



ISLINGTON COUNCIL

..... Briefing

keeping managers and staff informed

ISSUE 10

MALPRACTICE AND WHISTLEBLOWING

The 1998 Public Interest Disclosure Act (PIDA), which came into effect on 2 July 1999, gives immunity, in prescribed circumstances, to staff who blow the whistle on malpractice at work. The intention of the PIDA is to encourage a culture of openness in the workplace. The Council's existing policy (which is set out in the Code of Conduct) has been revised to reflect the provisions of the Act and an abridged version is attached for information.

The aim of the Act is to provide greater legal protection for workers who raise concerns, whether internally or externally, about alleged wrongdoing by their employer – the so called “whistleblowers”. It is automatically unfair to dismiss an employee or select them for redundancy because they made a protected disclosure. There is no qualifying period for bringing an unfair dismissal claim in such circumstances and the Act offers unlimited compensation for dismissal or victimisation. All managers will therefore need to take special note of the harassment and victimisation protection safeguards contained in the policy to ensure that staff feel confident in coming forward to report their concerns.

Further details on the types of malpractice; raising concerns; disclosure to an outside body; and independent inquiry can be found in HR Briefing/guidance note No 19 (Malpractice & Whistleblowing), sent to Heads of Service for their management teams, Service Personnel Support Units and HR Operations.



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PUBLIC INTEREST DISCLOSURE ACT (PIDA) 1998

MALPRACTICE AND WHISTLEBLOWING

1. INTRODUCTION

- 1.1 The 1998 Public Interest Disclosure Act (PIDA), which came into effect on 2 July 1999, gives immunity, in prescribed circumstances, to staff who blow the whistle on malpractice at work.
- 1.2 The Council's existing policy has been revised to reflect the provisions of the Act.
- 1.3 The Council *wishes* to encourage a culture of openness within the organisation and believes that prevention is better than cure. The Council wants to prevent malpractice from occurring and to remedy it where it does occur.
- 1.4 This policy has been introduced to help employees raise their concerns at an early stage and in the right way. It is designed to help create an environment where staff understand their responsibilities and management demonstrate their accountability.

2. THE COUNCIL'S POLICY ON WHISTLEBLOWING

- 2.1 Malpractice is taken very seriously and the Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect all employees and others we deal with, who have serious concerns in the interest of the public about malpractice in the Council, to come forward and voice those concerns.

3. TYPES OF CONDUCT COVERED

- 3.1 This policy covers disclosures which, in the reasonable belief of the member of staff, tends to show that a failure to act properly:
 - has already taken place;
 - is taking place (i.e. when a disclosure is made);
 - is likely to take place in future.
- 3.2 Concerns about malpractice may in this context include a reasonable belief that one or more of the following has occurred or is likely to occur:
 - a danger to health and safety;
 - professional impropriety;
 - theft of council property or money;
 - damage to the environment.

This list is not exhaustive. Any wrongdoing may be reported under this procedure.

4. WHO IS COVERED

- 4.1 The policy applies to all employees, contractors and suppliers.

5. RAISING CONCERNS

- 5.1 Concerns about possible malpractice, as defined in paragraph 3.2 above should be raised with either:
- (a) the line manager; or
 - (b) where (a) is inappropriate, the officer to whom their line manager reports; or
 - (c) where (a) and (b) are inappropriate, with the Head of Service; or
 - (d) an Executive Director; or
 - (e) Chief Internal Auditor where financial malpractice is suspected; or
 - (f) Principal Complaints Officer; or
 - (g) Service Area Health & Safety Advisor where health & safety infringement is suspected; or
 - (h) If a member of staff reports a problem, but remains concerned, he/she can raise the problem with the Chief Executive who has a statutory responsibility as monitoring officer to ensure propriety in all the Council operations.
- 5.2 The disclosure must be made in good faith. If however, a false allegation is made maliciously, disciplinary action may be taken.

6. THE COUNCIL'S RESPONSE TO WHISTLEBLOWING

- 6.1 The matters raised will either;-
- * be investigated by management or internal audit;
 - be referred to district audit;
 - be referred to the police;
 - form the subject of an independent inquiry.

7. SAFEGUARDS

- 7.1 All concerns will be treated in confidence and every effort will be made to protect the whistleblower's identity. The Council will support concerned employees and protect them from reprisals or victimisation, which if proven would result in disciplinary action being taken against the perpetrator(s).

Claudette Francis
Head of Human Resources

18.0 Malpractice/fraud/corruption/whistleblowing (Public Interest Disclosure Act 1998)

- 18.1 The Council has an anti-fraud and corruption policy and all employees are expected to be aware of its contents and abide by its guidance.
- 18.2 The Council expects anyone who has serious concerns about malpractice in the Council to come forward and voice those concerns. The Council is committed to the highest possible standards of openness, probity and accountability, and encourages its employees to raise their concerns early and in the right way.
- 18.3 All concerns will be treated in confidence and every effort will be made to protect “whistleblowers” identities. The Council will support concerned employees and protect them from reprisals or victimisation. By law, employees who expose fraud or corruption are protected from dismissal or victimisation.
- 18.4 Any malpractice can be reported. Disclosures must **be** made in good faith with a reasonable belief that the information tends to show the specified malpractice. However, a false allegation, which is made maliciously, may result in disciplinary action being taken against the individual who **made** the complaint.
- 18.5 Concerns about health and safety issues can be raised with the service area’s Health **and** Safety Adviser. If an employee reports a problem but remains concerned s/he can raise it with the appropriate Director/Head of Service,
- 18.6 Concerns should be raised internally in the first instance. In certain exceptional circumstances, the law provides protection where disclosure is to a person or organisation outside the Council, but this must be made in a specified way and subject to certain conditions – details can be obtained from your Personnel Support Unit/HR Operations or the Principal Complaints Manager.

18.7 Concerns may include a reasonable belief that one or more of the following has happened, is happening or is likely to happen:

- sexual or physical abuse of clients
- corruption
- professional impropriety
- negligence
- theft of Council property or money
- fraud
- crime (i.e. a criminal offence of any type, not just theft and fraud)
- damage to Council property
- damage to the environment
- dangers to health and safety
- undisclosed pecuniary interests in contracts
- the acceptance of gifts and hospitality from contractors/potential contractors/users of Council services
- personal financial gain from the provision of Council services
- illegality (i.e. breach of any legal obligation)
- a miscarriage of justice
- a breach of a code of practice made or approved under statute
- a breach of a code of conduct made by the Council itself
- a serious breach of the Council’s policies and procedures which could undermine trust and confidence
- a breach of proper accounting practices (including Standing Orders)
- acting against the proper interests of the Council **as** a corporate whole
- an act of a kind which no reasonable person could judge to be in the public interest
- concealing information tending to show any of the above matters
- other unethical conduct

- 18.8 This list is not exhaustive. Any wrongdoing may be reported under this procedure.
- 18.9 Employees should raise concerns about possible malpractice with their **line-manager** or, if that is not appropriate, with the manager to whom their linemanager reports: or their **Director/Head of Service** or a Deputy Chief Executive; or the Principal Complaints Manager. **If** they reasonably suspect fraud, corruption, theft, or some other financial malpractice, and feel they cannot approach any of those mentioned before, they have a duty to inform the Chief Internal Auditor. Managers who are informed of fraud, corruption, theft or **some other** financial malpractice, are obliged to report the matter to the Chief Internal Auditor immediately.
- 18.10 Concerns may be raised verbally or in writing, giving the background and history, with relevant dates. The earlier the issue is raised the easier it **is** to take action. Matters raised anonymously will probably carry **less** weight, but they may be considered at the Council's discretion – if an employee does not say who **s/he** is, any investigation will be more difficult, and the Council will not be able to let the complainant know the outcome,
- 18.11 Managers must take **all** reasonable steps to make sure that the services for which they are responsible are delivered in an appropriate and professional manner, and that no user of the service should have any legitimate concerns about employees' behaviour or motives. Managers must take immediate action if they have any concerns about the probity of the service and/or the staff concerned. If they have any doubts, they must immediately seek advice from their **Director/Head of Service**.
- 18.12 Managers must act upon any complaints made by employees about any malpractice, Complaints about fraud, corruption, theft, or **some other** financial malpractice must be referred to the Chief Internal Auditor without delay.