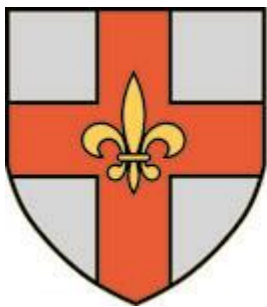


CITY OF LINCOLN COUNCIL

Whistleblowing Policy And Guidance



CITY OF
Lincoln
COUNCIL

Whistleblowing Policy

Control

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

Responsible Officer: City Solicitor (Monitoring Officer)

Consultation: Audit Committee

Date: December 2019

Review Arrangements: Every two years

Sept 2013 Version 1.01

July 2015 Version 1.02

September 2015 Version 1.03

December 2017 Version 1.04

March 2020 Version 1.05

Introduction

1. 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. This reporting is sometimes called whistleblowing. You should take prompt action to raise concerns if you believe something is wrong.

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 workers are not victimised or dismissed for raising their concerns internally, or subjected to any other detriment.

2. 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 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 colleagues, the users of our services and the residents of Lincoln.

3. We will not tolerate any harassment or victimisation of whistleblowers and we will take action to protect those who raise concerns. UK law protects workers* from dismissal, harassment or victimisation if such treatment occurs as a result of having made a qualifying whistle-blowing disclosure considered to be in the public interest. *A worker is someone with a contract or other arrangement to do work or services such as an employee or an agency worker.*

4. Qualifying disclosures are disclosures of information where the worker reasonably believes 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 , for example fraud
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Risk of or actual damage to the environment
- Deliberate attempt to conceal any of the above - you believe someone is covering up wrongdoing

You can also report suspected fraud or corruption (which could be a breach of a legal obligation)

5. 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 (see paragraph 40), so that employment rights are protected. Workers who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so.

Scope

6. You can also use our whistleblowing reporting arrangements if you are contractor, supplier, partner or member of the public. Protection however only applies to our workers. You may have concerns or information which you think we should know about or look into. You should, however, normally follow the Corporate Complaints process if your concern is about a particular service that we have provided you. Members of the public who raise concerns are not legally protected by PIDA, so we do offer the option for the person making the allegations to withhold their identity at the time concerns are raised.

7. Our Whistleblowing arrangements do not replace the following:

- Corporate Complaints Procedure
- Disciplinary Policy
- Grievance Policy
- Dignity at Work Policy
- Child Protection Safeguarding reporting
- Adult Care Safeguarding reporting
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These policies and reporting procedures should be used where applicable. 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.

Protection and Confidentiality

8.. You are protected in law from harassment and bullying when you raise a legitimate concern. 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 disciplinary or corrective action should anyone attempt to victimise the whistleblower or prevent concerns being raised.

You shouldn't be victimised if you report something. This means that your job and opportunities for future promotion or training shouldn't be put at risk because you've raised a real concern, as long as you do this in the proper way.

If you're instructed to cover up a wrongdoing, the person who tells you to do this is committing a disciplinary offence. If you're told not to raise or follow up any concern, even by a person in authority such as a manager, you shouldn't agree to stay silent. You should report the matter following this guidance.

9. We will respect your confidentiality as far as we can but there are times when we cannot guarantee this, for example, where if the whistleblowing relates to a criminal offence or if there are child protection or adult safeguarding issues. You must say straight away if you do not want anyone else to know it was you who raised the concern.

10. You will not have a say in how your concern is dealt with. The Council (or the prescribed person) can keep you informed about the action they've taken, but they cannot give you much detail if they have to keep the confidence of other people.

11. If we proceed to a formal investigation we may require you to give evidence along with other workers 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 or disciplinary proceedings – this depends on the nature of the concern.

12. If you ask us to treat the matter in confidence we will do our utmost to respect your request however, it is not possible to guarantee confidentiality. We will attempt to ensure the whistleblower's identity is not disclosed to third parties. 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. The whistleblower's identity will not be disclosed unless the law allows or compels us to do so. If we are in a position where we cannot maintain confidentiality and so have to make disclosures we will discuss the matter with you first.

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. A worker subject to the disciplinary process can also 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 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

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

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.

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

Anonymous allegations

13. 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.

14. Anonymous whistleblowing referrals will be considered at the discretion of the officers handling the concern.

Untrue/false allegations

15. If we find that you have maliciously made a false allegation we will take action against you and you will not be eligible for protection under the law.

How to raise a concern

16. If a worker is not sure whether or not to raise a concern through this policy, they should discuss the issue with their line manager or Human Resources, or one of the reporting officers below.

We encourage you initially to raise your concerns internally. Make it clear that you are raising your concerns under the Council's whistleblowing arrangements. Any matter raised will be investigated thoroughly, promptly and confidentially, and we will provide feedback on actions taken. Before you make any complaint, make sure that you follow the proper procedures, for example, filling in incident forms where necessary. In any case, write down the full details of the incident and keep a copy.

The law doesn't say you have to have hard evidence, although any information that you have would be useful. However you must not start any fact finding or investigations yourself.

You can report the matter to the following people (or discuss if you are in any doubt about what you should do):

If you are a worker/employee you can report to the following Council officers:

Audit Manager 01522 873321	Email: john.scott@lincoln.gov.uk
Human Resources Manager 01522 873856	Email: claire.burroughs@lincoln.gov.uk
Chief Financial Officer 01522 873258	Email: jaclyn.gibson@lincoln.gov.uk

You should also consider telling your line manager (service manager) so they are aware.

You should declare whether you have a personal interest in the issue at the outset. If your concern falls more properly within grievance or other policies you will be advised.

You can also use the City of Lincoln's confidential PO Box or email address

Write to:
City of Lincoln Council
PO Box 747
Lincoln

Email: whistleblowing@lincoln.gov.uk

If you are not a Council worker you can contact the Council's confidential freephone whistleblowing number on **0800 0853716**

19. The Investigations Team, who report directly to the Head of Internal 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 Councils under a partnership arrangement.*

20. Concerns are better submitted in writing with information on background names, copies of any documents, dates and places (where possible).

You can email: whistleblowing@lincolnshire.gov.uk

You can write to:
Lincolnshire local authorities
PO Box 640
Lincoln
LN1 1WF

Council workers may also use these reporting lines if they wish.

Safeguarding Children and Vulnerable Adults

23. If your concerns relate to safeguarding children and vulnerable adults please see the Safeguarding section on City People and the Council's website (Safeguarding children and adults) and report accordingly.

Representation

25. The whistleblower may take advice, for example from their trade union and / or professional organisation, or legal adviser, 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.

26. 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.

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

How we will respond

28. Our response and the investigation route will depend on the nature of the concern raised. 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, Investigations Team or other independent investigators)
- 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 will notify the Audit Manager to include the disclosure on the central register.

30. We may carry out initial enquiries in order to protect individuals or workers and those accused of wrongdoing. We will use the results of these enquiries to decide whether a detailed 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.

31. 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 they will be informed of progress

32. 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.

33. If a meeting is necessary, this can be held off site if you prefer. If you are a worker 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 a worker you may wish to bring a friend with you – a neutral venue can be arranged, where required.

34. 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.

35. 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

36. At the end of our investigations we will provide feedback to the whistleblower subject to our internal policies and procedures and legal constraints but we do recognise the importance of providing you with assurances that the matter has been dealt with properly.

37. Don't forget:

- You should NOT investigate the matter yourself.
- 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.

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

Taking the matter further

39. If you are not comfortable with the lines of reporting above or if you feel that your concerns have not been dealt with properly or received a satisfactory response, you can inform the Council's Monitoring Officer/City Solicitor, of your concern, her contact details are:

Telephone number: 01522 873323

Email: carolyn.wheater@lincoln.gov.uk

Postal address: City Solicitor, , City of Lincoln Council, City Hall, Beaumont Fee, Lincoln, LN1 1DB.

You may also refer your concern about how the whistleblowing case has been dealt with to the Local Government Ombudsman – they generally do not take any action until the matter has been dealt with internally first. They can be contacted at:

The Local Government Ombudsman
PO Box 4771
Coventry, CV4 0EH
Tel. 0300 061 0614 (Local Government Ombudsman – Advice Team)

40. 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 person or body (known as a prescribed person or prescribed body). You may feel that the internal investigation is not satisfactory.

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

The legislation sets out a number of bodies to which qualifying disclosures may be made. These include HM Revenue & Customs, the Health and Safety Executive, the Environment Agency, the

Serious Fraud Office. A full list of “prescribed people and bodies” can be found on the government website – www.gov.uk/whistleblowing.

If you decide to blow the whistle to a prescribed person rather than the Council, you must make sure that you have chosen the correct person or body for your issue.

Disclosures relating to local authorities can be made to the external auditor of the relevant authority or the Comptroller and Auditor General.

You can contact the Council’s external auditors at:

Mazars
Park View House
58 The Ropewalk
Nottingham
NG1 5DW

To make a disclosure to the Comptroller and Auditor General, please contact the National Audit Office (see Comptroller and Auditor General below).

Contact them about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.

The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London
SW1W 9SP

Tel: 020 7798 7999

Website: www.nao.org.uk/contact-us/whistleblowing-disclosures/

41. A key source of information about whistle blowing is Protect which is an independent authority of public interest whistle blowing. Their contact details are

Their contact details are found at <https://protect-advice.org.uk>

42. You should only make disclosures to non-prescribed bodies (e.g. to the media, 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.

End of policy