

Whistleblowing Policy and Investigation Procedure

Confidential reporting of malpractice at work

1. Introduction

Wandle is committed to high standards of openness, probity and accountability. In line with this commitment Wandle encourages all employees with serious concerns about any aspect of work to come forward and raise these without fear of being disloyal or suffering harassment or victimisation as a result.

It is important not to ignore concerns or suspicion of malpractice. All cases will be treated seriously, consistently and fairly, and all reasonable steps will be taken to maintain the confidentiality of the whistleblower where they request this (unless there is a requirement by law to break this confidentiality).

This policy and procedure provides a safe route to raise concerns within Wandle at an early stage without fear of victimisation, discrimination or disadvantage. It is in everyone's interest that potential failings and malpractice are identified early so that Wandle can take appropriate action.

2. Purpose of Policy

The purpose of this policy is to:

- Support a culture of honesty, integrity and transparency, and which is customer focused
- Encourage the reporting of information that can be used to uphold this culture, recognising that whistleblowing can be an effective part of the internal audit process to prevent malpractice
- Ensure that anyone wanting to raise concerns understands what whistleblowing is, how they can make use of it effectively, and not be subject to mistreatment, bullying or harassment as a result
- Comply with the Public Interest Act 1998 (inserted into the Employment Rights Act 1996) and the Enterprise and Regulatory Reform Act 2013.

This policy also recognises the difference between whistleblowing concerns and grievances. Personal grievances (e.g. bullying, harassment or discrimination) aren't covered by whistleblowing law, unless the particular case is in the public interest. Wandle has a grievance policy and procedure for dealing with employment related complaints.

3. Scope of Policy

Whistleblowing is when a worker reports suspected malpractice (wrongdoing) at work. Officially this is called 'making a disclosure in the public interest'.

This policy applies to all employees and contractors working for Wandle or on its premises, e.g. agency staff. It also applies to any person who undertakes to do or perform (or otherwise) any work or service for Wandle such as casual workers and freelancers.

Whistleblowing law is located in the Employment Rights Act 1996 (as amended in the Public Interest Disclosure 1998). Whistleblowing law protects workers who disclose information about malpractice at their workplace or former workplace provided certain conditions are met. The conditions concern the nature of the information disclosed and the person to whom it is disclosed. If these conditions are met, the Act protects the worker from suffering detriment (e.g. disciplinary action, dismissal, etc.) as a result of having made the disclosure.

Further information on these conditions is given below.

3.1 Categories of Concern

To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe that:

1. they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.
2. the disclosure shows past, present or likely future wrongdoing; falling into one or more of the following categories:
 - criminal offences (this may include e.g.. types of financial impropriety such as fraud)
 - failure to comply with an obligation set out in law
 - miscarriages of justice
 - endangering of someone's health and safety
 - damage to the environment
 - covering up wrongdoing in the above categories.

Within the context of Wandle's work, the above could include serious concerns about service provision, the conduct of staff members, or others acting on behalf of Wandle that falls below established standards of practice or legal requirements such as financial or regulations.

3.2 Internal and External Disclosures

If the matter raised under this policy falls into one of the categories listed at 3.1 above, then this is described as a 'qualifying concern' and will ensure that the whistleblower qualifies for protection under the legislation.

It should be noted that so called "gagging clauses" in settlement agreements do not prevent workers making disclosures in the public interest.

Specific evidence of a concern is not required for Wandle to look into concerns raised.

Disclosures within Wandle:

A qualifying disclosure (sometimes called a protected disclosure) made internally to an employer or other reasonable person¹ is protected. This low threshold is intended to encourage disclosures to be made internally, with the view that employers will address the issue to which the disclosure relates.

Staff should be able to report concerns internally with the expectation that the concern will be heard and investigated transparently and fairly.

To ensure that when the 'whistle is blown' the issues are not dismissed or not dealt with adequately Wandle ask that concerns are initially reported to the whistleblower's line manager.

If however the concern is not addressed or the manager is implicated in the concern, it should be reported directly to the company secretary.

If the disclosure is from an external source (e.g. a resident or contractor) they are able to contact any of the following:

- The company secretary
- And/or the chief executive officer or another executive in the CEO's absence
- And/or the chair of the Board

Dependent on the type of concern reported, other Wandle policies may then come into operation, e.g. if this relates to a safeguarding concern, the Safeguarding Policy and Procedure should be referred to. Further information is given in appendix 1.

¹ The whistleblower reasonably believes that the relevant failure relates solely or mainly to (1) the conduct of a person other than his employer, or (ii) any other matter for which a person other than his employer has legal responsibility to that other person.

Disclosures to External Bodies

With the exception of disclosures made to legal advisers, when a disclosure is made externally there are additional conditions which need to be satisfied before a disclosure can be protected under whistleblowing law.

Broadly the worker must reasonably believe that:

- the concern will not be addressed internally by the employer.
- the information and any allegation it contains are substantially true.
- they are making the disclosure to the relevant person or body. If disclosing to a prescribed person, this should be made to the correct prescribed person (see below).

These prescribed bodies must be legally recognised and a full list of such bodies is included in the Department of Business, Innovation and Skills list of prescribed people and bodies. A link to this list is given below (or it can be found on the main Government website www.gov.uk).

[Government List-of-Prescribed-People-and-Bodies](#)

Disclosure to the Media

If a member of staff goes to the media with their concerns, they can expect to lose their whistleblowing law rights, unless there are specific circumstances. Further information on these circumstances are set out in the Department for Business Innovation and Skills Guidance on Whistleblowing (see below).

Further Advice

Further information and advice to those thinking of whistleblowing is available through other bodies e.g. Acas, Public Concern at Work or Trade Unions. More information is given through the following links, (or can be found on the main Government website www.gov.uk).

[The Government Overview of Whistleblowing](#)

[The Government Whistleblowing Guidance and Code of Conduct for Employers](#)

4. Investigation

Reports of whistleblowing will always be investigated in full and fairly.

4.1 Anonymous reporting

It should be noted that In the event of a concern being made anonymously, this would not stop an investigation being carried out but it will make feedback difficult and could hinder the investigation. It could also make it difficult for a member of staff

to qualify for legal protections as a whistleblower, as there will be no documentary evidence linking the worker to the disclosure for the employment tribunal to consider. With this understanding, an anonymous concern can be made to:

Fraud@Wandle.com.

4.2 The Investigation Procedure

In some cases, a suitable conclusion may be reached through an initial conversation with a line manager and/or the company secretary. In other cases, there may be a need for a more formal investigation.

As part of this procedure:

- The whistleblower will be offered appropriate support e.g. support from an appropriate manager (such as the investigator) and accessing the employee's assistance programme. They should also be told that they can arrange to be accompanied by a trade union representative or colleague in any meeting about disclosure.
- The whistleblower will be given information on how the procedure is likely to proceed, the likely timescales (i.e. taking account of the involvement of others internally and externally, the matter will be dealt with as promptly as possible), and the feedback they can expect.
- Once the whistleblower has reported their concern and they believe that it is being dealt with seriously and fairly, they should only discuss the matter with the appropriate manager(s) and investigator(s). Otherwise they should treat the matter as confidential and not discuss it with others e.g. other staff.
- Every reasonable step will be taken to protect the person from any possible reprisals. Reliance on their testimony will only occur where there is no alternative, or where the case may be severely undermined without recourse to that testimony. Any instances of victimisation of a whistleblower will be taken seriously and managed appropriately e.g. through the disciplinary or Gross Misconduct Policy and Procedure.
- If a member of staff is involved in the alleged wrongdoing, the company secretary will be informed and take forward the appropriate action according to Wandle's Human Resource policies and procedures.
- Documentation will be kept by the investigator including whether the whistleblower has requested confidentiality, and summaries of any meetings taking place. This documentation will then be held according to the Wandle data retention schedule.

Wandle will do everything within its power to ensure that the person feels supported and confident in expressing their concerns. If the person feels that they cannot submit their testimony as the only basis for formal action due to their reasonable concerns, they may have the prerogative to withdraw it.

However, there may be exceptional or urgent circumstances where the matter may be taken out of individual hands. These would include:

- If the problem involves a very senior member of staff or board member and the internal structures prove ineffective.
- There is a danger to people.
- In the case of a criminal offence, where the police could be contacted.

If an investigation concludes that the disclosure has no basis in fact, Wandle recognises that this does not automatically mean that it was raised maliciously by a worker.

4.3 Vexatious Allegations

If, however, the allegation is found to be vexatious and without basis Wandle reserves the right to take appropriate legal action. If the vexatious allegation was made by an employee it will be passed to company secretary. Vexatious allegations are considered gross misconduct and the disciplinary procedure will be used to address this.

5. Feedback and Follow Up

The person reporting the concern will be informed as soon as possible if their concern does not fall within the Whistleblowing Policy. Alternative mechanisms for addressing the issue will be explored, where appropriate.

Where the investigation goes ahead, the responsible investigator shall report back to the concerned person about the progress and outcome of any investigation or action that is proposed. In doing this, however, the investigator will also have a duty to respect the confidentiality of others as appropriate.

Wandle will take steps to ensure that concerned persons are protected after the event. The concerned person will have a follow-up meeting(s) with the investigating manager. Further follow-up measures may include change of line-management, disciplinary action where victimisation has occurred as a result of having made a report, referral to a specialist counsellor or occupational health advisor or other steps appropriate to the individual circumstances

Anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymised email address.

6. Exceptions

Whistleblowing does not include breaches of a workers employment contract. Any breaches of an employment contract should be reported to HR via the Grievance Policy.

Interaction with Other Policies

Various Wandle policies and procedures may become relevant depending on the concern being reported as set out below

| Policies and procedures | Connection to Whistleblowing |
|---|---|
| Health and Safety Policy | If the concern about an individual's health and safety potentially involves a breach of Wandle's health and safety obligations, and/or if further guidance is needed on how a concern might be addressed. |
| Anti-Fraud and Bribery Policy | If the concern relates to suspected fraud and/or if further guidance is needed on how a concern might be addressed. |
| Safeguarding Policy | If the concern involves abuse of a resident with care or support needs, and/or if further guidance is needed on how a concern might be addressed. |
| Human Resources Policies and Procedures | <p>This includes:</p> <ul style="list-style-type: none"> • Bullying and Harassment Policy; • Grievance Policy; • Disciplinary Policy; • Equality and Diversity Policy; • Code of Conduct; and • Health & Safety Policy. <p>HR Policies will be used to take action against employees at all levels in the organisation if they victimise whistleblowers. Employers are vicariously liable for the actions of workers who subject a colleague to any kind of detriment because they have blown the whistle, unless they can demonstrate they took all reasonable steps to prevent this from happening. Workers can also be personally liable if they subject a colleague to a detriment.</p> |
| Data Protection and IT usage policy | Relates to confidentiality and possible misuse of data. |