

Harrow Council Whistleblowing Policy and Procedure

Policy Statement

The Council is committed to the highest possible standards of conduct, openness, honesty and accountability and takes seriously any issues of malpractice or wrongdoing. Workers are often the first to realise there may be something seriously wrong within the workplace and the Council expects workers who have serious concerns about any aspect of the Council's work to come forward and voice those concerns and to feel supported when doing so.

The Public Interest Disclosure Act 1998 (PIDA) protects workers who 'blow the whistle' about malpractice or wrongdoing within an organisation. This Act makes provision on the kinds of disclosures which may be protected, the circumstances in which such disclosures are protected and persons who may be protected.

1. Who is covered by the Policy?

This policy and procedure applies to all Council employees, former employees, agency workers (these are defined as 'workers'), It also applies to contractors and their staff and Elected Members. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.

This policy does not form part of an employee's contract of employment.

Schools

This policy and procedure is strongly recommended for adoption by School Governing bodies, following consultation with their staff. Governing bodies are urged to adhere to the principles outlined within this policy and procedure.

Where this policy and procedure makes reference to a manager, in schools this normally will be the Head Teacher.

2. Why do we need a Policy?

This policy and procedure aims to:

- encourage individuals to feel confident in raising serious genuine concerns and to question and act upon concerns;
- provide avenues for individuals to raise those concerns and receive feedback on any action taken;
- encourage and enable individuals to raise serious concerns within the Council rather than overlooking a problem or taking it outside of the organisation.
- ensure that individuals are aware of how to pursue concerns if they are not satisfied with the action taken;
- reassure workers in the strongest terms that they will be protected from possible reprisals or victimisation, by either the organisation or individual co-workers, for Whistleblowing in accordance with this procedure.
- ensure consistency and fairness in dealing with Whistleblowing across the Council.

It is recognised that cases may have to proceed on a confidential basis.

3. What is covered by this Policy?

The PIDA and this Policy provide protection for a worker who makes a qualifying disclosure. This means any disclosure of information which, in the reasonable belief of the worker making the disclosure **is made in the public interest and** tends to show one or more of the following:

- 7.1. that a criminal offence has been committed, is being committed or is likely to be committed;
- 7.2. that a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject;
- 7.3. that a miscarriage of justice has occurred, is occurring or is likely to occur;
- 7.4. that the health or safety of any individual has been, or is likely to be endangered;
- 7.5. that the environment has been, is being or is likely to be damaged; or
- 7.6. that information tending to show the matter falling within any one of the above has been, is being or is likely to be deliberately concealed.

Although not covered by PIDA, it should be noted that Council employees have a duty to report to the authority any impropriety, breach of procedure or failure of the manner in which services are being provided without fear of recrimination (see the Code of Conduct for Council Employees, paragraph 1.5).

For the avoidance of doubt, this includes a duty to report a suspected breach of the Council's Constitution (including Contract Procedure Rules and Financial Regulations). The Financial Regulations at paragraph C59 require Council employees to report financial impropriety.

This Policy and Procedure applies to disclosures about matters other than the employee's own employment situation. Any concerns that an employee may have about their own circumstances should be raised using the Council's Grievance Procedure.

Council employees can seek guidance and advice on how to pursue matters of concern from Human Resources.

4. Safeguards against Harassment or Victimisation

The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action, within its power, to protect workers when a concern is raised. Workers who suffer harassment or victimisation should inform the individual with whom they raised their initial concern, the Monitoring Officer or Director of Human Resources as appropriate.

Workers raising an issue, which they reasonably believe to be in the public interest, as set out in Section 4 and in accordance with the PIDA, are protected from harassment, victimisation or any other detrimental treatment, even if their disclosure of any wrongdoing or malpractice is not substantiated after investigation.

Victimisation of a worker for raising a concern under this Policy and Procedure will be a disciplinary offence.

Procedure for Raising a Concern

See Appendix 1

5. How to raise a Concern

- Concerns may be raised orally or in writing.
- The worker needs to ensure that the person with whom they raise the concern is fully aware that they are using this procedure.

Harrow employees may wish to discuss their concern in confidence with their Trade Union/Professional Association representative or work colleague and/or invite their trade union/Professional Association representative or work colleague to be present during any meetings or interviews in connection with the concerns raised.

- Harrow employees can seek guidance or advice on how to pursue matters of concern from Human Resources and advice/support may also be sought from a Trade Union/Professional association Representative.
- The earlier the concern is raised the easier it is to take action.
- It will be helpful to provide the background and history of the concern (giving relevant dates, names & locations), the reasons for the particular concern about the situation and details of evidence / witnesses.
- Harrow employees may seek assistance with preparing this information from HR or Trade Union/Professional Association representative.

6. To Whom do I report my Concerns?

Concerns should normally be raised with a Senior Council Officer, for employees this would normally be their immediate manager.

Council employees

Council employees who do not wish to raise the issue with their manager because of the nature, seriousness or sensitivity of the issues involved, can raise their concerns with their Director, or go direct to the Director of Finance (151 Officer) or the Director of Legal and Governance Services (Monitoring Officer).

Schools

In the case of schools if the concern relates to the Headteacher, this should be referred to the Chair of the Governing Body.

Council Members

Where Council Members have concerns they may wish to first discuss matters with their Group Leader, but this does not discharge the responsibility to report serious matters urgently to either to the relevant Director or the Director of Legal and Governance Services (Monitoring Officer).

For guidance on raising concerns outside the Council, see Section 9 below.

7. How the Council will Respond

- 7.1. If possible, within 5 working days, the person with whom the concern was raised will acknowledge its receipt in writing, irrespective of how the concern was raised.
- 7.2. Where the concern has been raised with a manager, they together with an HR Adviser (or other relevant representative eg from Audit or Child Protection Unit) will decide whether the matter needs to be referred to a more senior officer e.g. Director, Director of Finance (151 Officer), Director of Legal and Governance Services (Monitoring Officer), Chief Executive, Head Teacher, Chair of Governors.
- 7.3. Investigation does not imply either acceptance or rejection of an individual's concerns
- 7.4. The initial enquiry will be undertaken, wherever possible within 10 working days, by the most appropriate Officer(s). This will not involve a detailed investigation, however, sufficient information will need to be gathered in order that a decision can be made as to whether further investigation will take place.
- 7.5. Where appropriate, the matters raised may:
 - be investigated by management, the Monitoring Officer, internal audit, or through the disciplinary process
 - be referred to the police
 - be referred to the external auditor or other external investigation
 - form the subject of an independent inquiry
 - be investigated under another procedure e.g. child/adult protection
 - be investigated under other forms of prosecution and inspection e.g. to protect public health and safety
- 7.6. In order to protect individuals and those accused of misdeeds or possible malpractice or wrongdoing, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 7.7. Where possible, within fifteen working days of a concern being raised, the person with whom the concern has been raised will write to the individual who raised the matter:
 - indicating how they propose to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - informing them whether any initial enquiries have been made
 - supplying them with information on staff support mechanisms, and

- informing them whether further investigations will take place and who will conduct that investigation, or
 - explaining the reasons why no investigation is to be carried out.
- 7.8. It may be necessary, as part of the investigation, to obtain additional information from the individual who raised the concern.
- 7.9. The investigation may need to be carried out under the terms of strict confidentiality i.e. by not informing the subject of the concern until (or if) it becomes necessary to do so. This may be appropriate in cases of suspected fraud.
- 7.10. The Council accepts that individuals who raise a concern need to know that the matter has been properly addressed. Thus, subject to legal constraints, the worker will be given feedback on any action taken. However, it will not include information relating to specific individuals, which will remain confidential.
- 7.11. Where there are no contact details for the individual raising the concern the matter will still be investigated and the outcome recorded by the Monitoring Officer.

8. How the Matter can be taken Further

This policy and procedure is intended to provide workers with an avenue within the Council to raise concerns. The Council hopes workers will be satisfied with any action taken. If not, and they feel it is right to take the matter outside the Council, the matter can be raised with the relevant organisation(s) as listed in Appendix 2.

There may be circumstances where a worker considers that (s)he needs to raise the matter externally. This may be because, for example, there is a need to involve the appropriate external regulatory body, or the worker considers that the matter has not been properly addressed, or that a worker reasonably believes that the matter will be covered up.

If a worker is unsure whether or how to raise a concern or wants confidential advice, contact can be made with the independent charity Protect on 0203 117 2520 or via the contact form on their website (<https://protect-advice.org.uk/>). Their lawyers can provide free confidential advice on how to raise a concern about serious malpractice or wrongdoing at work.

Further information can also be obtained from the website of the employment service, ACAS (the Advisory, Conciliation and Arbitration Service) at www.acas.org.uk.

In circumstances where a worker decides to raise the matter externally, (s)he will only be protected under this procedure, and under employment law, where the disclosure is made in accordance with the PIDA. This means that the disclosure must fall under one of the categories listed in paragraph 4 above and must be made in one of the following ways:

- a) in the course of obtaining legal advice

- b) to a prescribed regulatory body (listed in Appendix 2) provided the worker reasonably believes the prescribed body is responsible for the matter of concern and that the allegations are substantially true;
- c) to other third parties where the worker makes the disclosure;
 - with reasonable belief that the information and allegations are substantially true, and
 - does not make the disclosure for personal gain (this does not include rewards offered under the statute, for example, by HMRC), and
 - has already raised the matter with the Council or prescribed regulator, unless the worker reasonably believes that (s)he will suffer a detriment, or there is not prescribed regulator and (s)he reasonably believes that evidence will be concealed or destroyed if (s)he makes the initial disclosure to the Council, and
 - in all of the circumstances it is reasonable to make the disclosure.
- d) The disclosure is of an exceptionally serious nature and the whistleblower makes the disclosure:
 - with reasonable belief 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.

Council employees who wish to take the matter outside the Council should check with their Trade Union/Professional Association Representative, Human Resources or statutory body that they are not in breach of the Council's Code of Conduct.

It will rarely if ever be appropriate to alert the media.

9. Support for Workers raising a Concern and others affected by the Raising of a concern

- The Council is committed to good practice and high standards and wants to be supportive of individuals who raise concerns.
- The Council will also support individuals affected by the raising of a concern as appropriate.
- Council employees experiencing stress as a result of their involvement in this process can seek counselling and support through the Council's Employee Assistance Programme.
- Council employees can also approach their Trade Union.
- Council employees may also approach their Employee Support Group for support throughout the procedure.
- The employee may find it helpful to involve his or her manager, particularly if they can identify specific support that would be helpful and which the manager feels are reasonable.

- The Council will take steps to minimise any difficulties which individuals may experience as a result of raising a concern, eg if they are required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure and, if necessary, be fully prepared for a Court appearance.
- Where the raising of a concern affects a group of staff, the relevant manager will, having made an assessment, take appropriate action to support the workgroup.

10. Confidentiality

If a worker raises an issue, every effort will be made not to reveal their identity. It must be recognised, however, that in order to investigate the matter, information must be obtained and/or other workers questioned, therefore total confidentiality cannot be guaranteed. If criminal proceedings require that information is passed on it may become necessary to reveal the worker's identity. In such situations the worker will be consulted before this action is taken, however, the Council will endeavour to maintain confidentiality whenever possible. Any Trade Union representative or work colleague supporting the worker must maintain confidentiality.

11. Anonymous Allegations

Where a concern is raised anonymously, these 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.

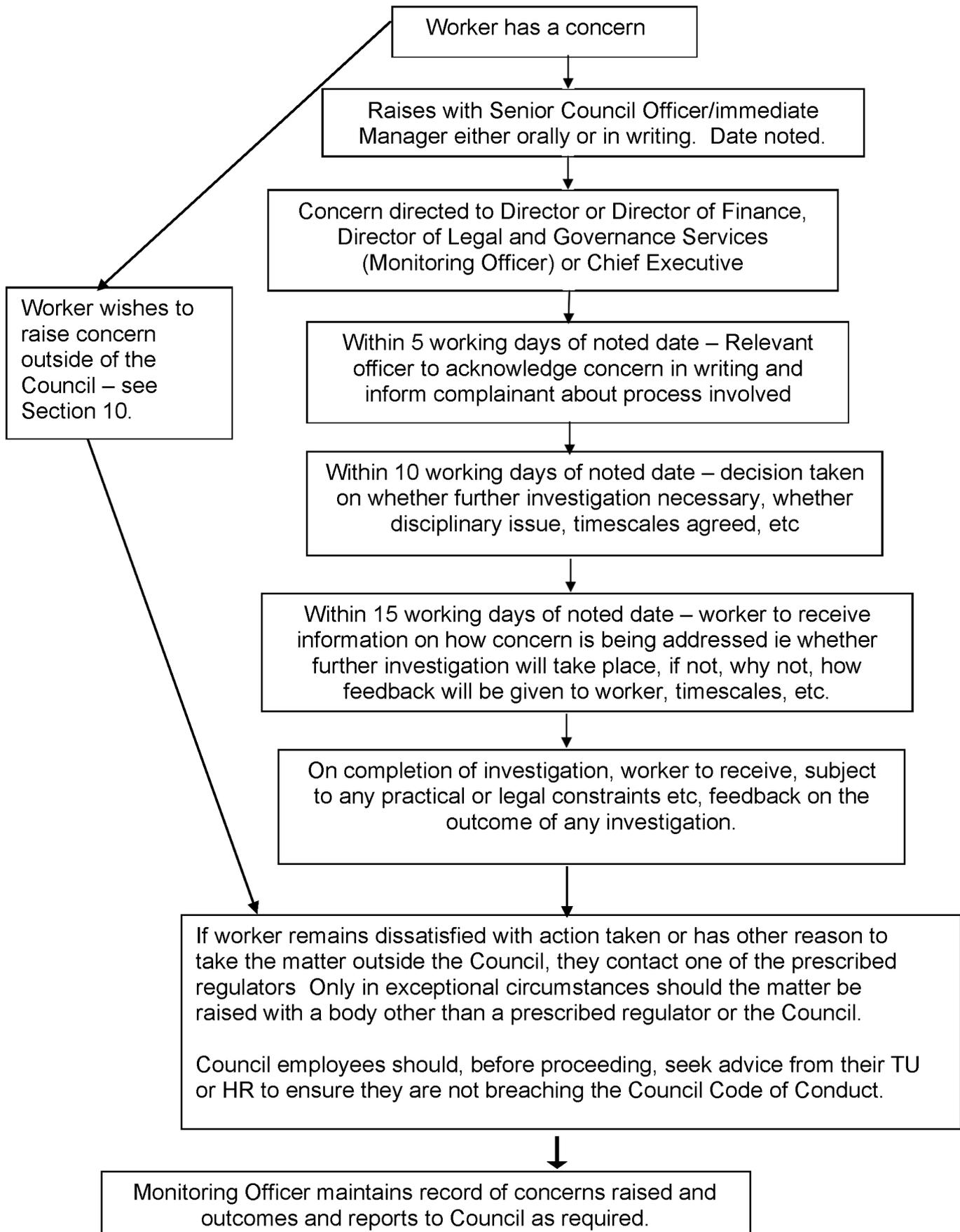
12. Untrue Allegations

This Policy and Procedure must not be misused for making false allegations in which the worker has no reasonable belief. The Council will treat abuse of the Whistleblowing procedure extremely seriously. The Council reserves the right to take appropriate action against the whistleblower, including under the Disciplinary Procedure, if they are found to be acting maliciously.

13. The Responsible Officer

The Director of Legal and Governance Services who is the Council's Monitoring Officer, has overall responsibility for the maintenance and operation of this policy and procedure. This officer maintains a record of concerns raised and the outcomes and will report as necessary to the Council (but in a form which does not endanger confidentiality). All concerns raised through this policy and procedure should be reported to the Monitoring Officer by the manager with whom the concern was originally raised.

Appendix 1



Appendix 2

This is an edited list of the Prescribed Regulators for England, Scotland and Wales. The full list is available at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies#fn:1>

Prescribed Regulator	Matters in respect of which regulator is prescribed
Care Quality Commission CQC National Customer Service Centre Citygate Gallowgate Newcastle upon Tyne NE1 4PA 03000 61 61 61 enquiries@cqc.org.uk www.cqc.org.uk	Matters regarding the provision of adult social care services in England
The Commissioners for Her Majesty's Revenue and Customs HMRC Fraud Hotline Cardiff CF14 5ZN Tel: 0800 788 887	<ul style="list-style-type: none"> • Administration of UK taxes • Administration of national insurance and tax credits systems
Comptroller and Auditor General of the National Audit Office 157-197 Buckingham Palace Road Victoria London SW1W 9SP Tel: 020 7798 7999 https://www.nao.org.uk/contact-us/whistleblowing-disclosures/	The proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally funded public services.

Prescribed Regulator	Matters in respect of which regulator is prescribed
<p>The Director of the Serious Fraud Office Elm House 2-4 Cockspur Street London SW1Y 5BS</p> <p>https://www.sfo.gov.uk/contact-us/reporting-serious-fraud-bribery-corruption/</p>	<p>Serious or complex fraud, including bribery and corruption.</p>
<p>The Environment Agency National Customer Contact Centre PO Box 544 Rotherham S60 1BY</p> <p>Tel: 03708 506 506 Website:</p> <p>www.gov.uk/environment-agency</p>	<p>Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment including those relating to pollution, abstraction of water, flooding, the flow of rivers, inland fisheries and migratory salmon or trout.</p>
<p>Food Standards Agency Floors 6 and 7 Clive House 70 Petty France London SW1H 9EX</p> <p>Tel: 020 7276 8829 Email: foodcrime@food.gov.uk</p> <p>Website: www.food.gov.uk</p>	<p>Matters which may affect the health of any member of the public in relation to the consumption of food and other matters concerning the protection of the interests of consumers in relation to food.</p>
<p>Health and Care Professions Council Park House, 184 Kennington Park Road, London, SE11 4BU Tel: 0845 300 6184</p> <p>www.hpc-uk.org</p>	<p>Matters relating to the registration and fitness to practice of a member of a profession regulated by this body which includes social workers, occupational therapists, physiotherapists, occupational therapists and speech and language therapists.</p>

Prescribed Regulator	Matters in respect of which regulator is prescribed
<p>Health and Safety Executive Tel: 0300 003 1647</p> <p>Online form: www.hse.gov.uk/contact/concerns.htm</p>	<p>Matters which may affect the health or safety of any individual at work; matters which may affect the health and safety of any member of the public arising out of, or in connection with, the activities of persons at work.</p>
<p>Information Commissioner The Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Tel: 0303 1113 E-mail: mail@ico.gsi.gov.uk Website: www.ico.org.uk</p>	<p>Compliance with the requirements of legislation relating to data protection and to freedom of information.</p>
<p>Children's Commissioner for England The Officer of the Children's Commissioner Sanctuary Buildings 20 Great Smith Street London SW1P 3BT Tel: 020 7783 8330 Email: info.request@childrenscommissioner.gov.uk Website: www.childrenscommissioner.gov.uk</p>	<p>Matters relating to the rights, welfare and interests of children in England.</p>
<p>Her Majesty's Chief Inspector of Education, Children's Services and Skills ('the Chief Inspector) Ofsted Piccadilly Gate Store Street Manchester M1 2WD</p> <p>Tel: 0300 123 3155 Email: whistleblowing@ofsted.gov.uk</p>	<p>Matters relating to regulation and inspection of children's social care.</p>

Prescribed Regulator	Matters in respect of which regulator is prescribed
Secretary of State for Education Ministerial and Public Communications Division Department for Education Piccadilly Gate Store Street Manchester M1 2WD Tel: 0370 000 2288 Website: www.gov.uk/contact-dfe	Matters relating to specified educational institutions including maintained schools
The Pensions Regulator Napier House Trafalgar Place Brighton BN1 4DW Tel: 0845 600 7060 Email: wb@tpr.gov.uk www.thepensionsregulator.gov.uk	Matters relating to occupational pension schemes