



**Melton
Borough
Council**

Whistleblowing Policy

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CONTROL SHEET FOR Whistleblowing Policy

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1. Introduction

- 1.1 Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). The council is committed to the highest possible standards of openness, honesty, integrity and accountability. In line with that commitment we expect employees, and others we deal with, who have any serious concerns about any aspect of the council's work to come forward and voice those concerns.
- 1.2 Wherever possible, employees are encouraged to use relevant council procedures to report issues in an open and transparent way. However, it is recognised that some cases will have to proceed on a confidential basis. This policy makes it clear that you can report concerns without fear of victimisation, subsequent discrimination or disadvantage.
- 1.3 Employees are often the first to realise that there may be something seriously wrong within a Local Authority. 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 employees may feel that it is easier to ignore the concern, rather than report what may just be a suspicion of malpractice.
- 1.4 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourages employees, Members and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 1.5 Whistleblowing is the term used when someone who works in or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. For example, instances of theft from the Council, accepting or offering a bribe, and failure by colleagues to adhere to Health & Safety directives could all be the subject of a whistle blow.
- 1.6 This policy makes it clear that concerns can be raised without fear of victimisation, subsequent discrimination or disadvantage.
- 1.7 This Whistleblowing Policy is intended to encourage and enable employees to raise concerns within the Council in person, rather than overlooking a problem or using other methods to report concerns. This policy applies to Council employees and other workers, including freelance staff, temporary and agency staff, trainers, volunteers, consultants, contractors, employees of another Local Authority with whom the Council has entered into joint working arrangements and Members. This policy also applies to all employees in organisations who work in partnership with the Council and suppliers who wish to raise a concern.

2. Aims and Scope of this Policy

2.1 This policy aims to:-

- 2.1.1 Encourage and enable any person to feel confident in raising serious concerns;
- 2.1.2 Clearly detail the ways in which such concerns should be raised;
- 2.1.3 Provide confidence to whistle-blowers that all referrals will be dealt with in line with this policy;
- 2.1.4 Describe how to take the matter further if a whistle-blower is dissatisfied with the Council's response; and
- 2.1.5 Reassure anyone making a referral that the Council will take all reasonable and practical steps to protect whistle-blowers from reprisals, harassment or victimisation.

2.2 Areas covered by the Whistleblowing Policy include:-

- 2.2.1 criminal or other misconduct
- 2.2.2 breaches of the Council's Standing Orders or Financial Procedure Rules
- 2.2.3 contravention of the Council's accepted standards, policies or procedures
- 2.2.4 disclosures relating to miscarriages of justice
- 2.2.5 health and safety risks
- 2.2.6 damage to the environment
- 2.2.7 unauthorised use of public funds
- 2.2.8 fraud, bribery and corruption
- 2.2.9 sexual, physical and/or verbal abuse of any person or group
- 2.2.10 other unethical conduct
- 2.2.11 the concealment of any of the above

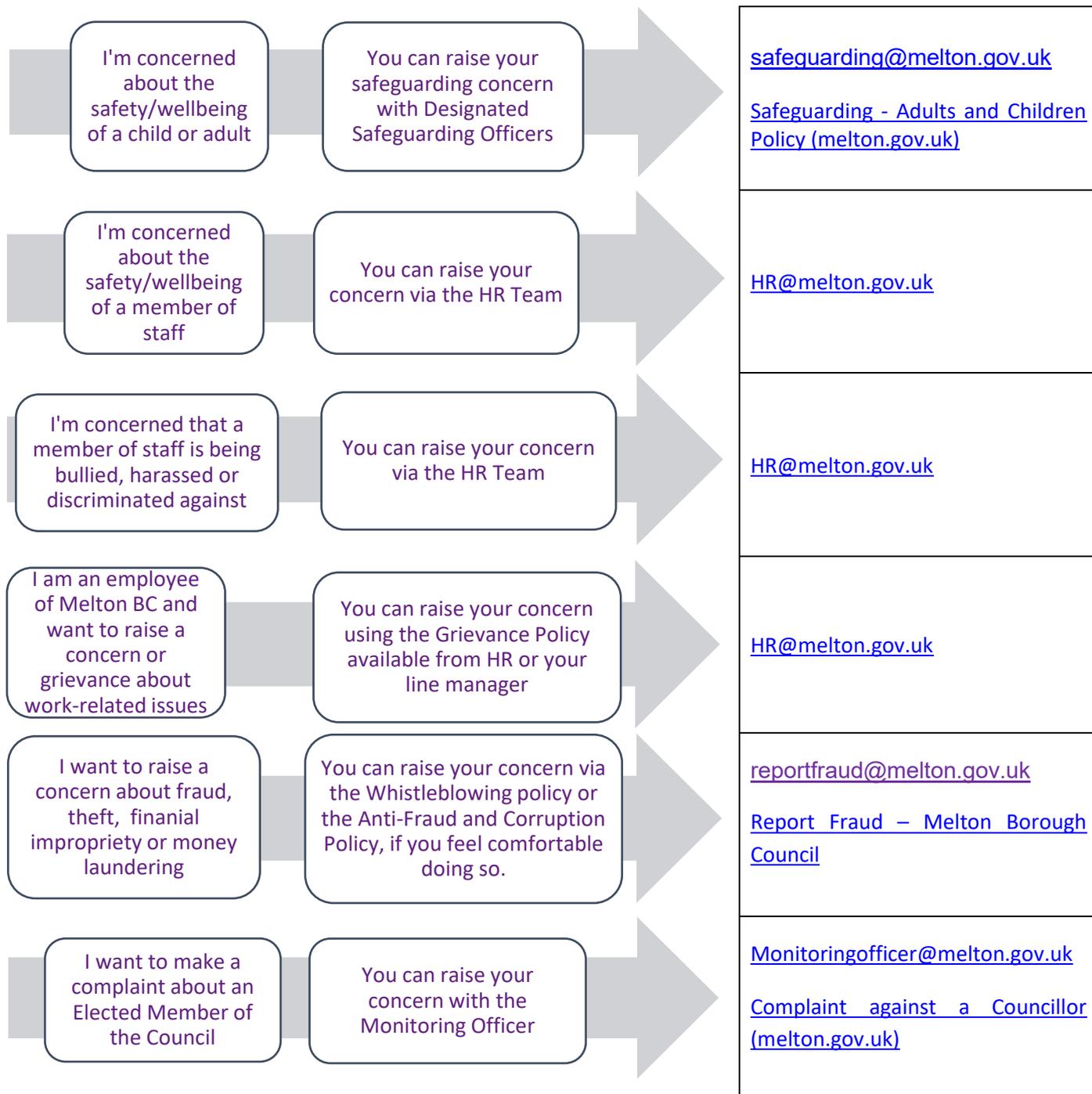
2.3 Any concerns about any aspect of service provision or the conduct of officers or elected Members of the Council, or others acting on behalf of the Council, can be reported under the Whistleblowing Policy where there is a public interest aspect. This may be about something that:-

- 2.3.1 Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- 2.3.2 Is against the Council's Constitution and policies; or
- 2.3.3 Falls below established standards of practice; or
- 2.3.4 Amounts to improper conduct.

3. When this Policy may not be appropriate

- 3.1 This policy is not a substitute for the Council's other policies and procedures on such matters as personal grievances, bullying and harassment, health and safety, safeguarding issues (children and/or adults), complaints or codes of conduct. It should also not be used to raise matters relating to an employee's own terms and conditions of service.
- 3.2 It is important to know the difference between a 'whistle blow' and a 'grievance.' A whistle blow has a public interest aspect to it, as it puts others at risk. A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy. For example, a member of staff being formally interviewed on capability grounds, without previously having had any indication that their performance was not acceptable, may lead to a grievance complaint being made. Whilst a member of staff who observes colleagues sharing/selling confidential data to un-authorised others, should lead to a whistle blow.
- 3.3 The Policy is not to be used by members of the public to pursue complaints about services. These should be dealt with through the Councils Corporate Complaints Policy.
- 3.4 This Policy is not to be used by members of the public to pursue complaints against a Councillor's conduct. They should direct complaints in the first instance to the Monitoring Officer who will deal with their complaints under the Members Code of Conduct procedure.
- 3.5 There are many ways to raise specific concerns with the Council, and not all concerns will constitute wrongdoing which would be investigated via this Whistleblowing Policy.
- 3.6 The details in Figure 1 will help you determine the best route to raise your concerns. If you raise a concern through one of the wider policies referenced in Figure 1, that meets the criteria of whistleblowing under law (see section 4), you will still be protected by the law. If you wish to raise a specific whistleblowing issue, or if you are not sure what is the best route for reporting your concerns, you can email the dedicated whistleblowing email address reportfraud@melton.gov.uk. This mailbox will be monitored by Internal Audit who will ensure that referrals made to this address are considered via the appropriate process.

Chart 1: Routes for raising concerns



4. Safeguards against Harassment or Victimisation

- 4.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. However, the Council will not tolerate any form of harassment or victimisation and will take appropriate action to protect persons who have made a disclosure.
- 4.2 The Council is committed to good practice and high standards and endeavours to be supportive of persons who raise concerns under this Policy. In all cases, the provisions of the Public Interest Disclosure Act 1998 (PIDA) will be adhered to.
- 4.3 The Public Interest Disclosure Act 1998 (PIDA) protects Council employees who report concerns from subsequent harassment, victimisation and other unfair treatment. The Enterprise & Regulatory Reform Act 2013 (ERRA) introduced a Public Interest test requirement on whistle blowers. In order to receive the protection of PIDA, whistle blowers will now have to show that they reasonably believe that the disclosure they are making is in the public interest.
- 4.4 Unlike disclosures by employees, PIDA does not offer legal protection for disclosures made by members of the public. However, the Council will take reasonable and appropriate action to protect the anonymity of members of the public when they make a disclosure.
- 4.5 If the matter only affects you, then it is not a disclosure covered by PIDA. However, it is likely to be covered by another corporate policy.
- 4.6 If it affects other people and if you believe that the disclosure relates to wrongdoing in one of the categories below then your disclosure likely is covered by PIDA:
- 4.6.1 criminal offences (for example, fraud, theft, or financial impropriety)
 - 4.6.2 failure to comply with a legal obligation
 - 4.6.3 miscarriages of justice
 - 4.6.4 endangering of someone's health and safety
 - 4.6.5 damage to the environment
 - 4.6.6 covering up wrongdoing in the above categories

5. Confidentiality and Anonymous Allegations

- 5.1 This policy encourages you to put your name to any allegation wherever possible and receive the protection of PIDA as anonymous complaints are likely to be difficult to deal with effectively.
- 5.2 The Council will do its best to protect your identity if you do not want your name disclosed and records of referrals will be handled in confidence. It must be recognised that in some cases the investigation process may reveal or allow individuals to infer the source of the information, and you may be asked to make a statement as part of evidence.
- 5.3 Concerns expressed anonymously 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; and
 - Likelihood of being able to obtain the necessary information to corroborate an allegation.
- 5.4 At the appropriate point in any investigation, the subject of an allegation is likely to be made aware of the allegation so they may provide a defence. In these cases, the identity of the whistle-blower will be protected as much as is practically possible.

6. How to raise a Concern under this Policy

- 6.1 Wherever possible, employees are encouraged to use relevant council procedures to report issues in an open and transparent way. In the first instance, concerns from employees should normally be raised with their line manager, individually or as a group. Similarly, non-employees (e.g. 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.
- 6.2 In some cases, the nature or sensitivity of the concern means that this may not always be appropriate. If you feel you cannot raise their concern with your immediate manager or normal Council contact, you may feel a whistleblowing disclosure is the most appropriate option.
- 6.3 Concerns may be raised verbally or in writing. In order to enable the Council to review concerns effectively, whistle-blowers should give the background and history of the issue, giving relevant details such as names and dates if possible, and the reason why they are particularly concerned about the situation.
- 6.4 You may ask for a private meeting with the person to whom you wish to raise the concern. If you wish you can be accompanied, for example by your trade union/professional association representative or work colleague, at any meetings in connection with the concerns you have raised.

- 6.5 If you want to make a whistleblowing disclosure or discuss your concerns with any of the following officers:
- 6.5.6 **Chief Executive** - Edd de Coverly
edecoverly@melton.gov.uk
07909 097949
 - 6.5.1 **Chief Finance Officer & S151 Officer** - Dawn Garton
dgarton@melton.gov.uk
07500 975289
 - 6.5.2 **Monitoring Officer**
monitoringofficer@melton.gov.uk
01664 502502
 - 6.5.3 **Head of Internal Audit** - Rachel Ashley-Caunt
rashley-caunt@melton.gov.uk
07824 537900
 - 6.5.3 **HR and Communications Manager** - Sarah-Jane O'Connor
HR@melton.gov.uk
01664 502460
 - 6.5.7 Email reportfraud@melton.gov.uk
- 6.6 Failing to raise the matter within the Council first may result in the disclosure being unprotected within the provisions of the Public Interest Disclosure Act 1998.
- 6.7 Employees who are in any doubt regarding the provisions of the Policy should contact Human Resources. Advice as to whether or how a matter should be raised should be sought by contacting one of the Whistleblowing Officers.
- 6.8 This policy is intended to provide employees with an avenue to raise concerns within the Council and be satisfied with the Council's response. If, however, an employee should feel dissatisfied with the Council's response and feel it right to take the matter further they can do so by contacting:
- 6.8.1 **External Auditors** – Ernst and Young (Hayley Clark)
HClark3@uk.ey.com
0121 230 1216

- 6.8.2 the relevant professional body or regulatory organisation;
- 6.8.3 the whistleblowing charity 'Protect' (see note and paragraph 9.3 below)
- 6.8.4 the Trade Union
- 6.8.5 a Solicitor
- 6.8.6 the Police

Note: Protect can also be contacted should someone wish to seek independent advice about how best to raise a concern. Please note, seeking this independent advice does not constitute legal notification to the Council.

- 6.9 As outlined at 5.2 above, it should be noted that information presented during investigations may inadvertently allow the subject of an allegation to determine who is likely to have provided the information. Therefore, the Council cannot provide absolute guarantees that anonymity can always be protected.
- 6.10 Although you are not expected to prove the truth of any concern or allegation you raise, it will be necessary to demonstrate that there are sufficient grounds for concern to warrant further initial investigation. It is not necessary or appropriate for any person to undertake investigations into their concern prior to contacting the Council, as this may undermine any ultimate action to be taken, particularly if any police investigation is subsequently required.
- 6.11 To make a disclosure you can:
 - 6.11.1 email - monitoringofficer@melton.gov.uk
 - 6.11.2 contact a named contact as detailed at paragraph 6.5 of this policy; or
 - 6.11.3 make a whistleblowing disclosure under the appropriate route outlined in figure 1.
- 6.12 Concerns may be raised normally in writing. Persons who wish to raise a concern should provide details of the nature of the concern or allegation in the following format:
 - 6.12.1 The background and history of the concern giving names, dates and places where possible
 - 6.12.2 The reason why you are particularly concerned about the situation.
 - 6.12.3 Submit any relevant evidence or documentation.
- 6.14 The earlier you express the concern the easier it is to take action.

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

7. How the Council will respond to a concern raised under this Policy

7.1 The Officer with whom the concern was initially raised will respond in writing within ten working days:

7.1.1 acknowledging that the concern has been received;

7.1.2 indicating how it is proposed to deal with the matter;

7.1.3 stating whether any initial enquiries have been made; and

7.1.4 supplying information on what support is available and stating whether further investigations will take place and if not, why not.

7.2 Concerns raised under this Policy will be investigated by an investigating officer who will be appointed at the Council's discretion. Any allegations of fraud, corruption or financial impropriety will usually be investigated by Internal Audit, in line with the Council's Fraud Response Plan. Any allegations related to Member conduct may be handled by the Monitoring Officer.

7.3 It should be noted that if a whistle-blower is already the subject of disciplinary or redundancy procedures, that those procedures will not necessarily be halted as a result of raising a concern under this policy. Both disciplinary and whistleblowing processes would continue to apply.

7.4 When conducting the investigation, the investigating officer may involve: -

7.4.1 Internal Audit

7.4.2 Legal services

7.4.3 Human Resources

7.4.4 The Police (in some circumstances the Council will be required to inform the Police if there is reason to believe a criminal offence has been committed and may do so without informing the whistle-blower)

7.4.5 The external auditor

7.4.6 The Monitoring Officer

7.4.7 The Chief Finance Officer (s.151)

7.4.8 Any other person at the discretion of the investigating officer

7.5 The investigating officer should, in the first instance, determine whether it is appropriate to inform any employee who is the subject of a whistleblowing allegation. Guidance should be sought from the Monitoring Officer.

- 7.6 The investigating officer will make initial enquiries to decide whether an investigation is appropriate and, if so, what form it should take having regard to the law and the public interest.
- 7.7 If the investigating officer decides that a disciplinary investigation is the appropriate course of action to take, he/she will advise Human Resources who will instruct an appropriate person to conduct the disciplinary investigation and ensure that the investigation is carried out in accordance with the Council's Disciplinary Policy.
- 7.8 Some concerns may be resolved by agreed action without the need for investigation.
- 7.9 The Council will take steps to minimise any difficulties that persons may experience as a result of raising a concern. For instance, if he or she is required to give evidence in criminal or disciplinary proceedings the Council will arrange for advice to be given about the procedure (but not about what answers to give).
- 7.10 The Council accepts that persons need to be assured that the matter has been properly addressed. Subject to legal constraints, the Council will inform the whistle-blower of the progress and outcome of any investigation.
- 7.11 The Council openly encourages whistleblowing done in good faith. Anyone who makes an allegation in good faith, which is not subsequently confirmed by the investigation, will continue to have protection under this policy from victimisation or harassment.
- 7.12 Whistleblowing is an important part of organisational governance and must be treated as such. Appropriate action may be taken against an individual who makes malicious or vexatious allegations, which may be considered a disciplinary offence.

8. The Responsible Officer

- 8.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality.
- 8.2 The Monitoring Officer will report as necessary to the Council.
- 8.3 The Monitoring Officer must be informed of the receipt of any concern raised under this Policy, how this is to be handled and the outcome, once the matter is concluded.
- 8.4 The Monitoring Officer will ensure:
- 8.4.1 that this policy is publicised via the Council's website and specifically

- 8.4.2 every new employee will be advised to familiarise themselves with the policy when joining the Council;
- 8.4.2 every contract or partnership arrangement will require the contractor to communicate the policy to their staff and adopt its provisions when working for the Council; and
- 8.4.3 all newly elected Members shall be provided a copy of the policy.

9. How the Matter Can Be Taken Further

- 9.1 This Policy is intended to provide a process within the Council, through which appropriate persons may raise concerns. If at the conclusion of this process the person is not satisfied with any action taken or feels that the action taken is inappropriate, the following are suggested as further referral points:
 - 9.1.1 the Council's external auditor
 - 9.1.2 the Council's internal auditor
 - 9.1.3 Your Trade Union
 - 9.1.4 Your local Citizens Advice Bureau Relevant professional body or regulatory organisation
 - 9.1.5 A relevant voluntary organisation
 - 9.1.6 The Police
 - 9.1.7 Your Solicitor
- 9.2 Advice should be taken before making an external disclosure and the internal procedure should normally have been followed first.
- 9.3 If you feel you cannot approach anyone in the Council in the first instance, you may wish to report your concerns through Protect on 020 3117 2520 or contact the Protect Advice Line. Protect are an independent charity, and information provided to Protect is protected under the Public Interest Disclosures Act. Their lawyers provide confidential advice free of charge.
- 9.4 In taking advice from sources outside the Council, a person must ensure that, so far as possible, concerns are raised without confidential information being divulged.
- 9.5 If an individual wishes to complain to the Council about how the investigation of their concerns was carried out, they should address their complaint directly to either the Head of Internal Audit, the Monitoring Officer or the Chief Executive that a complaint has been made regarding a whistleblowing investigation. If one of those officers was involved in the original investigation they should not be the reviewing officer for the complaint. The reviewing officer will determine which service is best placed to deal with the complaint and appoint an appropriate officer to deal with the complaint. This is specific to whistleblowing investigations and separate to the Council's corporate complaints procedure.

- 9.6 Further to this policy, any individual has the right and responsibility to refer a concern to the Police if they suspect a criminal act.
- 9.7 The Council would not normally expect whistle-blowers to make disclosures to the press.