

# Whistleblowing Procedure Speaking Up About Wrongdoing

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## **1. Introduction**

- 1.1. It is important for individuals (employees, agency workers, volunteers and those contractors working on TMBC premises) to have an appropriate means to raise concerns if they believe that something is seriously wrong within Tonbridge & Malling Borough Council.
- 1.2. You may become aware of, or directly witness, situations or conduct that makes you feel uncomfortable, or you regard as inappropriate. The Whistleblowing Procedure provides a means for you to raise concerns about matters not related to your own employment or your work within TMBC but which you feel need to be examined. Examples of the type of matters that could lead to you wishing to raise a whistleblowing concern are:
- Conduct which is, has been or is likely to be an offence or breach of law
  - Conduct that has occurred, is occurring or is likely to occur the result of which the Council fails to comply with a legal obligation. For example, unauthorised use of public funds, possible fraud and corruption, sexual or physical abuse of clients, or other unethical conduct discrimination of any kind and waste/frivolous expenditure
  - A concern that a TMBC employee (or someone working with us) or a service user may be at risk of being drawn into extremism and terrorism (See para 10.1)
  - Disclosures related to past, current or likely miscarriages of justice
  - Past, current or likely health and safety risks, including risks to the public as well as other employees (see below)
  - Past, current or likely damage to the environment
  - Concerns about any aspect of service provision
  - Other concerns regarding the conduct (including breaches of known standards or TMBC's Standing Orders) of officers or TMBC Members or others acting on behalf of TMBC
- 1.3. This document outlines the process that will be followed in the event of a whistleblowing concern being raised.

## **2. Other Procedures**

- 2.1. This procedure is separate from the Council's Complaints Procedures and other statutory reporting procedures applying to some Directorates. Managers are responsible for making service users aware of these procedures.
- 2.2. Any investigation into allegations of potential malpractice under this procedure will not influence or be influenced by any disciplinary or redundancy procedures that already affect an individual.
- 2.3. Tonbridge & Malling Borough Council's Safety Complaints Procedure should be used to raise any issues, concerns or complaints of a health and safety nature and which are not confidential.
- 2.4. If, as an employee, you wish to raise a concern regarding issues relating to your own employment TMBC has a Grievance Procedure that you can use. Further information on this document can be found on StaffNet.

### 3. How to Raise a Concern

#### General

3.1. Concerns can be raised verbally or in writing. A concern should:

- Set out the background and history of the concern, giving names, dates, and places where possible
- Give the reason why you are particularly concerned about the situation

3.2. The earlier a concern is raised the easier it is to act. Although you are not expected to prove beyond doubt the truth of an allegation, you need to demonstrate to the person contacted that there are sufficient grounds for your concern. A trade union or professional association may raise a matter on your behalf.

3.3. If you intend to raise a whistleblowing concern you are encouraged to include your name. If you specifically request for your name not to be released during the examination of your concern, all efforts will be made for this information to remain confidential. However, if you are required to participate in the process as a witness, it may not be possible for your name to be withheld.

3.4. In the event of anonymous allegations being received, this should be sent to one of the Senior Management contact points and/or Internal Audit who will determine whether it is possible and appropriate for the allegations to be examined.

#### Step One – Raising a Concern

3.5. Whenever possible you should raise your concern with your immediate manager or his/her manager, who can, if needed, seek guidance and advice from one of the Senior Management Contact Points. If this is not appropriate or you feel your concerns are not being addressed, you should approach the following officers and Senior Management contact points who support Corporate Directors according to the nature of the concern:

3.6.

Directorate	Contact Name	Email
Chief Executive	Julie Beilby	<a href="mailto:Julie.Beilby@tmbc.gov.uk">Julie.Beilby@tmbc.gov.uk</a>
Director of Central Services & Deputy Chief Executive	Adrian Stanfield	<a href="mailto:Adrian.Stanfield@tmbc.gov.uk">Adrian.Stanfield@tmbc.gov.uk</a>
Director of Finance & Transformation	Sharon Shelton	<a href="mailto:Sharon.Shelton@tmbc.gov.uk">Sharon.Shelton@tmbc.gov.uk</a>
Director Street Scene, Leisure & Tech Services	Robert Styles	<a href="mailto:Robert.Styles@tmbc.gov.uk">Robert.Styles@tmbc.gov.uk</a>

<b>Director of Planning, Housing and Environmental Health</b>	<b>Eleanor Hoyle</b>	<a href="mailto:Eleanor.Hoyle@tmbc.gov.uk">Eleanor.Hoyle@tmbc.gov.uk</a>
<b>Chief Internal Executive</b>	<b>Richard Benjamin</b>	<a href="mailto:richard.benjamin@kent.gov.uk">richard.benjamin@kent.gov.uk</a>
<b>Counter Fraud Manager</b>	<b>James Flannery</b>	<a href="mailto:james.flannery@tmbc.gov.uk">james.flannery@tmbc.gov.uk</a>

## Recording Concerns

- 3.7. Each directorate will be responsible for maintaining their own whistleblowing log. Managers who receive a concern should send details to their relevant directorate contact as above. The log will include the area of business that have been affected, a summary of the concerns being raised, action taken and the resulting outcome.
- 3.8. Audit Assurance maintains a central record of whistleblowing concerns. Directorates will be required to provide a copy of their whistleblowing log on a quarterly basis to the Audit Assurance Manager for inclusion into the central log to ensure a complete record is maintained.
- 3.9. Managers that receive Whistleblowing concerns must report the matter to the above departmental contacts and Internal Audit for inclusion on the central record by sending the details to [fraud@tmbc.gov.uk](mailto:fraud@tmbc.gov.uk) with the subject line 'Whistleblowing'.
- 3.10. Tonbridge & Malling Borough Council has an [Anti-Fraud and Corruption Policy](#) and all suspected financial irregularities must be reported to the Audit Assurance Manager.

## Whistleblowing Hotline

- 3.11. Audit Assurance is independent and provides objective assurance and consulting activity designed to add value and improve an organisation's operations. If you wish to raise any type of Whistleblowing concern directly with the Audit Assurance Manager (anonymously if necessary) please call the Whistleblowing helpline on [03000 414500](tel:03000414500) or email [fraud@tmbc.gov.uk](mailto:fraud@tmbc.gov.uk).

## Step Two - How Tonbridge & Malling Borough Council will respond

- 3.12. The action TMBC takes will depend on the nature of the concern. The matters raised may:
- Internal investigation by management, the Audit Assurance Manager or via disciplinary or other internal process/es
  - Referral to the Police
  - Referral to the External Auditor
  - The subject of an independent inquiry.

3.13. You will be contacted in writing within ten working days of your concern being raised

- Acknowledging that the concern has been received
- Indicating how the Council proposes to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Informing you if any initial enquiries have been made
- Whether further investigations will take place and, if not, why not.

3.14. To protect individuals and TMBC, 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 (e.g., child protection or discrimination issues) will normally be referred for consideration under those procedures.

3.15. An appropriate manager will conduct preliminary enquiries into the matters you have raised. In order to determine whether your concern needs to be formally investigated the manager will seek advice from the HR Team and, where appropriate, safeguarding professionals, Audit Assurance or the Counter Fraud Manager.

3.16. When any meeting is arranged you have the right to be accompanied by a trade union representative or a workplace colleague who is not involved in the area of work to which the concern relates.

3.17. The formal investigation will identify what, if any, action is required to address the concerns you identified via the Whistleblowing Procedure. This may involve disciplinary action against another TMBC employee or the involvement of agencies such as the Police or the External Auditor.

3.18. 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.

### **Protection from Reprisals and Victimisation**

3.19. Tonbridge & Malling Borough Council does not tolerate reprisals, victimisation or harassment and will take all reasonable action to protect you if you raise a concern via the Whistleblowing Procedure. The Council will treat any reprisals, victimisation or harassment as a serious matter and if this involves a TMBC employee it will be investigated in accordance with the Disciplinary Procedure. In the event of a disciplinary case being found, this could potentially result in the person's dismissal.

### **Public Interest Disclosure**

3.20. Public Interest Disclosure Act 1998 gives employees two safeguards in respect of disclosures of information.

- An employee is entitled not be subjected to any detriment by virtue of having made a protected disclosure.
- The dismissal of any TMBC employee directly due to the individual having made such a disclosure will automatically be unfair

## Support

- 3.21. Tonbridge & Malling Borough Council will take steps to minimise any difficulties you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, TMBC will advise or arrange for you to have advice about the procedure.
- 3.22. TMBC accepts that you need to be assured that concerns will be properly addressed and, subject to legal constraints, will provide information about the outcomes of any investigations.

## Contact

- 3.23. 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. If necessary, further information will be sought.

### 4. How the Matter can be taken further

- 4.1. This procedure is intended to reassure you and provide clear information to help you raise concerns in confidence and directly with the Council.
- 4.2. The Council hopes you will be satisfied with its response. If you are not, or if you feel for any reason, you can't raise the matter directly with TMBC then alternative points of contact points are listed below.
- 4.3. Please be assured that we would rather you raised a matter with an appropriate regulator or outside body than not at all.

Contact Details (External Organisations)	Details
Grant Thornton (The Council's external auditors)	Address: 30 Finsbury Square, London, EC2A 1AG Tel no. 020 7383 5100
The Local Government and Social Care Ombudsman	Address: PO Box 4771, Coventry, CV4 0EH Email: <a href="mailto:advice@lgo.org.uk">advice@lgo.org.uk</a> Website: <a href="http://www.lgo.org.uk">www.lgo.org.uk</a> Tel no. 03000 061 0614
The Equalities and Human Rights Commission	Address: FREEPOST Equality Advisory Support Service FPN4431 Email: <a href="mailto:correspondence@equalityhumanrights.com">correspondence@equalityhumanrights.com</a> Website: <a href="http://www.equalityhumanrights.com">www.equalityhumanrights.com</a> Tel no. 0808 800 0082
The Health and Safety Executive (Regional Office)	Address: Health and Safety Executive, International House Dover Place Ashford Kent TN23 1HU

	Website: <a href="http://www.hse.gov.uk">www.hse.gov.uk</a> Tel no. 0845 345 0055
The Environment Agency (Regional Office)	Address: National Customer Contact Centre PO Box 544 Rotherham S60 1BY Email: <a href="mailto:enquiries@environmentagency.gov.uk">enquiries@environmentagency.gov.uk</a> Website: <a href="http://www.environment-agency.gov.uk">www.environment-agency.gov.uk</a> Tel No. 0370 850 6506
Citizens Advice	Please refer to website for local information Website: <a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a>
Police	Please refer to website for local information Website: <a href="http://www.kent.police.uk">www.kent.police.uk</a> Tel No. Non emergencies 101
Your local councillors (if you live in Kent)	Website: <a href="http://www.kent.gov.uk">www.kent.gov.uk</a>
Protect – Free Confidential Whistleblowing advice	Tel No: 020 3117 2520 Website: <a href="http://www.protect-advice.org.uk">www.protect-advice.org.uk</a>
Whistleblowing: List of prescribed people and bodies	Website: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a>

## 5. Reporting

- 5.1. Anonymised information on the number of referrals, concerns and outcomes will be reported by the whistleblowing policy owner on a yearly basis to the Audit Committee. This is to provide assurance on the communication strategy and current awareness of whistleblowing across the organisation.

## 6. False or Malicious Allegations.

- 6.1. Disciplinary action will only be taken against individuals who make malicious or vexatious allegations.

## Whistleblowing Procedure

