

Solihull Metropolitan Borough Council Human Resources & Equalities

“Speak Up” Policy & Procedure

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1. Policy

Our workforce is key to upholding our commitment to delivering quality services. In line with this 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. It is essential that disclosures of wrongdoing or irregularity are dealt with properly and quickly.

This policy applies to:

- All workers including:
- Those contractors working for the Council on Council or school premises, for example, supply teachers, agency staff, builders, drivers.
- Suppliers and those providing services under a contract with the Council in their own premises, for example home care.
- School governors.

The Council is committed to the highest possible standards of openness, probity and accountability. This policy document makes it clear that workers can speak up without fear of victimisation, subsequent discrimination or disadvantage.

This policy is intended to encourage and enable workers to raise serious concerns within the Council in the first instance rather than overlooking a problem or 'blowing the whistle' outside. It is recognised that most cases will have to proceed on a confidential basis.

This policy has been designed in consultation with our recognised Trade Unions and Teacher Associations.

The definition of 'The Council' in this policy also covers schools.

2. Policy Aims

The policy aims to:

- encourage workers to feel confident in raising serious concerns, and to question and act upon concerns about practice;
- provide avenues for workers to raise those concerns and receive feedback on any action taken;
- ensure that concerns are given proper consideration and receive a response to worker concerns and are made aware of how to pursue them if you are not satisfied;
- reassure workers that they will be protected from possible reprisals or victimisation if there is a reasonable belief that a disclosure has been made in good faith.

3. Scope of Policy

There are existing procedures in place to enable employees to raise a grievance relating to their own employment and procedures to ensure the working environment is free from harassment and bullying. The 'speak up' policy is intended to cover major concerns that fall outside the scope of these procedures. These include:

- conduct which you may consider to be a criminal offence;

- disclosures relating to miscarriages of justice;
- health and safety risks, including risks to the public as well as workers;
- unauthorised uses of public funds;
- possible fraud, corruption, or malpractice
- breaches of agreed LEA or governing body procedures;
- unsafe or unhealthy working practices environmental risks;
- failure to comply with legal obligations;
- instances of sexual, physical or verbal abuse or any behaviour which you genuinely find unacceptable or inappropriate;
- other unethical conduct;
- the deliberate concealing of information relating to any of the above matters.

In short, any serious concerns that workers have about any aspect 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 this policy.

These procedures are in addition to the Council's and schools' own complaints procedures and other statutory reporting procedures applying to some divisions.

4. **Protection**

This policy makes it clear that workers can speak up without fear of harassment, victimisation (including informal pressure), discrimination or disadvantage. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect employees. There will be no 'come back' if a disclosure has been made in good faith and reasonably believes that the information disclosed is substantially true. Workers will be listened to and supported.

The Public Interest Disclosure Act (PIDA) 1998 amends the Employment Rights Act 1996 to introduce new rights for workers not to be subjected to dismissal or detriment by their employer for making a protected disclosure.

5. **Roles and Responsibilities**

The **Council** accepts that the decision to report a concern can be very difficult and uncomfortable. The Council is committed to supporting individuals through the process and protecting them from any 'come-back', victimisation or harassment.

Management must have a positive commitment to the policy. Concerns reported to Line Managers, and Head teachers will need to be taken seriously and treated sensitively.

Workers who genuinely believe that people they work with are behaving in a way that seems wrong or have a serious concern about an aspect of service will be doing their duty and acting in the public interest by speaking out. If they act in good faith and there are reasonable grounds for concern, they have nothing to fear.

Trade Unions and Teacher Associations can provide advice and guidance to individuals raising concerns.

6. How To Raise A Concern

The procedure seeks to encourage and enable individuals to disclose information through appropriate channels first, rather than going directly to an outside person or body. As a first step, concerns should normally be raised with your immediate manager. In the case of schools this may be the Headteacher or the Chair of Governors. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of any wrongdoing. If, for example, you believe that your immediate manager could be involved then one of the following should be approached:

- Chief Executive
- Corporate Director of Resources
- Corporate Director of Education and Children and Families.
- Corporate Director Social Care and Performance
- Corporate Director of Community Services
- Strategic Director, Physical and Economic Regeneration
- Strategic Director, Customer Services
- Joint Director of Public Health
- Solicitor to the Council (Monitoring Officer)
- Head of Corporate Performance, Policy and Information
- Head of Human Resources
- Chief Auditor
- Chair of Governing Body (for complaints against the Headteacher)
- Teacher Association representative
- An officer of the Diocesan Board (for voluntary aided church schools)
- Recognised Trade Union Representative

If you raise a concern with your immediate manager and do not feel satisfied with the action taken, one of the above should be approached.

Concerns may be raised verbally or in writing. Staff and others who wish to make a written report are advised to set out the background and history of the concern, giving names, dates and places, where possible, and the reasons for making the disclosure. This will make the investigation easier to complete. Advice and guidance on how to pursue matters of concern may be obtained from those identified in 6.2.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate that there is an honest and reasonable suspicion that malpractice has occurred, is occurring or is likely to occur.

You may be able to raise a complaint via your Trade Union or Teacher Association Representative, rather than personally, if you so wish. In such circumstances Trade Union Representatives will themselves have the protection given to complainants under the procedure, provided that they act in accordance with the procedure.

You may be entitled to be represented by your Trade Union or Teacher Association Representative at any meetings convened for the purpose of the consideration of complaints made under the procedure.

You may also wish to consider discussing your concern with a colleague first. You may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concern. The earlier you express the concern the easier it will be to take action.

If you make an allegation, you are entitled to a meeting with the appointed person away from your normal place of work, to communicate the allegations.

7. Procedure

The Council will respond to your concerns. Depending on the nature of the concern, matters raised may:

- be investigated by management, internal audit, or through an appropriate procedure, e.g. disciplinary, harassment, child protection or grievance procedure be referred to the police;
- be referred to the external auditor;
- form the subject of an independent inquiry

In order to protect you and those accused of wrong-doing, initial enquiries will be made to decide whether an 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, financial irregularities or discrimination issues) will normally be referred for consideration under those procedures.

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. You will be told how the Council or School proposes to deal with your concern within ten working days of your concern being brought to the Council's attention.

The investigating officer will write to you in order to:

- acknowledge that the concern has been received
- indicate how it is proposed the matter will be dealt with
- estimate how long it will take to provide a final response
- tell you whether any initial enquiries have been made
- supply you with information on staff support mechanisms
- advise you whether further investigations will take place and if not, why not

The investigating officer may need to see you to seek further information. If you wish, any meetings arranged to discuss the concern can be conducted off-site and you can be accompanied by a Trade Union Representative or a fellow worker.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For example, if you are required to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive advice about the procedure.

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.

8. Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity, if you so wish. However, while making all reasonable effort to maintain the confidentiality of the matter as a whole, at a certain stage in the investigation it will be necessary to make the origin of the complaint known to the person or persons

the allegations concern. All concerns raised within the remit of this procedure will be assessed to determine if the confidentiality extends to withholding the name of the complainant. There should be a substantial reason for doing so, such as a real risk of personal harm. Complainants should be aware however, that their identity may be revealed by inference.

9. Anonymous Allegations

You are encouraged to put your name to your allegation whenever possible. 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:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources

10. Untrue Allegations

The Council accepts that deciding to report a concern can be very difficult and uncomfortable. If you genuinely believe that what you are saying is true, then you have nothing to fear because you will be doing your duty and acting in the public interest.

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.

11. Communication and Review

The Council is committed to making sure that all of our workers (including supply and agency workers) and others know about the policy and are supported and encouraged to speak up about bad practice. This will be achieved by:

- highlighting the policy to new starters in their new starter packs;
- informing workers at Induction about the policy;
- line managers ensuring that workers are clear about how to raise a concern where appropriate;
- ensuring that new and existing service providers inform their employees of the Council's policy;
- publicising the policy on the intranet, internet and in the Council magazine 'Your Solihull';
- encouraging Schools to make the policy available as part of their staff handbook and the information given to governors.

A review of the procedure and the handling of complaints under the procedure may be requested at any time, with the agreement and involvement of the Trade Unions and Teacher Association Representatives.

12. The Responsible Officer

The Director of Resources has overall responsibility for the maintenance and operation of this policy, which is delegated to the Head of Human Resources and

Equalities. In schools, it is recommended that the Chair of Governors be given overall responsibility for the maintenance and operation of this policy. However, this responsibility may be delegated to the Headteacher.

All concerns received by those officers identified in 6.2 must be reported to the Head of Human Resources and Equalities or, for schools, the Headteacher or Chair of Governors. The Head of Human Resources and Equalities and Head teachers will maintain a record of concerns raised and the outcomes, but in a form that does not endanger your confidentiality, and will report as necessary to the Council.

13. How Matters Can Be Taken Further

This policy is intended to provide you with an avenue within the Council or your school 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, the following are possible contact points:

- the external auditor;
- your local Citizen Advice Bureau;
- relevant professional bodies or regulatory organisations;
- a relevant voluntary organisation;
- the police.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. You are advised to check with one of the contact points identified in (6) about this.