

## **WHISTLEBLOWING POLICY OCTOBER 2017**

### **1. INTRODUCTION**

- 1.1 The Council is committed to openness, probity and full accountability for the services it provides. It seeks to achieve the highest standards of conduct and has in place detailed rules and procedures to ensure such standards are observed. However, sometimes malpractice or wrongdoing may occur. The Council is not prepared to tolerate any malpractice or wrongdoing and this policy is intended to be a clear and unequivocal statement that whenever malpractice or wrongdoing by the Council, its employees, contractors or suppliers is reported, it will promptly investigate. If malpractice or wrongdoing has occurred, the Council will take appropriate action to rectify, if possible, and investigate means of preventing it in future.
- 1.2 This policy is one of a number of corporate policies <sup>1</sup> which together demonstrate the Council's commitment to the prevention of malpractice in public life. Those documents can be found on the Council's website.

### **2. Principles**

- 2.1 The overriding principle underpinning this policy and its implementation is that the Council will act fairly and in the public interest.

### **3. Aims**

- 3.1 This policy aims to encourage people to feel confident to come forward with serious concerns
- to ensure that those concerns are properly and promptly investigated;
  - where concerns are well founded that appropriate action is taken; and
  - that feedback is given to the whistleblower about the outcome of the investigation.

---

<sup>1</sup> **Employee Code of Conduct** –

<http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Documents/EmployeeCodeConduct.pdf> **Member Code of Conduct** –

<http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Pages/council-ethical-standards.aspx> **Anti-Fraud and Corruption** -

<http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/Pages/Report-fraud.aspx>

## **4. Scope**

4.1 This whistleblowing policy is intended to cover major concerns that fall outside the scope of other procedures. It is intended that the whistleblowing policy be a supplement to and not a substitute for other avenues through which complaints or matters of genuine concern may be raised. Examples of the issues which it might be appropriate to raise through the whistleblowing policy include:

- Conduct that is a criminal offence or a breach of law
- Disclosures relating to miscarriage of justice
- Health & safety risks to the public and/or employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud or corruption
- Sexual or physical abuse of clients, or
- Other unethical conduct

4.2 Concerns may also be raised under this whistleblowing policy where the nature of an allegation means that it would not be appropriate to use those other avenues of complaint, for example, where the allegation relates to a more senior officer, or the whistleblower fears reprisals should they make a complaint through other channels.

## **5. Grievance Procedure**

5.1 There are existing procedures to enable employees to lodge a grievance relating to their own employment, including allegations of bullying, harassment, or breach of the Council's equal opportunities policy. Disclosures relating to an employee's own contract of employment will not normally be investigated under this policy, unless there are compelling public interest reasons to do so.

## **6. Complaints about the conduct of Council Members**

6.1 Complaints about malpractice/wrongdoing against Council members will be handled in accordance with the Council's procedure for handling complaints of breach of the Council's Member Code of Conduct.

## **7. Making a Complaint**

7.1 Anyone may make a complaint under this policy, including councillors, employees, and members of the public. Anyone considering making a complaint under this policy should first consider whether another avenue to raise the complaint is more appropriate. If so, they are urged to use it. Details of other avenues for complaint are set out in paragraph 11 below. If none of these avenues is appropriate, then concerns should be raised with the Head of Law who is the Council's whistleblowing officer. Concerns may be raised verbally or in writing.

- 7.2 Anyone making a written report is invited to mark the envelope “to be opened by addressee only” and to set out the background and history of the concern, giving relevant dates. Whistleblowers should also set out the reason why they are particularly concerned about the situation.
- 7.3 The earlier a concern is expressed, the easier it is to take action.
- 7.4 Whistleblowers are not expected to prove the truth of an allegation. However, they will need to demonstrate to the Head of Law that there are reasonable grounds for the concern.
- 7.5 The Head of Law will provide advice/guidance on how to pursue a matter of concern under the whistleblowing policy to anyone who asks and how to do so.

## **8. The Council’s response**

- 8.1 The Head of Law will acknowledge in writing any complaint brought to her attention and record the complaint in a register kept specially for the purpose.
- 8.2 The Head of Law, or in her absence her deputy, will make an initial assessment of the complaint to decide whether an investigation ought to take place and if so, how. This initial consideration will allow the Council to decide on the appropriate method of enquiry and to ensure that resources are not wasted where investigation would not be in the public interest.
- 8.3 Unless the issue is raised anonymously, then the Head of Law will generally interview the whistleblower as part of this initial assessment.
- 8.4 Once this initial assessment is complete, the Head of Law will write to the whistleblower to inform them of the outcome of that assessment. If an investigation is to ensue, then the Head of Law will inform the whistleblower of that fact and inform them who will be conducting the investigation (either the Head of Law personally, or an investigating officer nominated by her to do so).
- 8.5 The Head of Law will inform the whistleblower that the investigation should normally be completed within 28 days, though this will depend upon the nature of the complaint and its complexity. If it proves not to be possible, the investigating officer will write to the whistleblower before expiry of that 28 days to give an estimated time for completion of the investigation. In any event, the investigating officer will inform the whistleblower of progress of the investigation every 28 days. Copies of this correspondence from the investigating officer to the whistleblower will also be sent to the Monitoring Officer and details entered in the register.

- 8.6 In the most serious cases it may be that a police enquiry will ensue, or an independent investigation may be called for. In some cases the issue will be referred for a management investigation, possibly by the Chief Executive, or another officer nominated to act on his behalf. Allegations of fraud, corruption, or financial irregularity will be referred to the Special Investigations Manager for investigation. In any investigation conducted by or on behalf of the Council the provisions of paragraph 8.5 above will apply so that the whistleblower is kept updated on the progress of the investigation.
- 8.7 Once the investigation is complete the Head of Law will inform the whistleblower of the outcome and this will be noted in the register. She will also ask the whistleblower for feedback about the way their complaint was handled.
- 8.8 In appropriate circumstances, the Head of Law will prepare a report for the Standards Committee and/or Council dealing with the outcome of a particular investigation, and any action taken in response to rectify the situation and/or prevent a recurrence

## **9. Safeguards**

### **9.1 No Victimisation**

The Council recognises that the decision to blow the whistle can be a difficult one to make, not least if there is a fear of reprisal from those who may be perpetrating malpractice, or others. The Council will not tolerate any victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate, disciplinary action.

### **9.2 Vexatious complaints**

Just as the Council seeks to protect those who raise complaints in good faith, it will seek to protect those against whom claims are made which turn out to be unfounded. No action will be taken against anyone who reasonably raises a concern in good faith which transpires to be unfounded. However, the Council will take disciplinary action against any employee who makes a vexatious claim. In either case, where it turns out that a claim was without foundation, the Council will use its best endeavours to ensure that any negative impact upon the person complained of is minimised.

### **9.3 Confidentiality**

Wherever possible, the Council will protect the identity of a whistleblower who raises a concern and does not want his/her name to be disclosed. When a whistleblower has requested that their identity be kept confidential all reasonable efforts will be made to obtain evidence which is pertinent to the claim without disclosing the

whistleblower's identity. However, it may not be possible in all circumstances to keep the identity of the whistleblower confidential, for example, if the matter needs to be referred to the police, or it is not possible to obtain other corroborating evidence. The very fact of the investigation may serve to reveal the source of the information and the statement of the whistleblower may be needed as part of evidence against the perpetrator. Where a whistleblower has requested confidentiality but it is not possible to continue the investigation on that basis if the investigation is to proceed, the Head of Law/investigating officer will discuss this with the whistleblower before doing so.

## **10 Anonymity**

- 10.1 Complaints which are made anonymously are usually more difficult to investigate. However, the Council prefers anonymous complaints to be made, rather than serious concerns to go unreported. Whether or not an anonymous complaint can be investigated will depend upon the circumstances of the case. If there is sufficient detail provided to enable an investigation to be carried out without knowing the identity of the whistleblower an investigation will ensue, provided it is in the public interest to do so. Where an anonymous complaint raises serious concerns every effort will be made to investigate thoroughly.

## **11. Alternative Avenues for complaint**

- 11.1 Where an appropriate internal avenue exists to deal with a concern, people are urged to use it. This policy is intended to supplement rather than replace existing channels. Where practicable existing internal channels should be used. These include:

### **Service Managers/Directors**

Anyone with a complaint about Council services is encouraged to contact the manager directly responsible for that service or the relevant Executive Director. In most cases where there is concern this avenue will be the first point of reference. If a complaint relates to an Executive Director, it should be referred to the Chief Executive.

### **The Council's Complaints Procedures**

The Council has a corporate complaints procedure by which it invites any person to raise a complaint they may have about Council Services. Information about this procedure is available from the Advice and Information Service on extension 48090.

### **Local Councillors**

Members of the public are encouraged to refer matters of concern to their local Councillor who can then either identify the best point of contact for them to report the matter or take up the issue on their

behalf. Information about how to contact local Councillors is available from Governance Support at Lewisham Town Hall on extension 49455.

### **Anti-fraud Procedures**

The Council's Anti-Fraud & Corruption Team (A-FACT) investigates all allegations of fraud within and against Lewisham Council and is part of the Audit & Risk Group based within the Resources and Regeneration Directorate. The team has specialist officers covering housing fraud, employee fraud, fraud relating to contractors, blue badges etc.

The Council's Financial Regulations state that it is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Head of Corporate Resources. When so informed, the Executive Director appraise the circumstances and shall notify and discuss the action to be taken with the Head of Corporate Resources. All information shall be treated in complete confidence.

Reports of suspected fraud may also be made to the suspected fraud, corruption or other financial irregularity can also be made to the Anti-Fraud & Corruption Team Manager who will conduct an investigation and make recommendations for appropriate action. Further information about this procedure can be obtained from Carol Owen ext. 47909.

### **Benefit Fraud**

All allegations of Benefit fraud should be made to the National Benefit and Fraud Hotline:0800854440 or online at: <https://www.gov.uk/report-benefit-fraud>

### **Tenancy Fraud**

The Council has a dedicated Housing Investigator who investigates fraudulent applications for housing. They also receive allegations of subletting on behalf of Lewisham Homes and other housing providers. All allegations of housing related fraud should be made to Juliet Bennett, Housing Investigation Practitioner, preferably by email to [juliet.bennett@lewisham.gov.uk](mailto:juliet.bennett@lewisham.gov.uk)

Any reports of suspected, corruption or other financial irregularity may also be made to [reportfraud@lewisham.gov.uk](mailto:reportfraud@lewisham.gov.uk) or to the team's 24 hour free phone Hotline on 0800 0850119.

## 11.2 Statutory Officers

In addition the officers who have particular responsibility for regulating the conduct of the Council and its activities. They are as follows:

Acting Chief Executive – Head of Paid Service Janet Senior on 0208 314 8019- email [janet.senior@lewisham.gov.uk](mailto:janet.senior@lewisham.gov.uk) - Responsible for overall management of workforce.

Chief Finance Officer – David Austin 0208 314 9114 – email [david.austin@lewisham.gov.uk](mailto:david.austin@lewisham.gov.uk) -The Council's officer with responsibility for the financial management, audit and financial probity of the Council.

Head of Law – Monitoring Officer – Kath Nicholson on 0208 314 7648 – email [kath.nicholson@lewisham.gov.uk](mailto:kath.nicholson@lewisham.gov.uk) - Dealing with advising on the probity and legality of the Council's decision making. The Head of Law, as Monitoring Officer, is the Council's Whistleblowing officer.

Employees with serious concerns about Councillors should in the first instance raise them with the Head of Law.

Head of Information Governance - Data Protection Officer – Georgina Chambers 0208 314 7956 email [georgina.chambers@lewisham.gov.uk](mailto:georgina.chambers@lewisham.gov.uk) –responsible for ensuring compliance with data protection legislation

### Children & Vulnerable Adults

Concerns about the safety and wellbeing of children and vulnerable adults may be raised either with Sara Williams, Executive Director for Children and Young People on 0208 314 8527 email: [sara.williams@lewisham.gov.uk](mailto:sara.williams@lewisham.gov.uk) or Aileen Buckton, Executive Director Community Services on 0208 314 8107 email: [aileen.buckton@lewisham.gov.uk](mailto:aileen.buckton@lewisham.gov.uk)

### The Standards Committee

The Council also has a Standards Committee made up of councillors and independent people. The role of the Standards Committee is to promote the highest standards of ethical conduct amongst members.

11.3 If anyone is unhappy with the process or outcome of an investigation and the Council's response, they may wish to raise the matter externally with:

- The Council's auditors Grant Thornton LLP, Paul Grady on 02077282301, email: [paul.d.grady@uk.gt.com](mailto:paul.d.grady@uk.gt.com) for all matters relating to fraud, corruption or misuse of public money.

- The Local Government and Social Care Ombudsman on 0300 061061
- The Whistleblowing Helpline for NHS and Social Care on 08000 724725
- The independent charity “Public Concern at Work” on 020 3117 2520, email: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

11.4 If an employee does choose to take a concern outside the Council, then it is their responsibility to ensure that confidential information is not handed over (i.e. confidential information, in whatever format, must not be handed over to a third party, unless in line with the Data Protection Act 2018 and the General Data Protection Regulations). If clarification is required on this, the advice of the Council’s Data Protection Officer should be taken.

## Procedure for dealing with whistleblowing Referrals

