



SOLIHULL METROPOLITAN BOROUGH COUNCIL

Whistleblowing Policy

**Approved by:
Governance Committee
23rd March 2009**

Whistleblowing policy – January 2009

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1. Policy

Solihull Metropolitan Borough Council (SMBC) is committed to the highest standards of honesty, openness, probity and accountability. In line with this commitment and as part of its governance arrangements, the Council would like anyone who has a genuine concern about malpractice or wrongdoing within the Council to come forward without fear of reprisal and voice those concerns.

Whilst the policy primarily covers employees (including school teaching and non-teaching staff) and people working for or on behalf of SMBC, the Council would also like to encourage volunteers and service users who have a concern to raise it in the knowledge that it will be taken seriously and dealt with appropriately

It is essential that disclosures of impropriety, irregularity or wrongdoing are dealt with appropriately and promptly and this complements the Anti Fraud and Corruption policy which states that the Council will *'Encourage and enable Solihull residents, elected members, employees, partners, contractors and suppliers to raise serious concerns.'*

This policy is intended to encourage and assist those individuals above, who believe they have discovered malpractice or impropriety, to raise their concerns within the Council in the first instance rather than overlooking a problem or raising concerns outside of the organisation.

The Policy is not designed to question financial or business decisions taken by SMBC nor should it be used to reconsider any matters, which have already been addressed under the disciplinary, grievance, dignity at work or other procedures. It can, however, be used to raise concerns about failure to properly follow procedures related to the above, including deliberate provision of incorrect information; failure to disclose appropriate relevant information; failure to properly investigate any concerns and issues raised within other procedures.

This policy has been developed in consultation with our recognised Trade Unions including Teacher Associations and complies with the best practice in the British Standards publication 'whistleblowing Arrangements Code of Practice' issued 2008 .

2. Policy Aims

The policy aims to:

- Encourage all employees and other individuals to feel confident in raising serious concerns and to question and report concerns about malpractice.
- Ensure children, young people and vulnerable adults feel able to raise concerns as service users.
- Provide a mechanism for individuals to obtain advice or to raise concerns confidentially and in a method to suit them.
- Ensure that concerns raised are given proper consideration and, where possible, provide a response.

- Make individuals aware of how they can pursue their concerns if they are not satisfied with a course of action being proposed by the Council.

3. **Scope of Policy**

There are existing procedures in place that enable employees to raise a concern relating to their employment. These would normally be made under the Dignity at Work Policy or Grievance procedure. Employees should consult this policy and obtain advice from Human Resources (HR) in relation to discrimination, harassment, bullying and victimisation.

This policy also complements the detailed guidance issued by professionals in relation to abuse of children, young adults and vulnerable adults.

This policy is intended to cover concerns that fall outside the scope of the procedures detailed above. These include:

- A criminal offence.
- An illegal or dishonest practice.
- Disclosures relating to miscarriages of justice.
- Unauthorised uses of public funds.
- Possible fraud, corruption or malpractice.
- Breaches of Council policies or procedures.
- Breaches of agreed LA or governing body procedures.
- Unsafe or unhealthy working practices that put the safety of employees and/or visitors at risk.
- Failure to comply with legal obligations.
- Risks to the environment.
- Other unethical conduct by officers and members.
- The deliberate concealing of information relating to any of the above matters.
- Allegations of abuse to children, young people and vulnerable adults.
- Failure to report/investigate abuse.

These procedures are in addition to the Council's and schools' own complaints procedures and other statutory reporting procedures that apply to some areas of the Council's work and responsibilities. Advice on the appropriateness of these other Complaints Procedures rather than the Whistleblowing procedures can be obtained from HR/Communications Manager (Complaints).

4. **Protection for workers**

Legislation was updated (The Public Interest Disclosure Act (PIDA) 1998 amends the Employment Rights Act 1996) to introduce new rights for workers not to be subjected to dismissal or detriment by their employer for making a protected disclosure.

It is an integral part of this policy that employees can **blow the whistle** without fear of recrimination, reprisal, or be disadvantaged in any way.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect employees. There will be no come back if a disclosure has been made in good faith and the individual reasonably believes that the information disclosed is substantially true. Individuals will be listened to and, where necessary, given support.

It is a disciplinary offence to victimise a bona fide whistleblower or to maliciously make a false allegation.

5. Roles and Responsibilities

The Council recognises that the decision to report a concern can be difficult and uncomfortable. The Council is therefore committed to supporting individuals through the process and protecting them from any adverse repercussions.

Audit Committee has overall responsibility for monitoring the Council's whistleblowing procedures.

Managers (including those with responsibility for safeguarding children or vulnerable adults) and Headteachers are required to ensure all workers are aware of this policy, to take all issues raised seriously and to report any concern to **Internal Audit** within 2 working days of the matter being brought to their attention.

Employees, school staff (teaching and non-teaching) and other workers, who genuinely believe that people they observe are behaving in a way that seems inappropriate or have a serious concern about the legitimacy of an aspect of service will be acting in the public interest by reporting the concern. They should however act in good faith and have reasonable grounds for raising the concern.

Human Resources & Equalities can advise on the application of this policy and the support arrangements for employees. HR Business Partners and Advisors will be able to provide this advice.

Internal Audit has overall responsibility for advising on the application of this policy, maintaining a register, monitoring all whistleblowing concerns and reporting details to relevant stakeholders.

Trade Unions and Teacher Associations are a point of contact and can provide advice and guidance to individuals raising concerns.

Public Concern at Work is a charity established to provide an independent helpline facility for workers to discuss their concerns. [Helpline telephone number 020 7404 6609](tel:02074046609).

6. Raising a Concern

Employees, school staff, members, partners or contractors

This policy seeks to encourage and assist individuals to disclose information through an appropriate channel. Ideally we would like to think that employees will raise concerns with their manager in the first instance, however where they feel that this is not appropriate or would prefer to speak to someone independent, they can contact the Head of Internal Audit Services or another member of the team on 0121 704 6067, alternatively on 0800 028 8535 or antifraud@solihull.gov.uk.

Internal Audit Services
Strategic Services
PO Box 9
Council House
Solihull
West Midlands
B91 9QR

Where the employee feels that (s)he would like to discuss the issue before raising it formally (s)he can contact Public Concern at Work on 020 704 6609, who will reassure the individual and advise on the best way to raise the concern.

Or, where applicable, the individual may want to raise the matter with a Trade Union representative.

Service Users (Adults and Children)

In accordance with SMBC's commitment and responsibility to safeguarding vulnerable individuals it is the responsibility of all employees to be vigilant and to raise any concerns to their manager (unless it is their manager about whom they have the concerns). Where employees have a concern that a colleague, other SMBC employee or volunteer is behaving inappropriately in relation to children, young people or vulnerable adults, they should follow the corporate Managing Allegations procedures.

In addition, the Local Safeguarding Children Board (LSCB) procedures (<http://www.solihull.gov.uk/staysafe/default.htm>) and Adults Safeguarding Board procedures (<http://www.solihull.gov.uk/health/vulnerableadults.htm>) should be followed when there are concerns about a child, young person or vulnerable adult.

If an employee has a concern about an individual from another agency who works with children and young people this should also be discussed with a line manager and managed in accordance with the LSCB Procedures. In the first instance this will mean a discussion with the Local Authority Designated Officer.

7. Procedure

Initial contact

Concerns may be raised verbally or in writing. Employees and other workers who wish to report a concern should give as much detail as possible, e.g. background and history of the concern, giving names, dates and places, where possible, and the reasons for making a disclosure. This will make the investigation easier to complete. A standard form is available at **Appendix 1** to assist with this. It can also be completed online on the Solihull Council website or to whistleblowing@solihull.gov.uk.

Although it is not expected that the individual proves the allegation beyond all reasonable doubt, it will be necessary to demonstrate that there is an honest and reasonable suspicion that malpractice or impropriety has occurred, is occurring or is likely to occur.

Whilst the Council would like details of the individual making the complaint, it is recognised that this may not always be possible. Concerns can be raised confidentially, which means that we will not reveal your name unless required by law to do so.

The investigation

The Head of Internal Audit Services will liaise with relevant professionals to ensure that all allegations are dealt with correctly.

Where appropriate, the individual raising the concern will be contacted and a meeting arranged. For employees this can be away from their normal place of work if this is preferred. This will enable the investigating officer to discuss the concern further and ask additional questions.

Initial enquiries will be made to decide whether an investigation is appropriate. It may be possible to resolve some concerns without the need for an investigation. The individual will be notified about how the Council proposes to deal with the concern within ten working days.

The following matters may need to be considered as part of the investigation:

- The most appropriate method of investigation and the skills needed.
- The evidence that is needed to substantiate the concern.
- Whether the matter needs to be referred to the Police.
- What involvement External Auditors should have.
- Whether an independent inquiry is appropriate.

The investigating officer will report her/his findings to the Head of Internal Audit Services. Depending on the significance of the concern and the findings, it may be necessary for the Chief Executive or other parties to be informed.

The individual raising the concern will be notified of the outcome, subject to legal constraints.

If an individual is not satisfied that her/his concern is being properly dealt with, (s)he has the right to raise the matter in confidence with the Director of Corporate Governance or with the Chair of Audit Committee

8. Confidentiality

All concerns will be treated in confidence and every effort made not to reveal the individual's identity. However, whilst making all reasonable effort to maintain the confidentiality of the matter as a whole, at a certain stage in the investigation it may be necessary to make the origin of the complaint known to the person or persons the allegations relate to. This will be discussed with the individual at the time. Individuals should, however, be aware that their identity may be revealed by inference.

9. Anonymous Allegations

This policy encourages individuals to put their names forward with any disclosures they make. Concerns expressed anonymously are much less credible but will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised.
- The credibility of the concern and the evidence available.
- The likelihood of confirming the allegation from attributable sources.

10. Malicious Allegations

If an allegation is made in good faith, but is not confirmed by a subsequent investigation, no action will be taken against the individual. In making a disclosure an individual should exercise due care to ensure accuracy of the information. However, if an individual makes an allegation that knowingly is untrue, or has acted in bad faith, maliciously, unethically or for personal gain, disciplinary action may be taken, which could result in dismissal. For non employees other action may be considered.

If a child or service user makes an allegation, which could be malicious, appropriate action should be taken under the Managing Allegations against Employees policy.

11. Register of Concerns

The Head of Internal Audit will maintain a register of all concerns that have been raised under this policy within the Council. All managers in the Council will notify the Head of Internal Audit within 2 days of a concern being raised so that it can be included in this corporate register. This will include the following information:

- The date the concern was raised.
- A summary of the concern including the individuals involved.

- The date the investigation commenced.
- The Investigating Officer appointed.
- Details of other individuals involved.
- Outcome of investigation and summary of actions taken.
- The date the individual raising the concern was notified of the outcome.

All officers receiving an allegation under this policy must ensure that the Head of Internal Audit Services receives prompt information in relation to allegations to enable this register to be maintained correctly.

This information will be held in accordance with the Data Protection Act.

12. Monitoring Arrangements

The Head of Internal Audit Services will provide a confidential summary report to the Director of Corporate Governance, CMT and Audit Committee every six months.

13. Making Disclosures outside the Council

This policy provides individuals with a mechanism to report an act of perceived wrongdoing that will enable the Council to take corrective action. If the investigation finds the concerns unsubstantiated and all internal procedures have been exhausted, but an individual is not satisfied with the outcome, the Council recognises the lawful rights of individuals to make disclosures outside of the Council. Disclosures can be made to organisations such as the Health and Safety Executive, Audit Commission, professional bodies and the Police.

If matters are taken outside the Council, individuals should ensure that this does not result in disclosing confidential information. It may, therefore, be necessary for advice to be sought from the Corporate Information Governance Manager, Andy Shipway - tel: 0121 704 6251; e-mail: ashipway@solihull.gov.uk



The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we expect employees and others that we deal with who have 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. If you wish to make a report please use this proforma.

1. Background and history of the concern (giving as much detail as possible).

2. The reasons why you are particularly concerned about the situation.

(Please attach additional sheets if necessary)

3. You are encouraged to put your name to this report. Concerns expressed anonymously are much less powerful but they will be considered so far as is possible by the Council. If you feel able to, please give your name and details below.

Name:.....

Directorate:.....

Contact Details:.....

..... Date:.....

PLEASE SEND OR EMAIL THIS FORM TO STEVE SPARKES, HEAD OF INTERNAL AUDIT SERVICES.