

Silence **is not**
always **golden**

CONFIDENTIAL
REPORTING
CODE
[Whistleblowing Policy]



PREAMBLE

- 1.1. The policy applies to all permanent and short-term employees of the Council. It also applies to secondees, external consultants, contractors and agency personnel working for the Council on Council premises. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes. It can also be used by members of the public wishing to raise concerns with the Council.
- 1.2. If you are employed in, working with or assisting Sandwell schools, a specific Schools Confidential Reporting Code exists for you because of the special relationship that exists with regard to Governing Bodies.
- 1.3. Employees are often the first to realise that there may be something seriously wrong within the Council. They may not, however, express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.4. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is anticipated that most cases will proceed on a confidential basis.
- 1.5. This policy document makes it clear that you can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem.
- 1.6. These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some services. All employees are responsible for making service users aware of the existence of these procedures.

[ILO: UNCLASSIFIED]

- 1.7. This policy has been discussed with the relevant trade unions and elected members and has their support.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1. This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for you to raise those concerns and receive feedback on any action taken;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

- 2.2. This Code is not intended to be used where other, more appropriate, procedures are available. If you are aggrieved about your personal position you will be directed to other Council policies. The Council's Grievance Toolkit covers both individual and collective grievances relating to complaints about an action or actions taken or contemplated to be taken by the employer in relation to the employee/s and covers any discrimination, harassment or bullying allegations raised by employees.

- 2.3. This Code is not intended to cover complaints of misconduct against Members. If you wish to discuss allegations of this nature please contact Mike Jones, Monitoring Officer, Service Director – Governance, Corporate Data Protection Officer.

- 2.4. Whilst complaints of the nature described in 2.2 and 2.3 may be initially received under the Confidential Reporting Code, they are very likely to be progressed under other more suitable procedures as indicated above.

- 2.5. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- Conduct which is an offence or a breach of law e.g. *negligence in service delivery or breach of contractual*

[ILO: UNCLASSIFIED]

requirements such as those in the employee code of conduct;

- Disclosures related to miscarriages of justice
e.g. false reporting or perjury;
- Health and safety risks, including risks to the public as well as other employees
e.g. failure to carry out risk assessments or mishandling of hazardous materials such as asbestos;
- Damage to the environment
e.g. inappropriate disposal or treatment of hazardous waste;
- The unauthorised use of public funds
e.g. private use of council vehicles;
- Possible fraud and corruption
e.g. false claims for overtime payments;
- Sexual or physical abuse of clients
e.g. violence in care homes; or
- Other unethical conduct
e.g. inappropriate receipts of gifts and hospitalities.

2.6. Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Policy. This may be about something that:

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the Council's Standing Orders, financial regulations and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct.
- Breaches LA or governing body procedures.
- Is in the Public interest.

2.7. This policy does not replace the corporate complaints procedure.

[ILO: UNCLASSIFIED]

3. SAFEGUARDS

- 3.1. The Council is committed to good practice and high standards and wants to be supportive of employees.
- 3.2. 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 are providing a service.
- 3.3. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.4. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. CONFIDENTIALITY

- 4.1. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5. ANONYMOUS ALLEGATIONS

- 5.1. This policy encourages you to put your name to your allegation whenever possible.
- 5.2. Concerns expressed anonymously are much less powerful but may be considered at the discretion of the Council.
- 5.3. In exercising this discretion the factors to be taken into account would include:
 - the seriousness of the issues raised;
 - the credibility of the concern;
 - the likelihood of confirming the allegation from attributable sources; and
 - whether the allegations are likely to have been made in good faith.

[ILO: UNCLASSIFIED]

6. UNTRUE ALLEGATIONS

- 6.1. If you make an allegation in the public interest, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. HOW TO RAISE A CONCERN

- 7.1 As a first step, you should normally raise concerns with your immediate manager or their superior. Not every concern raised with managers will be treated as a confidential disclosure under this Code. Some concerns will be investigated and dealt with by managers under alternative policies and procedures e.g. disciplinary matters will be dealt with under the disciplinary procedure. If an allegation is reported to a manager and treated as a confidential report under this Code, that manager should report details of the same to the Council's Monitoring Officer. A decision will then be taken as to who will investigate the complaint and, where the manager carries out such investigation, information will be provided to the Monitoring Officer of any action undertaken.
- 7.2 Where matters are reported depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Monitoring Officer: Mike Jones Service Director – Governance, Corporate Data Protection Officer. Routine concerns of employees, which arise in the performance of their day-to-day duties, may not be covered by the Code. However, where such concerns amount to substantive malpractice and/or inaction or "cover-up" by supervisors or managers, they will qualify for consideration under the Code.
- 7.3 Concerns may be raised verbally or in writing and staff are encouraged to use the form attached as Appendix 1.

You should also, as far as possible, provide evidence to support your concern.

[ILO: UNCLASSIFIED]

- 7.4 The earlier you express the concern the easier it is to take action.
- 7.5 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that the disclosure was made in the reasonable belief that it was in the public interest
- 7.6 Advice and guidance on how matters of concern may be pursued can be obtained from the Monitoring Officer, whose details are given in paragraph 7.2 above.
- 7.7 If you feel unable or do not wish to discuss your concerns with a council officer, you can contact a charity called “Public Concern at Work” which can provide free confidential advice on how an issue should be dealt with. Their telephone number is 0207 404 6609.
- 7.8 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 7.9 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

8. HOW THE COUNCIL WILL RESPOND

- 8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:
- Be investigated by management, internal audit, the Monitoring Officer or through existing council procedures such as the disciplinary process;
 - Be referred to the external auditor;
 - Form the subject of an independent inquiry.
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it

[ILO: UNCLASSIFIED]

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.

- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this may be taken before any investigation is conducted.
- 8.5 Within 10 working days of a concern being raised, your manager, the investigator or the Monitoring Officer will write to you:
- Acknowledging that the concern has been received;
 - Indicating how we propose to deal with the matter;
 - Giving an estimate of how long it will take to provide a final response;
 - Telling you whether any initial enquiries have been made;
 - Supplying you with information on staff support mechanisms; and
 - Telling you whether further investigations will take place and if not, why not.
- 8.6 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. However, the investigating officer will be expected to keep you, an appropriate line manager and the Monitoring Officer informed of the progress of the matter on a monthly basis. If it is necessary to seek further information from you the investigating officer will do so without delay.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 8.8 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 arrange for you to receive advice about the procedure.

[ILO: UNCLASSIFIED]

- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints and duties of confidentiality, we will inform you of the broad outcome of any investigation.
- 8.10 At the end of the investigation process a questionnaire will be forwarded to you to ask for feedback on the process and your role in the same. You are asked to complete the same in order to enable future revisions of the policy to be carried out effectively. A relevant manager will also be asked for such feedback.

9 THE RESPONSIBLE OFFICER

- 9.1 The Monitoring Officer has overall strategic responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes. The record is maintained in a form, which does not endanger the confidentiality of the person raising the concern or indeed that of any person against whom action is taken as a result of the concern being raised or relevant regulators. The Monitoring Officer will report as necessary to the Council in accordance with these principles on confidentiality.

10. HOW THE MATTER CAN BE TAKEN FURTHER

- 10.1 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:
- The designated independent organisation (Public Concern at Work – for details see paragraph 7.7 above);
 - The external auditor;
 - Your trade union;
 - Your local Citizens Advice Bureau;
 - Relevant professional bodies or regulatory organisations;
 - A relevant voluntary organisation;
 - The Police.

[ILO: UNCLASSIFIED]

10.2 Employees who are concerned about wrongdoing or failures can make disclosures to a person or body, which has been prescribed by the Secretary of State for the purpose of receiving disclosures about the matters concerned. An employee making such a disclosure should ensure that he or she:

- is able to show that the disclosure was made in the reasonable belief that it was in the public interest;
- reasonably believes that the information, and any allegation it contains, are substantially true; and
- reasonably believes that the matter falls within the description of matters for which the person or body has been prescribed (for example, breaches of health and safety regulations can be brought to the attention of the Health and Safety Executive or appropriate local authority, or environmental dangers can be notified to the Environment Agency). Again Public Concern at Work will be able to assist with details of the prescribed organisations and provide appropriate advice.

10.3 An employee who makes a disclosure about a relevant failure which is exceptionally serious will be protected if the employee:

- is able to show that the disclosure was made in the reasonable belief that it is in the public interest;
- reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and
- does not act for personal gain.

It must be reasonable for the employee to make the disclosure in view of all the circumstances, having regard in particular to the identity of the person to whom the disclosure is made.

Before making disclosures externally the employee must reasonably believe that the information shows one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

[ILO: UNCLASSIFIED]

- “• a criminal offence;
- the breach of a legal obligation;
 - a miscarriage of justice;
 - a danger to the health or safety of any individual;
 - damage to the environment;
 - deliberate covering up of information tending to show any of the above five matters.”

10.4 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. If necessary seek advice on this aspect.

[ILO: UNCLASSIFIED]