

# LONDON BOROUGH OF TOWER HAMLETS

## WHISTLEBLOWING POLICY



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## 1. Introduction

The London Borough of Tower Hamlets is committed to the highest standards of openness, probity and accountability.

Whistleblowing is the term used when someone who works in or for an organisation wishes to raise concerns about malpractice, wrongdoing, illegality or risk in the organisation (for example, crimes, civil offences, miscarriages of justice, dangers to health and safety), and/or the cover up of any of these. The malpractice etc. must have a public interest aspect to it, usually because it threatens others. It applies to raising a concern within the organisation as well as externally, such as to a regulator.

An important aspect of accountability and transparency is a mechanism to enable Members, employees, contractors, suppliers and partners to voice concerns in a responsible and effective manner. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the Council then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of line management (although in certain circumstances the line manager would be the appropriate person to be told).

The Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 both amend the Employment Rights Act 1996 and gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. This Policy has been introduced to ensure that an employee should not feel at a disadvantage in raising legitimate concerns.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question operational decisions taken by the Council nor should it be used to reconsider any matters which have already been addressed through the Council's existing procedures. Further this Policy is supplemental to and not a substitute for the usual mechanisms. In that regard, it is important to note that the Whistleblowing Policy is not intended to replace any of the complaint/ concern mechanisms already in place at Tower Hamlets.

**Whilst the term “whistleblowing” applies to an individual who works in or for an organisation, the Council considers that this mechanism should also be used when members of the public wish to raise public interest concerns and which are not appropriate for consideration under another Council procedure. This Policy is therefore also applicable to members of the public who wish to raise concerns about malpractice, wrongdoing, illegality or risk in the Council.**

Anyone, including elected Members, employees, service users, partners and members of the public are encouraged to raise genuine concerns with the Council through existing procedures. These are:

- The Complaints Procedure
- A Complaint against a Councillor pursuant to “The Arrangements for dealing with allegations of a Breach of the Code of Conduct for Members”
- CHAD Procedures
- The Grievance Procedure
- Line Management
- The Directorate Health and Safety co-ordinator
- The Corporate Health and Safety Manager
- The Housing Benefit Fraud Hotline (0207 364 7443)
- The Council General Inquiry number (020 7364 5000)
- The External Auditor
- Public Concern at Work (020 7404 6576)

This Policy should also be read in conjunction with the Council’s Anti-Money Laundering Policy, Anti-Bribery Policy, Enforcement Policy, and Directorate Health and Safety Policies.

**Finally, if you are considering raising a concern you should read this policy first.**

## 2. **Aims and Scope of Policy**

This policy is designed to enable you to raise concerns at a high level and to disclose information which you believe shows malpractice, impropriety, criminal activity, or dangers to health and safety. This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately but might then lead to the instigation of other procedures e.g. disciplinary.

This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon such concerns;
- provide avenues for you to raise those concerns and to 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 they are not satisfied;
- reassure you that, as a “whistleblower”, you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have raised any concerns in good faith.

These concerns could include

- Financial malpractice or impropriety or fraud including unauthorised use of public funds
- Theft or abuse of Council property
- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment
- Criminal activity
- Miscarriages of justice
- Improper conduct or unethical behaviour
- Attempts to conceal any of these
- Other unethical conduct

### 3. **Safeguards**

#### **(i) Protection**

This policy is designed to offer protection to you when you disclose such concerns provided that the disclosure is made:

- in good faith;
- that any evidence that the you have gathered has not been obtained inappropriately or unlawfully; and
- in the reasonable belief by you that it is in the public interest and tends to show malpractice, impropriety etc. and that the disclosure is made to an appropriate person (see below).

It is important to note that if you are an employee then no protection from internal disciplinary procedures is offered to those who make malicious or vexatious allegations or makes an allegation for personal gain. This could be construed as gross misconduct and disciplinary action may be taken.

#### **(ii) Confidentiality**

The Council will treat all such disclosures in a confidential and sensitive manner. Your identity will be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process could reveal the source of the information and you may need to provide a statement as part of the evidence required. In such cases, we will always ask your consent to disclose your identity. Further, it is always possible that your identity could be guessed.

#### **(iii) Anonymous Allegations**

It is not unusual for individuals who are thinking about raising a concern to want to make it anonymously. However it is best that concerns are raised openly as it makes it easier for consideration and investigation of the concern. It is recognised, however, that there are circumstances when you would wish to keep your identity confidential (see above).

Anonymous concerns will not be considered unless in exceptional circumstances where it is decided that it raises a serious issue affecting the public interest and which is capable of investigation without the need to ascertain the your identity. Therefore, whilst we do not rule out the possibility of conducting investigations where you have not given your name, it should be noted that, in practice, we are unlikely to be able to proceed in the majority of such cases because off the practical difficulties that arise. Anonymity will often present a barrier to effective investigation because it is impossible to contact you to check information received, ask for more details, or give feedback.

Reasons why the Council will not accept or adjudicate anonymous concerns include:

- Accepting anonymous concerns make it difficult to assess your veracity as well as the credibility of the facts and evidence on which you have based your concern. Some cases will rise or fall on your credibility. Therefore, who you are can be critical and, in close cases, your credibility can make the difference whether a concern is founded.
- It reduces the likelihood of frivolous concerns or concerns filed with ill-will or malice.

**(iv) Untrue Allegations**

If you make an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against you. In raising a concern, you should exercise due care to ensure the accuracy of the information. If you make a malicious or vexatious allegation, or make an allegation for personal gain then further action may be taken against you (and if you are an employee that could include disciplinary action).

#### 4. **Procedures for Raising a Concern**

You can raise your concerns in confidence in the following ways:

- Complete the 'Blow the Whistle' report form and which is available:
  - on the Council's website;
  - on the Council's intranet (for employees);and then email it to: [monitoring.officer@towerhamlets.gov.uk](mailto:monitoring.officer@towerhamlets.gov.uk)
- Speak to any Senior Manager in the Council who will help you to complete a 'Blow the Whistle' report form to be sent to the Monitoring Officer at the above email address;
- Via the Whistleblowing Hot Line 0800 528 0294 (a 'Blow the Whistle' report form will be completed and emailed to the Monitoring Officer);

You should provide as much information as possible; including names, dates and places where possible and explaining the reason for the concern as well. Details of any action that you have taken to date should also be included.

You can also raise the concern through a friend, a trade union representative (if an employee), or a professional association representative. This friend or representative can also be present during any meetings or interviews in connection with the concern. Any meetings that need to be arranged can be held off-site, if appropriate.

If there is evidence of criminal activity then the investigating officer will be obliged to inform the police. The Council will ensure that any internal investigation does not hinder a formal police investigation.

Subject to the nature of the concern or the individual(s) who is the subject of the concern then the investigation may be handled internally, referred to the District Auditor or Police, or looked at by another independent investigator.



## 5. Timescales

Provided that you are not anonymous then within five (5) working days commencing from the first working day following receipt of the 'Blow the Whistle' report form, a written acknowledgement will be sent to you. Within fifteen (15) working days commencing from the first working day following receipt of the 'Blow the Whistle' report form, you will then be informed in writing of how it is proposed to deal with the matter.

This written communication will also give an estimate of how long it is likely to take to deal with the matter. Due to the varied nature of these sorts of matters, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations in this Policy. Such matters are expected to be investigated quickly but without compromising a proper investigation. There is therefore a presumption that the investigation should normally be completed within forty (40) working days commencing from the decision to investigate and you will be advised in writing of an estimated completion date within that time. If it is clear that the investigation will take longer, for example if outside agencies' are involved, then this time may need to be extended. In this event a revised date will be set for completion and all parties informed in writing and setting out the reason for the extension.

**Please note that these time estimates are indicative only. The Council will respond to your concerns as quickly as possible but the Council will have to test your concerns. Rest assured though that testing your concerns is not the same as either accepting or rejecting them. The overriding principle for the Council will be the public interest. In order to be fair, initial enquiries will have to be made to decide whether an investigation is appropriate and, if so, what form it should take.**

## 6. Investigating Procedure

The Monitoring Officer or his/ her nominated officer will arrange for the appointment of an investigating officer who will:

- Ensure that full details and clarifications of the concern are obtained.
- Consider the involvement of any external agencies at this stage (e.g. the Police).
- Ensure that the allegations are fully investigated with the assistance, where appropriate, of other individuals / bodies.
- Hold interviews with all relevant people as soon as possible.
- Prepare a written report containing the findings of the investigation promptly at the conclusion of the investigation.
- Keep the complainant informed of the progress of the investigations and, if appropriate, of the final outcome.

If one or more member(s) of staff is implicated then:

- They should be informed as soon as is practicably possible;
- The investigator should liaise with the relevant manager(s), where appropriate;
- The investigator must keep an open mind;
- The investigator's report will be passed to the Monitoring Officer who will decide what further action to take; and
- The Monitoring Officer will inform any individuals under investigation and the relevant manager(s), where appropriate, as to whether or not the concern has been substantiated.

## 7. Taking The Matter Further

Any concern about the conduct of an investigation should be raised in confidence with the Monitoring Officer.

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 you feel it is right to take the matter outside the Council, then you can raise it with one of the following persons or bodies:

- The External Auditor  
Andrew Sayers,  
for and on behalf of KPMG LLP, Appointed Auditor  
15 Canada Square, London, E14 5GL
- The Police
- Public Concern at Work  
020 7404 6576  
(The whistleblowing charity who can give advice and help on whistleblowing)
- The Local Government Ombudsman  
0300 061 0614  
[http://www.lgo.org.uk/forms/ShowForm.asp?fm\\_fid=62](http://www.lgo.org.uk/forms/ShowForm.asp?fm_fid=62)
- A Prescribed person or body as set out in the “prescribed persons list” published by the Department for Business, Innovation and Skills  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf)

For example:

- Any Member of Parliament  
[www.parliament.uk/mps-lords-and-offices/](http://www.parliament.uk/mps-lords-and-offices/)
- Commissioners for Her Majesty’s Revenue & Customs  
0800 788 887  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)
- The Charity Commission for England and Wales  
0300 066 9197  
[whistleblowing@charitycommission.gsi.gov.uk](mailto:whistleblowing@charitycommission.gsi.gov.uk)
- Children’s Commissioner  
020 7783 8330  
[info.request@childrenscommissioner.gsi.gov.uk](mailto:info.request@childrenscommissioner.gsi.gov.uk)

- The Information Commissioner  
0303 123 1113  
[casework@ico.org.uk](mailto:casework@ico.org.uk)
- The Health and Safety Executive  
<http://webcommunities.hse.gov.uk/connect.ti/concernsform/answerQuestionnaire?qid=594147>
- Care Quality Commission  
0300 061 6161  
[www.cqc.org.uk](http://www.cqc.org.uk)

If you, as an employee, raise concerns outside the Council you should ensure that it is to either the additional contacts as set out above or one of the prescribed persons or bodies as set out in the “prescribed persons list” published by the Department for Business, Innovation and Skills. A public disclosure to anyone else could take you outside the protection of the Public Interest Disclosure Act and of this Policy.

You should not disclose information that is confidential to the Council or to anyone else, such as a client or contractor of the Council, except to either the additional contacts as set out above or one of the prescribed persons or bodies as set out in the “prescribed persons list”.

This Policy does not prevent you from taking your own legal advice