have suffered a detriment for raising the concern,

you should report this to the Chief Executive or appropriate nominated officer. You are entitled to independent advice on this.

15 How the matter can be taken further

- 15.1 This policy is intended to provide you with a way in which concerns can be raised and resolved within the Council.
- 15.2 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).

The NAO is a 'prescribed person' under the Public Interest Disclosure Act 1998 and provides a confidential public interest disclosure line for employees of councils where they are unable, or unwilling, to report internally. Their Whistleblowing hotline **020 7798 7999**

Or write to:

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

The councils external auditor is Ernst & Young
<http://www.ey.com/UK/en/Home/>

- 15.3 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 0845 602 1983

The Local Government Ombudsman
PO Box 4771
Coventry CV4 0EH

- 15.4 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
<http://www.pcaw.org.uk/>
Whistleblowing Advice Line: 020 7404 6609 e mail: whistle@pcaw.co.uk

Public Concern at Work
CAN Mezzanine
7-14 Great Dover Street
London SE1 4YR

Further information may be obtained from the following:

Citizens Advice Bureau <http://www.citizensadvice.org.uk/>

The Information Commissioner <http://www.ico.gov.uk/>

Health and Safety Executive <http://www.hse.gov.uk/>

Care Quality Commission 020 7448 9200

Ofsted (Whistleblowing hotline) 0300 123 3155

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 Audit service, SWLFP or 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.

Mediation and dispute resolution

If we believe that the issues relate more to conflicts or trust between managers and employees or other staff members, we will give consideration at the earliest opportunity, to the use of mediators or officers from another service in an attempt to resolve these conflicts, rebuild trust or support staff who have raised concerns.

Accountability

Everyone should expect to be held accountable for adopting fair, honest and open behaviours and practices when raising, receiving and handling concerns.

Individuals and service areas will be accountable for:

- poor practice in relation to encouraging the raising of concerns and responding to them
- the victimisation of staff for making public interest disclosures
- raising false concerns in bad faith or for personal benefit
- acting with disrespect or other unreasonable behaviour when raising or responding to concerns

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 13.4
- 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!

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