

Document Control Sheet

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| Document title | Whistleblowing Policy and Procedure |
| Summary of purpose | The purpose of this policy and procedure is to provide information and guidance for employees and workers on how to disclose malpractice. The policy and procedure provides a guide for employees on all aspects of the process. |
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MALDON DISTRICT COUNCIL

Draft revised Whistle blowing policy and procedure

Policy statement and organisational aim

- ✓ Maldon District Council is committed to the provision of the highest quality services for the benefit of the local community and to full accountability for those services.
- ✓ The Council has set in place rules, regulations, quality standards and procedures to ensure that the highest standards of conduct and commitment to service are observed. While the Council expects all staff to maintain the highest possible standard of conduct it recognises that any organisation faces the risk of unknowingly harbouring unethical, illegal or bad practice.
- ✓ The Council is not prepared to tolerate any malpractice in the performance and delivery of its services and will treat any complaints very seriously.
- ✓ The Council encourages, and will be supportive of all individuals to raise concerns and disclose information about the conduct of others in the business or the way in which the business is run.
- ✓ The whistle-blower's identity will, so far as is possible, be kept confidential.
- ✓ No individual should fear any form of reprisal from disclosing wrongdoing within the organisation whether proved founded or unfounded. Any employee who, in good faith, makes allegations that turn out to be unfounded will not be penalised for being genuinely mistaken.
- ✓ The Council believes that the greatest deterrent to wrong doing is the belief that complaints and disclosures will be investigated vigorously, the person(s) responsible dealt with, and the matter promptly remedied.

1 What is whistle blowing?

Whistle blowing is a name used to describe the disclosure of information that has a tendency to show that wrongdoing or malpractice is taking place.

There is UK legislation (The Public Interest Disclosures Act 1998) that protects workers from experiencing victimisation when they make these types of disclosures; this is provided that the disclosure made falls within the legal definition of a 'protected disclosures'.

2 What does this policy/procedure apply to and who can use it?

This policy applies to anything illegal, improper, unethical or wrong that is done by:

- officers
- Councillors
- co-opted committee members
- anyone representing the Council

- partner organisations
- contractors, consultants or other suppliers.

Examples would include a criminal offence, fraud or corruption, damage to the environment, safeguarding concerns, negligence, theft or misuse of public money or failure to follow the Council's finance, contract or other rules.

In practice this will cover matters such as unauthorised use of public funds; unauthorised disclosure of confidential information; physical and sexual abuse; health and safety risks to both staff and members of the public; and the acceptance of bribes. However, these are only examples of the types of conduct that are likely to fall within the relevant types of wrong doing, and this is not an exhaustive list.

Whilst it is important that all members of staff are aware of the scope of the whistleblowing legislation, and the protection it provides, the aim of this policy is to address wrongdoing and malpractice of any kind within the Council, but should not be used to raise standard employment or line management matters by way of grievance.

The Council has other policies and procedures, for example on recruitment and selection, discipline, grievances, bullying and harassment and diversity. In addition, reference should be made to the Council's Member / Officer Relations Protocol to discuss areas of concern, differences or complaints with regard to Member and Officer relationships. The whistleblowing policy should only be used when other policies are inappropriate.

This policy / procedure is essentially for Council officers whether they be full or part-time employees, secondees, casual workers or volunteers, or contractors. Whilst the legislation only offers protection for workers, the Council will ensure that anyone who discloses potential malpractice by the Council is not victimised and can make their concerns known anonymously if they wish. This protection is therefore extended to:

- Councillors;
- Those working for a person, firm or organisation supplying goods or services to the Council;
- Those working for organisations with which we have partnered; and
- Members of the public.

Members of the public can use the Council's complaints procedure or complain to the local government ombudsman having exhausted the Council's internal complaints procedure.

3 Purpose of whistle blowing policy

Officers with serious concerns about any of the Council's work or activities are expected to blow the whistle. This policy:

- encourages officers to blow the whistle within the Council rather than say nothing or take their concerns elsewhere
- protects whistle blowers from reprisals as long as they have acted honestly and in the public interest
- provides a procedure for whistle blowing

- ensures whistle blowers get a response
- gives advice on what to do if the response is not good enough.

4 Protecting the identity of whistle blowers

The Council cannot guarantee to protect the identity of whistle blowers as it may, during an investigation, have to say where it got its information from and disclose the original complaint. The whistle blower may also have to act as a witness in any subsequent hearing.

5 How will the Council protect whistle blowers?

The Council will protect whistle blowers from reprisals as long as they had a reasonable belief that the allegations were true and made them in good faith. Reprisals will be treated seriously as a disciplinary offence and dealt with through the disciplinary procedure. Where workers blow the whistle but do not cite the policy they will still be protected under it.

The Council will try to minimise any difficulties resulting from whistle blowing. For example, it will advise whistle blowers about the procedure if they have to act as witnesses.

6 Anonymous allegations

This policy encourages workers to put their names to allegations but the Council may investigate allegations made anonymously. In deciding whether to investigate an anonymous allegation, the Council will consider how serious it is, whether it is believable and whether evidence can be obtained from a non-anonymous source.

7 Untrue allegations

Workers will not suffer reprisals for making allegations that turn out to be untrue, as long as they had a reasonable belief that the allegations were true and made them in the public interest. Allegations that are made without a reasonable belief as to their truth or not made in the public interest are likely to be treated as a disciplinary offence and dealt with through the disciplinary procedure.

8 Role of trade unions and professional associations

Workers can raise concerns themselves or ask their trade union or professional association to act on their behalf. Whistle blowers can bring a trade union or professional association representative or a friend with them to meetings.

9 How do workers blow the whistle?

(a) Saying that the whistle blowing procedure is being used

The whistle blower should wherever possible make it clear from the start that they want to use the whistle blowing procedure.

(b) Putting concerns in writing

Whistle blowers should wherever possible put their concerns in writing, giving as much detail and including relevant dates. Whistle blowers are not expected to prove that their allegations are true but they need to show that there are reasons for raising

their concern and it was made in the public interest. If a whistle blower does not feel they can put their concerns in writing, they can be interviewed instead – see 10(c).

(c) Who should whistle blowers go to with their allegations?

Whistle blowers may wish to discuss their concerns with their line manager or head of service but there is no obligation to do so. The preferred option is for all whistleblowing reports to be made directly to the Legal and Democratic Services Manager who is the Officer responsible for this process. If the whistle blower is uncomfortable with this, then a report can be made to the Chief Executive, a Director who is not the whistle blower's head of service, the Monitoring Officer (or Deputy), or the Head of Financial Services / Section 151 (S151) Officer.

If the whistle blower suspects fraud or corruption and has a concern that raising this with a member of staff may 'tip-off' relevant individuals they can also go direct to the Council's internal auditors (currently BDO) or to the Council's appointed external auditors (currently Ernst and Young).

10 How will the Council respond to whistle blowing?

(a) Notification of allegation

Upon receipt of an allegation under this policy the person receiving the allegation must immediately notify the Legal and Democratic Services Manager.

Once received an initial assessment will be undertaken to determine what action needs to be taken. This may involve either an internal inquiry, or a more formal investigation. The whistle blower will be advised of who will be handling the matter, how they can be contacted, and whether any further assistance may be needed. If requested, a summary of the concerns raised and how the matter is proposed to be handled will be provided. The aim will be to do this within 5 working days.

A whistle blower may be asked how they think the matter might best be resolved. Whistle blowers are urged to make clear any personal interest they have in the matter.

(b) Appointment of an officer to investigate

The person receiving the complaint will decide, in consultation with any of the Officers referred to in paragraph 9(c) above as required how (unless the allegation relates to one or more of them) the allegation will be investigated and write to the whistle blower within ten working days. The letter should:

- acknowledge that the whistle blower has used the whistle blowing policy
- say how their concern will be dealt with and how long they think this will take
- tell them whether any initial enquiries have been made
- say what further action will be taken (or say why no further action will be taken)
- tell them they have the right to bring someone with them to any meetings they have to attend about the allegation.

(c) Interviews

If the whistle blower has not put their concerns in writing, they may be interviewed. A summary of the interview will be made which should be signed by the person conducting the interview and the whistle blower.

(d) Further action

After preliminary investigation the Council will take further action if the investigation officer decides that it would be in the public interest to do so. Further action may include:

- Arranging an investigation by management or internal auditors
- Arranging a disciplinary process
- Referring allegations to the police
- Referring allegations to the external auditor
- Arranging an independent inquiry if the allegations are very serious or complicated

(e) Response to whistle blowers at the end of the investigation

If the law allows, the Council will tell the whistle blower the outcome of any investigation within 10 working days of it ending.

(f) Support

Whistle blowers are encouraged to obtain support and advice that may include their trade union representative or HR team contact, any designated representatives for bullying and harassment or the charity Public Concern at Work, the whistleblowing charity, which provides a confidential independent [helpline](#) for whistle blowers –

Public Concern at Work
(Independent whistleblowing charity)
Helpline: (020) 7404 6609
E-mail: whistle@pcaw.co.uk
Website: www.pcaw.co.uk

11 Taking concerns further

If a worker has sought advice and feels it is right to raise their concerns outside the Council, people they could approach include their local Council, their local councillor, the external auditor, the health and safety executive, a government department, a solicitor, the police, an MP or a relevant professional body or regulatory organisation.

If a worker does raise their concerns outside the Council, they must do it without passing on confidential information. The Legal and Democratic Services Officer/Monitoring Officer can give advice on this.

12 Monitoring and reporting

The Director of Resources will report to the Finance and Corporate Services Committee on the number (if any) of whistle blowing complaints made as part of the Council's anti-fraud and corruption awareness framework.

13 Responsibility for this policy

The Legal and Democratic Services Manager has overall responsibility for this policy and how it is used and how the policy is working.

Updated draft – November 2017

Approved and adopted by Council -