

Whistleblowing Policy

1. Introduction

- 1.1 All of us at one time or another have concerns about what is happening at work. Usually these are easily and informally resolved. However, when they are about unlawful conduct, financial malpractice or dangers to the public or the environment, it can be difficult to know what to do.
- 1.2 You may be worried about raising such a concern and may think it best to keep it to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.3 Whistleblowing is when a worker reports suspected wrongdoing at work. Officially this is called *'making a disclosure in the public interest'*.

2. The Law

- 2.1 The Public Interest Disclosure Act 1998 (which amended the Employment Rights Act 1996) provides protection for workers who, in reasonable belief raise matters that they believe to be in the public interest, which tend to show one or more of the following:

- That someone's health and safety ~~is~~ has been, is being, or is likely to be endangered.
- That the environment has been, is being, or is likely to be harmed.
- A criminal offence has been, is being, or is likely to be, committed
- That a person has failed to comply, is not complying or likely not to comply with a legal obligation
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That information tending to show any of the above is being or likely to be deliberately concealed.

These are called 'qualifying disclosures' and a worker has the right not to be dismissed or subjected to victimisation because they have made the disclosure.

The above does not represent an exhaustive list of areas covered by this Policy.

- 2.2 The Enterprise and Regulatory Reform Act 2013 further amends Section 43B of the Employment Rights Act 1996 by introducing a 'public interest test'. A whistleblower must have a reasonable belief that a disclosure is in the public interest.

3. Policy Statement

- 3.1 Welwyn Hatfield Borough Council is committed to running the organisation in the best way possible and to do so we need your help. We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have about malpractice at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern so that we may deal with any wrongdoing.
- 3.2 If something is troubling you that you think we should know about or look into, please use this policy. If, however, you wish to make a complaint about your employment contract or how you have been treated, please use the council's Disciplinary and Grievance policy (available on eTeam). This Whistleblowing Policy is primarily for concerns where the interests of others or of the organisation itself are at risk.
- 3.3 This policy applies to all Executive Directors and employees of the Council (including permanent, temporary, casual and trainee posts). Other individuals performing functions in relation to the Council such as agency workers, suppliers and contractors are also encouraged to use it.
- 3.4 Employees have no responsibility to investigate any matter – it is the council's responsibility to properly investigate any matters raised.
- 3.5 If you are yourself the subject of disciplinary or redundancy procedures, your Whistleblowing does not mean that these processes will be halted.

4. Confidentiality

- 4.1 We will not tolerate the harassment or victimisation (including by colleagues) of anyone raising a concern where they have a reasonable belief that there has been wrongdoing. We recognise however that you may wish to raise a concern in confidence. If this is the case, please say so formally at the outset so we can investigate the matter appropriately.
- 4.2 If you ask us to protect your identity by keeping it confidential, we will not disclose it without your consent. If we cannot proceed without revealing your identity (for instance where your evidence may be required in court), we will discuss with you how we can proceed.
- 4.3 Please remember that if you do not tell us who you are then it may make it much more difficult to investigate your concern, protect your position or give you feedback. We will consider anonymous reports, but this policy is not ideally suited to such occasions and we would prefer to know who you are and then keep your identity confidential if you wish.
- 4.4 With these assurances we hope you feel able to raise your concern openly.
- 4.5 If you are unsure about raising a concern then you can get independent advice to assist you from:
- The independent charity *Public Concern at Work*
 - Your trade union (if you have one)

- The Employee Assistance Programme

Contact details are listed at the end of this policy.

5. Raising a Concern Internally

5.1 Please remember that you do not have to have firm evidence of malpractice before raising a concern, but you must have a reasonable belief that you are acting in the public interest in disclosing it to the Council.

5.2 Step One – Raising a Concern Internally with Management

5.2.1 We hope you will feel able to raise your concern about malpractice with your manager or Head of Service in the first instance. You should always consider doing this first if possible.

5.3 Step Two – Raising a Concern Internally Through Other Channels

5.3.1 If you feel that you are unable to raise the matter with your manager or Head of Service then you can use one of the following means:

- By email – whistleblowing@welhat.gov.uk
- By telephone:
 - Ian Colyer, Principal Governance Officer, 01707 357413
 - Farida Hussain, Legal Services Manager, 01707 357359~~Andy Gremer, Risk and Resilience Manager, 01707 357169,~~
- Whistleblowing hotline (voicemail service) – 01707 357264

5.3.2 If the channels in steps one and two above have been followed and you still have concerns, or the matter is of such seriousness that you do not feel able to raise it using the above routes, then you can contact:

- Margaret Martinus, Head of Law & Administration and Monitoring Officer, 01707 357575

6. How We Will Handle the Matter

6.1 Once you have told us of your concern, we will assess it and consider what action may be appropriate. This may involve an informal review and possibly a confidential meeting with you, an internal inquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. We will write to you summarising your concern and setting out how we propose to handle it within five working days of receipt. If we have misunderstood the concern or there is any information missing please let us know.

6.2 When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within our grievance or other relevant policy procedure, we will let you know.

6.3 While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can. We will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.

6.4 This ~~p~~Policy is intended to provide employees with an opportunity to raise concerns within the Council. The council hopes that employees will be satisfied that we have handled the matter fairly and properly. By using this policy you will help us to achieve this.

7. Raising Concerns Externally

7.1 We hope that this policy gives you the confidence and reassurance to raise matters internally. We recognise however that you may feel unable to do so raise concerns internally for a number of reasons.

7.2 *Disclosure to a Regulator*

7.2.1 You will be protected if you raise a qualifying disclosure, so long as you believe it to be *substantially true*, with one of a number of prescribed regulators. See Appendix A for where you can obtain advice on Regulators. We would rather you raised a concern with one of these regulators, if you feel you cannot raise it with us, than not raise it at all.

7.3 *Disclosure to the Wider Public*

7.3.1 You will also be protected if you make a qualifying disclosure to any other person or body. This policy does not offer advice on these conditions as we encourage raising concerns internally as the preferred option.

7.3.2 In circumstances where an employee decides to raise the matter externally, protection under this ~~p~~Policy and under employment law will only cover a disclosure made in accordance with Section 43 of the Employment Rights Act 1996 (as amended) ~~by the Enterprise and Regulatory Reform Act 2013~~. This means that the disclosure must fall under one of the categories listed in Section 3 and must be made in one of the following ways:

- in the course of obtaining legal advice;
- to a prescribed regulatory body (see Appendix A) provided the disclosure is made in the reasonable belief that it is in the public interest and the employee reasonably believes the prescribed body is responsible for the matter of concern and that the information and allegation/s are substantially true;
- to other third parties (including the media) where the employee makes the disclosure:
- in the reasonable belief that it is in the public interest and that the information and allegations are substantially true, and
 - does not make the disclosure for personal gain, and

- has already raised the matter with the Council or prescribed regulator, unless the employee reasonably believes that he/she will suffer a detriment, or there is no prescribed regulator and he/she reasonably believes that evidence will be concealed or destroyed if he/she makes the initial disclosure to the Council, and
 - in all of the circumstances it is reasonable to make the disclosure.
- the disclosure is of an exceptionally serious nature and the employee makes the disclosure:
 - in the reasonable belief that it is in the public interest and, that the information and allegations are substantially true, and
 - does not make the disclosure for personal gain, and
 - in all of the circumstances it is reasonable to make the disclosure.

If an employee is unsure whether or how to raise a concern or wants confidential advice, contact can be made with the independent charity Public Concern at Work on 020 7404 6609 or at helpline@pcaw.co.uk. Their lawyers can provide free confidential advice on how to raise a concern about serious malpractice at work.

8. Malicious or Vexatious Disclosures

- 8.1 If you make an allegation that you reasonably believe to be in the public interest, but it is not confirmed by investigation, no action will be taken against you and the protections afforded by the Public Interest Disclosure Act 1998 will apply. ~~A person~~ You would not be protected from disciplinary action if, for example, they raised a concern they knew to be false or malicious and this is suspected following an investigation conducted within the remit of this policy.

Governance Services ~~April~~ November 2017

Next review due ~~April~~ November 2019

Appendix A

Useful Contacts

Internal

WHBC Whistleblowing line email: Whistleblowing@welhat.gov.uk

Tel: 01707 357264 (voicemail 24/7)

Ian Colyer, Principal Governance Officer email: i.colyer@welhat.gov.uk

Tel: 01707 357413

Farida Hussain, Legal Services Manager email: f.hussain@welhat.gov.uk Andy
Cremer, Risk and Resilience Manager email: a.cremer@welhat.gov.uk

Tel: 01707 357359 Tel: 01707 357169

Margaret Martinus, Head of Law & Administration email: m.martinus@welhat.gov.uk

Tel: 01707 357575

External

Public Concern at Work Whistleblowing Advice Line: 020 7404 6609

www.pcaw.org.uk

UK advice line: whistle@pcaw.org.uk

CIC – Employee Assistance Programme Tel: 0800 085 1376

Approved Regulators

A full list of regulators can be found on the Public Concern at Work website (<http://www.pcaw.org.uk/law-and-policy>).