

22/23 Annual Counter Fraud Report

Appendix H

Whistleblowing Policy

June 2023

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1. Introduction

1.1 Overall context

The London Borough of Camden (the “Council”) expects the highest standards of behaviour of all those who work at the Council.

This Whistleblowing Policy (the “policy”) is intended to encourage employees and others (referred to as whistleblowers) to report inappropriate action, which would not normally be made due to fears of victimisation or retribution.

The policy provides a framework for those with concerns to report such concerns and for them to be dealt with in an appropriate manner.

The policy also reassures whistleblowers that they will be protected from reprisals or victimisation for making reports of malpractice, in the public interest, which they reasonably believe to be true.

1.2 Regulatory and legal context

This policy has been devised in accordance with the provisions of the Employment Rights Act 1996 (ERA 1996), Public Interest Disclosure Act 1998 (PIDA 1998) and the Enterprise and Regulatory Reform Act 2013 (ERRA 2013).

1.3 Scope of the policy

This policy applies to a report where it is the reasonable belief of the employee, or other person making the report, that it discloses past, present or likely future wrongdoing in any of the following categories:

- a criminal offence, including bribery or corruption;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of an individual;
- damage to the environment, or
- a deliberate attempt to conceal any of the above.

in relation to the conduct of the Council’s business, including activities carried out by contractors on its behalf.

1.4 Matters outside the scope of the policy

Statutory whistleblowing protections do not normally cover day to day issues in relation to an employee’s terms and conditions of employment or a complaint about another employee. These can usually be referred to their line manager, or if necessary, be pursued using the Council’s [Grievance Procedure](#).

Note: Employees generally would not receive statutory protection as a whistleblower when they complain merely about breaches of their own employment contract. A protected whistleblowing disclosure should have a

public interest aspect to it. A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the council's [Grievance Procedure](#), not this Policy. If employees are unsure about whether or not their concern raises a public interest matter, they may find it useful to seek further guidance from the sources of advice provided below.

Complaints or allegations relating to Members of the Council are subject to separate investigative procedures under the [Councillor Code of Conduct](#) and the relevant provisions of the Localism Act 2011.

1.5 Who is covered by the procedure?

All employees, contractors (and their staff), partner agencies (including the Health Authority and voluntary sector groups), casual and agency workers, consultants, trainees and self-employed people providing work for the Council may make reports under this procedure outlining any concerns.

2. *Making a whistleblowing report*

2.1 Reporting a concern within the management structure of your own Service Area

In the first instance, you should normally report any concerns to your line manager or their manager, preferably in writing. However, if you feel the matter is sensitive, or involves your line manager or their manager, you should report the matter to the Council's Whistleblowing Officer.

Before raising your concern, you may wish to take advice on the matter from any of those listed in paragraph 5.7 of this procedure first. It is advisable that you report your concern as early as possible. A delay in reporting the matter may make any 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, giving 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 could discuss it with the manager to whom you wish to make the report and arrange to meet them. Do bear in mind that you may be asked to put the details in writing later.

Managers receiving a report under this policy must notify the Whistleblowing Officer immediately.

2.2 Reporting a concern to the Council's Whistleblowing Officer

The Council's Whistleblowing Officer is the Head of Internal Audit, Investigations and Risk Management (Tel: 020 7974 2211). If the Whistleblowing Officer is unavailable, you may also report your concerns to

the Anti-Fraud and Investigations Team (AFIT) on 020 7974 1949 or 020 7974 2281 or via email InternalAudit@camden.gov.uk.

You may make a written report to the council's Whistleblowing Officer if you:

- Have previously raised an issue to management within your department and feel that it has not been dealt with properly or the matter involves a Director or above, or
- Feel uncomfortable raising the matter within your management structure, or
- Fear that relevant information may be concealed or destroyed if the matter is raised within your management structure.

While the Council is grateful to receive any whistleblowing information, we do not routinely provide updates or tell you of the outcome of the investigation, as this may potentially impact on any decisions or outcomes that we may reach in the future. This may also infringe a duty of confidentiality owed by us to someone else.

3. *Investigation of your report*

3.1 What will happen?

An assessment will be made on whether the referral is appropriate for this procedure in the light of the matters set out in paragraphs 1.3 to 1.5 above.

Receipt of your report will be logged by AFIT, following which we may seek to speak with you.

You will receive a written acknowledgement of your report and will be informed of the action that will be taken to look into your concern. You may also be given an estimate of the likely timescale of any investigation, although this cannot be guaranteed.

Where possible, you may be kept informed of the progress of any investigation, unless the Investigator considers that there is a risk of the investigation being prejudiced by disclosures. You may not receive full details of the progress or the outcome of the investigation if providing details would be inconsistent with obligations of confidentiality in relation to others.

The person making the disclosure and the person the disclosure is about have the right to be accompanied and/or represented by their trade union representative or a colleague at all stages of the procedure.

In some circumstances the matter may be referred to an external agency, such as the police, if a potential crime is involved. Where possible, AFIT will advise you of this before doing so.

It may be considered appropriate for the allegations in your report to be investigated on behalf of the Council by an external party. In these cases, the

Council's Section 151 Officer or the Chief Executive will provide authority for an external investigation to be conducted.

3.2 Conclusion of the investigation

If your allegation is not proven or there is insufficient evidence on which to base a conclusion, you will be advised accordingly.

In all cases a written record will be kept of the decision reached in relation to whether or not the Council will investigate.

You will be advised when the investigation is complete but it may not always be possible to tell you the details of the findings as this may be confidential.

4. Modern Slavery

- 4.1 Modern slavery is the illegal exploitation of people for personal or commercial gain, often in conditions which the victim cannot escape. The London Borough of Camden is committed to ensuring that this exploitation does not occur in any of the Council's activities and that staff and the public have the opportunity to report suspicions to the appropriate place.

Staff who suspect that modern slavery or human trafficking may be happening through any of the council's activities, particularly in service delivery via third parties, should contact the Council's Head of Internal Audit, Investigations and Risk Management immediately (Tel: 020 7974 2211). You may also report your concerns AFIT on 020 7974 1949 or 020 7974 2281 or via email InternalAudit@camden.gov.uk.

More information and advice can be found on the government's website on modern slavery: <https://www.gov.uk/government/collections/modern-slavery>

5. General Provision

5.1 Anonymous reports

This policy encourages you to give your name when making an allegation. Whilst anonymous allegations do not carry the same weight, any such reports received by the Council will be considered when the Council believes this to be appropriate. 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 factual content and specific detail of the complaint (and any supporting material provided);
- the likelihood of confirming the allegation from other attributable sources.

Anonymous whistleblowers will not ordinarily be able to receive feedback. However, they may seek (though are not guaranteed to receive) feedback through a telephone appointment or via email. Please see the relevant contact details above. Such feedback will be provided subject to sufficient evidence that the person seeking the feedback is the same person who made the original complaint or allegation.

5.2 Anonymity

During the initial stages of the investigation, if you so wish, the Council can seek to conceal your identity, ensuring that your identity is only disclosed to those directly involved in investigating the allegation. If you wish to remain anonymous, the Council will take all reasonable steps to maintain your anonymity. However, notwithstanding all reasonable steps being taken, it is possible that anonymity will not be maintained. For example, the matters to which your complaint relates may enable interviewees in an investigation to guess your identity. The Council may also be required by law to breach anonymity. For example, we may be required by law to disclose your identity to other investigating agencies.

5.3 Attendance at a disciplinary hearing

In cases where disciplinary action is taken, it may be necessary for you to provide witness evidence. We will aim to gather evidence to support your allegation without requiring your attendance at a hearing, but this may not always be possible.

5.4 Non-disclosure agreements

Non-disclosure clauses in settlement agreements do not prevent you from making a disclosure under this policy or attracting the statutory protection.

5.5 Statutory protection

The PIDA 1998, ERA 1996 and the ERRA 2013 provide 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 made in the public interest.

5.6 Protection for Council employees

Action will not be taken against you by the Council if you make a report with a reasonable belief that it is in the public interest even if it is not confirmed by the investigation.

The Council will treat any victimisation or harassment of an employee because they made a report reasonably and in the public interest under this procedure as a serious disciplinary offence.

If you consider that you have been, are being 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 procedure, you should report your

concerns to the Whistleblowing Officer. The matter will then be dealt with as a new referral under this procedure and an assessment will be made as to whether or not the referral is appropriate for consideration under the procedure.

Employees should not make reports which they do not reasonably believe to be true or which are malicious. Disciplinary action may be taken against an employee who makes an allegation frivolously, maliciously or for personal gain.

Please note that:

- Staff must believe the disclosure of information is in the public interest;
- Staff must believe it to be true;
- Staff must not act maliciously; or knowingly make false allegations, and
- Staff must not seek any personal gain.

Just as the Council seeks to protect those who raise complaints in good faith, it will seek to protect those against whom potentially malicious claims are made. No action will be taken against anyone who reasonably raises a concern in good faith which transpires to be unfounded. However, the Council will take disciplinary action against any employee who makes a vexatious claim, a malicious claim or obtains information inappropriately to inform a vexatious or malicious claim. In either case, where it turns out that a claim was without foundation, the Council will ensure that any negative impact upon the person complained of is minimised.

If you are already the subject of a disciplinary, capability or redundancy procedure, this will not normally be halted as a result of your report.

5.7 Advice

You may wish to seek advice from your trade union or a professional organisation before making a report under this policy.

Protect offers free, confidential whistleblowing advice on 020 3117 2520. Further information is available on their website: <https://protect-advice.org.uk>

For additional support and access to impartial specialists, information and fact sheets to support you on unlimited issues, from personal, work and financial welfare. You can contact the Employee Assistance Programme (EAP).

Further information on the EAP can be found on the Council's intranet, Essentials:

<https://lbcamden.sharepoint.com/sites/intranet/HR/Pages/Employee-Assistance-Programme.aspx>

The National Society for the Prevention of Cruelty to Children (NSPCC) has a national whistleblowing helpline for employees wishing to raise concerns about a child at risk of abuse.

You can find more information on this NSPCC whistleblowing helpline on their official website at: <https://www.nspcc.org.uk>

Information concerning the safeguarding of children and adults are also on Essentials at:

<https://lbcamden.sharepoint.com/sites/EssentialsHR/SitePages/safeguarding.aspx>

5.8 Reporting outside the Council

This procedure 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 following completion of the process set out above, the following are possible contact points:

- HM Revenue and Customs,
- the Financial Services Authority,
- the Office of Fair Trading,
- the Health and Safety Executive,
- the Environment Agency,
- the Director of Public Prosecutions,
- the Department of Health,
- the Care Quality Commission,
- the Serious Fraud Office,
- Ofsted, or
- other appropriate regulatory body.

For a full list of bodies and person who you can make a disclosure to see: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies>

A report made externally, i.e. to the police, media or Member of Parliament, will only be protected and count as a qualifying disclosure under the legislation if the following apply:

- the report is in the public interest: if you honestly and reasonably believed the information and any allegation contained in it to be substantially true,
- the allegation has not been made for personal gain,
- the allegation has already been raised with the council, unless you reasonably believed you would be victimised or that there may be a cover-up or that the matter is exceptionally serious.

Also a disclosure is not a qualifying disclosure if:

- by making the disclosure, you have committed an offence (e.g. under the Official Secrets Act 1989), or
- the information should be protected from disclosure because of legal professional privilege (e.g. the disclosure has been made by a legal

adviser (or their secretary) who has acquired the information in the course of providing legal advice).

Appendix ends