

PART 5.5 Confidential Whistleblowing Code

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1. INTRODUCTION

The council is committed to the highest possible standards of openness, honesty and accountability. It is not prepared to tolerate malpractice and/or wrongdoing. In line with that commitment we expect employees, and others that we deal with, who have any serious concerns about any aspect of the council's work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant council procedures to report issues in an open and transparent way, because that is the type of organisational culture we are trying to foster. It is recognised, however, that some cases will have to proceed on a confidential basis, but this should be the exception.

This document makes it clear that employees and others can voice concerns without fear of victimisation, subsequent discrimination or disadvantage. The Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the council rather than overlooking a problem or 'blowing the whistle' outside.

I hope that the improvements made to this process inspire confidence and enable employees and others to feel able to raise concerns so that the Authority can address them appropriately and improve standards within the organisation.

James Swindlehurst Leader, Slough Borough Council

1.1 What is the Code about?

1.1.1 Employees can sometimes be the first to realise that there may be something seriously wrong with procedures and/or processes within Slough Borough Council (the council). However, they may not always express their concerns because they feel that speaking up would be disloyal to their colleagues or to the council. They may also fear the threat of harassment or victimisation and in these circumstances, they may feel it easier to just ignore their concern rather than report what may just be a suspicion of malpractice.

1.1.2 'Whistleblowing' is the term used when an employee passes on information concerning wrongdoing. This is generally referred to as 'making a disclosure' or 'blowing the whistle'. Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998).

1.2 Who does the policy apply to?

1.2.1 This code applies to all employees except for school-based employees. Schools need to give consideration to their own code adopted by the governing body, but are strongly recommended to adopt this policy.

1.2.2 The code also applies to former employees, agency staff working for the council, home workers, contractors and their staff, suppliers, volunteers, elected members and members of the public.

- 1.2.3 The code is recommended as good practice to all other groups associated with the council who have the discretion to adopt our policies. Apart from schools, this will include such groups as voluntary sector organisations.
- 1.2.4 The term “employee” within this document is used to describe any of the above.
- 1.2.5 These procedures are in addition to the council’s complaints procedures and other statutory reporting procedures applying to some services. If asked, employees should make service users aware of the existence of these procedures.

2. AIMS AND SCOPE OF THE CODE

2.1 Aim of the code

This code aims to:

- 2.1.1 encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- 2.1.2 provide avenues for you to raise those concerns and receive feedback on any action taken;
- 2.1.3 ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- 2.1.4 reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in the public interest;
- 2.1.5 ensure consistency and fairness in dealing with whistleblowing across the Council.

2.2 Scope of the code

- 2.2.1 An employee who makes a disclosure under this code must reasonably believe:
 - (a) That they are acting in the public interest;
 - (b) That the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
 - (i) criminal offences;
 - (ii) failure to comply with an obligation set out in law;
 - (iii) miscarriages of justice;
 - (iv) endangering of someone’s health and safety;
 - (v) damage to the environment;
 - (vi) deliberate concealment of any of the above.

- (c) Examples of the above could include:
- (i) conduct which is an offence or a breach of law;
 - (ii) health and safety risks, including risks to the public as well as other employees;
 - (iii) the unauthorised use of public funds;
 - (iv) negligence;
 - (v) unauthorised disclosure of confidential information;
 - (vi) possible fraud and corruption;
 - (vii) sexual or physical abuse of children and/or vulnerable young people/adults;
 - (viii) deliberate concealment of the above matters.

2.2.2 The above list is neither exclusive nor exhaustive.

2.2.3 Thus, any serious concerns that you have, which are in the public interest, about any aspects of service provision or the conduct of officers or members of the council or others acting on behalf of the council can be reported under the Confidential Whistleblowing Code.

2.2.4. Councillors and Officers, by nature of working in the public sphere, are always likely to face a conflict between their own personal interest and the public interest. That is why the Council has codes of conduct for Councillors and Officers which require each of them to act in the public interest rather than in their own personal interest. Councillors are subject to the Councillors' Code of Conduct in part 5.1 of the Constitution and Officers are subject to the Officers are subject to the Local Code of Conduct for Employees in Part 5.3 of the Constitution. These codes guide Councillors and Officers on how to act in the public interest in certain circumstances where this conflicts with their own personal interest. Any breach of these codes could in extreme circumstances lead to the disqualification of a Councillor or the dismissal of the Officer. If you become aware of any breach of these codes by a Councillor or another Officer you must report this to the Monitoring Officer.

2.3 Which procedure should I use?

2.3.1 There are existing employee policies and procedures designed to resolve many concerns you may have. The procedures to be followed in raising issues under these policies can be found on SBCinsite by clicking on People. They include

- (a) Incident Reporting and Investigation Guidelines
- (b) Grievance Policy & Procedure
- (c) Equal Opportunities Policy

- (d) Disciplinary Policy & Procedure
- (e) Capability Procedure
- (f) Drug & Alcohol Policy
- (g) Probationary Policy & Procedure

2.3.2 If one of these procedures is relevant that process should be used unless you have genuine concerns, at either the outset or the end of the procedure, about following the relevant process in which case this Policy & Procedure should be used. The procedure is not an appeal mechanism for other procedures, unless, exceptionally, you think when you have been through another procedure, that process was compromised. If you are unsure which procedure you should use, then please seek advice from your trade union representative or an HR Adviser or your line manager.

2.3.3 The Confidential Whistleblowing Code is for all other cases involving conduct which appears likely to harm the reputation of the Council.

2.3.4 Schedule 1 shows some examples of situations in which employees might blow the whistle and the procedure to use.

3. SAFEGUARDS

3.1 The Council's Assurances to you

3.2 The council is committed to good practice and high standards and wants to be supportive of employees.

3.3 The council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and the statement being made is in the public interest, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

3.4 It is understandable that whistleblowers are sometimes worried about possible repercussions. The council aims to encourage openness and will support employees who raise genuine concerns under this code, even if they turn out to be mistaken. However, please see Paragraph 6 regarding untrue allegations.

3.5 The council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in the public interest. This action will depend on the type of concern and specific service arrangements.

3.6 Employees must therefore not suffer any detrimental treatment as a result of raising a disclosure. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a disclosure.

3.7 Employees must not threaten or retaliate against whistleblowers in any way. If you are involved in such conduct you may be subject to disciplinary action.

3.8 On occasions, you may be asked whether you would be prepared to obtain further information. This would be entirely at your discretion and a full risk assessment would be completed, prior to such a course of action being agreed.

3.9 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. CONFIDENTIALITY

4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. However, it is possible that we will be unable to resolve the concern raised without revealing identity (eg because your evidence is needed in Court) but if this occurs we will discuss this with you as to how we can proceed). Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly.

4.2 All information will be handled sensitively and used only for its proper purpose.

4.3 Under the Data Protection Act 1998 individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information.

5. ANONYMOUS ALLEGATIONS

5.1 This policy encourages you to put your name to your allegation whenever possible.

5.2 If you don't tell us who you are, it will be much more difficult for us to look into the matter, protect your position and give you feedback.

5.3 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account will include:-

5.3.1 The seriousness of the issues raised

5.3.2 The credibility of the concern

5.3.3 The likelihood of confirming the allegation from attributable sources.

6. UNTRUE ALLEGATIONS

If you make an allegation in the public interest but it is not confirmed by the investigation, no action will be taken against you. However, the Council will view very seriously any false or malicious allegations or allegations made for personal gain and disciplinary action may be taken against you under the Council's Disciplinary Policy.

Similarly if an agency worker, external secondee, volunteer etc makes malicious or vexatious allegations or allegations made for personal gain, then the Council will consider dispensing with their services.

7. HOW TO RAISE A CONCERN - INTERNALLY

- 7.1 Any concerns that you have may be raised orally or in writing and those who wish to make a written statement should set out the background and history of the concern (giving relevant dates) and the reasons why you are particularly concerned about the situation. The earlier you express your concern the easier it will be to take action. **REMEMBER – IF IN DOUBT RAISE IT.** You must make it clear that you are using this procedure.
- 7.2 The Council will not expect you to prove that your concern is true but you will need to demonstrate to the person contacted that there are reasonable grounds for you to raise the issue.
- 7.3 It is perfectly acceptable for you to discuss your concern with a colleague and you may find it more comforting to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 7.4 If you have a concern about any malpractice/wrongdoing, we hope you will feel able to raise it first with your Line Manager or their superior. If you feel unable to raise the matter with your Line Manager or their superior, then please raise the matter with your Chief Officer.
- 7.5 If the above channels have been followed and you still have concerns or if you feel that the matter is so serious that you cannot discuss it with your Line Manager, their superior or your Director or you consider that it is not appropriate (e.g. you are a contractor, supplier, Councillor or member of the public), then you can contact the Council's Monitoring Officer MonitoringOfficer@slough.gov.uk .
- 7.6 Where your complaint relates to the Monitoring Officer and/or the Section 151 Officer you should contact the Chief Executive. If you are unhappy about raising your concern internally then you are at liberty to whistleblow externally under Paragraph 10 below.
- 7.7 Where your complaint relates to the Chief Executive you should contact the Monitoring Officer on MonitoringOfficer@slough.gov.uk.
- 7.8 Where Council members have concerns, they may wish to first discuss matter with their Group Leaders.

8. HOW THE COUNCIL WILL HANDLE THE MATTER (See flowchart at Schedule 3)

- 8.1 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.
- 8.2 Where the concern has been raised with a manager, (s)he 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, Section 151 Officer, Monitoring Officer or Chief Executive.
- 8.3 Investigation does not imply either acceptance or rejection of an individual's concerns

- 8.4 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.
- 8.5 Where appropriate, the matters raised may:
- 8.5.1 be investigated by management, internal audit, or through the disciplinary process
 - 8.5.2 be referred to the police
 - 8.5.3 be referred to the external auditor or other external investigation
 - 8.5.4 form the subject of an independent inquiry
 - 8.5.5 be investigated under another procedure e.g. child/adult protection
 - 8.5.6 be investigated under other forms of prosecution and inspection e.g. to protect public health and safety
- 8.6 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.
- 8.7 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:
- 8.7.1 indicating how they propose to deal with the matter
 - 8.7.2 giving an estimate of how long it will take to provide a final response
 - 8.7.3 informing them whether any initial enquiries have been made
 - 8.7.4 supplying them with information on staff support mechanisms, and
 - 8.7.5 informing them whether further investigations will take place and who will conduct that investigation, or
 - 8.7.6 explaining the reasons why no investigation is to be carried out.
- 8.8 It may be necessary, as part of the investigation, to obtain additional information from the individual who raised the concern.
- 8.9 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.
- 8.10 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

employee will be given feedback on any action taken. However, it will not include information relating to specific individuals, which will remain confidential.

9. HOW THE MATTER CAN BE TAKEN FURTHER

- 9.1 This policy and procedure is intended to provide employees with an avenue within the Council to raise concerns. The Council hopes employees 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 Schedule 2.
- 9.2 There may be circumstances where an employee 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 employee considers that the matter has not been properly addressed, or that an employee reasonably believes that the matter will be covered up.
- 9.3 If an employee is unsure whether or how to raise a concern or wants confidential advice, contact can be made with the independent charity Public Concern at Work on 020 7404 6609 or at helpline@pcaw.co.uk. Their lawyers can provide free confidential advice on how to raise a concern about serious malpractice or wrongdoing at work.
- 9.4 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.
- 9.5 In circumstances where an employee 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:
- 9.5.1 in the course of obtaining legal advice
 - 9.5.2 to a prescribed regulatory body (listed in Schedule 4) provided the employee reasonably believes the prescribed body is responsible for the matter of concern and that the allegations are substantially true;
 - 9.5.3 to other third parties where the employee makes the disclosure:
 - (a) with reasonable belief that the information and allegations are substantially true, and
 - (b) does not make the disclosure for personal gain, and
 - (c) has already raised the matter with the Council or prescribed regulator, unless the employee reasonably believes that (s)he will suffer a detriment, or there is no 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
 - (d) in all of the circumstances it is reasonable to make the disclosure.

- 9.5.4 The disclosure is of an exceptionally serious nature and the whistleblower makes the disclosure:
- (a) with reasonable belief that the information and allegations are substantially true, and
 - (b) does not make the disclosure for personal gain, and
 - (c) in all of the circumstances it is reasonable to make the disclosure.
- 9.5.5 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.

Important:

All employees must not, under any circumstances attempt to obtain any further information covertly either directly or indirectly without first having complied with the Council's procedures in relation to staff surveillance which can be found in the Regulation of Investigatory Powers (RIPA) Policy – a copy of this is available on the intranet. Failure to do so may infringe Human Rights and render the Council liable to legal action.

10. SUPPORT FOR EMPLOYEES RAISING A CONCERN AND OTHERS AFFECTED BY THE RAISING OF A CONCERN

- 10.1 The Council is committed to good practice and high standards and wants to be supportive of individuals who raise concerns.
- 10.2 The Council will also support individuals affected by the raising of a concern as appropriate.
- 10.3 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.
- 10.4 Council employees can also approach their Trade Union or a statutory body such as the General Medical Council (GMC) or Nursing and Midwifery Council (NMC) for advice/support throughout the procedure.
- 10.5 Council employees may also approach their Employee Support Group for support throughout the procedure.
- 10.6 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.
- 10.7 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.

10.8 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.

11. RESPONSIBILITIES

11.1 Staff and others working at the Council

11.1.1 To be aware of this policy and procedure.

11.1.2 In making any disclosure to tell us if you have a direct personal interest in the matter.

11.2 Managers

11.2.1 To make their staff aware of this policy and procedures.

11.2.2 To encourage a positive open working culture for staff and others working at the Council to express easily their concerns.

11.2.3 To take concerns seriously

11.2.4 To guide staff to the most appropriate route.

12. REVIEW OF THIS POLICY

This policy will be reviewed annually by the Council. The Responsible Officer for the maintenance and operation of the policy is:

The Monitoring Officer
Slough Borough Council
Observatory House
25 Windsor Road
SLOUGH
SL1 2EL

_____MonitoringOfficer@slough.gov.uk

SCHEDULE 1 – SITUATIONS IN WHICH EMPLOYEES MIGHT BLOW THE WHISTLE

1. EXAMPLE ONE

You are working in an area which regularly engages outside contractors. You have noticed how the one which has been named Council's preferred supplier doesn't deliver on time or to budget. Your Chief Officer who is very friendly with one of the staff in the contracting firm, doesn't appear to share your concerns, but is quick to make excuses for them. Senior management seem to have accepted these explanations and don't seem to be concerned. You suspect your Director may be receiving inducements. What should you do?

Report the suspicion to the Monitoring Officer.

2. EXAMPLE TWO

You are in the gym within a Council leisure facility and you notice that everyone using a piece of equipment is now complaining of back trouble. You see that one part of it is loose, but, despite reporting it to the manager of the leisure facility, nothing had happened. What should you do?

Report the matter immediately to the Head of Health & Safety under the Health & Safety policy. Allow a reasonable time for the problem to be resolved and ask about progress. If you have genuine concerns that nothing is being done, contact the Monitoring Officer.

3. EXAMPLE THREE

You work for a contractor in the staff restaurant, and over the past few weeks you notice a member of staff who doesn't seem to be paying for their food. You put this down to your error or their genuine mistake. However recently you notice the same person doing this on a daily basis. You are not sure what to do and you are worried because you did not report it the first time. What should you do?

Report the incident immediately to your Line Manager or their superior. If the concern involves your Line Manager or their Superior or your Director, or for any reason you would prefer them not to be told, you may raise the matter directly with the Monitoring Officer.

4. EXAMPLE FOUR

You start work at the Council in an administrative role. It isn't long before you become aware that false claims for expenses are being made by certain people in your department. What should you do?

Report the incident immediately to your Line Manager. If the concern involves your immediate Line Manager or their Superior or Director, or for any reason you would prefer them not to be told, you may raise the matter directly with the Monitoring Officer.

SCHEDULE 2 – LIST OF EXTERNAL BODIES

<u>NAME & ADDRESS</u>	<u>AREA OF CONCERN</u>
Public Concern at Work Suite 306, 16 Baldwins Gardens London, EC1N 7RJ (Tel. No. 0207 404 6609)	All matters of malpractice and/or wrongdoing.
Local Government Ombudsman The Commission for Local Administration in England 10th Floor Millbank Tower Millbank London, SW1P 4QP (Tel. No. 0207 217 4620)	Maladministration – causing injustice to a member of the public.
Thames Valley Police Windsor Road Slough, Berkshire (Tel. No. 08458 505 505) or CRIMESTOPPERS Tel. (0800 555 111)	Breach of the Criminal Law
Headquarters: Fraud Squad Thames Valley Police c/o Loddon Valley Police Station Rushey Way Lower Earley, Reading Berkshire, RG6 4PS (Tel. No. 01189 181 818)	Fraud and Public Sector Corruption
The Health & Safety Executive Priestley House Priestley Road Basingstoke, Hants (Tel. No. 0845 300 9923)	Health & Safety dangers
National Customer Contact Centre P O Box 544 Rotherham S60 1BY	Environmental dangers.
Inspection Unit Unit 6, Commerce Park Brunel Road Theale (Tel. No. 01189 306 000)	Poor care practice/abuse in registered establishments, including care homes.

SCHEDULE 3 – Flowchart showing how whistleblowing matters will be handled

