



BEDFORD BOROUGH COUNCIL

CONFIDENTIAL

REPORTING POLICY

March 2018

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1. PREAMBLE

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not voice their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also be afraid of harassment or victimisation and feel it may be easier to ignore the concern rather than report what may just be a suspicion of misconduct.
- 1.2 The Council is committed to the highest possible standards of openness, honesty and accountability. To this end we expect Council employees, Council contractors and their workforce, volunteers or members of the public who we deal with, who have serious concerns about any aspect of the Council's work, to come forward and let us know those concerns. It is recognised that most cases will have to continue on a confidential basis.
- 1.3. Part IVA of the Employment Protection Act ("the 1996 Act") protects employees who come forward to raise concerns. This policy document makes clear the Council's positive commitment to the principles of Part IVA of the 1996 Act so that employees can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. *This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.*
- 1.4 The policy applies to all employees and contractors working for the Council on Council premises and otherwise and includes agency staff, builders and drivers.
- 1.5 These procedures are in addition to the procedures for dealing with grievances affecting Council employees and to the Council's Corporate Complaints Procedure and other statutory reporting procedures that apply to Children and to Vulnerable Adults and any other relevant Council procedures. Directors/Assistant Directors, Heads of Service and other Senior Officers are responsible for making service users aware of the existence of these procedures if and when necessary. Those senior officers are also responsible for making sure that all concerns raised through those other policies are considered properly.
- 1.6 This policy has been discussed with relevant trade unions and professional organisations and has their full support.

2. AIMS AND SCOPE OF THIS POLICY

- 21 This policy aims to:
- encourage you to feel confident in raising serious concerns and to question and act upon concerns about the Council
 - show you how you can raise those concerns and receive feedback on any action taken
 - ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
 - reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that your disclosure is substantially true and that you have made it in the public interest.
- 22 If there are existing procedures in place to lodge concerns you have, you should follow those procedures and not this policy. These procedures include those for:
- grievances by Council employees who have concerns about their own employment;
 - the abuse of children and/or vulnerable adults (physical or psychological);
 - corporate complaints;
 - the conduct of Members;
 - the conduct of Employees;
 - a breach of data protection by failing to safeguard personal and/or sensitive information;
 - a breach of a contract with any contractor.
- 23 Major concerns that fall outside the scope of other procedures and are intended to come within the Confidential Reporting Policy include:
- health and safety risks, either to the public or other employees;
 - any unlawful act (eg theft)
 - the unauthorised use of public funds (eg expenditure for improper purpose)
 - maladministration (eg not adhering to procedures, negligence)

- damage to the environment (eg pollution)
- fraud and corruption (eg to give or receive any gift/reward as a bribe)
- abuse of power
- poor value for money
- other unethical conduct; and
- deliberately concealing information tending to show any of the above

24 This policy complies fully with Part IVA of the 1996 Act as amended.

3. INDIVIDUALS EMPLOYED OR WORKING IN SCHOOLS

3.1 A Confidential Reporting Policy for schools operating in accordance with local management is included in the Personnel Handbook for school based staff (Chapter 3, Section 18). Individuals employed in maintained schools including community, voluntary assisted, voluntary controlled or foundation schools, should raise their concerns in accordance with that policy within the school.

3.2 Employees in schools should also use other school procedures such as the grievance procedure where appropriate.

3.3 Where the Employee working in a school considers one or more incidents amount to a safeguarding incident, they should make a report under the Schools Safeguarding Policy.

3.4 However, if the employee has good reason to believe that

- (a) the concern will not be managed properly within the school, or
- (b) that s/he will be exposed to victimisation as a result of raising the concern;
- (c) or the concern is about another school or another service provided by Bedford Borough Council;

then the employee may report the concern directly to Bedford Borough Council. People who report a concern to Bedford Borough Council about the school in which they work should set out why they feel unable to report the concern directly to the school.

- 35 In community schools, community special schools, voluntary controlled schools, Greys Education Centre (Academy) (pupil referral unit) and maintained nursery schools, the Council expects the disclosure to be made to the Headteacher and/or Chair of Governors unless there are circumstances in which the employee or worker feels that disclosure in this way is not appropriate or has or will not have been dealt with satisfactorily, in which case disclosure may be made directly to the Council, in accordance with this policy, as set out in 3.4 above.
- 36 This policy requires the Headteacher or Chair of Governors in a community, community special, voluntary controlled or maintained nursery school to respond to a disclosure in the same way as the Council would respond. The Headteacher or Chair of Governors, as the case may be, is expected to seek advice as necessary from the Council.

4. FOUNDATION AND VOLUNTARY-AIDED SCHOOLS

- 4.1 The Council will acknowledge concerns received in respect of foundation or voluntary- aided schools and deal with those concerns having regard to any legal obligations on the school. However, the Council's ability to investigate disclosures of serious wrongdoing made against a foundation or voluntary-aided school is considerably less than disclosures made against schools falling under the Council's Confidential Reporting Policy and as such, the Council has limited legal powers to investigate a disclosure made in respect of foundation and/or voluntary aided schools (except for certain types of allegation, including Safeguarding, Special Educational Needs and/or financial mismanagement allegations).
- 4.2 Employees who have major concerns about other schools or about the Council services outside the school where they work should report those concerns directly to the Council under this policy, as a member of the public.

5. ACADEMIES/ SIXTH FORM COLLEGE(S)/ FREE SCHOOL(S)

- 5.1 Although the Council does not maintain academies, sixth form colleges and/or free schools and although these institutions need to adopt their own procedures, the Council will acknowledge any concerns disclosed to it by employees of these organisations. If those concerns relate to the functions of the Council they will be dealt with under section 11 of this procedure.
- 5.2 The Council has no legal powers to investigate a disclosure made in respect of academies, sixth form college(s), further education establishments and/or free school(s) (except for disclosures made in

respect of safeguarding issues and Special Educational Needs), and upon receipt of such concerns, the Council will contact the person reporting the concern to discuss whether or not to refer the disclosure to the Education Funding Agency, (the Government Agency that has oversight of academy, sixth form college(s), further education establishments and free school(s), and to whom concerns in respect of academies, sixth form college(s), further education establishments and free school(s) should be made. However, the Council may disclose information about the disclosure, without disclosing the identity of the person who raised it, without their consent, where the allegations raised are sufficiently serious to warrant it.

- 5.3 In respect of disclosures of serious wrongdoing relating to safeguarding children or vulnerable adults, and/or Special Educational Needs the Council has a legal obligation to investigate, and will do so, irrespective of the status of the school.
- 5.4 Bedford Borough Council will work with the Education Funding Agency and the Department for Education to review the outcome of any complaint referred to them.
- 5.5 It is recommended that where the academy / free school receives a Protected Disclosure by an employee, they seek advice from their appropriate professional advisor(s). If they are unable to obtain such advice, they can approach the Charity, Public Concern at Work (0207 404 6609) <http://www.pcaw.org.uk>, which may be able to assist.

6. SAFEGUARDS

- 6.1 Harassment or Victimisation
- 6.2 The Council is committed to good practice and high standards and wants to be supportive of employees and others such as volunteers, companies that work with or for the Council and their employees.
- 6.3 The Council recognises that the decision to report a concern can be a difficult one to make. If you believe that what you are saying is true and you have raised it in the public interest, you should have nothing to fear because you will be doing your duty to the Council and those for whom you are providing a service.
- 6.4 If you have raised any concern the Council will not tolerate any harassment or victimisation (including informal pressures). The Council will take any appropriate action it can to protect you when you raise a concern that you believe to be true and which you made in the public interest.

6.5 Any investigation into allegations of potential misconduct will not affect or be affected by any disciplinary or redundancy procedures that already affect you.

7. CONFIDENTIALITY

7.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

8. ANONYMOUS ALLEGATIONS

8.1 This policy encourages you to put your name to your allegation whenever possible. You can raise concerns anonymously but there are disadvantages if you do so and cannot be contacted for further information. This might make detailed investigations more difficult, or even impossible, to progress and it might not be possible to understand fully the information you have provided. It is also possible that the documents you provided might reveal your identity and so you might not be able to stay anonymous throughout an in-depth investigation. It may also be difficult for you to demonstrate to a tribunal that any detriment you have suffered is as a result of raising a concern.

9. ALLEGATIONS NOT IN THE PUBLIC INTEREST AND WITHOUT A REASONABLE BELIEF THEY ARE SUBSTANTIALLY TRUE

9.1 If you make an allegation which you reasonably believe is substantially true and you make it in the public interest, no action will be taken against you. However, if it is considered this is not the case, disciplinary action may be taken against you.

10. HOW TO RAISE A CONCERN

10.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach one of the following:

Chief Executive
Assistant Chief Executive (Enabling Services)
Assistant Chief Executive (Law & Governance)
Chief Officer for Internal Audit
The Complaints "Hot Line" (0800 9178491) if Housing Benefit Fraud is involved.

10.2 Concerns may be raised verbally or in writing. If you wish to make a written report you should include the following information:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

Any concerns raised verbally should include the same information as those raised in writing. All concerns received will be registered immediately with the Monitoring Officer.

- 103 The earlier you express the concern the easier it is to take action.
- 104 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that you have reasonable grounds for your concern.
- 105 Advice and guidance on how matters of concern may be pursued can be obtained from:
- Chief Executive
Assistant Chief Executive (Enabling Services)
Assistant Chief Executive (Law & Governance)
Chief Officer for Internal Audit
- 106 You may wish to consider discussing your concern with a colleague or your trade union representative first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns. *However, once you have raised a concern under the Confidential Reporting Policy you should understand that any further discussions with other parties may make it difficult to keep the matter confidential.*
- 107 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.
- 108 Complaints against a member of the Council that involve a breach of the Council's Code of Conduct for Members should be addressed to the Monitoring Officer. Details of the Council's arrangements for dealing with such complaints are available on the Council's website and are also obtainable on request from the Monitoring Officer.

11. HOW THE COUNCIL WILL RESPOND

- 11.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 11.2 Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary procedure for a member of staff.

- be referred to the police
 - be referred to the external auditor
 - form the subject of an independent inquiry.
- 11.3 In order to protect individuals and those accused of misdeeds or possible malpractice, 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.
- 11.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 11.5 Within 10 working days of a concern being raised, the Monitoring Officer, who is the person responsible, will write to you:
- letting you know that the concern has been received
 - showing you how we propose to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - supplying you with information about the support that is available, and
 - telling you whether further investigations will take place and if not, why not.
- In the event that your concern relates to the Monitoring Officer, the Deputy Monitoring Officer will write to you setting out the above information.
- 11.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 11.7 Where any meeting is arranged, off-site if Council employees so wish, they can be accompanied by a union or professional association representative or a friend.

11.8 The Council will take steps to minimise any difficulties, which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

11.9 The Council accepts that you need to be assured that the matter has been properly addressed. We will always inform you of the outcome of any investigation unless there are legal reasons which prevent us from doing so.

12. THE RESPONSIBLE OFFICER

12.1 The Assistant Chief Executive (Governance and Human Resources) is the Council's Monitoring Officer and has overall responsibility for the maintenance and operation of this policy. The Monitoring Officer keeps a record of concerns raised and the outcomes (but in a way that keeps the matter and any individuals involved in it confidential) and will report it as necessary to the Council.

13. HOW THE MATTER CAN BE TAKEN FURTHER

13.1 This policy is intended to show you how you can raise concerns within the Council. The Council hopes you will be satisfied with any action taken in response. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

The external auditor, your trade union, your local Citizen's Advice Bureau, relevant professional bodies, relevant regulatory organisations (e.g. the Health & Safety Executive or the Environment Agency) a relevant voluntary organisation, the police.

13.2 Before taking matters outside the *Borough Council* you may wish to take independent advice and the charity Public Concern at Work (0207 404 6609) <http://www.pcaw.org.uk>, may be able to assist.

13.3 If you do take the matter outside the Council, you should, if at all possible, take advice before doing so to ensure that you do not disclose confidential information not relevant to the concern you are raising.

14. STATUTORY PROTECTION UNDER THE PART IVA OF THE 1996 ACT

14.1 If you raise a concern of a serious nature in the reasonable belief that it is substantially true and you make it in the public interest within the terms of Part IVA of the 1996 Act you will have a statutory protection against victimisation.

14.2 This means that Council employees who are victimised can bring a claim to an Employment Tribunal for compensation:

14.2.1 for victimisation short of dismissal, awards will be uncapped and based on losses.

14.2.2 Dismissals in breach of the Part IVA of the 1996 Act are automatically unfair. An employee can seek interim relief to continue their employment until the full hearing.

14.2.3 Any claim to the Employment Tribunal should be brought within 3 months and compensation under the Act is unlimited.