

Whistleblowing Policy

Summary

You can use our whistleblowing arrangements if you are a Council employee, a Councillor, 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.

Anyone who has a genuine concern about potential fraud, corruption, bribery, or weak financial systems, is encouraged to bring it to the Council's attention (in confidence) through any of the following channels:

- Chief Executive
- Section 151 Officer
- Corporate Finance Manager
- Monitoring Officer
- Strategic Director or Executive Manager
- Governance & Risk Officer
- Council's internal auditors

All of the above are required by the Council to take such concerns seriously and to ensure that they are properly investigated.

If you are not certain as to the extent of the problem you have identified you should still report it. What appears, on initial consideration, to be only a minor incident can sometimes turn out to be much more serious after investigation.

The only circumstance in which someone raising an issue could face criticism or (in the case of employees) disciplinary action is where they have made a malicious or vexatious allegation which they know to be untrue.

If, for any reason, you feel unable to raise your concern through any of the contacts listed above, you can also approach any of the following:

- A Councillor (name and telephone numbers are available on the internet/intranet or from Democratic Services)
- The External Audit Manager (the external auditor is not a Council employee and is not subject in any way to the Council's control). Telephone: 0115 935 3545
- The Local Government Ombudsman. Telephone: 01904 380200

Members of the public are encouraged to report any concerns. You should, however, follow the Complaints process if your concern is about a particular service that we have provided you. If any person genuinely believes that someone is committing a crime they should immediately report their suspicions.

Lincolnshire Councils now have one confidential hotline and email address:

0800 0853716
whistleblowing@lincolnshire.gov.uk

Introduction

Whistleblowing is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others. It refers to a person who raises an honest and reasonable concern, in the public interest, 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.

At South Kesteven District Council we want to make sure that we are providing excellent services to the residents of the district. 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.

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 (eg 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

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.

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.

We want to assure you that there is no reason to remain silent. Your decision to talk to us may be difficult but, if 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 South Kesteven. We will not allow any harassment or victimisation and we will take action to protect those of you who raise concerns in the public interest.

Our whistleblowing arrangements do not replace the following:

- Complaints Policy
- Disciplinary and Capability Procedure
- Equal Opportunities Policy
- Grievance Procedure
- Safeguarding Children Policy & Procedure

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.

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 Complaints process if your concern is about a particular service that we have provided you.

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

- there is a public interest aspect
- 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

Protection and confidentiality

The whistleblowing law is contained in the Public Interest Disclosure Act 1998 (PIDA) and 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.

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

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 issues.

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.

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.

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.

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: equal opportunities, grievance or disciplinary and capability. 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

To be covered by whistleblowing law, a person who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

The second thing that a person must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing.

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

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- a breach of our Code of Conduct for staff or Councillors
- sexual, physical or verbal abuse of our customers, employees or public
- dangerous procedures risking the health & safety of our clients, employees or public
- unauthorised use of public funds
- damage to the environment (eg 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
- covering up wrongdoing in any of the above areas

Anonymous or untrue allegations

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.

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 the concern in good faith.

If we find that you have made the allegation maliciously or for personal gain we will take action and you will not be eligible for protection under PIDA.

How to raise a concern

We encourage you initially to raise any concerns you may have. This allows the Council the opportunity to right the wrong and give an explanation for 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 the Council's whistleblowing arrangements – this will help managers respond in line with this policy.

If you are in any doubt about what you should do, you can contact:

- S151 Officer 01476 406301
- Monitoring Officer 01476 406105
- Head of Internal Audit 0115 948 9400

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. The Investigations Team 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.

Concerns are better submitted in writing – we need the background and history of your concern, giving names, 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 write directly to one of the officers named above or 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: whistleblowing@lincolnshire.gov.uk

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

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, internal audit 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

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.

We will acknowledge your whistleblowing disclosure within five 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

The amount of contact between you and the officer considering your whistleblowing disclosure will depend on the nature of the concerns raised eg 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 – 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.

We will help with any difficulties you may experience as a result of raising a concern eg 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 governs how the Council will respond to whistleblowers. The over-riding objective will be to establish the truth.

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. 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.

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 be able to reach a suitable conclusion to the matter but if you remain dissatisfied you can contact the Council's external auditors at:

KPMG LLP
St Nicholas House
31 Park Row
Nottingham
NG1 6FQ

Tel: 0115 935 3545

You may also refer your concern to the Local Government Ombudsman but 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 (Advice Team)

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

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