Lincolnshire COUNTY COUNCIL

Whistleblowing policy

Scope

Statutory requirements for our whistleblowing policy are primarily governed by the Public Interest Disclosure Act 1998 (PIDA).

You can use our whistleblowing arrangements if you are:

- a councillor
- council employee
- employee of a Local Authority school or a school governor (if the school has adopted our policy)
- a contractor
- partner
- member of the public.

Our policy also applies to agency staff, contractor staff and suppliers providing goods or services to us, or on our behalf.

Our whistleblowing arrangements do not replace the following:

- child protection safeguarding reporting
- adult care safeguarding reporting
- corporate complaints procedure
- disciplinary policy
- grievance policy

If you have a concern regarding the safety of child or young person, then you should make immediate contact with the child protection team:

- email: lscp@lincolnshire.gov.uk
- telephone: 01522 782333

If your concern relates to abuse or neglect of an adult, you should contact the safeguarding adults team:

- email: lsab@lincolnshire.gov.uk
- telephone: 01522 782155, out of hours: 01522 782333

You should only consider raising concerns through our whistleblowing arrangements if:

- you have genuine reasons why you cannot use the above policies and procedures
- you have reason to believe that these policies are failing or are not being properly applied
- there is an identifiable public interest aspect

Protected disclosures and confidentiality

The Public Interest Disclosure Act 1998 (PIDA) requires public bodies, such as ourselves, to have a whistleblowing policy. When a disclosure is made in the public interest and in accordance with this policy,the individual raising the concern has legal protection from detriment because of the disclosure. This is called a 'protected disclosure'.

PIDA will protect the individual making a Protected Disclosure, irrespective of whether the disclosure relates to information gained in the course of their employment. For example, a protected disclosure made by an individual acting as a service user would still fall under the PIDA protection.

This also applies to those who, as a last resort, feel the need to take their concerns to an outside body, such as the Local Government Ombudsman.

Independent advice can be sought from organisations such as Citizens' Advice should any individual be unsure whether their disclosure would be protected.

Members of the public who raise concerns are not legally protected by PIDA. We therefore offer the option for the person making the allegations to withhold their identity when they raise concerns.

You may feel that the only way you can raise your concerns is if we protect your identity. If the whistleblower does choose to disclose their identity, we will respect confidentiality as far is possible. However, there are times when we cannot guarantee this, for example, where a criminal offence is involved or if there are child protection or adult safeguarding issues.

We will attempt to ensure the whistleblower's identity is not disclosed to third parties. We will not disclose information unless the law allows or compels us to do so, for example to comply with a court order. If the information you provide includes personal information about another person, then that person may be entitled to access it under subject access provisions of the Data Protection Act or General Data Protection Regulations (GDPR).

If releasing that information could reveal identifying information about the whistleblower, we will always ask for your consent prior to releasing the information.

We will not tolerate any harassment or victimisation (including informal pressure). We will take action to protect you when you raise a concern believed to be in the public interest. We will take any disciplinary or corrective action should anyone attempt to victimise the whistleblower or prevent concerns being raised.

If we proceed to a formal investigation, we may require you to give evidence along with other employees and witnesses. We are, in some circumstances, able to do this without disclosing the identity of the whistleblower. A statement from you may also be required as part of criminal proceedings or Employment Tribunal. This depends on the nature of the concern.

If your whistleblowing disclosure results in an internal investigation and you provide a witness statement under that process, we may use your statement for disciplinary purposes. This means your statement may be given to the subject as part of a disciplinary hearing. An employee subject to the disciplinary process can ask to see personal information held about them at any time under the subject access provisions of the Data Protection Act. This may include information within your statement. If it is possible to provide access to personal information within your statement without revealing any information about you, we will do so. If this is not possible, we will always seek your consent before releasing any information.

If your statement is not required for disciplinary purposes, it will be:

- held confidentially on our case file (until the case file is destroyed after seven years)
- released only with your consent or a Police or Court Order

We:

- do not expect you to give us your consent. This is your decision alone, but we are required by law to ask you
- do not need a reason should you choose to refuse the request

If you find yourself the subject of a whistleblowing disclosure and a decision is made to investigate, we will follow the appropriate employment procedure:

- Employee Resolution (Grievance)
- disciplinary

This means you will have all the rights contained in that procedure, such as, the opportunity to respond to the allegation and representation at the investigatory interview

What you should report

We encourage you to use our whistleblowing arrangements for issues such as:

- a criminal offence, including:
  - fraud
  - bribery
  - corruption
  - theft
  - money laundering within the organisation

- health and safety risks or violations that could harm employees, customers, or the public
- environmental damage or violations of environmental regulations
- sexual harassment in the workplace
- discrimination or harassment in the workplace based on factors such as:
    - race
    - sex
    - gender reassignment
    - religion
    - age
    - disability
    - sexual orientation
    - marriage and civil partnership
    - pregnancy and maternity
- misuse of public funds or resources
- failure to comply with legal obligations or regulations
- concealment of information about a serious risk to public health or safety
- any other serious wrongdoing or misconduct that is in the public interest to disclose

It is important to note that for a disclosure to be protected under PIDA, it must:

- be made in good faith
- be based on a reasonable belief
- follow the procedures outlined in the organisation's whistleblowing policy

Please note this is not an exhaustive list.

We want to make sure that we are providing excellent services to the residents of Lincolnshire. Our staff, councillors, partners, and contractors have a vital role to play in achieving this goal. We expect everyone to be committed to our high standards of service which are based on the principles of:

- honesty
- openness
- accountability

We know we face the risk that something may go wrong or that someone may ignore our policies, procedures or the law resulting in some serious consequences. Experience shows that staff, or others who work on behalf of an organisation, often have worries or suspicions. By reporting their concerns at an early stage, they could help put things right or identify and stop potential wrongdoing.

A whistleblower is a term used for a person who works in or for an organisation and raises an honest and reasonable concern about a possible:

- fraud
- crime
- danger
- other serious risk

The issue of concern could threaten:

- colleagues
- service users
- customers
- members of the public
- the success and reputation of the organisation

We want you to feel that it is safe and acceptable to tell us about your concerns so that we can investigate and act as soon as possible. We recognise that you may be worried about reporting for several reasons:

- fear of reprisal or victimisation (for example loss of job)
- too much to lose (for example reputation, damage to career)
- feelings of disloyalty
- worries about who may be involved
- you have no proof only suspicions
- fear of repercussions if there is no evidence or you are proved wrong

We welcome all genuine concerns and will treat your issues seriously. This policy explains:

- how to raise a concern
- the types of activity you should report
- the protection we can provide
- confidentiality
- our response
- how you can take matters further, if necessary

We want to assure you that there is no reason to remain silent. Your decision to talk to us may be difficult but, if you believe what you are saying is true, you have nothing to fear. You are following our code of conduct and helping to protect the users of our services and the residents of Lincolnshire. We will not tolerate any harassment or victimisation. We will take action to protect those of you who raise concerns that you believe to be in the public interest.

UK law protects employees from dismissal, harassment, or victimisation if such treatment occurs because of having made a whistle-blowing disclosure considered to be in the public interest. In addition to the employer's liability, the individual who subjects the employee to such treatment may also be held personally liable.

Protected Disclosures do not cover personal grievances (for example: bullying, harassment, discrimination) unless it is in the public's interest. A public interest concern could include bullying, harassment or discrimination if it is affecting more than one person or the perpetrator is a person with authority and influence.

Therefore, this policy does not replace our existing employment policies:

- Employee Resolution (Grievance)
- disciplinary

You should use these policies if you have a personal grievance or are unhappy with the way you are being treated. Our whistleblowing arrangements are not intended to give you a further opportunity to pursue a grievance or complaint once you have exhausted the relevant employment procedures. However, the whistleblowing arrangements can be used where you do not feel safe using another reporting mechanism. In these cases, your complaint will be recorded and monitored while it is passed with advice to HR to apply the relevant employment policies.

You may be a member of the public with concerns or information which you think we should know about or investigate. You should follow the corporate complaints process if your concern is about a particular service that we have provided to you.

How to raise a concern

We encourage you initially to raise your concern internally. This allows us the opportunity to right the wrong and explain the behaviour or activity. We also advise staff to report any allegation to their line manager.

We recognise that your first actions will depend upon the seriousness and sensitivity of the issues and who you believe to be involved. We advise that you make it clear that you are raising your concerns under our whistleblowing arrangements. This will help managers respond in line with this policy.

It is better to submit concerns in writing. We need the background and history of your concern, giving names, copies of any documents, dates, and places (where possible). We would like you to explain why you are concerned about the situation. We do not expect you to prove the truth of an allegation, but you will need to show that there are sufficient grounds for your concern.

You can use the confidential PO box or email address (which is monitored by a nominated officer within the investigations team):

Lincolnshire County Council
PO Box 640
Lincoln
LN1 1WF

Email address: whistleblowing@lincolnshire.gov.uk.

Alternatively, you can use our confidential whistleblowing line: freephone 0800 0853716

We operate this dedicated reporting line during normal working hours (9am to 5pm). If you call this number out of hours, you can leave a message on the answer phone which is in a secure area and your call will be returned.

Staff can seek independent advice from their trade union representative or professional association. They can also invite a work colleague to raise a concern on their behalf.

Further advice may be sought from the whistleblowing charity Protect on their whistleblowing advice line: 020 3117 2520

Remember, the earlier you raise the concern, the easier it is for the council to act.

The council as a 'prescribed body'

Under whistleblowing legislation, workers in other organisations may choose to make a disclosure to the council, rather than their employer, regarding the following issues:

- consumer protection; (Trading Standards, Mark Keal)
- food standards; (Trading Standards, Mark Keal)
- health and safety; (Trading Standards, Mark Keal)

If such a disclosure is received, it should be forwarded to the relevant council department for investigation.

However, we recognise that there may be certain circumstances in which you do not feel this is possible; we would rather you raise a concern with the appropriate regulatory body than not at all. Details of relevant external organisations can be found at Whistleblowing: list of prescribed people and bodies.

Anonymous or untrue allegations

We do not encourage anonymous reporting as the concerns are more difficult to investigate and are less powerful. We would like you to put your name to the allegations whenever possible and remind you of the protection we can provide if we know who you are.

Anonymous whistleblowing referrals will be considered at the discretion of the officers handling your concern, in consultation with the service area, where appropriate. This discretion will be based on the:

- seriousness of the issues raised
- credibility of the concern
- likelihood of confirming the allegation from an attributable source
- evidence base

It may be that our investigations do not confirm your allegation. We take all concerns seriously and can assure you that no action will be taken against you if you have raised a concern in the genuine belief that it

is, or may be, true.

If we find that you have maliciously made a false allegation, we will act, and you will not be eligible for protection under PIDA.

How we will respond

Our response will depend on the nature of the concern raised and may be:

- advice only
- resolved by agreed action without the need for investigation
- investigated internally (by management, counter fraud team, referred to the relevant safeguarding team (child protection or vulnerable adults)
- referred to the Police if a criminal matter
- referred to the external auditor
- the subject of an independent inquiry

The officer receiving the whistleblowing allegation (if a major issue) will immediately notify the counter fraud team.

We may carry out initial enquiries to protect individuals or employees and those accused of wrongdoing. We will use the results of these enquiries to decide whether an investigation is needed and if so, what form it should take. If urgent action is required, this will be taken before we start any investigation.

The investigations team will follow up concerns of fraud, bribery, or corruption. If there are other serious concerns of a potentially criminal nature, they will refer the complaint to our monitoring officer.

They will determine whether:

- we should refer the concern to the Police directly or
- advise the complainant to make such a referral

If the monitoring officer decides that we should refer the matter to the Police, we will seek advice from the Police to establish:

- if a simultaneous internal investigation can be conducted
- whether or not they consent for the subject of the complaint to be informed of allegations

Our code of conduct requires employees to notify their line manager immediately of any criminal investigation. Failure to do so could result in disciplinary action being taken.

We will acknowledge your whistleblowing disclosure within five working days. Within the next 10 working days we will explain in writing how we propose to deal with the matter.

The whistleblower will be:

- given an estimate of how long it will take to provide a final response
- told if initial enquiries have been made
- told if further investigation is required, and if not, why not (where appropriate)
- given details of support mechanisms
- advised of the investigating officer (where appropriate)
- advised how we will inform you of progress

The amount of contact between you and the officer considering your whistleblowing disclosure will depend on the nature of the concerns raised. For example, if further investigation is required, the investigator may need to seek additional information from you.

If a meeting is necessary, this can be held off site if you prefer. If you are an employee, you will have a right to be accompanied by a union representative or work colleague (not involved in the area where the concern exists). If you are not an employee, you may wish to bring a friend with you. A neutral venue can be arranged, where required.

We will help with any difficulties you may experience because of raising a concern. We will, for example, provide advice if you are required to give evidence for criminal or disciplinary proceedings. Sometimes whistleblowers have counter-allegations made against them. We have a duty to investigate any concerns that we receive and that will apply in these circumstances. However, this will not detract from the principles, as set out in this policy, which govern how we will respond to whistleblowers. The over-riding objective will be to establish the truth.

We will retain records of all work carried out and actions taken to address the concerns raised by the whistleblower. This will include the investigator's case file, where relevant. We will hold all files securely and confidentially, in accordance with our retention of records policy.

At the end of the investigation, we will provide feedback to the whistleblower (if known) on actions taken and limited detail on the outcome of investigation. Feedback will be subject to legal constraints, but we recognise the importance of providing assurances that the matter has been dealt with properly.

Taking the matter further

If you have genuine concerns about how we have handled your whistleblowing disclosure you can raise this with the investigating officer(s) and, or the monitoring officer. We hope that you will reach a suitable conclusion to the matter.

If you remain dissatisfied, you can contact our external auditors at:

Rashpal Khangura
KPMG LLP (UK)
1 Sovereign Street
Leeds
LS1 4DA

You may also refer your concern to the Local Government Ombudsman. They may not take any action until the matter has been dealt with internally first.

Alternatively, you can contact them at:

The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

Telephone: 0300 061 0614 (Local Government Ombudsman - advice team) Monday to Tuesday 10am to 1pm, Wednesday 1pm to 4pm, Thursday to Friday 10am to 1pm and not open on public holidays.

We would remind you that employees are not to report any council related issues to the media. To do so may be considered a breach of our disciplinary policy and code of conduct.

Monitoring and control

The head of internal audit and risk will provide an annual report to the audit committee which has responsibilities for overseeing the effectiveness of our governance arrangements. All reporting will be anonymised. It will only identify common themes, numbers of disclosures year on year and highlight actions taken to improve systems and policies.

All personal data collected and used in the handling of Protected Disclosure concerns is processed in accordance with relevant data protection legislation and council policies.

Our governance group will monitor the effectiveness of this policy.

This policy will be reviewed every three years.

Lincolnshire
COUNTY COUNCIL

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