

# DUDLEY METROPOLITAN BOROUGH

## **CONFIDENTIAL REPORTING POLICY** (more commonly known as Whistleblowing)

This Policy applies to all employees (which includes school staff where the local education authority is the employer), and those contractors working for the Council on Council premises. It also covers suppliers and those providing services under a contract with the Council in their own premises.

This Policy is written in accordance with the Employment Rights Act 1996, the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013.

This Policy will come into effect from 1 April 2014 and will be reviewed on an annual basis.

This Policy has been developed in consultation with the following Trade Unions: ASCL, ATL, GMB, NAHT, NASUWT, NUT, UCATT, UNITE and UNISON.

**April 2014**

## 1. INTRODUCTION

- 1.1. Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, suppliers and those providing services under a contract with the Council in their own premises and others that we deal with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3. This Policy makes it clear that you can do so 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. This Policy applies to all employees (which includes school staff where the local education authority is the employer), and those contractors working for the Council on Council premises. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
- 1.5. These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some Directorates such as those relating to safeguarding children or vulnerable adults. Managers are responsible for making service users aware of the existence of these procedures.
- 1.6. The relevant trade unions have been consulted and this Policy has their support.

## 2. AIMS AND SCOPE OF THIS POLICY

- 2.1. This Policy aims to:
  - Encourage you to feel confident in raising concerns and to question and act upon concerns about practice
  - Provide avenues for you to 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 you have made any disclosure

2.2. There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:-

- Conduct which is an offence or a breach of law, including, for example, data protection and equality legislation
- Disclosures related to miscarriages of justice
- Significant health and safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and corruption
- Sexual, emotional or physical abuse or neglect of clients, or other unethical conduct.

2.3. Thus, any serious concerns that you have about any aspect 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 Reporting Policy. In order for there to be a protected disclosure, information must be disclosed; it is not enough for an allegation to have been made. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders, Financial Regulations and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

2.4. This Policy does **not** replace the corporate complaints procedure.

### **3. SAFEGUARDS**

#### **3.1. Harassment or Victimisation**

3.1.1 The Council is committed to good practice and high standards and wants to be supportive of anyone making a protected disclosure.

- 3.1.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, or if you have reasonable grounds for believing that it is true, 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.
- 3.1.3 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.
- 3.1.4 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. At the appropriate time, however, you may be asked to come forward as a witness.

## **5. ANONYMOUS ALLEGATIONS**

- 5.1. This Policy encourages you to put your name to your allegation whenever possible.
- 5.2. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 5.3. In exercising this discretion, the factors to be taken into account would include:
- the seriousness of the issues raised
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources.

## **6. UNTRUE ALLEGATIONS**

- 6.1. If you make an allegation but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

## **7. HOW TO RAISE A CONCERN**

- 7.1. As a first step you should normally raise concerns with your immediate manager (or in the case of schools, the Head Teacher), their superior or their Director. 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 their manager, or their manager's manager, or the Director. Alternatively, you could approach the Chief Executive, Director of Corporate Resources, the Treasurer, or Internal Audit or the named Directorate contact detailed in the Confidential Reporting Policy poster located in your work area. In the case of schools, staff should normally refer the matter to

their Head Teacher or, where appropriate, to the Director of Children's Services or Director of Adult, Community and Housing Services, or appropriate Assistant Director direct.

If you believe an employee has:

- Behaved in a way that has harmed or may have harmed a child or vulnerable adult;
- Possibly committed a criminal offence against or related to a child or vulnerable adult; or
- Behaved towards a child or children or vulnerable adults(s) in a way that indicates that she/he is unsuitable to work with children or vulnerable adults.

You should follow safeguarding children procedures (Part B, Section 11) <http://safeguardingchildren.dudley.gov.uk/information-for-professionals/safeguarding-children-procedures/part-b-specific-safeguarding> or contact the Local Authority Designated Officer (LADO) in respect of managing concerns or allegations at Safeguarding & Review via the Safeguarding Review Unit (Tel No 813061).

You should follow safeguard and protect adults' procedures:- <http://www.dudley.gov.uk/resident/care-health/dudley-social-services/do-you-need-support-now/protecting-vulnerable-adults/safeguarding-adults/>

- 7.2. Concerns may be raised verbally or in writing. Individuals who wish to make a written report are invited to use the following format:
- the background and history of the concern (giving relevant dates), and
  - the reason why you are particularly concerned about the situation.
- 7.3. The earlier you express the concern the earlier any action that needs to take place can be implemented.
- 7.4. Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.5. Advice or guidance on how to pursue matters of concern may be obtained internally from:-

<b>Officer</b>	<b>Tel N°</b>	<b>E-Mail</b>
<b>John Polychronakis Chief Executive</b>	01384 815200	<a href="mailto:john.polychronakis@dudley.gov.uk">john.polychronakis@dudley.gov.uk</a>
<b>Philip Tart Director of Corporate Resources &amp; Monitoring Officer</b>	<a href="tel:01384815300">01384 815300</a>	<a href="mailto:philip.tart@dudley.gov.uk">philip.tart@dudley.gov.uk</a>
<b>Iain Newman Treasurer</b>	<a href="tel:01384814802">01384 814802</a>	<a href="mailto:iain.newman@dudley.gov.uk">iain.newman@dudley.gov.uk</a>
<b>Les Bradshaw Head of Audit Services</b>	<a href="tel:01384814853">01384 814853</a>	<a href="mailto:les.bradshaw@dudley.gov.uk">les.bradshaw@dudley.gov.uk</a>
<b>Andrea Pope-Smith Director of Adult, Community and Housing</b>	<a href="tel:01384815800">01384 815800</a>	<a href="mailto:andrea.pope-smith@dudley.gov.uk">andrea.pope-smith@dudley.gov.uk</a>

<b>Services</b>		
<b>Pauline Sharratt Interim Director of Children's Services</b>	<u>01384 814200</u>	<a href="mailto:pauline.sharratt@dudley.gov.uk">pauline.sharratt@dudley.gov.uk</a>
<b>John Millar Director of the Urban Environment</b>	<u>01384 814150</u>	<a href="mailto:john.millar@dudley.gov.uk">john.millar@dudley.gov.uk</a>

If you are unsure whether or how to use this Policy, you may seek free confidential help from the independent charity, **Public Concern at Work**  
Tel: 0207-404-6609 [www.pcaw.org.uk](http://www.pcaw.org.uk) email: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

**Public Concern at Work** will also be able to help if you feel that it would be inappropriate to speak to any of the officers referred to above.

- 7.6. You may wish to consider discussing your concern with a fellow worker 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.
- 7.7. You may invite your current recognised trade union representative, trade union official or fellow worker to be present during any meetings or interviews in connection with the concerns you have raised.

## 8. HOW THE COUNCIL WILL RESPOND

- 8.1. 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.
- 8.2. Where appropriate, the matters raised may:
  - be investigated by management, internal audit or through the disciplinary process
  - be referred to the police
  - be referred to the external auditor
  - form the subject of an independent inquiry.
- 8.3. 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 or vulnerable adult protection or discrimination issues) will normally be referred for consideration under those procedures.
- 8.4. 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.
- 8.5. Within ten working days of a concern being raised, the responsible person (the Chief Executive) will write to you:
  - acknowledging that the concern has been received

- indicating 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 on staff support mechanisms, including confidential welfare counselling, and
  - telling you whether further investigations will take place and, if not, why not.
- 8.6. 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.
- 8.7. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a current recognised trade union representative, trade union official or fellow worker.
- 8.8. 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.
- 8.9. The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **9. THE RESPONSIBLE OFFICER**

- 9.1. The Chief Executive has overall responsibility for the maintenance and operation of this Policy. The Chief Executive maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report to the Audit and Standards Committee.

## **10. HOW THE MATTER CAN BE TAKEN FURTHER**

- 10.1. This Policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. 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
  - relevant professional bodies or regulatory organisations
  - a relevant voluntary organisation
  - the police
  - Public Concern at Work (see paragraph 7.5 above).
  - Health & Safety Executive
  - Children's Commissioner
  - Office of Communications
  - Department for Business, Innovations and Skills

A full list of prescribed persons and bodies can be found in the schedule to the Public Interest Disclosure (Prescribed Persons) Order (SI 1999/1549).

10.2. If you do take the matter outside the Council, you should ensure that you do not disclose confidential information and you should check with one of the contact points listed in Paragraph 10.1 to ensure that you are not doing so.

*John Polychronakis*

John Polychronakis  
Chief Executive  
Dudley MBC  
**April 2014**