

PART 9 – WHISTLEBLOWING POLICY

1. Introduction

The Council is committed to tackling unlawful acts including fraud, corruption, unethical conduct and malpractice regardless of who commits them, or where in the Council they are committed. In this way the Council ensures that its services are used in the best interests of the local community.

The Council aims to ensure that anyone wishing to raise a concern feels confident in the process under this policy. This policy is designed to allow you to raise a concern without fear of reprisals or victimisation, if your disclosure is made in good faith.

To encourage and enable you to do this the Council will ensure that anyone who uses this policy to raise a concern will be protected from any form of detriment, harassment or victimisation regardless of:

- (a) the content of the concern you raise
- (b) with whom you raise the concern, and
- (c) whatever the outcome of raising the concern.

The Whistleblowing Policy provides an opportunity for your concern to be dealt with internally, after all that is where the solutions will be found, or through an agreed external body.

There is always a temptation to take a concern directly to the media, but this does not necessarily mean that the issues raised are appropriately addressed and often fails to protect innocent parties. You should remember that you have a duty of confidence to your employer and that unauthorised disclosure of information maybe a disciplinary offence. Please refer to paragraph 15 below.

The best advice before you decide on what action to take is to seek the advice of one of the specialist whistleblowing teams.

2. What is covered by whistleblowing?

A concern can relate to any unethical or unprofessional conduct within the Council, including malpractice, and abuse. The policy not only covers acts that have actually occurred but also potentially unethical or unprofessional conduct.

The person making the disclosure must do so in the reasonable belief that it shows one or more of the following:

- A criminal offence has been committed, is being committed, or is likely to be committed;
- A person has failed, is failing, or is likely to fail to comply with any legal obligation to which she/he is subject;
- A miscarriage of justice has occurred, is occurring, or is likely to occur;

- Acts or potential acts of fraud and corruption or the misuse of public funds;
- The health and safety of any individual (employee or member of the public) has been, is being, or is likely to be endangered;
- The environment has been, is being or is likely to be damaged
- Actual or potential acts of all forms of discrimination;
- The actual or possible abuse (sexual or physical) of clients in the Council's care;
- Actual or potential acts of harassment or bullying of, or by, someone working for the Council;
- Any unethical conduct that causes concern or brings the reputation of the Council into disrepute;
- The deliberate concealment of information that would indicate any of the above;
- Information tending to show any matter falling within any one of these points has been, is being, or is likely to be concealed.

If you are in any doubt as to whether or not to raise a concern then confidential advice can be sought from HR Services or your trade union representative.

Note: If, when disclosing a concern you commit a criminal offence, for example accepting a bribe and or acts of corruption, you may lose your rights to protection from detriment. Further advice can be sought from one of the specialist teams.

3. **Who is covered by the whistleblowing procedure?**

The Public Interest Disclosure Act 1998 will protect workers who disclose information in the correct manner from dismissal or penalisation. "Workers" include individuals who are:

- employees employed under a contract of employment;
- employed under any other contract, under which they perform personally any work or services;
- agency workers; or
- undertaking work experience as part of a training course.

4. **How am I protected?**

Under the Public Interest Disclosure Act, to qualify for protection for disclosure the Worker must:

- be acting in good faith;
- have reasonable grounds for believing that the information disclosed indicates the existence of one of the problems itemised in section 2 above.

5. **Confidentiality**

The Council accepts that wherever possible the confidentiality of anyone wishing to raise a concern will be protected. There might however be occasions where your confidentiality cannot be protected, for example, where there is the involvement of the police.

If there is any possibility that your confidentiality cannot be protected you will be told of the reasons and offered appropriate advice and support.

6. **Raising a concern**

You are encouraged to raise a concern provided that:

- you have reasonable belief that the information you hold, or the allegation is accurate; and
- you make the disclosure in good faith

Under no circumstances should you investigate your concern yourself.

7. **Anonymously raised concerns**

Concerns expressed anonymously will be investigated on the basis of their merits. However, an investigation may be hampered by the inability to gain further information and the Council would encourage you to provide some method of contacting you to assist in the investigation.

8. **Misuse of the Whistleblowing Policy**

Raising a concern with malicious intent or for personal gain or the gain of others is not acceptable and may lead to disciplinary action under the Council's Disciplinary Policy. If in any doubt employees should contact the relevant whistleblowing officer.

9. **Who can concerns be raised about?**

You can raise a concern about the practice of anyone who undertakes work for, or on behalf of, the Council, including:

- employees of the Council;
- contractors;
- Councillors;
- volunteers; and
- school-based staff.

In a school you would normally raise a concern with your direct line manager. If this was inappropriate then your Headteacher or Chair of Governors should be contacted, who may involve the nominated whistleblowing officer. Medway Council has a legal responsibility to deal with any issues raised under the

Whistleblowing Policy, regardless of the type of school you work in, be it controlled, aided or foundation. If it was not appropriate for a school-based whistleblower to raise a concern with the Headteacher or Chair of Governors then they should contact the Head of Human Resources (Schools).

10. **How to raise a concern**

No matter with whom you raise your concern it will be dealt with under this procedure. If the person with whom you raise the concern feels it necessary they may want to refer your concern on to either a specialist team or a more senior Council officer, whichever is appropriate. If this is the case you will be contacted first and have the opportunity to discuss any issues this may raise.

As a first point of contact

A concern would normally be raised initially with your line manager or supervisor. However this may not always be possible, dependent on the nature of the concern and who is involved.

Alternatively

If you feel unable to raise the matter with your line manager or supervisor you may wish to contact your Director of service or the Director of the service to which your concerns relate (if different) or

You may wish to refer your concern directly to one of the Council’s specialist teams as listed below. Contact details are attached as appendix one.

Specialist team	Area of speciality
Financial/Audit team	Concerns regarding fraud, corruption or misappropriation of Council assets or resources.
Adult and Community issues	Issues about the care and welfare of adults and community issues eg issues concerning the conduct of care staff, housing etc.
Children	Issues relating to the care and welfare of children eg the use of school funds (may overlap with the Financial / Audit team)
Human Resources	Concerns relating to the conduct of employees in general and specific issues of discrimination, harassment etc.
Information Technology	Concerns relating to the misuse of information technology such as e-mail and the internet.

Specialist team	Area of speciality
Regeneration	Concerns relating to environmental issues, eg building control, planning etc
Monitoring Officer	Concerns relating to all matters affecting the Council
Trade Unions	Concerns relating to all matters affecting the Council.
Equalities Forums	Concerns relating to all matters affecting the Council (Black Workers Forum (BWF), Disabled Workers Forum (DWF) and Lesbian, Gay, Bisexual and Trans staff (LGBT) Forum).

All the units and service directors have received specialist training in dealing with concerns and will follow the procedure as laid out in this policy.

11. **What to consider when expressing a concern**

To enable your concerns to be dealt with in a proper and effective manner here are some guidelines for you to consider:

- Be as clear as possible about what the concern is and to whom and what it relates. You may also want to discuss the concern with others to see if it is shared.
- Be as clear as possible about who may be involved, when and where actions may have taken place. Please ensure the facts are recorded ie record the dates and times in a diary. This way you can be clear about what has actually been heard or seen and when, rather than rely on memory or hearsay.
- Ensure you ask for your concerns to be dealt with under this procedure.

12. **The procedure to be followed**

To ensure that all concerns raised are taken seriously and are fully investigated the Council has agreed a procedure to be followed in all cases.

If, at any stage of the procedure, you are asked or wish to meet with someone addressing the concerns you have raised you have the option to be accompanied by a work place colleague, trade union representative or representative from a professional body.

When you first raise a concern:

However you wish to express your concern, by telephone or in person, you will:

- receive an acknowledgement of your concerns within five working days of notifying the investigating person whom you have expressed the concern (this can be sent to your home address);
- the investigating person will then decide how to progress your concern. This may mean undertaking an investigation. This does not mean that the concern is either true or untrue, but will help to assess the gravity of the complaint and establish the facts. It could be possible that concerns raised may be the result of a misunderstanding or an authorised change in practice.

Within ten working days of making your concerns known you will either:

- (i) have a confidential meeting with the investigating person to further discuss your concerns or
- (ii) have received, in writing, an outline of how the investigating person intends to deal with the concerns raised.

Dependent on the nature of the concerns you may have subsequent meetings with the relevant investigating persons. These can be held “off-site” if preferred.

13. **The outcome of your concern**

Having raised the concern, the Council recognises that you will need to be assured that the issues have been dealt with correctly. You will be kept informed on a regular basis of what actions are being taken and the final results of any investigations.

In some situations, such as referrals to external bodies, it may not be appropriate (or legally possible) to supply you with the full information discovered. However the reasons for this will be explained at that time. All uses of the Whistleblowing Policy will be formally recorded and a register maintained.

14. **Taking your concern further**

If you have exhausted all these channels and you still have concerns, or feel that the issues have not been fully or appropriately addressed, you can contact the Chief Executive, or have him contacted on your behalf, to discuss your concern in confidence. At this point, you may also raise your concerns with elected members.

However you should not refer the matter outside the organisation without first ensuring that all other possible avenues have been exhausted.

Details of regulatory bodies can be found in Appendix two.

15. **Contacting the media**

If a worker is considering contacting the press, they are strongly advised to seek guidance from professional or other representative bodies and to discuss the matter where possible with line and professional managers. If you decide to proceed with contacting the media, you must inform the Chief Executive of the action you have taken or are proposing to take and the Chief Executive will brief Group Leaders on the matter.

Disclosures to the media can be made under the law, and will be protected if the following circumstances are met:

- The disclosure is made in good faith
- The employee reasonably believes the information and any allegations are substantially true
- The employee does not act for personal gain

Additionally, one or more of the following conditions must be met:

- The worker reasonably believes they would be subjected to a detriment if disclosure were made to the employer or prescribed person
- In the absence of an appropriate prescribed person, the worker reasonably believes a disclosure to their employer would result in the destruction or concealment of information about the wrongdoing
- The worker has previously disclosed substantially the same information to their employer or prescribed person
- It must be reasonable to make the disclosure

Please be aware that premature contact with the media, where none of the conditions above are met, may result in disciplinary action under the Council's Disciplinary Policy.

16. **Responsible officer**

The Chief Finance Officer needs to be informed of all fraudulent matters and will decide on the appropriate action. A report of instances of all uses of this Policy shall be provided to the Audit Committee. This report will not identify any parties using this policy, but is intended to monitor whistleblowing procedures.

Appendix one

Whistleblowing officers

The whistleblowing officers are as follows for issues relating to:

Children – issues relating to the care and welfare of children

Ralph Edwards, Head of HR Services (Schools) Tel (33) 1090

If you suspect a child is being neglected or abused please contact the local authority designated officer

Clare Wilkes Tel (33) 1229

Finance/audit – concerns about financial irregularity, fraud or corruption

Richard Humphrey, Audit Services Manager Tel (33) 2355

Adults and Community issues -issues about the care and welfare of adults and community issues

Ashley Davis, Visitor Information Centre Manager Tel (33) 8105

Genette Laws, Social Care Commissioning and Voluntary Sector Manager Tel (33) 1345

Human Resources – concerns about the conduct of employees including harassment, discrimination, bullying etc

Lizzie Hunt, HR Advice and Consultancy Manager Tel (33) 2337

Regeneration – concerns relating to environmental issues, eg building control, planning, green spaces etc

Joy Kirby, Business Quality Assurance Manager Tel (33) 1422

Information Technology – dealing with abuse of information systems, data protection issues, misuse of the internet or e-mail facilities

Moira Bragg, Corporate Projects Manager Tel (33) 2087

Monitoring Officer – concerns relating to all matters affecting the Council

Deborah Upton, Assistant Director, Housing and Corporate Services Tel (33) 2133

Trades Unions – see:

<http://connections.medway.gov.uk/index/yourcouncil/businesssupport/personnel/29008/29012/30091.htm>

Equalities Forums – see below:

Black Workers Forum - <http://connections.medway.gov.uk/index/yourcouncil/28156.htm>

Disabled Workers Forum - <http://connections.medway.gov.uk/index/yourcouncil/31902.htm>

LGBT Forum - <http://connections.medway.gov.uk/index/yourcouncil/37021.htm>

Appendix two

Regulatory and professional bodies

Health & Safety Executive www.hse.gov.uk
Tel. 0845 345 0055

Care Quality Commission www.cqc.org.uk
Tel. 03000 616161

Health Professions Council (HPC) www.hpc-uk.org
Tel 0800 328 4218

General Social Care Council www.gsccl.org.uk/
Tel 01788 532405

Nursing and Midwifery Council (NMC) www.nmc-uk.org
Tel 0207 333 9333

General Medical Council (GMC) www.gmc-uk.org
Tel 0161 923 6602

Audit Commission www.audit-commission.gov.uk
Tel. 0844 7983131

Local Government Ombudsman www.lgo.org.uk
Tel. 0300 061 0614

Information Commissioner's Office www.ico.gov.uk
Tel. 0303 123 1113

Equality and Human Rights Commission www.equalityhumanrights.com
Tel. 0845 604 6610

Ofsted www.ofsted.gov.uk
Tel. 0300 123 4666

Institution of Civil Engineers <http://www.ice.org.uk/homepage/index.asp>
Tel. 020 7222 7722