

Whistleblowing Policy

Issued by the Human Resources & Organisational Development Team



If you require this policy in an alternative format please go to the end of this document for details.

Introduction

This Policy applies to all persons working for KCC or on our behalf, including members, employees at all levels whether permanent or temporary, directors, officers, agency workers, those who are on work placements and work experience, seconded workers, volunteers, interns, agents, contractors, external consultants, third-party representatives and partners.

This Policy does not form part of any employee's contract of employment. It may be amended at any time and KCC may depart from it depending on the circumstances of any case.

All organisations face the risk of things going wrong or of unknowingly harbouring wrongdoing. By promoting a culture of openness within KCC, individuals are encouraged to raise issues which are of concern at work. By knowing about wrongdoing at an early stage, steps can be taken to safeguard the interests of all staff working for KCC or on our behalf and prevent fraud and corruption before it happens.

KCC is committed to the highest possible standards of openness, probity and accountability. If individuals have concerns regarding any aspect of our work we encourage them to come forward and speak up with their concerns. In some instances, concerns may need to be expressed on a confidential basis, such as where the concerns relate to an individual's Grandparent Manager or Head of Service.

Aim

This policy is intended to encourage individuals to raise serious concerns internally within KCC, without fear of reprisal or victimisation, rather than overlooking a problem or raising the matter outside.

This policy aims to ensure individuals:

- can feel confident in raising serious concerns knowing that these will be taken very seriously and to question and act upon concerns about practice
- are provided with avenues to raise concerns and receive appropriate feedback on any action taken
- receive a response to their concerns and are aware of how to pursue the matter further if they are not satisfied with the outcome
- can be reassured that they will be protected from reprisals or victimisation if they make a disclosure
- are aware that, in the case of KCC employees, a false or malicious disclosure will be addressed in accordance with the KCC Disciplinary Procedure.

What is whistleblowing?

A whistleblower is a person who is working for or with KCC as detailed in the introduction and raises a concern which relates to possible fraud, crime, danger or other serious risks which could threaten service users, customers, members of the public or the success and reputation of KCC.

Scope

This Policy applies to all persons working for KCC or on our behalf, including members, employees at all levels whether permanent or temporary, directors, officers, agency workers, those who are on work placements and work experience, seconded workers, volunteers, interns, agents, contractors, external consultants, third-party representatives and partners.

Concerns that are raised will be addressed in accordance with the associated whistleblowing procedure and these can include matters such as:

- conduct which is, has been or is likely to be a criminal offence or breach of law
- conduct that has occurred, is occurring or is likely to occur the result of which KCC fails to comply with a legal obligation. For example, unauthorised or misuse of public funds, possible fraud and corruption, sexual or physical abuse of clients, or other unethical conduct and discrimination of any kind
- a concern that a KCC employee (or someone working with us) or a service user may be at risk of being drawn into extremism and terrorism (see below)
- disclosures related to past, current or likely miscarriages of justice
- past, current or likely health and safety risks, including risks to the public as well as other employees (see below)
- past, current or likely damage to the environment
- concerns about any aspect of service provision
- other concerns regarding the conduct (including breaches of known standards of officers or KCC Members or others acting on behalf of the KCC)
- Information relating to any concerns that is being or likely to be deliberately concealed

If individuals wish to raise any issues, concerns or complaints relating to health and safety and which are not confidential, they should follow the approach set out in the [Guidance for Raising and Resolving Safety Concerns & Complaints](#)

If employees wish to raise a concern regarding issues relating to their own employment, the KCC Resolution Policy and Procedure should be used. Further information on this procedure can be found on KNet.

Protection of the whistleblower

KCC is committed to the Whistleblowing Policy and individuals are encouraged to raise concerns about malpractice in the context of the policy. Concerns will be treated seriously and actions taken in accordance with this policy.

Individuals may be anxious that, by reporting genuine whistleblowing concerns their actions may leave them vulnerable. It is important to emphasise that KCC will not tolerate the victimisation, intimidation or penalisation of anyone raising a genuine concern, anyone involved in the subsequent investigation or anyone acting as a witness.

Anyone responsible for any such action against individuals making genuine disclosures will be the subject to a disciplinary investigation under the disciplinary policy.

It is automatically unfair to dismiss an employee if the reason, or main reason, is that they made a protected disclosure, i.e. a disclosure about a 'relevant failure' in the following areas:

- a criminal offence;
- breach of legal obligation;
- a miscarriage of justice;
- danger to an individual's health and safety;
- damage to the environment; or
- deliberate concealment of information relating to any of the above.

Whistleblowers receive protection under the Public Interest Disclosure Act 1998 (PIDA). This legislation seeks to safeguard staff in any organisation who challenge wrongdoing or misconduct. This policy seeks to integrate those statutory protections into a broader framework. Further information can be found at the end of the policy under Appendix 1.

Confidentiality

All concerns raised will be treated in confidence and every effort will be made not to reveal the individual's identity if this is their wish. However, in certain cases, it may not be possible to maintain confidentiality if the individual is required to come forward as a witness.

Anonymous Allegations

Concerns expressed anonymously are much less powerful than those that are attributed to a named individual. However, anonymous allegations will be considered and investigated at KCC's discretion. In exercising the 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.

Untrue Allegations

Persons who knowingly make false, malicious or vexatious allegations will be investigated and could be subject to disciplinary action under the disciplinary policy.

Limitations

The act of making a disclosure grants no valid claim of immunity from unrelated or pre-existing disciplinary proceedings.

Nor can a person making a disclosure which reveals their own complicity in misconduct, claim immunity in their own case.

Bribery Act 2010

KCC has a zero tolerance approach to acts of bribery and corruption. Any instances of suspected bribery and corruption must be reported. If you do not feel able to report your concerns to your line manager, the Whistleblowing Procedure can be used to confidentially raise this matter.

Counter-Terrorism & Security Act 2015 – Prevent duty for Local Authorities

The Counter-Terrorism & Security Act 2015 places a duty on Local Authorities to have due regard to the need to prevent people from being drawn into terrorism. If you have a concern that a KCC employee (or someone who works with us) or a service user is being drawn into extremism or terrorism you should raise this via the ['CHANNEL' referral process](#).

Additional Information

E-Learning module – 'Whistleblowing with Confidence'

Alternative Formats

This document is available in other formats. Call 03000 421553 or email alternativeformats@kent.gov.uk

Appendix 1

The Law

The [Public Interest Disclosure Act 1998 \(PIDA\)](#) applies to all employees and is in place in order to allow employees to raise legitimate concerns about matters that are of a public nature. These include situations where criminal offences, breaches of legislation and illegality occur. These are called "Qualifying Disclosures".

It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be committed; a 'reasonable belief' is enough to form the basis of concerns. Some examples of this may be:

- Criminal offences.
- Fraud, bribery or financial mismanagement.
- Abuse of vulnerable groups of people.
- Practices that put the health and safety of employees or customers at risk.
- Failure to comply with legal obligations.
- Breaches of legislation, such as the Data Protection Act.
- Covering up medical negligence.
- Causing damage to the environment.
- Concealment of any of the above.

For a disclosure to be protected it should be made in the appropriate manner to a KCC manager. For example, disclosing a serious health and safety issue to a manager and / or the Health and Safety Officer is likely to be protected, but not if the concern was disclosed directly to the newspapers or media without having first attempted to make the organisation aware of the problem.

This policy provides guidance on what falls under the scope of the whistleblowing legislation, how any such issues may be raised in confidence within KCC and provides assurances that its employees will be protected from suffering from any detriment (i.e. victimisation, discrimination or dismissal) for raising any matters of public interest.