

**Thurrock Council**  
**Whistleblowing policy and procedure**

# Version control sheet

<b>Title:</b>	Whistleblowing policy and procedure
<b>Purpose:</b>	The policy and procedure have been developed so that council workers will know how to raise concerns in the right way at an early stage, and to enable managers to understand their responsibilities in relation to allegations of misconduct and impropriety.
<b>Owner:</b>	Legal Services
<b>Approved by</b>	Monitoring Officer
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<b>Consultation:</b>	This policy was sent out for consultation to the following: <ul style="list-style-type: none"><li>• Trade Unions</li><li>• Diversity</li><li>• Finance</li><li>• Legal</li><li>• CMT</li><li>• Standards Committee</li></ul>

# Contents

1. Policy statement.....	4
2. Scope of the policy.....	4
3. Principles .....	5
4. Procedure.....	7
Internal contact list.....	10
External contact list.....	11

## 1. Policy statement

- 1.1. The council is committed to providing the highest quality service to residents and visitors to Thurrock. This involves ensuring that the local community can have full trust and confidence in the way the Council manages its services and resources and making sure that all those who are vulnerable such as children, the elderly and people with learning disabilities are provided for safely, effectively and in accordance with best practice.
- 1.2. There are occasions when high standards are not maintained. Normally such problems are dealt with by reporting the matter to the manager responsible for that service who will investigate and rectify the issue. However, when council workers (which includes: agency workers, freelance workers, seconded workers, homeworkers and trainees, volunteers or contractors) have concerns about serious malpractice, such as the safety or proper care of clients, or fraudulent or dishonest practice it can be difficult to know what to do.
- 1.3. This policy has been developed so that workers will know how to raise concerns in the right way at an early stage, and managers understand their responsibilities in relation to allegations of misconduct and impropriety.

## 2. Scope of the policy

- 2.1. The policy applies to all council workers, partners and those contractors working for the council – for example, agency staff, builders, drivers, and voluntary workers working with the council. It also covers suppliers and those providing services under a contract with the council in their own premises, for example, care homes.
- 2.2. This policy should be used when workers have concerns that the interests of others or the council – and therefore its residents – are at risk for example:
  - criminal activities and any activities, suspected or ongoing, which may break the law (including fraud, any form of child abuse, or the abuse of other vulnerable clients, damage to the environment, inappropriate or unauthorised use of public funds or other resources, possible fraud and corruption miscarriage of justice, health and safety risks, including risks to the public, service users as well as other workers)
  - disregard for legislation, council rules, policies and procedures
  - the mistreatment of a service user which may endanger the health and safety of that service user

This list is not exhaustive.

- 2.3. Workers are protected by law (under the Public Interest Disclosure Act 1998) from any possible reprisals or victimisation for having raised any issues where they **reasonably believe** that:
  - a) a criminal offence has been committed, is being committed or is likely to be committed
  - b) a person has failed, is failing or is likely to fail to comply with any legal obligation, to which they are subject
  - c) a miscarriage of justice has occurred, is occurring or is likely to occur

- d) the health or safety of any individual has been, is being or is likely to be endangered
- e) the environment has been, is being or is likely to be damaged, or
- f) information tending to show any matter falling within any one of the preceding paragraphs has been is being or is likely to be deliberately concealed

The overriding concern should be that it would be in the **public interest** for the malpractice to be corrected and, if appropriate sanctions applied.

- 2.4. This policy should be read in conjunction with the council's Anti-fraud and Corruption Policy.
- 2.5. This policy does not replace the corporate complaints procedure details.

### **3. Principles**

- 3.1. Workers raising issues, and managers investigating them, will suffer no detriment as a result provided, they act in the public interest – that is, they genuinely believe that there is, or may be, substance in their allegations.
- 3.2. The council will not tolerate any harassment or victimisation of a whistleblower (including formal pressures), and will treat this as a serious disciplinary offence, which will be dealt with under the Disciplinary Procedure. A worker whose concerns are raised under this procedure but referred for investigation under another procedure – for example, the anti-fraud policy – will receive the same protection from victimisation under the Public Interest Disclosure Act 1998.
  - A worker can raise concerns orally or, preferably, in writing.
  - Any concerns raised by a worker will be dealt with promptly.
  - The concerns will be considered as thoroughly as possible by the most relevant person, whether this is an internal manager or some appropriate external officer or organisation delegated by the council.
  - Workers have the right to seek assistance and advice from a trade union representative or work colleague, and to be accompanied by a trade union representative or work colleague at all meetings held under this procedure.
  - If you make an allegation in the public interest, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you'
- 3.3. This policy does not restrict workers' rights to raise their concerns outside of the council – for example, with a "Prescribed Regulator" (please see the External Contact List), the Environment Agency, the Health and Safety Executive or the Police – but is intended to facilitate an internal investigation in order to resolve workers concerns so that they do not feel the need to refer to external agencies. If you feel it is right to take the matter outside the Council, further contact points are given in the External Contact List at the end of this policy.

If you raise your concerns outside of the council with a Prescribed Regulator (please see the External Contact List), you will still be entitled to the statutory protection of the Public Interest Disclosure Act if you reasonably believe you have acted in the public interest, the information / allegations are true and the matter is within the responsibility of that Regulator. If you make a wider disclosure – for example, to the media – there is a risk that you may not be statutorily protected, depending on whether there is a valid cause to go wider.

If you do take the matter outside the council, you will also need to ensure that you do not disclose information which should properly remain confidential. You will need to confirm this with the person or organisation you decide to contact. You should note, however, that, by law, you cannot be prevented from making a Protected Disclosure (an appropriate lawful disclosure under the Public Interest Disclosure Act) by any confidentiality clause in an agreement between you and your employer – for example, in a Settlement Agreement – and any such clause will be legally invalid.

You should take advice – for example, from the independent charity Protect (*formerly known as Public Concern at Work*) (contact details listed in the External Contacts List below) – before raising your concerns outside the council to make sure you are protected.

### **3.4. Council's responsibilities**

The council must:

- deal promptly and fairly with any concerns raised under this policy in accordance with the procedure set on pages 7 and 8 of this document
- make sure that the worker's concerns are appropriate for consideration under this policy as against another procedure – for example, the council's Anti-Fraud Policy, Grievance or Disciplinary Procedures – and, if the concerns are not appropriate to this policy, refer them to the correct procedure
- immediately refer matters concerning fraud and/or corrupt acts to Internal Audit
- support and facilitate the worker in pursuing whistleblowing concerns
- maintain confidentiality throughout any proceedings
- as far as possible, withhold the identity of the worker who has raised the concerns, if the worker has so requested (managers may be obliged in some circumstances to reveal the name of the worker who raised concerns, in which event the situation should be discussed with the worker before proceeding)
- keep the worker apprised of progress in investigating and resolving their concerns
- advise the worker that they have the right to bring a trade union representative or a work colleague to any meetings under this policy
- implement any actions/recommendations arising from the investigation into the worker's concerns
- not allow the worker to suffer any detriment as a result of raising their concerns

- investigate anonymous complaints as far as practicable to do so

### **3.5. Workers responsibilities**

Workers must:

- raise concerns – orally or in writing – in confidence using the procedures which are set out in section 4 of this document
- never carry out their own investigation
- assist with any investigation into their concerns, including attendance at meetings, replying to requests for information, and providing signed statements as appropriate
- immediately pass any evidence to the investigating manager/official
- always act honestly and in the public interest when raising and pursuing concerns through this policy
- inform the investigating manager/official if they have a personal interest in the matters under investigation

## **4. Procedure**

### **4.1. How to raise a concern**

- 4.1.1. As a first step, a worker should normally raise concerns with their immediate manager or supervisor. This depends, however, on the seriousness of the issues involved and who is thought to be involved in the malpractice. If in doubt, contact the Head of Legal Services or the council's Monitoring Officer or, where the issue involves the Monitoring Officer, please contact the Chief Executive.

If any information raises concerns about harm or potential harm to any child, a child protection referral should be made immediately (see the Internal Contact List at the end of this policy, including emergency out of out of hours numbers) where an experienced social worker will ensure Child in Need or Child Protection Procedures are instigated if needed and will provide you with any required advice and guidance.

If any information raises concerns about harm or potential harm to a vulnerable adult, these concerns should be reported immediately to the Adult Social Care team (see the Internal Contact List at the end of this policy, including emergency out of hours numbers).

If you have concerns about immediate danger needing an emergency response or you think a crime is being committed the police should be contacted on 101 or 999. You should never delay taking emergency action to safeguard a child or vulnerable adult.

- 4.1.2. Alternatively, an worker can either send an email to [whistleblowing@thurrock.gov.uk](mailto:whistleblowing@thurrock.gov.uk) or leave a message on the 24-hour Whistleblowing answer service (phone 01375 366 110). The phone is located in a secure area. This service is strictly confidential.
- 4.1.3. Concerns are better raised in writing. Workers are invited to set out the background and history of their concern, giving names, dates and places where possible, and the reason why they are particularly concerned about the situation. If they do not feel able to put their

concern in writing, they can telephone or meet the appropriate officer. The earlier they express the concern, the easier it is to take action.

4.1.4. Although a worker would not be expected to prove the truth of an allegation, they will need to demonstrate that there are sufficient grounds for concern.

4.1.5. A worker may invite a trade union representative or work colleague to raise a matter on their behalf.

## **4.2. How the council will respond**

4.2.1. The action taken by the council will depend on the nature of the concern and may:

- be resolved by agreed action without the need for investigation
- be investigated internally
- be referred to the external auditor
- form the subject of an independent inquiry

4.2.2. In order to protect individuals and the council, initial enquiries will be forwarded to the Monitoring Officer who will consult with the Head of Internal Audit and decide whether an investigation is appropriate and, if so, what form it should take. The Monitoring Officer can decide to take no further action if a complaint appears to be frivolous or malicious, in which case the matter will be referred back to the manager and formal disciplinary action may be taken against the worker (if applicable) who made the frivolous or malicious complaint.

4.2.3. If an investigation is required, the Monitoring Officer will consult with the Internal Audit and designate an appropriate officer to investigate the concern. Following this that officer will, within ten working days, write to the member of staff:

- acknowledging that an investigation will be carried out
- indicating how they propose to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling them whether any initial enquiries have been made
- telling them whether further investigations will take place, and if no, why not
- advising them that any investigation will be carried out in the strictest confidence
- keeping them informed of the progress of the investigation

4.2.4. The amount of contact between the officers considering the issues and the worker 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 from the worker who raised the whistleblowing request.

4.2.5. When any meeting is arranged, the worker has the right, if they so wish, to be accompanied by a union representative or work colleague who is not involved in the area of work to which the concern relates.



- 4.2.6. The council will take steps to minimise any difficulties that workers may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the council will advise them about the procedure.
- 4.2.7. The Monitoring Officer will record and report on the outcome of any investigation.

## **Internal contact list**

**Concerns about harm or potential harm to either children or vulnerable adults should be reported immediately to:**

- **Multi Agency Safeguarding (MASH) Hub – 01375 652 802 (for children)**
- **Thurrock First – 01375 511 000 (for adults)**

## External contact list

If you have used the appropriate internal procedures and are not satisfied with any action taken in relation to your concerns and if you feel it is right to take the matter outside the council, further possible contact points are given below. It is stressed that the list below is not exhaustive, and you are free to contact any organisation which you feel will be able to deal properly with your concerns.

### Prescribed regulators

A full list is available from the independent charity, Protect (formerly known as Public Concern at work) (contact details below) and includes the following:

<b>Local Government Ombudsman</b>	020 7217 4620
<b>Environment Agency (24-hour line)</b>	0370 850 6506
<b>Health and Safety Executive (fatal and major incidents only)</b>	0345 300 9923 <a href="http://www.hse.gov.uk">www.hse.gov.uk</a>
<b>Food Standards Agency</b>	020 7276 8000
<b>Information Commissioner</b>	01625 545 745
<b>National Society for the Prevention of Cruelty to Children (NSPCC)</b>	0808 800 500
<b>Essex Police (emergencies only)</b>	<b>101 or 999</b>
<b>Your local Citizens Advice Bureau</b>	National Advice Line: 03444 111 444 Text relay: 03444 111 445 Thurrock: 03444 770 808 Other local numbers: <a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a>
<b>Your trade union</b>	(various)

If you are unsure whether or how to use this procedure or want independent advice, you may contact the independent charity, Protect (*formerly known as Public Concern at Work*) on 020 3117 2520. Their lawyers can give you free confidential advice at any stage on how to raise a concern about serious malpractice at work.