

Surrey Heath Borough Council Human Resources

Whistle-blowing Policy and Procedure Speak Up Policy and Procedure (formerly Whistle-blowing)



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~~Whistle-blowing~~Speak Up Policy and Procedure

1 Introduction

Surrey Heath Borough Council sets high standards of quality, honesty, openness and accountability. However, there are times when staff at the Council may become concerned about something that is happening at work. Usually these concerns can be easily resolved and individuals can carry on as normal. ~~If staff feel that they are unable to resolve any concerns and there is concern about serious malpractice such as corruption, fraud or dangerous conditions, it is important that staff know what to do about it~~Examples of some possible concerns can be found in Section 2 – Definitions which can be of assistance but this is not intended to be an exhaustive list. When staff raise a concern (qualifying disclosure) about danger or illegality that affects others, for example members of the public, this is known as ~~Whistle-blowing~~Speaking Up or as previously referred to as Whistle-blowing.

This policy and procedure is designed to encourage staff to raise any serious concerns whilst providing protection to staff who make disclosures to the Council or to an external party outside the management structure of the Council and explains the procedure to follow. Surrey Heath Borough Council will treat all such disclosures in an appropriate and sensitive manner.

2 Definitions

~~Whistle-blowing~~Speaking Up is the confidential disclosure by staff of any wrong-doing that they may encounter in the workplace. ~~The term “Whistle-blower” refers to the person raising the concern or making the complaint.~~

Disclosures are deemed to be “qualifying disclosures” which is a term used to identify the categories of information which staff will be able to disclose to a suitable person without fear of reprisal, provided the disclosure is made in good faith. A qualifying disclosure is defined as one which is made in good faith and shows one or more of the following:-

- A criminal offence has been or is likely to be committed;
- Financial malpractice or impropriety or fraud;
- Failure to comply with any legal obligation or statutes including breach of employment contract or professional regulations;
- A miscarriage of justice has occurred, is occurring or is likely to occur;
- Dangers to Health or Safety or damage to the environment;
- Improper conduct or unethical behaviour;
- Direct or indirect bullying or harassment;
- Deliberate attempts to cover up any of the above.

This is not intended to be an exhaustive list.

3 Scope

This policy applies to all those who perform work for Surrey Heath Borough Council and for the purposes of this policy will be termed 'staff':

- The Chief Executive, Executive Heads and -Service Heads
- Employees (who are either full or part-time)
- Agency workers, and Casual workers and Volunteers
- Contractors and sub-contractors
- Work experience staff, Interns or other trainees

This policy is in addition to the Council's grievance procedures and Financial Regulations: Anti-Fraud policy.

4 Policy Statement

Surrey Heath Borough Council recognises that some concerns may be extremely sensitive. This policy and procedure enables staff to confidentially raise concerns within the Council but also has recourse to an external party (see paragraph 7.2 for details) outside the management structure of the Council. This policy and procedure provides Whistle-blowersstaff with protection from victimisation, harassment or disciplinary action as a result of any disclosure where the disclosure is made in good faith and is not made maliciously or for personal gain.

This Council encourages staff who suspect wrong-doing to report it, as this helps perpetuate the integrity of the Council, even if the suspicion proves unfounded.

5 Equality Assessment Policy

The Council's Equality Scheme demonstrates its commitment to equality internally and externally and ensures that all sections of the community are given an opportunity to contribute to the wellbeing of the community. An equality impact assessment has been carried out on the Whistle-blowingSpeak Up Policy and Procedure.

The Council ensures that consultation is representative of the community and that consideration is given on how to consult hard to reach groups and will positively learn from responses.

6 Policy Principles

The identity of the Whistle-blowerstaff member will be protected at all stages in any internal concern. However, the Council cannot guarantee that this will be retained if external legal action results from the

disclosure. The Council is not accountable for maintaining anonymity where the ~~Whistle-blower~~staff member/s has told others of the alleged concern.

The Council encourages staff to put their name to a disclosure they make however, concerns raised anonymously will be considered and assessed where sufficient information is provided to allow a review of the allegation. This could make the concern more difficult to investigate thoroughly and give feedback on the outcome.

Disclosure of other wrong-doing is also covered by this policy where it is of general malpractice, gross misconduct, breach of the Council's Constitution, breach of Audit Regulations or breach of the codes of conduct of all relevant professional institutions.

7 Procedure for raising concerns

7.1 Reporting concerns can be very daunting and members of staff ~~should be as well prepared as possible before they go any further. They may find the~~ following checklist ~~is~~ a useful guide:

- Don't ignore your concerns;
- ~~Don't try to investigate things yourself unless it is your job/role to do so;~~
- Be clear about what is worrying you:
 - WHO: the target of the allegation and if there are others who know about the alleged conduct
 - WHAT: what is alleged to have been broken e.g. Policy, law etc
 - WHY: what may be gained/benefit from the alleged action
 - WHEN: timeframe if known of the alleged incident/s;
- Make notes of what you have seen, heard or felt;
- Be prepared to hand over any notes and evidence you may have;
- Act quickly to avoid the concern becoming a major issue;
- Don't feel that you are "telling tales";

Most importantly of all: don't worry, don't suffer in silence ~~and blow the whistle.~~

If members of staff are unsure about raising a concern, they can get independent advice from the union representative (Tel: 01276 707319) or ~~the independent Whistle-blowing charity: Public Concern at Work on Tel: 020 7404 6609 or by email at whistle@pcaw.org.uk~~ Protect (formerly Public Concern at Work) on Tel: 020 3117 2520 <https://protect-advice.org.uk/>

7.2 Reporting a concern

Wherever possible any concern should be raised with the appropriate line manager in the first instance. Where the concern involves that line manager, or the ~~Whistle-blower~~staff member feels that the line manager

is not the appropriate person, the concern should be raised with one of the following:

- Any Executive Head or Head of Service or
- Head of Legal, Monitoring Officer (may be the same person as the Head of Legal) who is also the Monitoring Officer (Tel: 01276 707304) or Audit, Counter Fraud & Corporate Enforcement & Audit Manager (Tel: 01276 707105) or
- National Audit Office at enquiries@nao.gsi.gov.uk or <https://www.nao.org.uk/contact-us/whistleblowing-disclosures> or
- If staff members feel that their concern cannot be raised internally or their attempts to do so have not proven successful they may wish to consider raising the matter externally with our external auditors, BDO (Tel:020 7486 5888)

Concerns should be raised in writing setting out:

- The background and history of the concerns
- Giving names, dates and places where possible
- The reason for making the disclosure

Within 10 working days of a concern being raised the individual with whom the employee raised the matter with will write to the employee setting out:

- Acknowledge that the concern has been received
- Indicating how the matter will be dealt with
- Give an estimate of how long it will take to get a final response
- Tell the employee if an investigation has been started

8 Investigation procedure

- 8.1 The Head of Paid Service has given overall responsibility for the maintenance and operation of this policy to the Head of Human Resources Executive Head of Transformation and/or the Head of Legal who is or the Monitoring Officer. The Head of Legal will ~~then~~ delegate the concern to the appropriate person either within Human Resources, or Audit and Corporate Enforcement Team, who will then be the Investigating Officer for the case. The Head of Legal maintains a record of concerns raised and the outcomes, but in a form which does not endanger the individual's confidentiality and will report as necessary to the Council.
- 8.2 The investigation of the concern will commence as soon as practically possible on its receipt.
- 8.3 The investigating officer, appointed by the Monitoring Officer, will meet with the Whistle-blower member of staff who made the disclosure and consider what action will be appropriate. The action taken by the Council may involve an informal review, an internal inquiry or a formal investigation. If misconduct is discovered as a result of any investigation under this procedure the Council's disciplinary procedure will be used,

in addition to any appropriate external measures. The Council could decide that the matters raised may be referred to the external Auditor or form the subject of an independent inquiry. The overriding principle, which the Council will have in mind, is the public interest.

- 8.4 The investigating officer will inform the person against whom the complaint is made as soon as is practically possible. This person will be informed of their right to be accompanied by a Staff or Trade Union Representative or ~~other representative~~ appropriate colleague who is not implicated or connected with the case - at any future interview or hearing held under the provision of these procedures.

Where appropriate, the matters raised may:

- be investigated by Management, Internal Audit or through the disciplinary process
- be referred to the Police
- be referred to Social Services
- be referred to the External Auditor
- form the subject of an independent inquiry
- be referred to the appropriate Committee of the Council

- 8.5 All concerns will be treated in confidence and every effort will be made not to reveal the ~~Whistle-blower's~~ identity of the staff member if that is their wish. At the appropriate time, however, the identity may need to be revealed as they may be required as a witness. Surrey Heath Borough Council will not knowingly reveal the identity without that ~~Whistle-blower's~~ staff member having prior knowledge and given consent, except where required by law.

- 8.6 Wherever possible and subject to data protection and legal constraints, the ~~Whistle-blower~~ staff member will be given feedback on the outcome of the investigation. If the decision is taken not to act, an explanation will be given ~~to the Whistle-blower~~.

- 8.7 If the allegation is made in good faith, but it is not confirmed by the investigation, no detrimental action will be taken against the ~~Whistle-blower~~ staff member making the allegation. If, however, the ~~Whistle-blower~~ staff member makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken.

Although ~~Whistle-blowers~~ a staff member making a disclosure is ~~are~~ not expected to prove beyond doubt, the truth of an allegation, the ~~y Whistle-blower~~ will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

- 8.8 Details of the matter, the findings of the subsequent investigation and the action taken will be recorded and placed on a register held by the ~~Chief Executive~~ Head of Paid Service.

9. Review

- 9.1 This policy and procedure will be subject to a formal review on an annual basis or earlier by Human Resources.

This policy is available in large print if requested.

Document revisions

Document revised (date)	Details of revisions made	Version
March, 2018	Public Concern at Work email address amended	2
	Audit & Investigation Manager's Title updated	
	Audit Commission deleted. Replaced with National Audit Office details	
	External Auditors details updated	
<u>November, 2019</u>	<u>Name change, procedural changes and contact information changes</u>	