

Council Constitution

Part 5(b) - Whistleblowing Policy

Introduction

1. In a large organisation like Tameside MBC, employees and Councillors are often the first to be aware when something is seriously wrong. However, there can be a number of reasons why they might not report what they suspect; they may not know how to report a concern; they may be concerned about reprisals or they may feel that making a report would be a betrayal of confidence. If someone knows about wrongdoing and doesn't report it then the Council loses an opportunity to deal with a potentially damaging situation and gives rise to an even greater risk of financial loss, regulatory breach, higher insurance premiums and damaged reputation.
2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage anyone with serious concerns about any wrongdoing in any aspect of the Council's work to come forward with these concerns. Tameside MBC will not tolerate malpractice or wrongdoing and is determined that all instances of malpractice will be fully investigated and the appropriate action taken against all those concerned.
3. Any disclosures made by employees which are made to their employer and which are intended to shed light on fraud, bribery, corruption or malpractice are in general protected under the Public Interest Disclosure Act 1998. Any employee raising concerns through this policy will be protected from reprisals or victimisation, so long as the employee is not acting maliciously or for personal gain.
4. Internal systems and procedures must seek to prevent fraud, bribery and corruption but also protect individual Councillors and employees against malicious or unfounded allegations of impropriety. Internal controls are the first line of defence against fraud, bribery, corruption and malpractice and national experience shows it is often the case that where fraud, bribery, corruption and malpractice does occur the controls were circumvented or ignored.
5. Tameside already has in place documented procedures to ensure that there are proper controls in place, these procedures can be found in the TMBC Constitution. In addition, each Service Unit has their own procedural manuals on how the various duties should be carried out to ensure that there are efficient and effective controls which include separation of duties.
6. This policy has been discussed with all political groups, the relevant trade unions and professional organisations.

Aims of the Policy

7. This policy aims to:
 - Provide avenues for you to raise genuine concerns,
 - Allow you to take the matter forward if you are dissatisfied with the Council's response,
 - Reassure you that you will be protected from reprisals or victimisation for speaking up in good faith.

Scope of the Policy

8. This policy applies to everyone with a concern about wrong doing in the council's activities, whether they are a Councillor, a council employee, a contractor, an associated party or a concerned member of the public.

9. There are existing and separate procedures in place to enable staff to lodge a grievance relating to their own employment. Likewise recipients of a council service can use the complaints procedure about the services they have received.
10. This policy is intended to cover concerns that fall outside the scope of the procedures mentioned above. That concern may be about something that:
 - is unlawful (for example theft, fraud, bribery and corruption); or
 - breaks the Council's constitution; or
 - falls below established standards or practice; or
 - amounts to improper conduct; or
 - anything that makes you feel uncomfortable or that you think is wrong.
11. If you are in doubt then raise it, you will not be criticised for raising concerns in good faith.

Safeguards

Harassment or Victimisation

12. The Council recognises that the decision to report a concern can be difficult, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith. However, the Council will take action against anyone who maliciously makes an accusation of malpractice or wrongdoing.
13. This does not mean that if, for example, you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of you reporting a concern.

Confidentiality

14. The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. However, it must be appreciated that the investigation and/or disciplinary process may reveal the source of the information and a statement by you may be required as part of the evidence.

Raising concerns anonymously

15. You are encouraged to put your name to your allegations so we can take the necessary steps to protect you from victimisation should that be necessary. Anonymous allegations are more difficult to investigate as we cannot know if the allegation is made in good faith or is malicious. When an allegation is made anonymously it is also impossible to come to you for more information, and to keep you informed as to the progress of the investigation where possible. From a practical point of view it is impossible to provide protection if we do not know who you are.
16. For these reasons, anonymous allegations will not normally be investigated.

Allegations which are not found to be proven on investigation

17. If you provide information in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary, or other appropriate, action will be taken against you.

How to raise a concern

To whom should a concern be raised

18. As a first step, employees should normally raise concerns with their immediate manager. Councillors should raise concerns with the Leader of their Group. Your concern will then be passed to the Assistant Director (Legal Services) who is the Council's statutory monitoring officer who will conduct certain enquiries to help decide on the appropriate response.
19. Contractors, associated parties and members of the public, and employees or Councillors who do not wish to raise a concern as set out in paragraph 18 above, may raise the issue direct to any of the following individuals:
 - Chief Executive 0161 342 3500
 - Assistant Director (Legal Services) (Monitoring Officer) 0161 342 4239
 - Director of Resources 0161 342 3201
 - Head of Risk Management and Audit Services 0161 342 3126 or email internalAudit@tameisde.gov.uk

Raising a Concern

20. Concerns should be confirmed in writing. You should, as far as possible, set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not initially feel able to put your concern in writing, you can telephone or meet the appropriate officer. Even in this case a record will be made of your discussions for the sake of ensuring an accurate record is held, and you will be asked to confirm this account.

How the Council will respond

21. Wherever you raise your concern the information will be shared with the Director (Governance and Pensions) who will be asked to decide on the appropriate level of response to the situation, the action taken will depend on the circumstances of each investigation. The matters raised may:
 - be investigated internally (this could be by Internal Audit)
 - be referred to the Police
 - be referred to the External Auditor
 - form the subject of an independent inquiry
 - be dealt with under the ethical framework for Councillors under the direction of the Monitoring Officer
22. In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
23. The Council will write to you within five working days of a concern being received, acknowledging that the concern has been received and initial enquiries are being made.
24. Within ten working days of a concern being received, the Council will write to you indicating how it proposes to deal with the matter, telling you whether any initial enquiries have been made, and telling you whether further investigations will take place, and if not, why not.
25. 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, further information will be sought from you.

26. When any meeting is arranged with you, you have the right, if you so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
27. The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. The Council will take all reasonably practicable steps to ensure that you receive no detriment as a result of your actions. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.
28. The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

How the concern could be taken further

29. This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, you may feel it is right to take the matter to a law enforcement agency outside the Council. If employees take matters outside the council they may still be protected, but it is advisable to take advice about this, for example via the charity "Protect" who operate a helpline (telephone 020 3117 2520).
30. Before doing this you may wish to discuss matters further with any member of the Standards Panel or Internal Audit.
31. If you do take the matter outside the Council, you need to ensure that you do not disclose confidential information or that disclosure would be privileged. You should consider taking advice about that.

Responsible Officer

32. The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer receives all concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.
33. The Monitoring Officer is – Assistant Director (Legal Services).