

# Whistleblowing Policy and Procedure

January 2019



## Key Information

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## 1. Introduction

Basildon Borough Council is committed to the highest possible standards of openness, probity and accountability and will not tolerate malpractice or wrongdoing.

The Council's Whistleblowing Policy is a vital element of our governance arrangements and is designed to allow those employed by the Council and/or members of the public to come forward and raise both disclosures and serious allegations of wrongdoing involving the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities.

As such the Council is committed to a policy which seeks to protect those individuals who make certain disclosures with regard to any instance of malpractice or wrongdoing and to investigate them in the public interest.

Whistleblowing is generally the term used when someone who is employed in an organisation reports a concern about suspected wrongdoing, malpractice, illegality or risk in the workplace.

## 2. Policy

### Aims & Scope

The whistleblowing policy seeks to cover all disclosures and allegations made by employees of Basildon Borough, including temporary staff and agency workers. It also extends to any other individual who wants to raise an allegation of perceived wrongdoing. This could include consultants, contractors, sub-contractors who are engaged in work for the Council, or anyone who uses the Council's services, or any member of the public.

The attached procedure has specific sections to advise those employed by Basildon Borough Council, and members of the public of the process to be followed when raising a disclosure or allegation and how the Council will respond.

It aims to ensure individuals are:

- encouraged to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provided with avenues to raise concerns and receive feedback on any action taken;
- given a response to their concerns and are aware of how to pursue them if not satisfied;
- reassured that they will be protected from reprisals or victimisation if they have raised legitimate concerns that they believe are in the public interest.

The whistleblowing policy is not to be used where other more appropriate internal reporting procedures are available. There are existing Council procedures which enable employees to lodge a grievance relating to their conditions of employment, raise matters of harassment or to make a general complaint, which by contrast, generally have no additional public interest dimension.

### 3. What is whistleblowing?

Whistleblowing is the confidential disclosure by an individual of any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for or with the Council. The whistleblowing process assists individuals, who believe they have discovered malpractice, impropriety or wrongdoing, to raise a concern, in order that this can be addressed.

The Public Interest Disclosure Act 1998 (PIDA) is known as the Whistleblowing law and is designed to encourage and enable employees to "speak out" and to report suspected wrongdoing at work. This is commonly known as "blowing the whistle".

PIDA legislation legally protects employees (including temporary and agency workers), from any detriment from their employer or colleagues that arises as a result of making a "protected disclosure" (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer.

A qualifying disclosure means any disclosure of information made to the Council or other prescribed person, which in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following:

- a) that a criminal offence has been committed, is being committed or is likely to be committed;
- b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- d) that the health or safety of any individual has been, is being or is likely to be endangered;
- e) that the environment has been, is being or is likely to be damaged; or
- f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.

A prescribed person is someone who is independent of the employee's organisation, but usually has an authoritative relationship with the organisation, such as a regulatory or legislative body. Details can be found at:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

## 4. Monitoring and Reporting

All concerns raised through this Policy must be brought to the attention of the Section 151 Officer who will monitor how they are dealt with.

If any allegations are made against a Council Member, the Monitoring Officer must also be advised. The effectiveness of this Policy will be monitored as part of the Governance Assurance Process, of which the results are presented to the Senior Leadership Team (SLT).

## 5. Council Promises

Corporate Promises	Levels of Impact			
	High	Medium	Low	None
A place where people are happy, healthy and active.				√
An attractive and welcoming place that people are proud to call home.				√
A place that encourages business to grow and residents to succeed.			√	

## 6. Outcomes

Whistleblowing can inform those who need to know about health and safety risks, potential environmental problems, fraud, corruption, deficiencies in the care of vulnerable people, cover-ups and many other problems. Often it is only through whistleblowing that this information comes to light and can be addressed before damage is done. Whistleblowing is a valuable activity which can positively influence all of our lives.

Whistleblowing is therefore essential to:

- safeguard the integrity of the organisation;
- safeguard employees;
- safeguard the wider public; and
- prevent damage.

## 7. Links to other Corporate Policies or Partner documents

This policy should be read in conjunction with:

- Counter Fraud Policy & Strategy
- Safeguarding Policy & Strategy

# Procedure

## 1. Making a disclosure or raising a concern

Anybody who has a whistleblowing concern relating to the Council can use our whistleblowing reporting procedures. Although you are not expected to prove beyond doubt the truth of your concerns, you will need to demonstrate that you have sufficient evidence or other reasonable grounds to raise them.

Specific contact details for council officers and other relevant external organisations can be found at **Appendix 1 and 2**.

## 2. Whistleblowing by employees

Whilst it can be difficult to raise concerns about the practice or behaviour of a colleague, members of staff must act to prevent the problem getting worse, to reduce potential risks to the health and safety of others, and to prevent themselves potentially being implicated.

If you have a concern, raise it first with your Line Manager. This may be done verbally or in writing. The Council recognises that sometimes it may be inappropriate for you to approach your line manager with your concern. A number of alternative routes may be appropriate depending on the nature of your concern. The alternate routes are listed below:

- Internal Audit
- Via the confidential e-mail address [whistleblowing@basildon.gov.uk](mailto:whistleblowing@basildon.gov.uk)
- Monitoring Officer
- Assistant Director – Resources (Deputy S151)
- Section 151 Officer

Under the terms of PIDA, if an employee does not feel comfortable making a disclosure internally within the Council they have the right to take their concerns outside the Council to certain 'prescribed regulators'. Details can be found at:

**[www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2](http://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2)**

Any concerns raised regarding an employee in relation to inappropriate, abusive or unprofessional behaviour against children, young people or adults with care and support needs **must** always be referred to Human Resources. When an employee has acted in a way which may have harmed a child or adult at risk, Human Resources, in liaison with the Designated Safeguarding Lead Officer must make a referral to the Local Authority Designated Officer.

Employees are protected when they make a disclosure. In making a protected disclosure the employee must:

- reasonably believe that the disclosure they are making is in the public interest;
- reasonably believe that the information detailed and any allegation in it are substantially true; and
- the matter disclosed must fall within the matters prescribed for that regulator.(If raised externally)

Employees should raise a concern as soon they have a reasonable suspicion and are not expected to investigate the concern themselves to prove their suspicions are well-founded.

You have a duty to the Council not to disclose confidential information. This does not prevent you from seeking independent advice at any stage nor from discussing the issue with the charity Public Concern at Work on 020 7404 6609 ([www.pcaaw.org.uk](http://www.pcaaw.org.uk)), in accordance with the provisions of the Public Interest Disclosure Act 1998.

### **Anonymous allegations**

The Council recognise that there may be circumstances where individuals are worried about being identified when they report concerns about their employer. If you have come to us anonymously and not provided your contact details we will treat your allegations just as seriously. However, this policy encourages individuals to put their name to an allegation wherever possible as we believe that open or confidential whistleblowing is the best means of addressing the concerns and protecting individuals.

Concerns expressed anonymously are more difficult to investigate, and harder to substantiate. Nevertheless, anonymous allegations will always be considered and action taken based on:

- the seriousness of the issues raised;
- the credibility of the concern;
- the likelihood of confirming the allegations from attributable sources.

### **Safeguards**

In order to ensure that allegations are investigated in the right spirit with the right outcome, the following safeguards or principles are applied in all cases.

#### Confidentiality and Anonymity

The Council's Whistleblowing policy seeks to protect the identity of the individual making a disclosure, meaning that your name will not be revealed without your explicit consent, even if the disclosure is not considered to be a qualifying disclosure under the PIDA. However, in alleged cases of serious wrongdoing, it must be appreciated that the Council cannot guarantee that this will be maintained particularly if external legal action results from the disclosure. In some cases an employee's concern may require further action and they may have to act as a witness and/or provide evidence, for example serious criminal offences, which are referred to the Police.

If your disclosure relates to a child at risk or abuse of a vulnerable adult then the Council is required to investigate this under separate procedures and this takes priority over any request for anonymity.

#### Harassment and Victimisation

The Council acknowledges that the decision to report a concern can be a difficult decision for an employee to take, not least because of the fear of reprisal from those responsible for the malpractice. Any employee who makes a 'qualifying disclosure', which meets the requirements of the PIDA is legally protected against victimisation or harassment for whistleblowing.



The Council will not tolerate harassment or victimisation against an employee who has raised a genuine concern under the whistleblowing policy. Any employee who victimises a whistleblower may be subject to a disciplinary action, which may lead to dismissal.

#### False and malicious allegations

While encouraging employees to bring forward matters of concern, the Council must guard against claims, which are unfounded.

If an employee makes an allegation that it is not confirmed by the investigation, no action will be considered or taken against them. However, if an employee makes false, malicious or vexatious allegations this will be treated as a serious disciplinary offence and disciplinary action may be taken. The PIDA only offers protection from dismissal or detriment if the worker reasonably believes their disclosure was made in the public interest.

### **3. Non-Employees (including the general public)**

If you are not a Council employee you can still contact the Council to report any concerns or disclosures over wrongdoing and these will be treated in the same way. Concerns should be raised with the Internal Audit Service, who will liaise with the S151 / Monitoring Officer as appropriate. Alternatively concerns can be reported via the confidential e-mail address [whistleblowing@basildon.gov.uk](mailto:whistleblowing@basildon.gov.uk) that is monitored by Internal Audit. Unlike disclosures made by employees, protection under PIDA law does not extend to disclosures made by members of the public.

Concerns can also be taken outside the Council to certain 'prescribed regulators' as described above.

### **4. How the Council will respond to Employees and Non-Employees**

The Council will formally respond to you to acknowledge receipt of a disclosure within two working days of the concern being received.

The overriding principle for the Council will be the public interest. In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

Within 10 working days (where possible) of a concern being raised, the person investigating your concern will write to you (email where possible), indicating how the Council proposes to deal with the matter, telling you whether further investigations will take place and if not, why not.

The investigation may need to be carried out under terms of strict confidentiality, i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. Protection of others is paramount in all cases.

Where an investigation is necessary, it may take the form of one or more of the following:

- An internal investigation by management, which may, for example take the form of a disciplinary investigation (staff only) or an investigation by Internal Audit;
- A referral to the Police;
- A referral to the Council's External Auditor;
- An external independent inquiry.

The contact between you and the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. As an employee you may choose to be represented by a trade union representative or work colleague during any meetings or interviews in connection with the concerns you have raised.

The Council will, subject to legal constraints, seek to advise the whistleblower on the outcomes of the investigation in order to assure them that the matter has been properly addressed. Some concerns raised may be resolved by agreed action, once the whistleblower's concerns have been explained, without the need for investigation.

## **5. How the matter can be taken further**

If you do not feel your concern has been addressed adequately you may raise it with an independent body such as one of the following as appropriate:

- The Council's External Auditor;
- The Police / Fire Authority;
- Your Trade Union;
- The Citizens Advice Bureau;
- A relevant professional body or regulatory organisation (e.g. HSE / ICO);
- A relevant voluntary organisation;
- The Local Government Ombudsman.

(See Appendix 2 for further details).

**Contact Details (Basildon Borough Council)**

<b>Contact</b>	<b>Details</b>
Internal Audit	<p>Paula Mills, Strategic and Executive Support Manager  <b>Tel no:</b> 01268 207999  <b>Email:</b> paula.mills@basildon.gov.uk</p> <p>Mike Porter, Audit &amp; Corporate Fraud Service Manager  <b>Tel no:</b> 01268 207969  <b>Email:</b> mike.porter@basildon.gov.uk</p>
Monitoring Officer	<p>Paul Burkinshaw, Assistant Director, Corporate Services  <b>Tel no:</b> 01268 207972  <b>Email:</b> paul.burkinshaw@basildon.gov.uk</p>
Assistant Director – Resources (Deputy S151)	<p>Owen Sparks, Assistant Director Resources  <b>Tel no:</b> 01268 207903  <b>Email:</b> owen.sparks@basildon.gov.uk</p>
Designated Safeguarding Lead Officer	<p>Paula Mason, Community Safety Manager  <b>Tel no:</b> 01268 206833  <b>Email:</b> paula.mason@basildon.gov.uk</p>
Section 151 Officer	<p>Kieran Carrigan, Corporate Director  <b>Tel no:</b> 01268 206868  <b>Email:</b> kieran.carrigan@basildon.gov.uk</p>
Human Resources	<p>Stuart Young, Head of People and Change  <b>Tel no:</b> 01268 207964  <b>Email:</b> stuart.young@basildon.gov.uk</p>
Trade Union	<p>UNISON (Branch Representative – Louise Bresch)  <b>Tel no:</b> 01268 206736  <b>Email:</b> Unison@basildon.gov.uk</p>

**Contact Details (External Organisations)**

<b>Contact</b>	<b>Details</b>
External Auditors  BDO LLP	<b>Address:</b> 16 The Havens, Ransomes Europark Ipswich, Suffolk IP3 9SJ  Zoe Thompson  <b>Tel no:</b> 01473 320734 <b>Email:</b> <a href="mailto:zoe.thompson@bdo.co.uk">zoe.thompson@bdo.co.uk</a>
The Local Government & Social Care Ombudsman	<b>Address:</b> PO Box 4771, Coventry CV4 0EH <b>Web:</b> <a href="http://www.lgo.org.uk">www.lgo.org.uk</a> <b>Tel no:</b> 0300 061 0614

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