

Thanet District Council

Whistleblowing Code

May 2017



Contents

Introduction.....	Error! Bookmark not defined.
What is a whistleblower?	Error! Bookmark not defined.
What is a worker?	3
Complaints that count as whistleblowing.....	3
Complaints that don't count as whistleblowing.....	Error! Bookmark not defined.
Who to tell.....	Error! Bookmark not defined.
Making your claim anonymously or confidentially	Error! Bookmark not defined.
How will the council respond?	4
What safeguards are there for the employee?	Error! Bookmark not defined.
How can a concern be taken further?.....	6
Health warning.....	6
Recording and Monitoring.....	6
Contact details	7
Document History:	Error! Bookmark not defined.

Introduction

Thanet District Council is committed to the highest possible standards of propriety and accountability in the conduct of its activities for the community. Employees are often the first to realise that something wrong may be happening within the Council. This Code is intended to help employees who have serious concerns over any potential wrong-doing within the Council.

What is a whistle-blower?

- You're a whistle-blower if you're a worker and you report certain types of wrongdoing. This will usually be something you've seen at work - though not always.
- The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public.
- As a whistle-blower you're protected by law - you shouldn't be treated unfairly or lose your job because you 'blow the whistle'.
- You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.

What is a worker?

- Permanent or temporary staff
- Interims and agency workers
- Contractors working for the council

Councillors and volunteers are not workers within the limited definition in the law, but can report any wrongdoing to the relevant Director, Director of Corporate Governance or the Director of Corporate Resources.

Complaints that count as whistleblowing

You're protected by law if you reasonably believe that the disclosure is 'made in the public interest' and report any of the following:

- A criminal offence, e.g. fraud, theft or corruption
- Someone's health and safety is in danger
- Risk or actual damage to the environment
- A miscarriage of justice
- Misuse of public funds
- The council is breaking the law, e.g. doesn't have the right insurance
- You believe someone is covering up wrongdoing

Complaints that don't count as whistleblowing

Personal grievances (e.g. bullying, harassment, discrimination) aren't covered by whistleblowing law, unless your particular case is in the public interest.

If you are aggrieved about your personal position, please use the Council's Grievance Procedure.

Who to tell?

Complaints may be verbal or (preferably) written. Should explain the background and history of the concern and the reason why you are particularly concerned.

As soon as you become reasonably concerned:

- Raise the issue with your line manager (unless they are the potential transgressor), or
- Your Director, the Director of Corporate Governance or the Director of Corporate Resources, or
- If you don't want to report your concern to the council, tell a solicitor or a prescribed person or body (e.g. the ICO, Environment Agency, HSE, SFO etc.) If you tell a prescribed person or body, it must be one that deals with the issue you're raising, e.g. a disclosure about wrongdoing in a care home can be made to the Care Quality Commission. They will be able to advise on their respective procedures.

Making your claim anonymously or confidentially

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that you may nonetheless want to raise a concern in confidence under this Code. If you ask us to protect your identity by keeping your confidence, we will not voluntarily disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance, because your evidence is needed in court), we will discuss with you whether and how we can proceed.

Workers can make an anonymous disclosure via a dedicated whistleblowing hotline which is 01304 872198.

As concerns expressed anonymously are much less powerful, individuals are encouraged to put their names to all concerns raised. Anonymous disclosure makes it unlikely that a worker would qualify for protection as a whistleblower, this is because there would be no documentary evidence linking the worker to the disclosure for the employment tribunal to consider. Matters raised anonymously may nevertheless be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of being able to confirm the allegations from other, attributable sources.

How will the council respond?

If the concern is raised verbally, the person receiving the information should put it in writing as soon as practicable to ensure that it properly reflects the concerns that have been raised. The employee must also indicate if the concern is to be treated in confidence. The limit of that confidence will be checked out by the person receiving the information.

Once you have told us of your concern, we will look into it to assess initially what action should be taken. An acknowledgement should be sent to you within two working days. We will tell you who may be handling the matter, how you can contact him/her and whether your further assistance may be needed. If you request it, we will write to you summarising your concern(s) and setting out how we propose to handle it.

If you have any personal interest in the matter, we do ask that you tell us at the outset. Should your concern fall within another policy or procedure of the Council (for example, the Grievance Procedure), we will tell you.

While the purpose of this Code is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else or where it may impede an investigation.

Concerns 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 enquiry.

What safeguards are there for the employee?

A disclosure to the employer will be protected if the whistle-blower makes a disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest.

If as a result of a disclosure the Council dismisses or victimises the employee or fails to protect him/her from victimisation from colleagues, the Public Disclosure Act 1998 (as amended) provides that action can be taken against the Council.

However, allegations made maliciously or which are deliberately false will be dealt with under the Council's Disciplinary Procedures

The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect those who raise a lawful concern.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures already taking place concerning the employee.

Every effort will be made to ensure confidentiality as far as this is reasonably practical.

Help will be provided to you in order to minimise any difficulties which you may experience. This may include advice on giving evidence if needed. Meetings may, if necessary, be arranged off-site with you and with you being represented, if you so wish.

How can a concern be taken further?

If you are unsure whether to use this Code or you want independent advice at any stage, you may contact:

- If applicable, your relevant trade union lawyer;
- Other bodies prescribed by the Secretary of State. A complete list of prescribed persons can be found here: [Prescribed people and bodies](#)
- the independent charity Public Concern at Work on 020 7404 6609 or whistle@pcaw.org.uk

Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

An employee who is not satisfied with the action taken by the Council and feels it right to question the matter further, may consider the following possible contact points:

- the Council's S151 Officer
- the Council's Monitoring Officer
- Internal Audit and/or the External Auditor
- the employee's trade union
- the Citizens' Advice Bureau and/or law centre/firm
- a government department
- the Local Government Ombudsman
- the Information Commissioner
- the Health and Safety Executive

If you believe that you have been unfairly treated because you have blown the whistle you may decide to take your case to an employment tribunal. The process for this would involve attempted resolution through the Advisory, Conciliation and Arbitration Service (Acas) early conciliation service. www.acas.org.uk/conciliation

Health warning

This Code is intended to provide an avenue within the Council to raise concerns. If an employee takes the matter outside the Council, he/she should ensure that no disclosure of confidential information takes place and should seek advice, as the Public Interest Disclosure Act 1998 (as amended) does not provide blanket protection and could leave employees vulnerable to

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disciplinary or other action, if they disclose confidential information in circumstances not covered by the Act.

Recording and Monitoring

Following good practice, we will:

- Record the number of whistleblowing disclosures we receive and their nature
- Maintain records of the date and content of feedback provided to whistleblowers

Contact details

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Document History

- How often does the Strategy need to be reviewed?
- What happens when the strategy becomes outdated?

Version	Date	Agreed by	Minute ref
	May 2017		

