

Internal Ref:	WB1
Version No.	V1.1
Review date:	April 2021
Implemented:	April 2019

Whistleblowing Policy

1 Introduction to whistleblowing

1.1. North East Lincolnshire Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, the Council expects its employees, elected members, contractors or volunteers (hereafter referred to as whistleblowers) that have concerns about wrongdoings in any aspect of practices encountered within the Council or its commissioned services to come forward and voice those concerns without fear of reprisal. This policy sets out the process for handling these concerns and the protection given to a whistleblower.

2 What is a whistleblower?

- 2.1. A whistleblower is someone that reports certain types of wrongdoing or malpractice. This policy covers the raising of those concerns within North East Lincolnshire Council. This would typically be something witnessed at work or on-site, though not always. The wrongdoing disclosed must be in the public interest. This means it must affect others, e.g. the public.
- 2.2. The Whistleblowing Policy is for the raising of concerns by officers. Members of the public should raise their concerns through the [Feedback Policy](#).¹
- 2.3. When a whistleblower blows the whistle, they are protected by law. They should not be treated unfairly or lose their job because they 'blow the whistle'. A whistleblower can raise a concern at any time about an incident that happened in the past, is happening now or will happen in the near future.
- 2.4. Where any whistleblower is aware of any wrongdoing, committed by or related to the actions of Council employees, elected members, contractors or consultants in the course of their work for the Council; and reports it, the Council will investigate those concerns and, where appropriate, take action.
- 2.5. The Council is committed to preventing any harassment, victimisation or unfair treatment of any person arising from their whistleblowing. Where there are concerns of harassment, victimisation or unfair treatment to a whistle-blower, the North East Lincolnshire Council will investigate the allegations and take appropriate action.

¹ <https://www.nelincs.gov.uk/council-information-partnerships/complaints-compliments-and-suggestions/>

Steps of the process for someone who wishes to raise a whistleblowing concern:

Step 1

- Potential risk or concern identified.
- Consider if this should be raised through the whistleblowing policy or by another route.

There is protection under law for a whistleblower, further details can be found in [section 3](#).

Step 2

- Raise your concern by one of the routes explained within this policy.

Step 3

- Appropriate investigation carried out or a referral is made to the appropriate body.

Step 4

- Feedback provided if and as appropriate.

If the concern is unresolved, the whistleblower can consider progressing the matter further as set out in [section 7](#).

3 What protection does a whistleblower have under law?

- 3.1. The law protects those reporting any whistleblowing concerns listed below in [4.1](#).
- 3.2. Every whistleblower should feel that it is safe and acceptable to raise concerns so that they can be investigated and action taken as soon as possible. This policy aims to ensure that a whistleblower should not be concerned about the following:
 - Fear of reprisal or victimisation (e.g. loss of job)
 - Too much to lose (e.g. reputation, damage to career)
 - Feelings of disloyalty
 - Worries about who may be involved
 - No proof, only suspicions
 - Fear of repercussions if there is no evidence or the concern is proved wrong
- 3.3. When a disclosure is made in the public interest and in accordance with this policy, that whistleblower has legal protection from harassment or victimisation because of the disclosure. This is called a 'protected disclosure'.
- 3.4. PIDA (Public Interest Disclosure Act) will protect a whistleblower making a Protected Disclosure, irrespective of whether or not the disclosure relates to information gained in the course of their employment (e.g. a protected disclosure made by a whistleblower acting as a service user would still fall under the PIDA protection).
- 3.5. Independent advice can be sought from organisations such as Citizens' Advice should any individual be unsure whether their disclosure would be protected.

4 When concerns should be raised

- 4.1. Whistleblowing is the term used when a whistleblower passes on information concerning a wrongdoing. The wrongdoing will typically (although not necessarily) be something witnessed at work. To be covered by whistleblowing law, a whistleblower who makes a disclosure must reasonably believe two things:
 - They are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.
 - They must reasonably believe that the disclosure shows past, present or likely future wrongdoing.
- 4.2. There are various reasons why a whistleblower would raise a concern within the Council. See below examples of the types of concerns that would be classed as a whistleblowing concern. If any of the below apply to a raised concern then it should be processed as a whistleblowing concern.
 - a) A criminal offence (e.g. fraud, corruption or theft) has been/is likely to be committed;
 - b) A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;

- c) A miscarriage of justice has been/is likely to occur;
- d) The health or safety of any individual has been/is likely to be endangered;
- e) The environment has been/is likely to be damaged;
- f) Public funds are being used in an unauthorised manner;
- g) The Council's Constitution has not been observed or is being breached;
- h) Physical, sexual and/or mental abuse by an officer on a service user is taking place;
- i) Unlawful discrimination is occurring in relation to the legally protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation;
- j) Any other form of improper action or conduct is taking place. This could include breaches of the 'Nolan' Principles of Conduct Underpinning Public Life;
- k) Information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same.

4.3. Allegations regarding individuals who work with children or adults

4.4 In cases concerning allegations about individuals who work with children or adults, they will be reported to the Local Authority Designated Officer (LADO). Even those allegations that on the face of it may appear relatively insignificant, must be followed up and examined by someone independent of the organisation. The LADO fulfils this independent role and, on receipt of any such allegation, is responsible for liaising with the relevant professionals and the co-ordination and monitoring of subsequent actions.

4.5 Whenever possible, concerns should be raised in writing and set out the background. Those who do not feel able to put their concern in writing can telephone or meet an appropriate officer. The earlier the concern is raised, the easier it is for someone to take action. Further information on the role and responsibilities of the Local Safeguarding Children Board can be obtained from the on the [Safer NEL website](#).²

4.6 Although the whistleblower will not be expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for concern. They should also be able to give names, dates and places where possible and the reason as to why they are particularly concerned about the situation.

4.7 Complaints that don't count as whistleblowing

Whistleblowing law does not cover personal grievances (e.g. bullying, harassment, discrimination) unless it is in the public's interest.

4.8. Employee relationship issues could be raised with your manager, a colleague or someone within the People and Culture team. If necessary, individuals can also contact the Advisory, Conciliation and Arbitration Service (Acas) or their union representative for help and advice on resolving a workplace dispute.

² <http://www.safernel.co.uk/local-safeguarding-childrens-board/>

5 How to raise a concern

5.1 Concerns can be raised in the following ways:

- Email: res-customerservices@nelincs.gov.uk (administered by the Complaints Team)
- In writing to the Complaints Team, Municipal Offices, Grimsby, North East Lincolnshire, DN31 1HU
- Telephone 01472 326298 (option 4)
- Using the online [achieve form](#)³
- With a manager
- With a trade union representative
- With the Monitoring Officer

5.2 Raising a concern anonymously or confidentially

5.3 A concern can be raised anonymously however North East Lincolnshire Council may not be able to take the concern further if they do not have sufficient information.

5.4 A whistleblower can give their name but request confidentiality, in which case North East Lincolnshire Council will make every effort to protect their identity. If a whistleblower wishes to raise a concern anonymously, this should be stated at the start of the process.

5.5 If a concern is reported to the media, in most cases whistleblowing law rights do not apply.

5.6 How a concern will be handled depends on the circumstances of the concern and where the whistleblower feels confident making their disclosure. There are other options if you do not want to report your concern to the Council including seeking legal advice.

6 How will concerns be dealt with?

6.1. The Council is committed to dealing with all whistleblowing concerns appropriately, consistently, fairly and professionally.

6.2. The action taken by the Council will depend on the nature of the concern. The matters raised may:

- Be investigated internally
- Be referred to the Police
- Be referred to the external Auditor
- Form the subject of an independent inquiry by another public body such as the Local Government Ombudsman or the Information Commissioners Office

6.3. In order to protect individuals and the Council, initial enquiries will be made by the Monitoring Officer (or an officer nominated by them) to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of

³ <https://www.nelincs.gov.uk/council-information-partnerships/complaints-compliments-and-suggestions/>

other existing procedures (e.g. child protection, fraud, money laundering or discrimination issues) will normally be referred for consideration under those procedures.

- 6.4. The Council will write to the whistleblower raising the concern within a maximum of 10 working days, acknowledging that the concern has been received and if appropriate giving further details of what action the Council will be taking.
- 6.5. Please note, in certain high-risk situations, for example child protection concerns, interim action will already have been taken.
- 6.6. The amount of contact between the body considering the issues and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought.
- 6.7. The Council will take steps to protect the whistleblower from any mistreatment, detriment or harassment that they may experience because of raising a concern. For instance, if the whistleblower is required to give evidence in criminal or disciplinary proceedings, the Council will advise and support them through the procedure.
- 6.8. The Council accepts that the whistleblower raising the concern needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcomes of any investigations.

7 Taking further action

- 7.1. If there are genuine concerns about how North East Lincolnshire Council has handled a whistleblowing disclosure this can be raised with the investigating officer(s) and/or the Monitoring Officer. If a suitable conclusion to the matter cannot be reached North East Lincolnshire Council's external auditors can be contacted.
- 7.2. If an allegation is made but subsequently, following an investigation, not upheld then no action will be taken against the whistleblower providing they:
 - a) Have acted in the reasonable belief that the disclosure is in the public interest;
 - b) Believe that the information disclosed, and any allegation contained in it, is substantially true;
 - c) Have not acted for personal gain; and
 - d) Have not acted maliciously or made a false allegation.
- 7.3. It should be noted that if an allegation is made maliciously, falsely or for personal gain, appropriate action may be considered against the whistleblower. This could result in disciplinary action being considered and protection under PIDA will no longer apply.
- 7.4. If a whistleblower alerts a prescribed person or body, it must be one that deals with the issue that is being raised, e.g. a disclosure about wrongdoing in a care home can be made to the Care Quality Commission.

7.5. If the whistleblower remains dissatisfied with the investigation carried out by North East Lincolnshire Council relevant advice and guidance will be given on the rights of escalation to the appropriate body.

8 Reporting and monitoring of whistleblowing

8.1. All personal data collected and used in the handling of whistleblowing concerns is processed in accordance with relevant data protection legislation and Council policies.

8.2. Whistleblowing concerns are reported at an anonymised level to the Audit and Governance Committee as part of the Annual Fraud report.

8.3. Whistleblowing concerns are recorded on North East Lincolnshire Council's complaints system and access is restricted to those authorised to access the information.