

MUNICIPAL YEAR 2018/19 REPORT NO. 195

MEETING TITLE AND DATE:

Audit & Risk Management
Committee
6 March 2019

REPORT OF:

Director of Law and
Governance

Agenda – Part:	Item: 13
Subject: Whistleblowing Policy	
Wards: All	
Cabinet Member consulted:	

Contact officer and telephone number:

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1. EXECUTIVE SUMMARY

- 1.1 The Council is committed to developing the highest possible behavioural standards and a culture encouraging openness, probity and accountability of all employees, councillors and council contractors. The whistleblowing policy (“the policy”) is a framework to enable and encourage reporting of any concerns regarding any aspect of the Council’s work.
- 1.2 The Council’s whistleblowing policy applies to all employees, councillors and contractors working for the Council on Council premises, including agency workers and consultants. It also covers suppliers and those organisations providing services under a contract with the Council on their own premises, for example, care homes.
- 1.3 The whistleblowing policy was last approved by the Committee on 26 July 2018. This report presents a refreshed policy, with minor amendments to reflect changes to key contact details where appropriate.
- 1.4 This report incorporates guidance to enable staff, members and contractors to comply with the Policy and supports the Council’s zero tolerance to fraud.

2. RECOMMENDATIONS

- 2.1 Members are asked to note and endorse the updated whistleblowing policy and guidance.

3. BACKGROUND

- 3.1 The Public Interest Disclosure Act 1998 establishes a person's right to raise concerns and provides individuals with protection from victimisation, dismissal or any other detriment provided they have a reasonable belief that what they have reported is true and the report is in good faith.
- 3.2 The Council will not tolerate any harassment or victimisation (including informal pressures) from colleagues, peers, managers, or from external sources, and will take appropriate action to protect individuals when they raise a concern in good faith.
- 3.3 The aim of this Policy is to provide guidance and assurance to employees, members and contractors who wish to raise a concern through the whistleblowing procedure, and to enable compliance with legal and regulatory requirements.
- 3.4 The Policy presented at Appendix 1 outlines the Council's responsibility to comply with the Public Interest Disclosure Act regulations and updates the previous version of the policy that was issued in March 2016.
- 3.5 Key features of the Policy include the following:
 - Concerns identified by employees or agency workers should be raised initially with their line managers or the line manager of a person who gives cause for concern.
 - If not appropriate to contact a line manager, concerns can be reported to one of the Council's nominated contacts or a relevant external organisation. Contact details are provided in the Policy.
 - Whistleblowers have the right to raise concerns anonymously or in confidence. The Audit and Risk Management Service has procedures that allow for the raising of concerns without the source being identified.
 - Officers receiving a report under the whistleblowing policy should notify the Audit and Risk Management Service as soon as possible so that the Council can meet requirements to keep a central record of whistleblowing concerns raised.
 - Once a concern has been raised, the Council will act to assess and appropriately investigate the matter. This may involve internal investigation or referral to a relevant external organisation, such as the police.
 - Where possible, the Council will acknowledge the whistleblowing report and endeavour to notify the whistleblower of the outcome of subsequent action. However, this may not be possible if a duty of confidence owed to others could be infringed.

- The Policy sits alongside the Council's arrangements for reporting safeguarding issues involving children and vulnerable adults (see Section 7 of the Policy).

3.6 An anonymised summary of concerns raised under the Whistleblowing Policy will be reported to the Audit & Risk Management Committee as a Part 2 agenda item in an appendix to the report summarising the work of the Counter Fraud Service.

3.7 Subject to approval by Audit & Risk Management Committee, awareness of this revised policy and supporting guidance will be raised through appropriate publicity and training.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 There are no other options which can be considered as these matters need to be reported to the Committee.

5. REASONS FOR RECOMMENDATIONS

5.1 These items are being brought to the attention of the Audit & Risk Management Committee in line with the terms of reference of the Committee.

6. COMMENTS OF THE EXECUTIVE DIRECTOR (RESOURCES) AND DIRECTORS OF OTHER DEPARTMENTS

6.1 Financial Implications

The Council is exposed to risk of financial loss if it does not have in place a mechanism to combat fraud. Therefore, this Policy will contribute towards safeguarding of the Council's financial resources.

6.2 Legal Implications

The consequences of any public service organisation or members of its staff wishing to raise a whistleblowing concern, without there having been policies and procedures in place to help prevent it, may be very serious. It may result in legal challenges if organisations and individuals are not fulfilling their duty under the law.

6.3 Property Implications

There are no specific property implications associated with this report.

7. KEY RISKS

7.1 This report forms part of the Council's risk management and governance process. There is a risk of incidents arising from not responding to issues of concern reported and any subsequent recriminations. Without a policy, the Council is at risk of not being aware of issues of concern, to facilitate appropriate investigating and addressing such issues.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

An effective whistleblowing policy is part of the Council's system of internal control, which contributes towards assurance over risks to services and other Council activities that might otherwise affect the delivery of high quality, affordable, accessible services to all residents.

8.2 Growth and Sustainability

An effective whistleblowing policy will help the Council achieve its objectives in the area of growth and sustainability.

8.3 Strong Communities

An effective whistleblowing policy will assist the Council achieve its objectives in the area of strong communities.

9. EQUALITIES IMPACT IMPLICATIONS

Corporate advice has been sought regarding equalities and an agreement has been reached that it is not relevant or proportionate to carry out an equalities impact assessment/analysis for this report.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

There are no specific performance management implications relating to this report.

11. HEALTH AND SAFETY IMPLICATIONS

There are no direct Health and Safety implications relating to this report.

12. HR IMPLICATIONS

There are no direct HR implications arising from this report, although individuals may face disciplinary action if it is found an allegation was made frivolously, maliciously or for personal gain.

13. PUBLIC HEALTH IMPLICATIONS

Items summarised in this report do not have a direct impact on the health and well-being of the public in Enfield.

Background Papers

None

LONDON BOROUGH OF ENFIELD

WHISTLEBLOWING POLICY & PROCEDURES

1. INTRODUCTION

The Council is committed to developing the highest possible behavioural standards and a culture encouraging openness, probity and accountability of all employees, councillors and council contractors. The whistleblowing policy (the Policy) is a framework to enable and encourage you to raise and report any concerns regarding any aspect of the Council's work which may include:

- The unauthorised use of public funds
- A failure to comply with a legal obligation
- Any conduct which may damage the Council's reputation
- A danger to the health and safety of an individual
- Damage to the environment
- Possible fraud and corruption
- Possible acts of bribery
- Conduct which is an offence or a breach of law
- Disclosures related to miscarriages of justice; and/or
- Other unethical conduct.

The Council's whistleblowing policy applies to all employees, members and contractors working for the Council on Council premises, for example, agency staff and consultants. It also covers suppliers and organisations providing services under a contract with the Council on their own premises, for example, care homes.

Please note that the Council's Whistleblowing Policy is not intended to cover safeguarding concerns relating to children or vulnerable adults, as there are separate arrangements for raising these (see Section 7).

2. HOW TO RAISE A WHISTLEBLOWING CONCERN

As a first step, you should normally report any concerns to your line manager or the manager of a person giving cause for concern, preferably in writing. However, if you feel the matter is extremely serious, sensitive or involves your line manager, you may report the matter straight to your Director.

If you feel that it is not appropriate to report your concerns to these individuals, then you should contact one of the following:

Contact	Position	Email	Contact number
Gemma Young	Head of Internal Audit and Risk Management	gemma.young@enfield.gov.uk	07900 168938
Bob Cundick	Counter Fraud Manager	bob.cundick@enfield.gov.uk	020 8379 4028
Mike Tobin	Senior Counter Fraud Officer	michael.tobin@enfield.gov.uk	020 8379 4648
Jeremy Chambers	Director of Law and Governance	jeremy.chambers@enfield.gov.uk	020 8379 4799
Fay Hammond	Executive Director of Resources	fay.hammond@enfield.gov.uk	020 8379 2662
Julie Mimmagh	Head of Human Resources Operations	julie.mimmagh@enfield.gov.uk	020 8379 3970
Ian Davis	Chief Executive	ian.davis@enfield.gov.uk	020 8379 3901

When raising your concern, you may wish to take advice on the matter from any of those listed in the section above or discuss your concerns with a colleague first. It is advisable that you report your concern as early as possible. A significant delay in reporting the matter may make the subsequent investigation difficult to pursue.

In raising your concern in writing, you should give as much detail as possible, i.e. the background and history, names and relevant dates and the reasons why you are particularly concerned about the situation.

If you feel hesitant about putting your concern in writing at this stage you should telephone the manager to whom you wish to make the report and ideally, arrange to meet them. However, you may be asked to confirm the details in writing at a later stage.

Officers receiving a report under the whistleblowing policy should notify the Audit and Risk Management Service as soon as possible so that the Council can meet requirements to keep a central record of whistleblowing concerns raised.

Please advise whether you want to raise the matter in confidence to enable appropriate arrangements to be made. (Remember Audit and Risk Management has a degree of independence that allows officers to raise concerns without being identified as the source).

If these channels have been followed and you still have concerns, or if you feel that the matter cannot be discussed with any of the above, you can contact any of the following independent organisations outside the Council for assistance with your concern:

- National Audit Office: 020 7798 7264
- Protect: 020 3117 2520 or visit their website: <https://www.pcaw.org.uk/>
- Citizens Advice Bureau
- Relevant professional bodies or regulatory organisation

- Relevant voluntary organisation
- The Police.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

3. HOW WE WILL HANDLE THE MATTER

Once you have raised your concern, the Council will undertake an initial assessment to determine what action needs to be taken. This may involve an internal inquiry or a more formal investigation. Do not forget that testing out your concerns is not the same as either accepting or rejecting the concern.

Where appropriate, the matters raised may:

- be investigated by management, officers from the Council's Audit and Risk Management Service, or through the disciplinary process;
- be referred to the police or appropriate agency such as Her Majesty's Revenue and Customs (HMRC) or the United Kingdom Borders Agency (UKBA);
- be referred to the Council's External Auditor; or
- form the subject of an independent inquiry.

When you raise your concern, you may be asked how you think the matter might best be resolved. You will also be required to disclose any personal interest in the matter at the outset. Any concerns that should be dealt with through the Grievance Policy will be redirected.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

You will be advised of the officer handling the matter, how you can contact them and whether further assistance is required. Where possible, you will receive a letter summarising your concern and proposed actions that will be taken. Please note, however, that the Council may not be able to tell you the precise action taken where this would infringe a duty of confidence owed to someone else.

It should be noted that where a concern raised is linked to a potential redundancy, disciplinary and/or other managerial issue these processes will continue in parallel with the investigation of the alleged wrong-doing and will not prevent the Council from pursuing any subsequent action through to conclusion. This principle is not intended to prevent staff raising concerns.

Where staff have genuine concerns about potential wrong-doing they are expected to raise these concerns at the earliest opportunity and not raise these in response to other managerial actions being instigated. In all cases, when a concern is raised in writing, the responsible person will write to you:

- Acknowledging that the concern has been received;
- Indicating how the Council proposes to deal with the matter;

- Providing an estimated timeframe to conclude the investigations;
- Advising whether any initial enquires have been made
- Supplying you with information on staff support mechanisms, and
- Informing you whether further investigations will take place and if not, why not.

4. EXTERNAL CONTACTS

While we hope this Policy gives you the reassurance you need to raise concerns internally, we would rather you raise a matter with the appropriate regulator than not at all. Provided you are acting in good faith and you have evidence to back up your concern, you can also contact:

External contact	Issue type
Health and Safety Executive	Health and safety issues
Environment Agency	Environmental issues
HM Revenues & Customs	Financial irregularities
BDO (Council's Appointed Auditor)	Public sector finance issues or financial irregularity
Information Commissioner's Office	Data protection issues

5. IF YOU ARE DISSATISFIED

While we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and in accordance with this Policy. If you are dissatisfied with our response it may be appropriate to seek external advice.

6. OUR ASSURANCES TO YOU

The Chief Executive and the Executive Management Team are committed to this Policy and recognise that the decision to report a concern can be a difficult one to make. If you raise a genuine concern under this Policy, you will be protected from possible reprisal or victimisation. Provided you are acting in good faith, it does not matter if you are mistaken, no action will be taken against you.

We do not extend this assurance to someone who maliciously raises a matter they know is untrue. If you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

By reporting or raising a concern you will be doing your duty to your employer and those for whom you are providing a service.

Statutory Protection

The Public Interest Disclosure Act 1998 establishes your right to raise concerns and provides individuals with protection from victimisation, dismissal or any other detriment,

provided they have a reasonable belief that what they have reported is true and the report is in good faith.

Harassment or Victimisation

The Council will not tolerate any harassment or victimisation (including informal pressures) from you colleagues, peers, managers, or from external sources, and will take appropriate action to protect you when you raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary, capability, or redundancy procedures that already affect you.

If you consider that you are being, have been or are likely to be victimised, dismissed, made redundant or made to suffer some other detriment as a result of making a report under this Policy, you should report your concerns to the Council's Monitoring Officer. The matter will then be dealt with as a new referral under this procedure.

Your confidentiality

We recognise that you may want to raise a concern in confidence under this Policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. If the situation arises where we are unable to resolve the concern without revealing your identity (for example where you are needed to come forward as a witness or to give evidence in court), we will discuss with you whether and how we can proceed.

Anonymous allegations

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council. In exercising this discretion, the factors to be considered will include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

Remember if you do not tell us who you are, it will be much more difficult for us to investigate the matter, to protect your position or to give you feedback.

7. SAFEGUARDING CONCERNS

Individuals wishing to report safeguarding concerns should continue to raise these via the established processes, namely;

For Children

Matters relating to child abuse should be reported to the Children in Need Service from 9am to 5pm: telephone 020 8379 2507 and the Enfield Out of Hours Team outside office hours: telephone 020 8379 1000.

For Vulnerable Adults

Issues relating to the abuse or neglect of an adult at risk should be referred to the Enfield Multi-Agency Safeguarding Hub (MASH) Team. Email them at: themashteam@enfield.gov.uk or call on 020 8379 3196 Monday to Friday from 9am to 5pm. You can call 24 hours a day, speaking anonymously if you wish, on the Enfield Adult Abuse Line: Telephone 020 8379 5212.

More information is available on the Council's website:

<https://www.enfield.gov.uk/safeguardingadults>

8. OTHER MATTERS OUTSIDE THE SCOPE OF THE WHISTLEBLOWING POLICY

In addition to safeguarding concerns, the Policy does not normally cover the following areas:

Matters that concern day to day issues relating to an employee's terms and conditions of employment or a complaint about another employee which can usually be referred to their line manager, or if necessary be pursued using the Council's Grievance Procedure.

Matters that concern schools are covered by a separate Schools Whistleblowing Policy. If after reading the School's Whistleblowing Policy, you feel that your concern or issue is not covered, you can make a complaint online at <https://contact.ofsted.gov.uk/online-complaints> .

Matters that would normally be dealt with by the Council's collective bargaining arrangements with its recognised trade unions should be reported to (GMB) 020 8379 3147 or (UNISON) 020 8379 4082.

Allegations concerning fraud or financial irregularity should continue to be made directly to the Counter Fraud Team by calling 020 8379 3166 or via email to fraud.team@enfield.gov.uk .

Complaints from the public that relate to the standard of service delivered by the Council or Council Contractors which should be reported through the Council's Corporate Complaints procedure.

REVIEW OF THIS POLICY

This Policy and reports made under it should be reviewed annually by the Head of Audit & Risk Management who will submit a report to the Audit & Risk Management Committee.