

Medway Council

Draft Speak Up Policy

Issued: TBC 2021

Review Date: TBC

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1.0 Introduction

Medway Council is committed to tackling unlawful acts such as fraud, bribery, corruption, unethical conduct, and malpractice regardless of who commits them, or where in the council they are committed. If you become aware that any of these acts are happening, (have happened or are likely to happen) then you can raise your concerns under this policy.

This is one way that the council can ensure that its ethical standards are, at a minimum, in line with the Nolan principles of public life (Appendix A) which are the basis of the standards expected of public office holders.

Raising a concern under this policy may feel difficult to do but don't be put off. Speaking up about a concern you have is important to ensure we keep improving our services for the residents of Medway and the working environment for our staff.

The council will make sure that anyone who uses this policy to raise a concern, which they reasonably believe to be true, will be protected from any form of detriment, harassment, or victimisation as far as the law allows. Anyone in the organisation who victimises/harasses someone who raises a concern, sometimes called a "whistleblower", could be subject to disciplinary action which may ultimately lead to dismissal.

Anyone who believes they have been victimised because they have raised a concern should report this to the [Response Group](#).

This policy sets out what concerns can be raised and the procedure the council will follow.

2.0 What concerns can be raised under the Speak Up policy?

Speaking up about a concern or "whistleblowing" happens when someone, sometimes a [worker](#), provides certain types of information which has come to their attention, usually to the employer or a regulator, to raise a concern about danger or illegality that affects others. The disclosure may be about the alleged wrongful conduct of the employer, a colleague, client, or any third party.

This could relate to a concern of unethical or unprofessional conduct within the council including malpractice and abuse or some policy or action which is contrary to the public interest. Unethical conduct could include where an employee is under pressure to do something which a reasonable person might consider improper. The policy not only covers acts that have occurred but also potentially unethical or unprofessional conduct that might occur.

There is protection in whistleblowing law, when the person making the disclosure does so in the reasonable belief that their concern relates to one or more of the following six situations:

- a criminal offence, for example fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice, i.e. where an innocent individual may be convicted
- the Council is breaking the law, for example does not have the right insurance
- you believe someone is covering up wrongdoing.

When considering raising a concern it is recommended that confidential advice is first sought from the [Response Group](#), [HR advice](#), your [trade union](#) or the charity [Protect](#) (formerly Public Concern at Work) in order to establish whether your concern is one where you would be legally protected from detriment.

By contacting one of the sources of advice you can be confident that your concern should be dealt with under this policy or whether your concern should be dealt with under another policy of the council, such as the [grievance procedure](#).

Concerns relating to the way you are being treated at work (bullying, harassment, discrimination) do not fall under this Speak Up policy and should be dealt with under the relevant policy.

3.0 What is the detail of protection for people who raise concerns?

The Public Interest Disclosure Act 1998, as amended by The Enterprise and Regulatory Reform Act 2013 (ERRA), will protect 'workers' who disclose information in the correct manner from dismissal or being treated badly. Workers include individuals who are:

- employees employed under a contract of employment
- employed under any other contract, under which they personally perform any work or services
- agency workers; or those
- undertaking work experience as part of a training course.

Under ERRA, to qualify for protection for disclosure you must:

- believe that the disclosure is made in the public interest and have reasonable grounds for believing that the information disclosed indicates the existence of one of the six concerns listed [above](#).

Please be aware that if, when disclosing a concern, you commit a criminal offence you may lose your rights to protection from detriment.

4.0 Who can concerns be raised about?

You can raise a concern about the practice of anyone who undertakes work for, or on behalf of the council - this includes:

- employees of the council or the council's companies (MCG, MDC, or Medway Norse)
- contractors
- councillors
- volunteers
- school based staff (however not those in Academies).

A concern regarding a council company which cannot be dealt with under their own 'whistleblowing' policy should be raised with the [Response Group](#) who will then determine whether the concern can be investigated under this policy.

5.0 Confidentiality

The council will aim to protect the confidentiality of anyone wishing to raise a concern. However, there may be occasions where confidentiality cannot be protected, for example where the disclosure leads to legal proceedings.

If there is any possibility that your confidentiality cannot be protected, you will be told why and offered advice and support.

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. Although the aim will always be to retain anonymity these cases will take priority over any request made for anonymity. If you have provided your contact details the council will advise you of the action being taken.

6.0 How to raise a concern

Any concerns should normally be raised with your line manager. You can do this verbally, by telephone, by email or in writing. They should be able to advise you whether further action is needed, what that action will be, such as referral to the Response Group and a likely timescale. However, this may not always be possible, for example because of who is involved. In this case you may wish to contact your Assistant Director or Director of your service, or the Assistant Director or Director of the service to which your concerns relate (if different).

Your concerns should be able to be resolved by contacting the above persons. In cases which require further escalation, or you deem it not appropriate to raise the concern with above persons, you may wish to refer your concern directly to the council's [Response Group](#) which is a multi-disciplinary team of senior officers. They have received specialist training and will follow the procedure below to investigate concerns raised.

Under no circumstances should you investigate a concern yourself or raise/highlight concerns via social media. This avoids any risk of prejudicing any investigation (including a criminal investigation) if it is warranted.

6.1 Points to consider when making a disclosure

For an issue to be investigated effectively you should try to:

- Be clear about what the concern is and to what it relates.
- Be as clear as possible about who might be involved, when and where actions may have taken place. Try and record the facts, for example record the dates and times in a diary. This way you can be clear about what has been heard/seen and where/when.
- Make sure you ask for your concerns to be dealt with under this procedure.

Individuals are not expected to prove allegations beyond reasonable doubt, but any allegations must be based on the belief that there are valid concerns to be raised.

If, at any stage, you are asked or wish to meet with someone addressing the concerns you have raised you have the option to be accompanied by a workplace colleague or trade union representative.

6.2 Anonymously raised concerns

Anonymous disclosures will be investigated on their merit in the same way as ones received with contact details. However, an investigation may be restricted if further information is required. As such, the council would encourage some method of contact to assist in the investigation.

7.0 Schools

Whilst schools are not required in statute to have a written whistleblowing policy, they are required to comply with the Public Interest Disclosure Act 1998, as amended by The Enterprise and Regulatory Reform Act 2013 (ERRA). There is also a requirement in [Section 29\(1\) of the Education Act 2002](#), for all maintained schools and maintained nursery schools to have and publish procedures to deal with all complaints relating to their school and to any community facilities or services that the school provides, for which there are no separate (statutory) procedures.

Please note that this policy does not cover Academies and if your concern relates to an Academy then this should be raised directly with the Academy rather than the council.

School based workers - in a school you would normally raise a concern with your direct Line Manager. If this is inappropriate, then the Headteacher or Chair of Governors should be contacted.

Volunteer staff who have concerns about a school should complain through the school's complaints procedure.

In relation to maintained and voluntary controlled schools - workers in schools who have good reason to consider that it would be inappropriate to raise their concerns directly with the Headteacher or Chair of Governors may complain direct to Medway Council in relation to whistleblowing matters. In these instances, the complaint should be sent to the Service Director for Children and Adults who may refer the matter to the Response Group if considered appropriate to.

The Secretary of State for Education is the prescribed person for matters relating to education. For whistleblowers in education who do not want to raise matters direct with their employer referrals can be made at: www.education.gov.uk/contactus.

8.0 Members of the public

Any concerns raised by members of the public will be handled and investigated in the same way as those made by those classed as workers.

Members of the public can raise concerns through the Council's formal [Complaints Procedure](#) and they will then be transferred to the Response Group via [HR Advice](#) for consideration.

9.0 External contacts

The aim of this policy is to provide an internal process for reporting relevant concerns in the workplace.

The law recognises that in some circumstances it may be appropriate to report your concern to certain prescribed people and bodies. It is recommended that you seek advice before reporting a concern to anyone external. If you tell a prescribed person or body, it must be one that you reasonably believe deals with the issue you are raising. A list of prescribed people and bodies can be found at the link below:

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

To raise your concern externally it still must be a qualifying disclosure which meets the criteria for protection as outlined [above](#). This means that you must have a reasonable belief that the information disclosed is substantially true, the disclosure is being made in the public interest and the matter falls within the remit of the prescribed person or body.

If you tell a prescribed person or body, it must be one that deals with the issue you are raising, for example a disclosure about wrongdoing in a care home can be made to the Care Quality Commission.

Any individual who is considering raising concerns with any of the above named bodies may contact the charity [Protect](#), who provide confidential advice, free of charge, to anyone concerned about malpractice, risk or wrongdoing at work.

If employees take the matter outside of the council, they should ensure confidential information, or information which is legally protected, is not disclosed.

9.1 Contacting the media

Anyone considering contacting the media are strongly advised to seek guidance and to discuss the matter where possible directly with their line manager or the Response Group. Please be aware that contacting the media before allowing the concerns to be investigated could result in prejudicing any investigation.

If you decide to proceed with contacting the media, you must inform the Chief Executive of the action you have taken, or are proposing to take, and the Chief Executive will brief political Group Leaders on the matter.

Disclosures to the media can be made under the law, and will be protected when the following circumstances are met:

- The disclosure is made in the belief that it is in the public interest.
- The worker reasonably believes the information and any allegations are substantially true.
- The worker does not act for personal gain.

Additionally, one or more of the following conditions must be met:

- They reasonably believe that they would be subject to a detriment if the disclosure was made to the employer or prescribed person.
- In the absence of an appropriate prescribed person, they reasonably believe a disclosure to the employer would result in the destruction or concealment of information about the wrongdoing.
- They have previously disclosed substantially the same information to their employer or prescribed person.
- It must be reasonable to make the disclosure.

Please be aware that any contact with the media, where these conditions have not been met, may result in disciplinary action under the council's disciplinary policy.

10.0 Misuse of the Speak Up policy

Wilfully raising a concern with malicious intent, for personal gain, or for the gain of others will be investigated and appropriate disciplinary action may be taken in accordance with the council's disciplinary policy.

11.0 Monitoring

An annual report detailing policy usage shall be provided to the Audit Committee and the Employment Matters Committee. This report will not identify anyone but is intended to monitor the operation of the Speak Up policy and procedures and highlight any issues/patterns.

All Speak Up cases related to fraud and financial irregularity will be raised with the Head of Audit and Counter Fraud for assessment.

12.0 Communicating the Speak Up policy

The Head of Communications will ensure that the Speak Up policy is appropriately publicised both within and outside the council.

13.0 Speak Up Procedure

If you have raised your concern with your Line Manager, Assistant Director or Director and it has been concluded to your satisfaction, that is usually an end to the process.

If that is not the case or you have referred it to the Response Group, the following procedure will be followed.

The Response Group will be made up of the Head of Human Resources, the Chief Finance Officer and the Chief Legal Officer who can be contacted through either the [HR Advice](#) portal on Service Desk or by contacting HR Advice on 01634 334 499. Quorum of the Response Group for any initial meeting will be two. Each senior officer in the Response Group can deputise their role. If this happens you will be informed who the deputy is.

13.1 After raising a concern to the Response Group

You will:

- Receive an acknowledgement of your concerns within five working days of raising an issue.

The Response Group will arrange to speak to you within one working week of receiving your concern to decide whether your concern should be dealt with under this, or another council policy, and how to progress your concern. This may mean undertaking an investigation to check and establish the facts relating to the concern.

Within two working weeks from receipt of your concern you will:

- have a confidential meeting to further discuss your concerns; or
- have received, in writing, an outline of how your concerns will be dealt with.

You have the right to be accompanied with a trade union representative or workplace colleague at any meeting regarding your concern. You will normally be given no less than 10 working days notice in writing of the meeting, unless all parties are in agreement to hold the meeting at an earlier date

13.2 Conducting an investigation

An appropriate officer will be appointed to investigate your concern, you will be informed who has been assigned and the next steps that will be taken.

Investigations will be carried out without unreasonable delay. If the investigation is extensive because the situation is complex you will be regularly informed of the progress.

Throughout the process, officer will demonstrate their commitment to equal opportunities and carry out fair investigations taking account of the council's [Fair Access and Inclusion Policy](#).

13.3 The outcome of your concern

You will be kept informed of the actions being taken and the outcome of any investigations. The legal requirements the council has regarding the storing and sharing of information, such as the General Data Protection Regulation (2018), may limit what can be shared with you.

In some situations, such as referrals to external bodies, it may not be appropriate (or legally possible) to supply you with the full information discovered. However, the reasons for this will be explained.

13.4 What happens if there is a financial aspect to your concern

If there is a financial aspect to a concern, then the Audit and Counter Fraud Team will be contacted. All whistleblowing cases related to fraud and financial irregularity will be subject to initial enquiries by the Head of Audit and Counter Fraud to assess suspicions raised, and if the concerns are substantiated a full investigation will be undertaken.

The Chief Finance Officer will be informed of all fraudulent matters and will decide on the appropriate action following the results of the investigation.

13.5 Taking your concern further

If, after making the disclosure you still have concerns, or feel that the issues have not been fully or appropriately addressed, you can contact the Chief Executive, or have them contacted on your behalf, to discuss your concern in confidence.

The Chief Executive will consult with all members of the Response Group to review the facts of the disclosure and the action that has been taken to date to investigate the concerns. Following the review, the Chief Executive may ask for further investigation if it is felt this is required, for example if there is new relevant information. In addition, if deemed appropriate, an external party may be appointed to carry out an independent review.

The matter should not be referred outside the council without first ensuring that all other possible avenues have been exhausted.

Appendix A: The Nolan Principles

([source from GOV.UK](#))

1. The Seven Principles of Public Life

The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.

1.1 Selflessness

Holders of public office should act solely in terms of the public interest.

1.2 Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

1.3 Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

1.4 Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

1.5 Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

1.6 Honesty

Holders of public office should be truthful.

1.7 Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B: Additional sources of information

Whistleblowing Charity

[Protect](#) (formerly Public Concern At Work)

Telephone: 020 3117 2520 or email whistle@protect-advice.org.uk).

Trade Unions

- Contact details for the trade unions are available on [Medspace](#) or by contacting HR advice on 01634 334 499 for those who may not have access to the intranet.

Employee Forums

Black, Asian & Minority Ethnic (BAME) Forum: BAMEcommittee@medway2.onmicrosoft.com

Disabled Workers Forum (DWCN): dwcن@medway.gov.uk

Lesbian, Gay, Bisexual, Trans and Questioning (LGBTQ) Forum:
lgbtqi.workersforum@medway.gov.uk

Gender Forum: bsd_gender_forum@medway.gov.uk

Other contacts: Regulatory and professional bodies

- Health & Safety Executive, www.hse.gov.uk Telephone: 0845 345 0055
- Care Quality Commission, www.cqc.org.uk Telephone: 03000 616 161
- Health Professions Council (HPC), www.hpc-uk.org Telephone: 0800 328 4218
- General Social Care Council, www.gscn.org.uk Telephone: 01788 532 405
- Nursing and Midwifery Council (NMC), www.nmc-uk.org Telephone: 0207 333 9333
- General Medical Council (GMC), www.gmc-uk.org Telephone: 0161 923 6602
- Local Government Ombudsman, www.lgo.org.uk Telephone: 0300 061 0614
- Information Commissioner's Office, www.ico.gov.uk Telephone: 0303 123 1113
- Equality and Human Rights Commission, www.equalityhumanrights.com Telephone: 0845 604 6610
- Ofsted, www.ofsted.gov.uk Telephone: 0300 123 4666
- Institution of Civil Engineers, www.ice.org.uk/homepage/index.asp Telephone: 020 7222 7722