Milton Keynes City Council

# Whistleblowing Policy

**November 2022**

Chief Internal Auditor

**THE COUNCIL WANTS YOUR TO BE CONFIDENT THAT YOUR CONCERNS WILL BE TAKEN SERIOUSLY AND THAT YOU WILL BE PROTECTED FROM VICTIMISATION OR BULLYING OF HARRASSMENT IF YOU RAISE A CONCERN**

If you have a concern about the Council's services please read this policy. You may think this policy does not apply to the concern you have – IT DOES, we can give confidential advice about ANY concern you may have regarding the Council and its services.

If you want to informally / confidentially discuss this policy or your concerns you can contact:

- Jacinta Fru (Chief Internal Auditor) on 01908 252228 or email Jacinta.fru@milton-keynes.gov.uk
- David Lamb (Principal Auditor) on 01908 257966 or email David.lamb@milton-keynes.gov.uk
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Or

The Whistleblowing hotline on 01908 252668

Or

Protect on 0203 117 2520 or whistle@protect-advice.org.uk

Protect (formerly PCAW) are an independent charity and information provided to Protect is protected under the Public Interest Disclosures Act. Their helpline is where their lawyers provide confidential advice free of charge [www.pcaw.org.uk]. https://protect-advice.org.uk/

You may also wish to contact your trade union for advice or support in making a whistleblowing disclosure.

**The details of such discussions will not be released to anyone else within the Council without your express consent and meetings can be held at a time and place of your choosing.**

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Cllr. Leo Montague

Audit Committee Chair

Michael Bracey

Chief Executive

## 1. Introduction

1.1 This policy seeks to provide a process that gives anyone with a concern about the Council the confidence to bring that concern to our attention.

1.2 Milton Keynes City Council operates within legal requirements and regulations and expects its employees to co-operate in this by adhering to all laws, regulations, policies and procedures. Any employee becoming aware of inappropriate conduct is obliged and encouraged to report this activity. This policy also applies to contractors, consultants, partners and agency staff and other stakeholders including Councillors.

1.3 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. Councillors, customers and stakeholders are also in a position to identify concerns that affect Council services and need to be addressed.

1.4 Individuals with a concern may fear that they will be victimised or harassed if they raise the concern. In these circumstances it may feel easier to ignore the concern rather than report what may be a suspicion of malpractice.

1.5 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourages employees, customers, contractors, employees of subsidiaries, stakeholders or any other person with serious concerns about any aspect of the Council's work to come forward and voice those concerns. This process is commonly referred to as "whistle blowing".

1.6 It is recognised that certain cases will have to proceed on a confidential basis but in accordance with the Freedom of Information Act this policy seeks to provide a transparent method for dealing with concerns. Whistleblowers can have confidence through this policy that they have the fullest protections afforded by the Public Interest Disclosures Act.

1.7 Specifically, the code of practice set out in this policy makes it clear that staff and others can make reports without fear of reprisals and sets out what protections are in place under this policy. This Code is intended to encourage and enable concerns to be raised within the Council so that they can be addressed, rather than overlooking problems or raising them outside the Council.

1.8 All Officers, Councillors and partners have a responsibility to protect the Council's interests through the proper adherence to this policy.

## 2. Aims and Scope

2.1 This code of practice aims to:

- Encourage and enable any person to feel confident in raising serious concerns and to question and act upon concerns
- Provide avenues for any person to raise concerns and receive feedback on any action taken
- Ensure everyone making a referral receives a response to their concerns
- Describe how to take the matter further if dissatisfied with the Council's response
- Reassure anyone making a referral that they will be protected from reprisals or victimisation.

2.2 For the avoidance of doubt, if you have concerns that any person may be being mistreated / abused you can discuss your concerns in confidence with those listed on the front cover of this policy.

2.3 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment, customers to complain about the service they receive and regarding concerns whether Councillors have breached the National Code of Conduct. This policy should not be used for such concerns; however, advice can be obtained from the contacts on the front cover of this policy if you have any doubts.

2.4 The Whistleblowing Policy is intended to cover concerns that fall outside the scope of the above procedures. A concern may be about:

- sexual, physical or emotional abuse of clients or other individuals
- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as employees
- damage to the environment
- unauthorised use of public funds
- action that is contrary to the Council's financial regulations or contract procedure rules
- possible fraud, corruption or financial irregularity
- action that is against the Council's Standing Orders and policies
- practice that falls below established standards or practice
- other improper or unethical conduct.

2.5 The concern may be something that makes a person feel uncomfortable in terms of known standards, their experience or the standards to which they believe the Council subscribes. **If in doubt, please contact either a named contact on the front cover of this policy or Protect to have a confidential discussion**.

2.6 For the avoidance of doubt, this policy applies to all employees, contractors, consultants, schools and agency staff and other stakeholders who are acting on behalf of, or in partnership with, the Council.

2.7 Any disclosure of information that, in the reasonable belief of the worker, is made in the public interest shall be deemed a qualifying disclosure.

2.8 This policy incorporates the provisions that are required from the Public Interest Disclosure Act 1998.

## 3. How to Raise a Concern

3.1 When an individual wishes to raise a concern, he or she will need to identify the issues carefully. They must be clear about the standards against which they are judging practice. Whilst not exhaustive they should consider the following:

- Is it illegal?
- Does it contravene professional codes of practice?
- Is it against government guidelines?
- Is it against the Council's guidelines?
- Is it about one individual's behaviour or is it about general working practices?
- Does it contradict what the employee has been taught?
- Has the individual witnessed the incident?
- Did anyone else witness the incident at the same time?

3.2 Concerns from staff should normally be raised with their immediate manager, in the first instance. Similarly, non-employees (such as agency workers or contractors) should raise a concern in the first instance with their contact within the Council, usually the person to whom they directly report.

3.3 In some cases, the nature or sensitivity of the concern means that this may not always be appropriate. If a person feels they cannot raise their concern with their immediate manager they are able to go directly to the Chief Internal Auditor. They may also do so if, having raised a concern with the immediate manager/contact, they feel there has not been an appropriate response.

3.4 Others wishing to raise a concern should consider whether to raise that concern directly with the relevant senior officer of the service involved or use the Council's existing Complaints process. Details of all such contacts can be found on the Council's website.

3.5 Given the possible contractual issues, Annex A of this policy gives specific guidance to contractors and partners of the Council in raising such concerns.

3.6 Concerns may be raised verbally or in writing. Anyone who wishes to make a written report should give the background and history of the concern (giving relevant dates if possible) and the reason why they are particularly concerned about the situation.

3.7 If the individual wishes, they may ask for a private meeting with the person to whom they wish to make the complaint and can be accompanied if they wish. An employee may invite their trade union or professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns they have raised.

3.8 When making a complaint verbally, the individual should write down any relevant information and date it. They should keep copies of all correspondence and relevant information.

3.9 It should be noted that often the earlier a concern is expressed the easier it is to take appropriate action.

3.10 The individual should ask the person to whom they are making the complaint what the next steps will be and if anything more is expected from them.

3.11 Although a person is not expected to prove the truth of an allegation that is made, it will be necessary to demonstrate that there are sufficient grounds for concern. It is not necessary for any person to undertake investigations into their concern prior to contacting the Council, as this may undermine any ultimate action needing to be taken.

3.12 Advice and guidance on how specific matters of concern may be pursued can be obtained from the Council's Internal Audit Service. Phone 01908 254230 or email internal.audit@milton-keynes.gov.uk. Alternatively staff may wish to get confidential advice from their trade union or professional association.

3.13 Staff may wish to consider discussing their concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of them who have had the same experience or concerns.

3.14 Where a person feels that they cannot approach anyone in the Council, they may wish to report their concerns through the external independent reporting scheme run by the independent whistleblowing charity Protect. They provide a legal advice service designated by the Bar Council and information provided to Protect is protected under the Public Interest Disclosures Act. Their helpline number is 0203 117 2520. Their email is whistle@protect-advice.org.uk where their lawyers provide confidential advice free of charge.

## 4. Supporting the Individual to Raise a Concern

### 4.1 Harassment or Victimisation

4.1.1 The Council recognises that the decision to raise a concern can be difficult, not least because of the fear of reprisals.

4.1.2 The Council will not tolerate harassment or victimisation and will take action to protect individuals who raise concerns. This does not mean that if the individual is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of raising a concern under this policy.

4.1.3 It is the clear instruction to those officers (through this formal policy) of the Council who liaise with whistleblowers that they shall not release information to identify a whistleblower to any person within the Council and will only release those details to a proper person outside the Council when there is a legal requirement to do so, such as a court order. The only exception to this shall be where the whistleblower themselves gives written permission to do so.

4.1.4 Any person applying pressure upon such officers to identify whistleblowers shall be subject to the same provisions as outlined in 4.1.6 below.

4.1.5 Where a whistleblower alleges they are / have been victimised / harassed as a result of raising a concern, that matter shall be reported to Chief Executive or S151 Officer. Such allegations shall be investigated by the Chief Internal Auditor or the Director – Law and Governance. Should the whistleblower feel they have been victimised or harassed by either the Chief Executive or S151 officer, the concern can be raised directly with the Chief Internal Auditor, the Director Law and Governance (Monitoring Officer) or the Chair of Audit Committee.

4.1.6 Where the investigations may identify (either indirectly or directly) the whistleblower, the way forward shall be agreed with the whistleblower and any resultant action confidentially reported to the Chair of the Audit Committee.

4.1.7 Each case will be considered on its merits. Any incident of victimisation or harassment of someone who has made a referral under this policy would normally be considered:

- A matter of Gross Misconduct if done by an employee of the Council
- A matter for the Council to consider termination of a contract if done by or at the request of a contractor. If there are concerns that a contractor is victimising, or has victimised, a whistleblower an independent review may be requested
- A matter that would be referred to the Standards Committee if undertaken by or at the request of a Councillor
- A matter that could affect the service provided to a customer if done by or at the request of that customer.

## 4.2 Confidentiality

4.2.1 All concerns will be treated in confidence and every effort will be made not to reveal the identity of the person highlighting the concern if that is the wish of the individual.

4.2.2 Individuals are encouraged to put their name to any allegation. The Council will do its best to protect the individual's identity when they do not want their name disclosed. It must be appreciated that the investigation process may reveal the source of the information, and a statement by the individual raising the concern may be required as part of the evidence.

## 4.3 Anonymity

4.3.1 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- Seriousness of the issue
- Credibility of the concern
- Likelihood of being able to obtain the necessary information

## 4.4 Untrue Allegations

4.4.1 Any individual who makes an allegation which is not subsequently confirmed by the investigation, will have no action taken against them and will continue to have protection under this policy form victimisation or harassment.

4.4.2 If, however, an individual makes malicious or vexatious allegations, action may be taken against them.

# 5. How the Council will Respond

5.1 The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:

- be investigated by management, Internal Audit, Human Resources (HR), or another appropriate person
- be referred to the External Auditor
- be referred to the Police
- form the subject of an independent inquiry.

5.2 In order to protect individuals and the Council, an initial investigation will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of specific procedures (for

example, child protection or discrimination issues), will normally be referred for consideration under those procedures.

5.3 It should be noted that some concerns may be resolved by agreed action without the need for investigation. Equally some issues may be investigated without the need for initial enquiries. If urgent action were required, this would be taken before any investigation is conducted

5.4 The Council will write to the person raising the concern within 7 -10 working days (i.e. initially the individual or representative with whom the report was lodged as set out in Section 3):

- acknowledging that the concern has been received
- indicating how it proposes to deal with the matter
- giving an indication of when a final response or update will be provided
- telling the person whether any initial enquiries have been made
- supplying the person with information on staff support mechanisms and
- telling the person whether further investigations will take place and, if not, why not.

5.5 Every effort will be made to resolve the matters raised as soon as possible, in the interests of the Council, the person raising the concern and the person(s) being investigated.

5.6 The amount of contact between the officers considering the issues and the person raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.

5.7 Where any meeting is arranged, staff have the right, if they so wish, to be accompanied by a trade union or professional association representative or a work colleague who is not involved in the area of work to which the concern relates.

5.8 The Council will take appropriate steps to minimise any difficulties, which a person may experience as a result of raising a concern and provide advice and support should they be required to give evidence, such as at a disciplinary hearing. Such support may include the ability to give evidence via video link.

5.9 The Council accepts that the person raising a concern needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the person raising the concern will be kept informed as the investigation progresses unless they have requested otherwise. At the very least they should receive an update on the investigation by the date implied by the estimated response time given in section 5.4.

## 6. How the Matter can be taken Further

6.1 This policy is intended to provide an avenue to raise concerns within the Council. The Council hopes that those using this process will be satisfied with the way their concerns are treated and any investigations that may be carried out. However, if they are not satisfied and feel it right to take the matter outside the Council, the matter can be raised with:

- Protect on 0203 117 2520 or whistle@protect-advice.org.uk
- Relevant professional bodies or regulatory organisations
- A solicitor.

6.2 In taking advice from sources outside the Council, a person must ensure that, so far as possible, it is raised without confidential information being divulged and would, other than in exceptional circumstances, be expected to have exhausted the internal routes available first.

6.3 Any individual has the right and responsibility to refer a concern to the Police if they suspect a criminal act.

## 7. Roles and Responsibilities

7.1 The responsibility for the operation of this policy rests with the Directors to ensure all staff are fully aware of its provisions. The Chief Internal Auditor must be advised of all referrals (but in a form which does not endanger confidentiality) so that an annual report to the Council's Audit Committee can be compiled.

7.2 Investigations should be undertaken by appropriate officers with expertise and will be dependent upon the issue raised. Internal Audit and HR will jointly ensure that investigations are swift and effective and undertaken by someone with relevant skills and experience. Internal Audit HR will act as the corporate services who maintain records of all referrals and subsequent investigations received by the Council.

## Additionally:

7.3 Internal Audit will lead on all financial referrals, including those where there are significant financial implications to an allegation. The Audit team will ensure that concerns raised through the informal process are logged and trends identified.

7.4 HR will lead on allegations regarding serious misconduct of Council employees. The HR team will advise and support employees involved in the investigation process, to ensure that such processes are fair and supportive to all those involved.

7.5 The Monitoring Officer will lead on allegations regarding misconduct of Councillors and any issues where there is alleged unlawfulness or criminality.

7.6 As the Monitoring Officer has a statutory obligation to take action to avoid the Council acting unlawfully, officers are required to inform the Monitoring Officer of any whistleblower report received.

7.7 Employees: In all contracts of employment there is an implied understanding of mutual trust and confidence between the employer and employee. All employees, therefore, have a responsibility to raise concerns about work and they may do so in the manner described in this policy.

7.8 Line managers must create an open and fair culture within their area of responsibility and ensure that staff concerns are listened to and action taken where necessary. Line managers are responsible for ensuring that there is a safe environment for staff to raise their concerns and that there is no retribution as a result of someone raising their concerns.

7.9 The Audit Committee is responsible for assuring the Council that the risks across the Council are being identified and managed. It is therefore responsible for ensuring that this policy is robust and for ensuring that the principles within this policy are upheld.

## 8. How the Policy Will Be Monitored

8.1 The Council has a responsibility for registering the nature of all concerns raised and to record the outcome. The Council's Internal Audit Service will produce an annual report to the Audit Committee, which will identify any patterns of concern and assess the effectiveness of the policy.

8.2 This policy will be publicised via the Council's Website and specifically:

8.2.1 Every new employee will be advised to familiarise themselves with the policy when joining the Council;

8.2.2 Every contract will require the contractor to communicate the policy to their staff and adopt its provisions when working for the Council;

8.2.3 Every employee of a Limited Liability Partnership (LLP) owned by the council will be provided a copy of the policy when joining the LLP, together with training on the whistleblowing procedures of their organisation and the circumstances where each policy will apply;

8.2.4 All newly elected members should be provided a copy of the policy.

8.3 A public leaflet will be produced and placed in the Council's public areas to promote the policy and invite feedback.

8.4 An annual survey will be undertaken by Internal Audit to gauge the awareness of the policy and individual whistleblowers will be asked more detailed questions about their perceptions of the policy in practice. Please see Annex B.

## 9. Review

9.1 This procedure will be kept under review and any amendments will be subject to consultation with staff representatives. It will be reviewed by the Council's Audit Committee on an annual basis.

## ANNEX A

# Procedures for Contractors / Partners, Including Employees of Subsidiaries

1. As a first step contractors should normally raise concerns with their manager, who will then inform the lead Council officer who is dealing with that particular contract. If contractors do not have a client officer, they should raise their concerns direct with the lead Council officer. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if contractors believe that their client officer or lead Council officer is involved, they should approach the Monitoring Officer direct (Director Law and Governance). Otherwise, the lead Council officer receiving notification of concerns under this policy will inform the Monitoring Officer that a confidential report has been received and provide a copy. If the concern relates to financial irregularities or failures of financial controls the lead Council officer receiving the report will also immediately notify the Chief Internal Auditor.

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 if possible);
    - the reason why the individual is particularly concerned about the situation.

3. It should be noted that often the earlier a concern is expressed the easier it is to take appropriate action.

4. Advice and guidance on how specific matters of concern may be pursued can be obtained internally from the Internal Audit Service. Alternatively, contractors may wish to get confidential advice from their trade union or professional association.

5. Contractors may wish to consider discussing their concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

6. Contractors may invite their trade union or professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns they have raised.

**ANNEX B**

# Whistleblowing Surveys / Comments

If you thought about Whistleblowing or have whistleblown the Chief Internal Auditor would welcome your feedback. Please feel free to use one of the 'surveys' below and send them to the contact details at the front of this policy:

## General Survey

1) Have you thought about using the Whistleblowing Policy in the last 12 months?

2) If yes, but you didn't make a referral, what prevented you?

3) On a scale of 1-10 (with 10 being perfect) how would you rate the policy in meeting the needs of someone who has concerns about the Council's services?

4) If you answered less than 10, what can we do to change so that we would score 10?

## Specific Survey for those who have raised a concern

1) On a scale of 1-10 (with 10 being perfect) how good do you feel the Council's Whistleblowing arrangements are?

2) If you answered less than 10, what can we do to improve so that we would have scored a 10?

3) Were you able to obtain sufficient advice before making your referral?

4) Did you use normal management structures or the corporate officers?

5) Were your concerns properly addressed?

6) Were the implications of a referral (such as confidentiality and timescales) explained to you?

7) Were you provided with regular feedback (if you wanted it)?

8) If you asked for confidentiality was that effectively provided?

9) Do you feel you suffered harassment, victimisation or any other negative consequence from raising your concern?

http://staffintranet/services/audit

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