

Whistleblowing Policy

JSCC Approved – 3 October 2019



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Introduction

1. Employees are often the first to realise that there may be something seriously wrong within the council. 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, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
2. The Public Interest Disclosure Act 1998 protects employees who report wrongdoing within the workplace but it is the aim of this policy to ensure that as far as possible our employees are able to tell us about any wrongdoing at work which they believe has occurred or is likely to occur.
3. The council recognises that employees may not always feel comfortable about discussing their concerns internally, especially if they believe that the council itself is responsible for the wrong doing.
4. The aim of this policy is to ensure that employees are confident that they can raise any matter with the council that concerns them in the knowledge that it will be taken seriously, treated as confidential and that no action will be taken against them.
5. The council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we expect employees, and others that we work and deal with, who have serious concerns about any aspect of the council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
6. This policy makes it clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage. This whistleblowing policy is intended to encourage and enable employees to raise serious concerns within the council rather than overlooking a problem or 'blowing the whistle' outside.
7. The policy applies to all employees and those contractors working for the council, for example, certain agency staff, builders, apprentices, certain trainees, homeworkers etc. It also covers suppliers and those providing services under a contract with the council from their own premises.
8. The procedures are in addition to the council's complaints procedures and other statutory reporting procedures which may apply. Managers are responsible for making employees aware of the existence of these procedures.

The responsible officers

The council's monitoring officer has overall responsibility for the maintenance and operation of this policy. The people and organisational development team manager will maintain a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the council.

The council's Section 151 officer will be responsible for investigating allegations of fraud or financial irregularity. Other offences will be investigated by managers or a member of the council's management team.

Aims and scope of this policy

This policy aims to:

- Encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice
- Provide avenues for employees to raise those concerns and receive feedback on any action taken
- Ensure that employees receive a response to their concerns and that managers are aware of how to pursue them
- Reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made a disclosure in good faith

There are existing procedures in place to enable employees to lodge a grievance relating to their own employment.

The whistleblowing policy is intended to cover major concerns that fall outside the scope of other procedures.

These include:

- Conduct which is an offence or a breach of law
- Failure to comply with any legal obligations
- Disclosures related to miscarriage of justice
- Health and safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and corruption
- Other unethical conduct
- Deliberate concealment of any of the above

Thus, any serious concerns that employees have about any aspect of service provision or the conduct of officers, members of the council or others acting on behalf of the council can be reported under the whistleblowing policy.

This may be about something that:

- Makes employees feel uncomfortable in terms of known standards, their experience or the standards they believe the council subscribes to
- Is against the council's procedure rules and policies
- Falls below established standards of practice
- Amounts to improper conduct

Safeguards against harassment and victimisation

The council is committed to good practice and high standards and wants to be supportive of employees.

The council recognises that the decision to report a concern can be a difficult one to make. If what is being said is believed to be true, employees should have nothing to fear because they will be doing their duty to the council and those for whom we are providing a service.

The council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action, including disciplinary action if necessary, to protect employees when they raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect the employee who raises an issue.

Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal an employee's identity if he/she so wishes. At the appropriate time, however, an employee may need to come forward as a witness.

Anonymous allegations

This policy encourages employees to put their name to an allegation whenever possible.

Concerns expressed anonymously are much less powerful and will only be considered in exceptional circumstances at the discretion of the council.

In exercising this discretion, the factors to be taken into account would include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources
- Consideration of the damage that could be caused to an individual or group of people if the allegation is not proven

Untrue/vexatious allegations

If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against him/her.

If, however, an employee is found to have made an allegation maliciously or for personal gain then this will constitute a misconduct and will be dealt with in accordance with the disciplinary procedure.

How to raise a concern

As a first step, an employee should normally raise concerns with his/her immediate line manager or manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if an employee believes that management is involved, he/she should approach the people and organisational development team manager.

Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to provide:

- the background and history of the concern (including relevant dates)
- the reason why they are particularly concerned about the situation

Although employees are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern. The earlier a concern is expressed, the easier it is to take action.

Employees may wish to consider discussing their concern with a colleague first and they may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns.

Employees may invite their trade union or a friend to be present during any meetings or interviews (off site if they prefer) in connection with the concerns they have raised.

How the council will respond

The council will respond to employees' concerns, not forgetting that testing out concerns is not the same as either accepting or rejecting them.

Where appropriate, the matters raised may:

- Be investigated (in accordance with the Financial Crime Response Plan contained within the Prevention of Financial Crime, Anti Fraud and Corruption and Anti Bribery Policy) 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 inquiry

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

The overriding principle which the council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, grievance, disciplinary or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required (e.g. suspension), this will be taken before any investigation is conducted.

Within 10 working days of a concern being raised, the responsible officer will write to the employee who raised it:

- Acknowledging that the concern has been received
- Indicating how we propose to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Confirming whether any initial enquiries have been made
- Confirming what support mechanisms there are in place for the employee
- Informing the employee whether further investigations are necessary and, if not, why not

The amount of contact between the officers considering the issues and the employee who raised them will depend on the nature of the matters, the potential difficulties involved and the clarity of the information provided. If necessary, the council will seek further information from the employee.

The council will take steps to minimise any difficulties which employees may experience as a result of raising a concern. For instance, if an employee is required to give evidence in criminal or disciplinary proceedings, the council will arrange for him/her to receive advice about the procedure.

The council accepts that employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform the employee who reported the matter of the outcome of any investigation.

How the matter can be taken further

This policy is intended to provide employees with an avenue within the council to raise concerns. The council hopes employees will be satisfied with any action taken. If an employee is not satisfied and feels it is right to take the matter outside the council, the Audit Commission is the designated independent organisation nominated for this purpose by the council.

The following are also possible contact points:

- The external auditor
- The employee's trade union
- Citizens' Advice Bureau
- A relevant voluntary organisation, for example, Public Concern at Work (PCAW)
- Relevant professional bodies or regulatory organisations
- The police

Contact details are set out in the Appendix to this policy.

If an employee does take the matter outside the council, he/she should ensure that confidential information is not disclosed. The council's monitoring officer can provide further advice on this.

Monitoring

The effectiveness of the council's whistleblowing code will be monitored annually and it will be updated where/when necessary.

Employees' rights

The policy does not prevent employees from exercising their right to report to relevant outside bodies nor prevent anyone from having rights under the Public Interest Disclosure Act 1998.

Data protection

Purpose and legal basis for processing

When an individual makes a disclosure our purpose is to investigate and take appropriate action.

The legal basis we rely on to process personal data is article 6(1)(e) of the General Data Protection Regulation (GDPR), which allows us to process personal data when this is necessary to perform our public tasks as a local authority. In this instance we will be complying with the provisions of the Public Interest Disclosure Act 1998.

If the information individuals provide us in relation to the disclosure contains special category data, such as health, religious or ethnic information the legal basis we rely on to process it is article 9(2)(g) of the GDPR (which also relates to our public task and the safeguarding of individuals fundamental rights) and Schedule 1 part 2(6) of the Data Protection Act 2018 which relates to statutory and government purposes.

What we need

We need enough information from individuals to investigate the disclosure, including any evidence to support it. This normally includes identity, contact details and any other information given to us about individuals involved in the complaint. We will treat the information provided confidentially.

Individuals can contact us anonymously if they prefer but we are more likely to be able to investigate potential wrongdoing if we are confident that the person making the disclosure is in a position to make an informed complaint. It will also mean we are better able to feedback information about any action we have taken, if we can.

Why we need it

We need to know the details of the complaint so that we can decide on our compliance with the relevant legislation and take appropriate action where necessary.

What we do with it

We will treat the information individuals provide as confidential and won't disclose it without lawful authority. But to look into a matter properly, we will usually need to disclose some information to the person or organisation concerned. We can discuss this with individuals, but they should clearly indicate any information that they don't want us to share from the outset.

If possible, we will give individuals feedback about any action we take as a result of their disclosure. However, this feedback will be restricted.

We will use personal information to process disclosures and to check on the level of service we provide. We may compile and publish statistics showing such information as the number of disclosures we receive, but not in a form that identifies anyone.

How long we keep it

For information about how long we hold personal data, see our retention schedule.

What rights do individuals have?

We are assessing reports of potential breaches of the law, so individuals have the right to object to our processing of their personal data. There are legitimate reasons why we may refuse objections, which depend on why we are processing it.
For more information on your rights please see our full privacy notice

Do we use any data processors?

No

Appendix

Contact details for external organisations

External Auditor
Mazars
Park View House
58 The Ropewalk
Nottingham
NG1 5DW
Tel: 0115 964 4744

UNISON East Midlands
UNISON Regional Centre
Vivian Avenue
Nottingham
NG5 1AF
Tel: 0800 0857 857
E-mail: eastmidlands@unison.co.uk

Citizens' Advice Bureau
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA
Tel: 01427 810914
Website: www.citizensadvice.org.uk

Protect – (was Public Concern at Work)
The Green House
244-254 Cambridge Heath Road
London E2 9DA
Tel: Whistleblowing Advice Line 020 3117 2520
www.pcaw.co.uk
Email: UK advice line: whistle@protect-advice.org.uk

Lincolnshire Police
Lincolnshire Police Headquarters
Deepdale Lane
Nettleham
Lincs
Tel: 01522 532222

Policy Statement

West Lindsey District Council has a commitment to equal opportunities. It seeks to ensure that no potential or current employee receives less favourable treatment than another on the grounds of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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If you would like a copy of this in large, clear print, audio, Braille or in another language, please telephone

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