

Document History

Version	Date	Key changes made	Approved by
2.0	November 2023	Previous policy updated.	Head of Legal/s151 Officer
1.0	September 2022		Head of Legal

Whistle-blowing Policy

1. Introduction

1.1 This policy applies to all those who perform work for our Council:

- The Chief Executive Officer, Deputy Chief Executive Officer, Head of Legal and Monitoring Officer, Section 151 Officer and Heads of Service
- Full and part-time employees
- Contractors and sub-contractors
- Agency staff
- Work experience students, casual staff and other trainees including apprentices

(collectively known as “staff”).

1.2 The following arrangements set out our policy and procedures with regard to whistle-blowing in the workplace and provide protection to staff that make disclosures to the Council.

1.3 Whistle-blowing is the confidential disclosure by an individual of concern (as defined by this policy) relating to a perceived wrongdoing involving any aspect of the Council’s work or those who work for the Council. The whistle-blowing process assists individuals, who believe they have discovered malpractice, impropriety or wrongdoing, to raise a concern, in order that this can be addressed.

1.4 The wrongdoing disclosed must be in the public interest, as defined in the context of **Public Disclosure Act 1998** and the **Employment Rights Act 1996**. Therefore, the alleged wrongdoing must affect others, e.g. the general public.

1.5 Whistle-blowing is a critical element of our governance arrangements and is designed to allow staff to come forward and report disclosures and serious allegations of wrongdoing, involving the actions of the Council’s employees, its Councillors, contractors or any aspect of the Council’s activities. As such, the Council encourages all staff to report any concerns which they believe should be investigated.

1.6 This policy is fundamental to the professional integrity of the Council and reinforces the value that the Council places on staff to be honest and respected members of their individual professions.

1.7 The policy provides the Council with a mechanism to manage risk whilst offering whistle-blowers protection from victimisation, harassment, or disciplinary procedure.

- 1.8 The alleged wrongdoing disclosed must be in the public interest. The **Public Interest Disclosure Act 1998 (PIDA)** is often referred to as the Whistle-blowing law and is designed to encourage and enable employees to “speak out” and to report suspected wrongdoing at work; commonly known as “blowing the whistle.
- 1.9 PIDA legislation legally protects employees (including temporary workers and agency staff), from any detriment from their employer or colleagues that arises as a result of making a “protected disclosure” (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer.

2. Background

- 2.1 The law provides protection for workers who raise legitimate concerns about specified matters. These are called qualifying disclosures. A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that the following is being, has been, or is likely to be, committed:
 - a criminal offence
 - a miscarriage of justice
 - an act creating risk to health and safety
 - an act causing damage to the environment
 - a breach of any other legal obligation
 - concealment of any of the above
- 2.1 Disclosure of other wrongdoing is also covered by this policy where it is general malpractice, a breach of the Council’s Constitution, a breach of Financial Regulations or a breach of the codes of conduct of all relevant professional institutions.
- 2.2 It is not necessary for the worker to have proof of such - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter. It is the organisation's responsibility to ensure that an investigation takes place if necessary. If what employees are saying is true or they believe it to be true, they have nothing to fear because they will be fulfilling a duty to their employer and those for whom they are providing a service.
- 2.3 The Council encourages individuals to raise their concerns under this policy in the first instance. If staff are unsure whether to raise a concern, they should discuss the issue with their line manager, the Deputy Chief Executive Officer or the Monitoring Officer.
- 2.4 If misconduct is discovered because of any investigation under this procedure the organisation's disciplinary procedure will be used, in addition to any appropriate external measures.
- 2.6 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, individuals should not agree to remain silent. They should report the matter to the Monitoring Officer or the Deputy Chief Executive Officer or the s151 Officer.

3 Qualifying Disclosures

- 3.1 The policy applies to all disclosures deemed to be “qualifying disclosures”. A qualifying disclosure means any disclosure of information that, in the reasonable belief of the staff member, is made in the public interest.
- 3.2 This policy is intended to cover concerns that fall outside the scope of other procedures. These include:
- Conduct which is an offence or a breach of law
 - Disclosures related to miscarriages of justice
 - Health and safety risks including risks to the public as well as other employees
 - Damage to the environment
 - Fraud and corruption
 - Sexual or physical abuse of clients
 - Any attempt to prevent disclosure of any the above or other conduct that gives cause for concern

4 Protection

- 4.1 This policy has been written to take account of the PIDA, which protects staff making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act’s provisions.
- 4.2 The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised, as a direct consequence of them making an appropriate lawful disclosure in accordance with the Act.
- 4.3 The Council will not tolerate victimisation, harassment, bullying or any other detrimental treatment of staff who have made a disclosure under this policy. Complaints about such behaviour will be dealt with under the disciplinary procedure.
- 4.4 Allegations which are found to be malicious, or vexatious in nature, will lead to disciplinary action against the person raising the allegation.
- 4.5 If a member of staff is already the subject of disciplinary or redundancy procedures those will not be halted as a result of their whistle-blowing submission.

5 Confidentiality

- 5.1 Any disclosure you make under this policy will be treated as far as reasonably practicable in a confidential and sensitive manner. If confidentiality is not reasonably practicable, for instance, because of the nature of the information, this will be explained to you.
- 5.2 It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the member of staff may be required as part of the evidence.

6 Anonymous Allegations

- 6.1 Whilst the Council encourages whistle-blowers to identify themselves, it is recognised that anonymous calls may also be made, and fully investigated where possible. The National Audit Office (NAO) also operates a dedicated telephone number:
- Telephone: 020 7798 7999
 - Address: The Comptroller and Auditor-General
National Audit Office
157-197 Buckingham Palace Road
London
SW1W 9SP
- 6.2 Qualifying disclosures may be made by phoning this number or writing to the address.
- 6.3 Any disclosure will be investigated fully, including interviews with witnesses and other parties involved.
- 6.4 The possible outcome may be:
- Disciplinary and or legal action against the wrongdoer if the result of the investigation corroborates the disclosure
 - No action if the allegation proves to be unfounded
 - Disciplinary action against the whistle-blower if the claim is found to be malicious or untrue
- 6.5 The Council will always keep the whistle-blower informed of the progress and outcome of any investigation, within the constraints of maintaining confidentiality or observing legal restrictions.
- 6.6 These arrangements apply to disclosures to both the Council and an appropriate third party. Appropriate third parties are the Police, Tax Authority, or similar appropriate public regulator. Staff can also approach the independent group “Protect” for confidential and impartial advice:
- Telephone: [020 7404 6609](tel:02074046609)
 - Email: Whistleblowing
 - Website: [protect advice: speak up, stop harm](http://protectadvice.speakupstopharm.org)

7 Procedure

- 7.1 Depending on the matter to be disclosed, the disclosure should always be reported confidentially in the first instance to one of the following:
- Line Manager

- The Fraud & Financial Investigations Team (Reigate & Banstead Borough Council)
- Any Head of Service and/or Member of the Extended Management Team
- Monitoring Officer
- S151 Officer
- Deputy Chief Executive Officer

7.2 To deal with a disclosure, the earlier it is made the easier it is to respond and to investigate. The whistle-blower should make it clear that the disclosure is being made within the terms of this policy. This is so that the recipient realises and takes the necessary action both to initiate an investigation and to protect the identity of the individual.

7.3 If a member of staff or Councillors receive a whistle-blowing complaint, they must immediately pass this on to the Monitoring Officer or the s151 Officer or the Deputy Chief Executive Officer to ensure appropriate action can be taken at the earliest opportunity. The complaint must not be disclosed to or discussed with any other parties to maintain confidentiality and protection of the identity of the person raising the complaint.

8 How the Council will respond

8.1 Once a concern has been raised, we will act. If you have not made the complaint anonymously, you will be asked to attend a meeting as part of this investigation.

8.2 If a member of staff brings a concern forward, the person contacted will:

- Confirm with the employee whether it is being brought forward under the Whistle-blowing policy, if this has not already been made clear; and
- Ensure that the Council writes to the staff member within ten working days acknowledging that the concern has been raised.

8.3 The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to the External Auditor; and
- form the subject of an independent inquiry.

The Council may take one or more of the actions listed above depending on the circumstances of the case.

8.4 The member of staff will be kept informed as to the progress of the investigation, as far as is possible and appropriate bearing in mind any confidentiality obligations that apply. Please note that no details of any disciplinary action taken will be given unless considered appropriate.

- 8.5 All matters raised will be handled in accordance with the requirements of the Council's Constitution, the Financial Regulations and the Officer's Code of Conduct. These documents can be found on the Council's Intranet.
- 8.6 To protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.
- 8.7 Some concerns may be resolved by agreed action without the need for investigation.

9 How the matter can be taken further

- 9.1 If you are dissatisfied with the outcome of the investigation, you should raise this with the Deputy Chief Executive Officer and or the s151 Officer, giving the reasons for your dissatisfaction. They will respond in writing notifying you of their acceptance or rejection of the need for further investigation and the reasons for this.
- 9.2 If you are still not satisfied with the outcome and you feel it is right to take the matter further, you may wish to take independent and confidential advice regarding any concerns about whistle-blowing from 'Protect'.
- 9.3 If the matter is taken outside of the Council, there is a need to ensure that no confidential information is disclosed or information that would be legally privileged.

10 Data Protection and Freedom of Information

- 10.1 The Freedom of Information Act 2000 gives a general right of access to all types of recorded information held by public authorities. As such the Council often receives requests for information under the Freedom of Information Act.
- 10.2 The Council has a legal obligation to provide the information unless it falls under one of the exemptions of the Act.
- 10.3 The Freedom of Information Act contains exemptions which may be applicable to permit the withholding of information identifying the whistle-blower, including:
 - Section 40 Personal Data; and
 - Section 41 Information which, if disclosed, would give rise to an actionable breach of confidence.
- 10.4 Many people making a disclosure to the Council will wish to protect their identity and the Council will seek to protect the identity of individuals, where possible, during the course of progressing an investigation. If the Council receives a request for information that identifies a whistle-blower, the Council will contact the whistle-blower to seek their views beforehand and will, wherever possible, seek to comply with those views.

- 10.5 The principle of maintaining confidentiality should also be applied to the identity of any individual who may be the subject of a disclosure.
- 10.6 The Council will ensure that our handling of concerns meets the requirements of the Data Protection Act 2018 and the Freedom of Information Act 2000.

11 Responsible Officers

- 11.1 The Deputy Chief Executive and or S151 Officer have overall responsibility for the maintenance and operation of this Policy.
- 11.2 The Monitoring Officer will maintain a corporate register containing all concerns that are brought to her attention. All Officers allocated to investigate a concern must ensure the Monitoring Officer is provided with sufficient details for the corporate register.
- 11.3 The Monitoring Officer will review the corporate register and produce an annual report for Audit and Scrutiny Committee. The report will include a summary of the concerns raised, to which department they related, the post to which the concerns related (if not confidential) and any lessons learned. The report will not include any employee names. The aim of this is to ensure that the Council and/or the relevant department learns from mistakes and does not repeat them, and consistency of approach across the departments.
- 11.4 The corporate register together with the annual reports will be available for inspection by internal and external audit, after removing any confidential details.
- 11.5 The Chief Executive Officer has overall responsibility for adherence to Council policies and staff welfare in any process.
- 11.6 This policy is non-contractual and, in line with all non-contractual policies, the Council may review, amend or withdraw this policy from time to time in line with changes to employment legislation or organisational needs.
- 11.7 Extended Management Team ('EMT) are responsible for ensuring that their staff are aware of the Whistle-blowing policy and process and that any training needs are addressed which may arise from the application of the policy. Raising awareness of the Council's Whistle-blowing policy should form part of the induction training for all staff.
- 11.8 Staff have a responsibility to ensure that they are aware of and understand the Council's policy in relation to Whistle-blowing.

Associated Documents

- Anti-Fraud, Bribery and Corruption Policy: [Transparency and open data - Tandridge District Council](#)
- Behaviour at Work procedure;
- Data Protection Policy;
- Conflict Resolution procedure;
- Code of Conduct; and
- Anti Money Laundering Guidelines