

Whistleblowing Policy and Procedure

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1. Introduction

- 1.1 Middlesbrough Council is committed to the highest possible standards of openness, probity and accountability. The Council supports the legislation afforded by the Public Interest Disclosure Act 1998.
- 1.2 Whilst the Council has established rules, regulations and procedures to promote the highest standards of conduct and commitment to service delivery, irregularities, wrong-doing or serious failures in standards may sometimes occur.
- 1.3 This policy makes it clear that employees can voice a concern without fear of victimisation, subsequent discrimination or disadvantage. In addition the Council will seek to ensure that, where appropriate, its contractors and suppliers also adopt and adhere to this policy. This policy encourages and enables the raising of serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. Elected Members already have arrangements in place to raise issues but may also use this policy.
- 1.4 The Council will not tolerate fraud, bribery and corruption in the administration of its responsibilities, whether from inside or outside the authority. The Council will deal firmly with those who seek to defraud the authority, or who are found to be corrupt, in accordance with this policy.
- 1.5 The Council has a separate Anti-Fraud, Bribery and Corruption Policy which demonstrates its firm and clear commitment to preventing fraud, bribery and corruption. If fraud, bribery or corruption is discovered, the Council will deal swiftly with the offenders in accordance with that Policy.

2. Context

- 2.1 The Council wants to identify and remove any malpractice in the performance and delivery of its services and expects that:
 - All staff and elected Members will raise any suspected wrongdoing that they become aware of in accordance with this policy;
 - Concerns raised under the policy are in the public interest;
 - All managers who are notified of a concern take the appropriate action and that all concerns are investigated and responded to;
 - All managers to ensure that anyone raising a concern is not subject to any form of victimisation or disadvantage.

3. Purpose

- 3.1 This policy is intended as a clear statement that any malpractice by employees, elected Members or third parties (including contractors) reported to the Council will be swiftly and thoroughly investigated. It intends to provide all employees (including schools), agency workers, contractors and elected Members of the Council with:
 - The confidence to raise concerns;
 - Avenues for employees and others to raise those concerns and receive feedback on any action taken ;
 - Ensure that those raising a concern receive a response to concerns raised (unless the concern is raised anonymously) and are aware of how to pursue them if they are not satisfied;
 - Reassurances that all efforts will be made to protect anyone reporting a concern from reprisals or victimisation.

4. Policy Details

4.1 The term 'whistleblowing' is meant to cover concerns that fall outside the scope of other types of issues relating to employment (e.g. breaches of employment contracts, grievances, allegations of harassment and/or bullying). Such issues should be dealt with according to the appropriate policy, such as, Grievance Policy, Dignity at Work policy. Set out below is a list which is intended to illustrate the sorts of issues which could legitimately be raised under this Whistleblowing Policy:

- Corruption, theft or fraud including obtaining money (e.g. grants, loans, social care payments) or assets without entitlement;
- Theft or misuse of Council assets (stores, equipment, vehicles, IT);
- Breach of or failure to comply with a statutory or legal obligation;
- Health and safety risks, including risks to the public as well as other employees;
- Failure of an individual to comply with their professional institute's standards of conduct;
- Abuse of direct payments/personal budgets;
- Deliberate falsification of data or information;
- Deliberate disclosure of personal information (depending on circumstances, this may be investigated under the Council's information security breach investigation procedures);
- Failure of an individual to comply with Council policy or procedure;
- Damage to the environment or Council property;
- Abuse of power or position, unethical conduct or corrupt practices;
- Abuse of any vulnerable person;
- Deliberate concealing of information relating to any of the above and/or failure to take reasonable steps to report and rectify any situation which could result in the Council incurring avoidable costs or loss of income.

4.2 These examples are not exhaustive and the overriding concern should be that it would be in the public interest or in the interests of others or the Council for the alleged malpractice to be corrected and, if appropriate, sanctions applied. Therefore, individuals can follow this policy to report concerns which:

- Make them feel uncomfortable in terms of known standards, their experience or the standards they believe the Council subscribes to, or
- Are against the Council's Standing Orders and policies, or
- Fall below established standards of practice, or
- Amount to improper conduct.

5. How to Raise a Concern

5.1 The Council expects the co-operation of all employees in securing the highest standards of service to local residents and it is expected that an employee should report any suspected concerns when they become aware of them. Failure to report a concern will be regarded as a serious matter which could result in disciplinary action being taken or, in the case of a Member, be regarded as a breach of the Members' Code of Conduct.

5.2 If an employee is unsure about whether or not to raise an Issue through this policy, or wishes to seek independent advice at any stage of the process, they may contact:

- a) their trade union where applicable or;
- b) the independent charity Public Concern at Work – telephone: 020 74046609 or by email: helpline@pcaw.co.uk or whistle@pcaw.co.uk. Their lawyers can provide free, confidential advice about how to raise an Issue about serious malpractice at work.

5.2 It is envisaged that, in many cases, the first point of contact for raising a concern should be the relevant line manager/Head of Service/Director/head teacher (for employees) or the Leader of the Group (for elected members). Where a concern relates to a head teacher then the matter should be

reported to the Chair of Governors. It will become the line manager's (or Leader's or Chair of Governors) responsibility to perform a prompt and initial investigation of all matters reported to them.

5.3 However, it is appreciated that there may be circumstances where an individual does not feel able to report a whistleblowing matter to their line manager or leader, for example when the whistleblower suspects that their line manager (or Leader or Chair of Governors) may be involved in the alleged malpractice or where the matter has been raised but there has been a failure to take the appropriate action. In such cases, the matter should be reported to one of the Whistleblowing Officers below (see 9. Procedure for Whistleblowing Officers):

Tom Boyd	Adult Social Care & Health Integration	01642 729250
Jane Dent	Public Health & Public Protection	01642 728252
Fiona Helyer	Public Health & Public Protection	01642 728717
Jeff Watson	Children's Care	01642 728237
Veritau	Whistleblowing hotline	0800 9179247

5.4 When an employee formally raises an Issue, a written record will be made whether or not the Issue has been made in writing, to provide the basis for any future investigation. The employee should confirm whether or not they wish to raise this confidentially or openly. If employees are not satisfied that the outcome of the investigation has adequately addressed the concerns raised then they should advise the Council's Monitoring Officer, the Head of Democratic Services.

5.5 Alternatively, the Council's Audit and Counter Fraud provider, Veritau, can be contacted through their whistleblowing hotline, **0800 9179247**. The hotline will be answered by a member of staff during regular business hours, otherwise voicemail can be left. Callers are asked to detail their concerns and whether they wish to be contacted or choose to remain anonymous. Concerns raised anonymously will still be investigated as far as possible and practicable based on the information provided.

5.7 Veritau's Audit and Counter Fraud service has the following remit:

- To receive and record all complaints received by Veritau, under this Policy;
- To ensure as far as able the confidentiality of any whistleblowing complainant who requests that their complaint be treated in confidence, subject to any legal requirements;
- To investigate promptly any whistleblowing complaint and to respond directly to the complainant;
- To report to the appropriate service manager/ director where the investigation identifies a serious cause for concern within the responsibilities of that officer and to recommend the use of any relevant statutory powers or duties. Where the complaint relates to the conduct of a Director then Veritau will report to the reporting Director or Chief Executive as appropriate (and also to the Monitoring Officer in case of complaints in relation to elected Member conduct). Where the complaint relates to the Chief Executive, Veritau will report to the Director of Finance;
- To report on a periodic basis to the Corporate Affairs and Audit Committee on the number and type of concerns being raised under this Policy.

5.8 The amount of contact between the officers considering the Issues and the whistleblower will depend on the nature of the matters raised and the clarity of the information provided. If necessary, further information may be requested from the whistleblower.

6. How the Council will Respond

6.1 In order to protect both individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, in what form. The action taken and procedure to be followed will depend on the nature of the concern. Concerns or allegations that fall within the scope of specific policies and procedures (e.g. employment issues) will normally be referred for consideration under the specific policy and procedures (i.e. Grievance Policy, Dignity at Work Policy). Some concerns may be resolved by agreed action without the need for detailed investigation.

6.2 Depending on the nature of the Issues raised, this may involve:

- Internal investigation by management and/or Veritau;
- Referral to the Police;
- Referral to the external auditor;
- An independent inquiry;
- Referral to the Chair or any member of the Corporate Affairs and Audit Committee.

6.3 Within 10 working days of a concern being received (unless, in the circumstances, this is inappropriate or impractical), the officer designated to perform the investigation will write/email the whistleblower to:

- Acknowledge that the concern has been received;
- Indicate how the Council intends to deal with the matter;
- Give an estimate of how long it will take to provide a final response;
- State whether any initial enquiries have been made;
- Tell the employee whether further investigations will take place and if not, why not;
- Provide information on staff support mechanisms, if appropriate.

6.4 Whistleblowers may be asked to supply more information or to clarify, if necessary. When any meeting is arranged, the whistleblower has the right, if they so wish, to be accompanied by trade union representative or work colleague who is not involved in the area of work to which the concern relates. Such a meeting can be arranged at a mutually agreed location.

6.5 The Council understands that the whistleblower needs to be assured that their concerns have been investigated and addressed. Subject to any legal constraints, information about the outcomes of any investigations will be provided to the whistleblower. Feedback can include whether a matter has been investigated and whether further action has been or will be undertaken. It must be noted that the rights of those affected need to be considered and this may affect the level of detail supplied.

6.6 The Council's commitment to the highest possible standards of probity means that it will ensure that the necessary resources are put into investigating any concerns received under this policy. As a consequence of this, **the Council will view very seriously any obviously false or malicious allegations which it receives, and will regard the making of any deliberately malicious or vexatious allegations by any employee or elected Member as a potential disciplinary matter.**

6.7 Unless exceptional circumstances apply, it is expected that all whistleblowing reports will be Exempt from publication.

7. Responsible Officer

7.1 The Director of Finance has overall responsibility for whistleblowing concerns, and, on his behalf, the Monitoring Officer will maintain a confidential record of concerns raised and the results of any investigations made. Anonymised summaries of the results of investigations raised under this policy will be reported on a periodic basis to the Corporate Affairs and Audit Committee.

8. Whistleblower Safeguards

8.1 The Council will not tolerate any attempt to take reprisals against any person who has reported a serious and genuine concern. The Council will treat any such recriminations, victimisation or harassment as a serious matter which may, in the case of an employee, amount to a disciplinary matter and, in the case of an elected Member, may amount to a breach of the Members' Code of Conduct. If a whistleblower who has raised a valid concern under this policy feels that they have been

victimised as a result of raising such concerns, they can raise the matter directly with the Monitoring Officer who will raise the matter immediately with the appropriate Director.

- 8.2 A whistleblower may be entitled to take civil action against any employee or elected Member who subjects them to any recrimination, victimisation or harassment as a result of raising a concern. Furthermore, the Council could be held liable if it has not taken all reasonable steps to prevent such conduct occurring. Individuals may also have statutory protection under the Public Interest Disclosure Act 1998.
- 8.3 The Council will respect (so far as it can legally) the confidentiality of any whistleblowing complaint received, where the whistleblower requests that confidentiality. However, it cannot guarantee that the investigation process will not result in colleagues speculating on the identity of the whistleblower. It should be appreciated that it will be easier to investigate allegations if the whistleblower is prepared to provide his/her name. Unsupported and anonymous complaints are less powerful and have to be treated with caution.
- 8.4 There will be circumstances where information must be disclosed for legal reasons e.g. an obligation under the Freedom of Information Act or if the circumstances of an allegation amount to a serious crime there may be a requirement to pass information to senior officers, or to the Police, or to the external auditors.
- 8.5 The Council will take steps to minimise any difficulties which the whistleblower may experience as a result of raising a concern. For instance, if a whistleblower is required to provide evidence in criminal or disciplinary proceedings, the Council will provide advice about the procedure.

9. Taking Matters Further

- 9.1 This policy is intended to help employees raise concerns within the Council and anticipates that employees will be satisfied with any action taken. If employees are not satisfied that the outcome of the investigation has adequately addressed the concerns raised then they should advise the Responsible Officer, the Director of Finance.
- 9.2 If individuals feel it is right to raise a matter outside the Council, the following are possible contact points:
- The External Auditor; contact details available from Veritau;
 - Local Council elected Member (if you live in the area of the Council);
 - Chair or any member of the Corporate Affairs and Audit Committee;
 - Relevant professional bodies or regulatory organisations, for example, the Information Commissioner's Office;
 - The Police (where criminal activity is suspected); Tel 01642 326326
 - Local Citizens Advice Bureau; Tel 0344 499 4110
 - Appropriate trade union/professional association;
 - Your solicitor;
 - Public Concern at Work (see 9.3).
- 9.3 Public Concern at Work is a registered charity set up to give free independent advice to employees who contact them with concerns. The Public Concern at Work telephone number for general enquiries and helpline is **020 7404 6609**.
- 9.4 Concerns about Benefit fraud can be reported to the Department for Work and Pensions (DWP) National Benefit Fraud Hotline by calling 0800 854 440.

- 9.5 Concerns about children at risk of abuse may be raised with the National Society for the Prevention of Cruelty to Children (NSPCC) via dedicated 24 national helplines on 0808 800 5000 (for non-professionals) or 0800 028 0285 (for childrens' services professionals) or by completing an online form (www.nspcc.org.uk).
- 9.6 Any member of the public may make a complaint against the Council by contacting:
The Local Government Ombudsman
PO Box 4771
Coventry CV4 0EH

More detail on how to make a complaint to the Local Government Ombudsman can be found at www.lgo.org.uk/making-a-complaint, or call the helpline **0300 061 0614**.

- 9.7 **If employees do consider reporting a matter outside of the Council, they should note that the relevant legislation anticipates that matters should generally be considered internally by organisations. Whilst external disclosures may still be protected, there are extra conditions to be satisfied before protection can be established. Individuals making disclosures to outside bodies will only receive statutory protection under that legislation in certain circumstances. In particular, employees must honestly and reasonably believe that the information and allegations are true. If an employee is considering reporting an issue to an external body, they should first seek independent advice from either their trade union or Public Concern at Work (see 9.3).**

10. Procedure for Whistleblowing Officers

- All Whistleblowing Officers shall receive full training in dealing with issues raised under the policy.
- The Whistleblowing Officer will clarify that the issue raised meets the guidelines set out in the Whistleblowing Policy and ensure that any information is provided in a confidential environment.
- The Whistleblowing Officer will ensure that the details of the concern are immediately recorded on a pro-forma (see Appendix A).
- A copy of the form will be held by the Whistleblowing Officer in a safe and confidential place and the original copy will be hand-delivered to the Monitoring Officer immediately or in their absence to the Deputy Monitoring Officer.
- The Chief Executive and the Director of Finance should be notified of all Whistleblowing reports by the Monitoring/ Deputy Monitoring Officer, unless directly implicated.
- The Whistleblowing Officer's role is likely to finish at this point, unless the Monitoring Officer determines that there should be further involvement. The Monitoring Officer will determine the extent of further involvement.
- All information in relation to concerns raised under this policy will be held by the Monitoring Officer.
- The Monitoring Officer will register the Issue in the Council's Register and send an acknowledgement to the Whistleblower within 10 days.
- Nothing within the policy shall prejudice the Monitoring Officer in respect of any action taken within their role as Monitoring Officer.

11. Review of Policy

11.1 This Policy will be reviewed every 3 years.

11.2 Revisions will be made in the interim, as and when required, to address changes in legislation and/or government policies.

Record of Concern raised under Middlesbrough Council’s Whistleblowing Policy

Date and time concern raised:	
How was the concern raised?	Email Letter Meeting Telephone Other Please specify.....

Details of Person Raising the Concern

Name:	
Address:	
Employer:	Middlesbrough Council or Other Employer:
Department:	Outcome / Service area:
Telephone No:	(Home): (Work):
Is person raising the concern willing to provide a written statement?	YES/NO
Does the person raising the concern wish to remain anonymous?	YES/NO

Nature of Concern

	Please tick category
Conduct which is an offence or a breach of law	
Disclosures related to miscarriages of justice	
Health and Safety, including risks to the public as well as other employees	
Damage to the environment	
Unauthorised use of public funds	
Possible fraud and corruption	
Sexual or physical abuse	
Other unethical conduct	
Other (please specify)	

Reasons for not raising concern with Immediate Line Manager:

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Details of this particular concern and any supporting information including dates, times etc.)

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Persons suspected of malpractice and reasons why suspected

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Information passed to person raising concern	Tick to indicate information passed on
<ul style="list-style-type: none"> • That their concern will be raised as per the Whistleblowing Policy 	
<ul style="list-style-type: none"> • Monitoring Officer will notify them of their decision 	

Name of Whistleblowing Officer (Please Print):	
Signature of Whistleblowing Officer:	
Name of Person Raising Concern (Please Print):	
Signature of Person Raising Concern:	
Date:	