

PART 1 - PUBLIC

Decision Maker: Standards Committee

Date: 19 January 2011

Decision Type: Non-Urgent Non-Executive Non-Key

Title: RAISING CONCERNS - ANNUAL REPORT

Contact Officer: Joy Connor, Assistant Director, Legal and Support Services
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Chief Officer: Mark Bowen, Director of Legal, Democratic and Customer Services

Ward: N/A

1. Reason for report

- 1.1 The purpose of this report is to up-date the Committee on relevant issues and the operation of the Council's Raising Concerns ("Whistle Blowing") Policy.
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2. RECOMMENDATION(S)

- 2.1 The Committee notes the information contained in this report.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council.
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: £N/A
 5. Source of funding: N/A
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Staff

1. Number of staff (current and additional): Nil
 2. If from existing staff resources, number of staff hours: Nil
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Legal

1. Legal Requirement: Statutory requirement. Public Interest Disclosure Act 1998
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All employees and contractors
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 A copy of the Council's Raising Concerns, Confidential Reporting Policy is attached for ease of reference. It is also available on the Council's intranet and the Council's website.
- 3.2 The Policy was reissued in 2007 identifying new Directorate roles and, where appropriate, new contact details. Where contact details have changed more recently, these have also been updated. New posters have been displayed on notice boards across the Council. There is a quick link on the front page of onebromley which then takes you to the detailed policy and other documents. A link has also been provided from the section of the Council's website entitled 'Our Standards of Conduct'.
- 3.3 A copy of the Policy has also been provided to the Council's contractors so that they are aware of the Council's commitment to the highest possible standards of openness and accountability and so that they are aware of how to raise any concerns about possible wrongdoing.
- 3.4 In the last year (from the previous Annual Report to this committee in October 2009 to the end of September 2010) three issues have been reported under the scheme. In each instance they were not matters that fell within the Confidential Reporting Policy but the concerns were considered and dealt with appropriately.

4 POLICY IMPLICATIONS

- 4.1 The foundation of this policy is the Council's commitment to the highest standards of openness, probity and accountability in public service. It recognises that employees and contractors will only come forward about possible wrongdoing, in many cases, if confidentiality and their anonymity is preserved.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no immediate financial implications as the duties of Raising Concerns Officers are performed by volunteers without additional remuneration. Expense might be involved should it become necessary to set up an independent inquiry into any particular issue but this has not arisen so far and it is not likely to be a frequent occurrence.

6 LEGAL IMPLICATIONS

- 6.1 This policy is subject to legal supervision as the Assistant Director, Legal & Support Services, under the direction of the Director of Legal, Democratic & Customer Services and Monitoring Officer, has overall responsibility for implementing the policy. However, the person wishing to raise a concern is not obliged to do so via either any departments' Raising Concerns Officer or Legal Services. Concerns can be raised with the Chief Executive, Chief Financial Officer, Monitoring Officer or Internal Audit or any specialist units the Council may have, direct. The objective is to balance the protection of the person raising the concern from possible victimisation or harassment and to encourage high standards of openness, probity and accountability in Bromley's services. The policy strikes a balance between achieving the objective of enabling people to come forward confidentially with genuine concerns whilst, at the same time, discouraging allegations put forward frivolously or maliciously or for personal gain.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	

CONFIDENTIAL REPORTING CODE

CONFIDENTIAL REPORTING POLICY

1. PREAMBLE

- 1.1 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. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 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 serious concerns about any aspect of the Council's work to come forward and voice those concerns including concerns about Members of the Council. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns first within the Council rather than overlooking a problem or 'blowing the whistle' outside.
- 1.4 The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers.
- 1.5 These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments. Chief Officers are responsible for making service users aware of the existence of these procedures.
- 1.6 This policy has been discussed with the relevant national trade unions and professional organisations and has their support. It has also been discussed with the local trade unions and Staff Side Secretary.
- 1.7 This Code also takes into account the requirements of the Public Interest Disclosure Act 1998.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:
 - encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
 - provide avenues for you to raise those concerns and receive appropriate feedback on any action taken depending on the nature of the complaint and the subsequent action taken
 - ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied

- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Policy is intended to cover major concerns that fall **outside** the scope of other procedures. These include:

- 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 other employees
- the unauthorised use of public funds
- possible fraud and corruption
- sexual, physical, verbal or financial abuse of clients, or
- other unethical conduct (wrong doing).

2.3 Thus, serious concerns that you have about aspects of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Policy. This may be about something that:

- makes you feel uncomfortable in terms of your experience or the standards you believe the Council subscribes to; or
- is against the Council's Constitution and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

3. SAFEGUARDS

3.1 Harassment or Victimisation

3.2 The Council is committed to good practice and high standards and wants to be supportive of employees.

3.3 The Council recognises that the decision to report a concern can be a difficult one to make but you will be doing your duty to your employer and those for whom you are providing a service.

- 3.4 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. CONFIDENTIALITY

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5. ANONYMOUS ALLEGATIONS

- 5.1 This policy encourages you to put your name to your allegation whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 5.3 In exercising this discretion the factors to be taken into account would include:
- the seriousness of the issues raised
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

6. UNTRUE ALLEGATIONS

- 6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. HOW TO RAISE A CONCERN

- 7.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Chief Financial Officer, Monitoring Officer, Internal Audit or any specialist units the Council may have established (for example the Anti-Fraud Team)

7.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation

7.3 The earlier you express the concern the easier it is to take action.

7.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

7.5 In order to obtain advice/guidance on how to pursue matters of concern you should contact one of the Designated Officers details of which are displayed on the staff intranet. If you have any problems in finding out about them, you can contact Joy Connor, Assistant Director Legal and Support Services (020 8313 4760)

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

7.7 You may invite your trade union, professional association representative or a friend to be present during any meetings or interview in connection with the concerns you have raised.

8. HOW THE COUNCIL WILL RESPOND

8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

8.2 Where appropriate, the matters raised may:

- be investigated by management, internal audit or through the disciplinary process
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry.

8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. 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.

- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5 Within ten working days of a concern being raised, the designated officer will normally write to you:
- acknowledging that the concern has been received
 - indicating how we propose to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made.
 - supplying you with information on staff support mechanisms, and
 - telling you whether further investigations will take place and if not, why not. You may be required to keep this information confidential
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 8.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

9. THE RESPONSIBLE OFFICER

- 9.1 The Monitoring Officer (who is the Director of Legal Democratic and Customer Services) has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

10. HOW THE MATTER CAN BE TAKEN FURTHER

10.1 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 if you feel it is right to take the matter outside the Council, the following are possible contact points:

- the external auditor
- your trade union
- your local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police
- Public Concern at Work

10.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.