

WHISTLEBLOWING CHARTER POLICY



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Date of last Review

March 2015

TONBRIDGE & MALLING BOROUGH COUNCIL WHISTLEBLOWING POLICY

A confidential reporting policy for all Councillors, employees and contractors

1. Introduction

- 1.1 ~~Tonbridge & Malling Borough Council is committed to developing a culture where it is safe and acceptable for all its employees, including employees of providers and partners, and stakeholders to raise their concerns about what is happening at work.~~ *Tonbridge & Malling Borough Council operates within legal requirements and regulations and expects its employees to co-operate in this by adhering to all laws, regulations, policies and procedures. The Council recognises that employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not 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.*
- 1.2 ~~This covers unlawful conduct, financial malpractice, dangers to the public or environment or avoidable losses. Avoidable losses arise from fraud, error, mismanagement or dishonesty.~~ *The Public Interest Disclosure Act 1998 (the 1998 Act) contains measures which help to promote greater openness between employers and employees in the workplace and supports a structure for whistleblowing. The 1998 Act:*
- a) is designed to give statutory protection to employees who “blow the whistle” on their employer’s malpractice; and*
 - b) although not requiring the Council to set up an appropriate mechanism for dealing with whistleblowing, makes clear the important role that such a mechanism can play in helping the Council comply with the law.*
- 1.3 ~~The Whistleblowing Charter gives you the opportunity to have your concerns heard and investigated in confidence and without fear of reprisal. Our charter has been developed in accordance with the Public Interest Disclosure Act 1999. The Act was introduced to ensure that concerns raised by employees are dealt with at an early stage and in an appropriate manner, including protection for the employee.~~ *The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect and support 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. This policy is intended to encourage and enable individuals to raise concerns within the Council, without fear of reprisals, rather than overlooking a problem or “blowing the whistle” outside. The policy does, however, recognise that individuals must be able to take matters further if they are dissatisfied with the Council’s response.*

- 1.4 ~~We recognise that employees are often the first to notice that something is seriously wrong within the Council. We want all employees to feel confident about voicing and acting on concerns they may have about service provision, malpractice, conduct of officers, Councillors or anyone acting on behalf of the Council.~~

2 Definition of Whistleblowing

- 2.1 *'Whistleblowing' means the disclosure of malpractice or wrongdoing within an organisation.*

3. Aims of the Charter *Aims and Scope of this Policy*

3.1. The ~~charter~~ *whistleblowing policy* aims to:

- encourage you to feel confident about raising concerns and to question and act on those concerns;
- provide a way for you to raise concerns and receive appropriate feedback on any action taken;
- confirm that all concerns raised will be examined and the Council will assess what action should be taken;
- reassure you that you will be protected from possible reprisals or victimisation if you have made a disclosure in good faith; and
- provide ways for you to take the matter further if you are dissatisfied with the Council's response.

3. What does the Charter cover

3.2. ~~Malpractice, abuse and wrongdoing can cover a whole range of issues but we have listed examples here for your guidance:~~ *The Whistleblowing Policy is intended to cover concerns that fall outside the scope of the Council's Grievance Procedure which enables employees to lodge a grievance relating to their employment. This policy is also intended to cover concerns that fall outside the scope of the Council's corporate complaints procedures and other statutory reporting procedures and support the disclosure of concerns and suspicions which cannot be raised through the channels set out in the Council's Corporate Anti-Fraud & Corruption Policy. These may include:*

- any unlawful act, whether criminal (e.g. theft) or a breach of the civil law (e.g. slander or libel)
- health and safety risks, including risks to the public as well as to other employees (e.g. faulty electrical equipment)
- damage to the environment (e.g. pollution)

- the unauthorised use of public funds (e.g. expenditure for improper use)
- possible fraud and corruption (e.g. housing benefit fraud)
- inappropriate or improper conduct (e.g. abuse of power, bullying / harassment)
- serious failure to comply with appropriate professional standards (e.g. National Code of Local Government Conduct)
- breach of Council or statutory codes of practice or the Council's standing orders (e.g. Tonbridge and Malling Staff Code of Conduct)
- discrimination on the grounds of race, colour, creed, ethnic or national origin, disability, age, sex, sexual orientation, marital status or class
- abuse of children and vulnerable adults (e.g. through physical, sexual, psychological or financial abuse, exploitation or neglect)
- other unethical conduct.

~~3.1. Many of the above areas will represent inevitably an avoidable loss, which affects our service delivery.~~

~~3.2. The charter does NOT apply to raising grievances about an employee's personal situation and, thus, does not replace existing procedures for personal differences or conflicts. If you have concerns in this area you should consult with the Council's Grievance Policy or your immediate manager.~~

4. Who can use the Charter? *Who does this Policy Cover?*

~~4.1. The charter applies to all Council employees, contractors and suppliers including agency staff, and those who provide services under contract to the Council such as refuse collection workers. *This policy applies to disclosures made in relation to or by:*~~

- *any employee of the Council, either under contract of employment or apprenticeship*
- *any Councillor of the Council*
- *any contractors, their agent, subcontractors and suppliers working with or on behalf of the Council, such as leisure centres*
- *consultants and agency staff working with or for the Council*
- *any organisation working in partnership with the Council.*

~~4.2. You are encouraged to raise your concerns provided that:~~

- ~~you make the disclosure in good faith~~

- you believe that the information or any allegation is reasonably true.

~~3.1. The Council will not tolerate false or malicious allegations or the victimisation of any employee who has raised a concern in good faith.~~

~~3.2. Raising a matter maliciously that you know to be untrue or the victimisation of any employee may result in disciplinary action.~~

~~3.3. The Council will also to seek to minimise the effect on employees who have had a false or malicious allegation made against them.~~

5 Supporting the individual raising a concern

5.1 Harassment or Victimisation: *The Council is committed to good practice and high standards. The Council also recognises that the decision to report a concern can be a difficult one to make. It will not tolerate harassment or victimisation of whistleblowers and will take action to protect individuals who raise concerns in good faith.*

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect the individual. However, this does not mean that if the individual is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of raising a concern under this policy.

5.2 Confidentiality: *Individuals are encouraged to put their name to any allegation; concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council, taking into account:*

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

All concerns will be treated in confidence and the Council will do its best to protect the individual's identity when they do not want their name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by the individual raising the concern may be required as part of the evidence. If the situation arises where the Council is not able to resolve the concern without revealing the individual's identity, this will be discussed with the individual in an attempt to identify how the matter can be progressed.

5.3 Untrue Allegations: *Any individual who makes an allegation in good faith, but which is not subsequently confirmed by the investigation, will have no action taken against them. If, however, an individual makes malicious or vexatious allegations or an allegation for personal gain, disciplinary action may be taken against them.*

6. How can I raise my concern? *How to raise a concern*

~~6.1. The earlier you express your concern, the easier it is to take action. As a first step, you should raise any concern you have with your immediate manager or their superior, orally or in writing. *When an individual wishes to raise a concern, they will need to identify the issues carefully. An individual must be*~~

clear about the standards against which they are judging practice. They should consider the following:

- Is it illegal?
- Does it contravene professional codes of practice?
- Is it against government guidelines?
- Is it against the Council's guidelines?
- Is it about one individual's behaviour or is it about general working practices?
- Does it contradict what the employee has been taught?
- Has the employee witnessed the incident?
- Did anyone else witness the incident at the same time?

6.2. ~~If you feel that you have an issue that you cannot raise with your manager then you should contact one of the following:~~ – *Employees should raise concerns in the first instance with their immediate Line Manager or Service Manager, if possible. Similarly, non-employees (e.g. agency workers or contractors) should raise a concern in the first instance with their contact within the Council, usually the person to whom they directly report.*

- ~~any assistant director or chief officer;~~
- ~~a Personnel officer;~~
- ~~the Chief Executive or head of service; or~~
- ~~the Chief Internal Auditor~~

6.3. ~~The Chief Internal Auditor is the main point of contact for staff wishing to report an incident using the whistleblowing procedure. They will ensure that the matter is investigated.~~ *In some cases, the nature, seriousness or sensitivity of the concern or the individuals involved in the activities causing concern means that this may not always be appropriate. If a person feels they cannot raise their concern with their immediate management/contact, they are able to go directly to:*

Name	Designation	Direct Contact Number
David Buckley	Chief Internal Auditor	01732 876086
Samantha Buckland	Audit & Counter Fraud Manager	01732 876085

Please Note: These Officers can also be contacted via email

~~6.4. You can call the Chief Internal Auditor on 01732 876086 or by email to david.buckley@tmbc.gov.uk. All calls are treated in the strictest confidence.~~
Individuals may also contact these officers for advice/guidance on how to pursue matters of concern or if, having raised the concern with the immediate manager/contact, they feel there has not been an appropriate response.

6.5. In the event of a concern being of an extreme and potentially serious nature, individuals may raise the matter directly with the Chief Executive.

6.6. Once an employee is certain that the concern should be raised, the following action should be considered:

- Concerns may be raised verbally or in writing. Employees who wish to make a written report should give the background and history of the concern and the reason why they are particularly concerned about the situation. The earlier concerns are expressed the easier it is to take action. A form is available at Appendix 1 of this policy for those wishing to raise a concern in writing.*
- If the employee wishes, they may ask for a private meeting with the person to whom they wish to make the complaint. An employee may take a Trade Union representative or work colleague with them as a witness or for support. The employee should take to the meeting, if possible, dated and signed written supporting statements from anyone who can also confirm the allegations.*
- When making the complaint verbally, the employee should write down any relevant information and date it. Keep copies of all correspondence and relevant information.*
- The employee should ask the person to whom they are making the complaint what the next steps will be and if anything more is expected of them.*

6.7. Although the individual raising the concern is not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

7. ~~How will the Council respond?~~ *How the Council will respond*

~~7.1. The Council's response will depend on the nature of the concern that has been raised. In all instances the Council will:~~ *Once a concern is raised the appropriate Council manager is responsible for making initial enquiries, taking advice from Personnel, Internal Audit and/or the Investigations Team to help decide if an investigation is appropriate and if so, what form it should take. In determining the action to be taken, the Council will take into consideration public interest and whether the concerns or allegations fall*

within the scope of and may be dealt with under other specific procedures such as the Council's Grievance Procedure.

- ~~record and acknowledge your concern and refer the matter for investigation within three days of receiving the report;~~
- ~~respect your confidentiality—your identity will not be disclosed to anyone without your consent;~~
- ~~assess your concerns to determine further action;~~
- ~~let you know what enquiries have been made;~~
- ~~tell you whether further investigations will be made and if not, why; and~~
- ~~inform you of the final outcome of the inquiry.~~

~~7.2. Depending on the nature of the issue raised, the Council may:~~ *Concerns raised may:*

- *be resolved by agreed action without the need for investigation;*
- *be investigated by management;*
- *be investigated by the Council's Investigation team and Personnel;*
- *be referred to the Police;*
- *be referred to the External Auditor.*
- ~~request more information or evidence from you;~~
- ~~investigate through an internal audit;~~
- ~~undertake disciplinary action;~~
- ~~launch an independent enquiry; or~~
- ~~refer the matter to the police.~~

~~7.3~~ *As soon as possible, and in any case within 10 working days of a concern being raised, the person handling the matter will write to the individual raising the concern acknowledging that it has been raised and indicating how, as far as possible, it will be dealt with. The individual will be kept informed of progress and will receive a full and final response, subject to any legal constraints.*

~~7.4~~ *The amount of contact between the persons considering the issues and the individual(s) raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information*

provided. If necessary to pursue investigation activity, the Council will seek further information from the individual. Where any meeting is arranged, the individual may be accompanied by a union or professional association representative or a friend or colleague.

7.5 The Council will take steps to minimise any difficulties which individuals 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 and support in doing this.

8. Can I take the matter further if I'm not satisfied? *How the matter can be taken further*

~~8.1. In the first instance, we encourage all employees to raise their concern within the Council. If you are unhappy with the process or outcome of an investigation you can contact one of the following organisations or any organisation that you feel will be able to deal with your concerns: *This policy is intended to provide individuals with an avenue to raise concerns within the Council. The Council hopes that those using this process will be satisfied with the way their concerns are treated and any investigations that may be carried out. However, if they are not satisfied, or feel it is right to take the matter outside the Council, the following are possible contact points:*~~

- ~~• The Council's External Auditor, currently Grant Thornton UK LLP,~~
- ~~• Public Concern at Work (Tel: 020 7404 6609, www.pcaw.co.uk) who are a registered charity whose services are free and confidential,~~
- ~~• The local Citizens Advice Bureau,~~
- ~~• Relevant professional bodies, Trade Unions or regulatory organisations,~~
- ~~• Unison's whistleblower's hotline 0800 597 9750~~
- ~~• The Police,~~
- ~~• A solicitor,~~
- ~~• The Local Government Ombudsman.~~
- ~~• the Audit Commission's Public Interest Disclosure Line: 020 7630 1019;~~
- ~~• the independent charity Public Concern at Work: 020 7404 6609;~~
- ~~• Unison whistleblowing hotline: 0800 597 9750; or~~
- ~~• Grant Thornton (external auditor) 01293 554 071~~

~~8.2. If taking a concern outside the Council, employees should not disclose any confidential information unless they are doing so in accordance with the whistleblowing Charter. *If individuals do feel it is its right to take the matter outside the Council, they will need to ensure that confidential information is not disclosed. Advice and guidance on this issue may be sought from the contacts listed at paragraph 6.3 of this policy or the Council's Monitoring Officer – Adrian Stanfield.*~~

8. Responsible officer

~~8.1. The Chief Internal Auditor is responsible for the supervision and co-ordination of all fraud matters, including the maintenance and operation of this policy. A record of concerns raised and the outcomes is maintained by him.~~

9. Review and Approval of this Policy

~~9.1. The Audit Committee will receive annual reports of all matters raised under the Charter. The Charter will be reviewed annually by the Audit Committee and recommended to the General Purposes Committee for approval. *The Whistleblowing Policy will be reviewed at least annually, with any material amendment reported to the Audit Committee for recommendation to the General Purposes Committee for approval.*~~

WHISTLEBLOWING POLICY - REPORT OF A CONCERN

Give a description of the concern including any serious risk to persons or property.

Give details of the information that you have relating to the concern, e.g. what evidence do you have that gives rise to your concern.

Have you previously raised this concern? If so, with whom and what action was taken?

Please give details about yourself - 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.

Name.....

Contact details.....

I understand that this concern is being raised under the Council's Whistleblowing Policy and have read and understood the Policy.

Signed..... Date.....