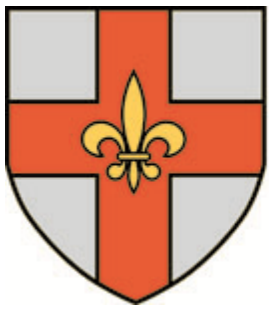


Whistleblowing Policy And Guidance



CITY OF
Lincoln
COUNCIL

Contents (Para)

Introduction 1

Scope 13

Protection and confidentiality 16

What you should report 25

Anonymous or untrue allegations 26

How to raise a concern 30

How we will respond 41

Taking the matter further 52

Monitoring 62

List of External bodies (Appendix A)

Whistleblowing Policy

Control

Owner / Policy Lead Officer: John Scott Audit Manager / Claire Burroughs Human Resources Manager

Responsible Officer: City Solicitor (Monitoring Officer)

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Introduction

1. At City of Lincoln Council we want to make sure that we are providing excellent services to the residents of Lincoln. Our staff, Councillors, partners and contractors have an important role to play in achieving this goal and we expect everyone to be committed to our high standards of service which are based on the principles of honesty, openness and accountability.

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

3. A **Whistleblower** is generally 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 or other serious risk that could threaten colleagues, service users, customers, members of the public or the success and reputation of the organisation.

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

- fear of reprisal or victimisation (e.g. loss of job)
- too much to lose (reputation, damage to career etc.)
- 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

5. 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 and how you can take matters further, if necessary.

6. 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 as you are following the Council's Code of Conduct and helping to protect the users of our services and the residents of Lincoln. We will not tolerate any harassment or victimisation and we will take action to protect those of you who raise concerns that you believe to be in the public interest.

7. UK law protects employees from dismissal, harassment or victimisation if such treatment occurs as a result 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.

8. If workers bring information about a wrongdoing to the attention of their employers or a relevant organisation, they are protected in certain circumstances under the Public Interest Disclosure Act 1998. This is commonly referred to as 'blowing the whistle'. The law that protects whistle-blowers is for the public interest - so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'.

9. Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above.

10. If a worker is going to make a disclosure it should be made to the employer first, or if they feel unable to use the organisations procedure the disclosure should be made to a prescribed person, so that employment rights are protected.

11. Workers who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure.

12. You may be a member of the public with concerns or information which you think we should know about or look into. You should, however, follow the Corporate Complaints process if your concern is about a particular service that we have provided you.

Scope

13. You can use our Whistleblowing arrangements if you are: a Councillor, Council employee, a contractor, partner or member of the public. Our policy also applies to agency staff, contractor staff and suppliers providing goods or services to, or on behalf of, the Council.

14. Our Whistleblowing arrangements **do not** replace the following:

- Child Protection Safeguarding reporting
- Adult Care Safeguarding reporting
- Corporate Complaints Procedure
- Disciplinary Policy
- Grievance Policy
- Dignity at Work Policy

15. 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 a public interest aspect

Protection and Confidentiality

16. The Whistleblowing law is contained in the Public Interest Disclosure Act 1998 (PIDA – amended by the Enterprise and Regulatory Reform Act 2013). Public bodies, such as this Council, are required to have a Whistleblowing policy and to ensure that employees are not victimised or dismissed for raising their concerns internally. 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.

17. We will not tolerate any harassment or victimisation (including informal pressure) and 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 whistle-blower or prevent concerns being raised.

18. You may feel that the only way you can raise your concerns is if we protect your identity. We will respect your confidentiality as far as we possibly can but 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.

19. 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.

20. We will attempt to ensure the whistleblower's identity is not disclosed to third parties without 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. If releasing that information could reveal details about the whistleblower, we will always ask for your consent prior to releasing the information.

21. If your whistleblowing disclosure results in an internal investigation and you provide a witness statement under that process, your statement may be used 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.

22. 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 7 years)
- released only with your consent or a Police / Court Order

23 The Council:

- does not expect you to give us your consent – this is your decision alone – but we are required by law to ask you
- does not need a reason should you choose to refuse the request

24. If you find yourself the subject of a whistleblowing disclosure and a decision is made to investigate, the Council will follow the appropriate employment procedure: dignity at work, grievance or 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

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

- conduct which is a criminal offence or breach of law
- a breach of our Code of Conduct for staff or Councillors
- sexual, physical or verbal abuse of our clients, employees or public
- dangerous procedures risking the health & safety of our clients, employees or public
- unauthorised use of public funds
- suspected fraud or corruption
- damage to the environment (e.g. land, buildings, highways, water, air, waste, energy, transport, natural habitat etc.)
- unethical or improper conduct
- services that fall seriously below approved standards or practice
- failure to follow the Council's policies and procedures

NB. This is not an exhaustive list

Anonymous or untrue allegations

26. We do not encourage anonymous reporting as the concerns are more difficult to investigate and are generally 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.

27. 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

28. 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.

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

How to raise a concern

30. We encourage you initially to raise your concern internally – this allows the Council the opportunity to right the wrong and give an explanation for the behaviour or activity. 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 the Council's whistleblowing arrangements.

31. **You can report the matter to the following people** (and if you are in any doubt about what you should do):

You should normally tell your line manager if you are concerned about any form of malpractice. There is no special procedure for doing this - simply tell them about the problem or put it in writing if you prefer. At whatever level you raise the issue, you should declare whether you have a personal interest in the issue at the outset. If your concern falls more properly within the grievance procedure your manager will tell you.

If you feel unable to tell your line manager, for whatever reason, you should raise the issue with one of the following officers:

Monitoring Officer 01522 873323 Email: carolyn.wheater@lincoln.gov.uk

Audit Manager 01522 873321 Email: john.scott@lincoln.gov.uk

Human Resources Manager 01522 873856 Email: claire.burroughs@lincoln.gov.uk

32. You may wish to raise the matter in person and you can do this by using one of the contact numbers above or alternatively you can contact the Council's confidential freephone whistleblowing number on **0800 0853716**

Email: whistleblowing@lincolnshire.gov.uk

In writing:

Lincolnshire local authorities
PO Box 640
Lincoln
LN1 1WF

33. The Investigations Team, who report directly to the Head of Corporate Audit & Risk Management at Lincolnshire County Council, 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 located in a secure area. *This is a shared whistleblowing number used by all Lincolnshire Council's under a partnership arrangement.*

33. Concerns are better submitted 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.

34. You can write (or email) directly to one of the officers named above or you can also use the City of Lincoln confidential PO Box or email address (which is monitored by a nominated officer within the Investigations Team).

City of Lincoln Council
PO Box 747
Lincoln
(Lincoln) Email address: whistleblowing@lincoln.gov.uk

35. If you are not comfortable with this line of reporting or if you feel that your concerns have not been dealt with properly or received a satisfactory response, you can inform the Chief Executive, Angela Andrews, of your concern, her contact details are:

Telephone number: 01522 873300
Email address: angela.andrews@lincoln.gov.uk
Postal address: Chief Executive, City of Lincoln Council, City Hall, Beaumont Fee, Lincoln, LN1 1DB.

Safeguarding Children and Vulnerable Adults

36. If your concerns relate to safeguarding children or adults at risk report to the Council's Customers Services team on 01522 881188 or email customer.services@lincoln.gov.uk or alternatively call Emergency Social Care Services on 01522 782333. Please see the Safeguarding Policy & Information leaflet for more details on the Intranet / Website (www.lincoln.gov.uk)

Responding to allegations or concerns against a member of staff, Elected Member, volunteer or any other person relating to Safeguarding

- Take the allegation or concern seriously
- Consider any allegation or concern to be potentially dangerous to the child or young person or adult at risk
- Record in writing all the details that you are aware of as soon as possible

37 If an allegation of abuse is made against a member of staff, Elected Member or volunteer, the Human Resources Manager and the Lead Safeguarding Officer must be informed immediately. The Human Resources Manager and Lead Safeguarding Officer (or in their absence, the Director responsible for Safeguarding) will inform the Chief Executive and the Local Authority Designated Officer for Allegations (LADO) and consideration will be given to suspending the member of staff from work or moving them to alternative duties not involving contact with children, young people and adults at risk – in accordance with the Council's Disciplinary Policy and Procedure. If the Human Resources Manager or the Lead Safeguarding Officer are the subject of the

suspicion/allegation, the report must be made directly to the Director responsible for safeguarding.

Representation

38. The whistleblower may take advice, for example from their trade union and or professional organisation, in respect of their concerns before or after it is raised. However, care is needed to ensure that this will not result in a breach of confidentiality or the disclosure of exempt information.

39. The whistleblower will be allowed to be accompanied to any meeting in respect of the concern, for example by a trade union representative, and/or professional body provided that they are not connected to any person under investigation. The Council has the right to expect any person accompanying or advising the complainant to maintain the confidentiality of the case.

40 Staff can also invite their trade union representative or a work colleague to raise a concern on their behalf.

Remember – the earlier you raise the concern, the easier it is to take action.

How we will respond

41. 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 & Investigations Team or other independent investigators)
- referred to the relevant safeguarding team (child protection or vulnerable adults)
- referred to the Police
- referred to the external auditor
- the subject of an independent inquiry

42. The officer receiving the whistleblowing allegation (if a major issue) will immediately notify the Audit Manager to include the disclosure on a central register.

43. We may carry out initial enquiries in order 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.

44. We will acknowledge your whistleblowing disclosure within 5 working days. Within the next 10 working days we will write and explain 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

45. 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.

46. 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 – this will be 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.

47. We will help with any difficulties you may experience as a result 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. The Council has a duty to investigate any concerns that it receives and that will apply in these circumstances. However this will not detract from the principles, as set out in this policy, which govern how the Council will respond to whistleblowers. The over-riding objective will be to establish the truth.

48. Records will be retained of all work carried out and actions taken to address the concerns raised by the whistleblower, including the investigator's case file, where relevant. All files will be held securely and confidentially, in accordance with the Council's retention of records policy.

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

Additional Advice on reporting:

What details should I provide?

50. You should provide as much information as possible, including:

- Dates, times, details, names etc.;
- Details of any action you have taken to date

The more information provided, the greater is the opportunity for establishing the facts. You should clearly state that the allegation is being made under the Council's Whistle Blowing policy.

Should I investigate the matter myself?

- You should NOT investigate the matter yourself.
- You should provide the details that you are aware of.
- Do not alert those suspected of being involved.
- Do not approach or accuse individuals.
- Do not tell anyone other than the designated persons mentioned in this policy.
- Do not undertake searches.

51. Any records and documents in your possession should be retained and kept securely to prevent alteration or loss.

Taking the matter further

52. 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.

53. There might be cases where your concerns are so serious, or involve the most senior officers in the Council, that you want to complain directly to an external body. You may feel that the internal investigation is not satisfactory. See sections 44 and 45 for further details.

54 What should I consider before I report my concerns externally?

Before you report a matter externally you should be sure that:

- the matter is serious and justifies bypassing internal procedures, or
- there is a reasonable belief that evidence might be destroyed, or
- you would be subject to detrimental treatment, or
- it is reasonable to disclose the information to the person concerned.

You should have reasonable suspicions that one or more of the following has occurred:

- that a criminal offence has been committed, is being committed or is likely to be committed
- that a person has failed, is failing or is likely to fail to comply with any legal obligation or statutory duty
- that a miscarriage of justice has occurred, is occurring or is likely to occur
- that the health or safety of any individual has been, is being or is likely to be endangered
- that the environment has been, is being or is likely to be damaged
- that information (relating to any of the above) is being or is likely to be deliberately concealed

55 Where can I report my concerns externally?

56. There are a number of organisations which have been approved to deal with your concerns externally. These organisations are called “prescribed bodies”.

57. As long as you have properly considered the need to report externally, and believe that the information you hold and any allegation are substantially true, the Council will do its utmost to protect you from reprisals, or victimisation for raising your concerns in good faith.

58. Some of the main prescribed bodies for local authorities include the Audit Commission (which appoints the External Auditor), Information Commissioner, Environment Agency, Health and Safety Executive, HM Revenue and Customs, and the Serious Fraud Office. Useful contact addresses and telephone numbers can be found in Appendix A.

59. A key source of information about whistle blowing is Public Concern at Work (PCaW) which is an independent authority of public interest whistle blowing. Established as a charity in 1993 following a series of scandals and disasters, PCaW has played a leading role in putting whistle blowing on the governance agenda and in developing legislation in the UK and abroad. Their contact details are contained in Appendix A.

60. You should only make disclosures to non-prescribed bodies (e.g. to the media, MPs, the police and non-prescribed regulators) if, in addition to the tests above, they are reasonable in all the circumstances and they meet one of the following three preconditions:

- you reasonably believe that you would be victimised if you raised the matter internally or with a prescribed regulator;
- you reasonably believe a cover-up is likely and there is no prescribed regulator; or
- you have already raised the matter internally or with a prescribed regulator.

61. We would like to remind you that employees are not to report any Council related issues to the media – to do so may be considered a breach of the Council’s Disciplinary Policy and Code of Conduct.

Monitoring

62. The Audit Manager will provide an annual report to the Council’s Audit Committee which has responsibilities for overseeing the effectiveness of the Council’s governance arrangements. All reporting will be anonymised, show common themes, numbers of disclosures year on year and will highlight actions taken to improve systems and policies.

End of policy

LIST OF EXTERNAL BODIES

Organisation	Contact Details	Areas of Concern
Environment Agency	National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY Phone: 03708 506 506 www.environment-agency.gov.uk	The leading public body for protecting and improving the environment in England and Wales.
Food Standards Agency	National Helpline Number: 0207 276 8829 www.food.gov.uk	The Food Standards Agency is an independent Government department set up by an Act of Parliament in 2000 to protect the public's health and consumer interests in relation to food.
Health & Safety Executive	Midland Area office for Lincoln: Health & Safety Executive, , Kingsley, Dunham Centre, Nicker Hill, Keyworth, Nottingham NG12 5GG Phone: 0115 937 7501 www.hse.gov.uk	HSE aims to protect people against risks to health and safety arising out of work activities.
Homes and Communities Agency Housing Ombudsman	National telephone number (for all telephone enquiries): Phone 0300 1234 500 www.homesandcommunities.co.uk See also the Housing Ombudsman. www.housing-ombudsman.org.uk . Phone 0300 111 3000	The national housing and regeneration agency for England and Wales and also the regulator for social housing in England
Information Commissioner	Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF Phone: 0303 123 1113 www.ico.org.uk/	The Information Commissioner's Office is the UK's independent authority set up to promote access to official information and to protect personal information.

Organisation	Contact Details	Areas of Concern
Local Government Ombudsman	The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH LGO Advice Team. Phone: 0300 061 0614 www.lgo.org.uk	The Local Government Ombudsman looks at complaints about councils and some other authorities.
Public Concern at Work (PCaw)	Public Concern at Work, Suite 301, 16 Baldwins Gardens, London, EC1N 7RJ. Phone: 0207 404 6609 www.pcaw.org.uk	All matters of malpractice and/or wrong-doing.
Serious Fraud Office	Serious Fraud Office, 2-4 Cockspur Street London SW1Y 5BS Public enquiries Tel: 020 7239 7272 http://www.sfo.gov.uk	The Serious Fraud Office is a government department and is part of the UK criminal justice system. Its aim is to protect society by pursuing and prosecuting those who commit serious and complex fraud.
Action Fraud	Hotline 0300123 2040 www.actionfraud.police.uk	UK National Fraud and Internet Crime Reporting Centre
Lincolnshire Police	www.lincs-police.uk Phone 101	
KPMG External Auditor	www.kpmg.com 0207 311 1791 (Public sector audit and assurance)	KPMG are the Council's external auditor.
Mazars (from September 2018)	45 Church Street, Birmingham B3 2RT Phone: 0121 232 9500	Mazars are the Council's new external auditor

Organisation	Contact Details	Areas of Concern
National Audit Office	<p>www.nao.org.uk Phone 020 7798 7264</p> <p>Whistleblowing hotline: Phone 020 7788 7999</p> <p>Alternatively, you can email general enquiries to enquiries@nao.gsi.gov.uk (please also email us if you wish to attach a document).</p>	<p>NAO scrutinises (central government) public spending on behalf of UK government</p> <p>You can also obtain information about making a disclosure about a local public body.</p>
Lincolnshire Social Services	<p>Children Services 01522 782111 Adult Safeguarding 01522 782155 Emergency Duty Team 01522 782333</p>	Safeguarding children and vulnerable adults