

## Whistleblowing Policy and Procedure

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## Purpose

This policy aims to enable and encourage staff to raise concerns within Leicestershire County Council. It recognises a worker’s legal rights to make a protected disclosure to certain prescribed persons or bodies under the Public Interest Disclosure Act 1998 and any subsequent legislation, as incorporated into the Employment Rights Act 1996.

Leicestershire County Council is committed to creating a safe, open and transparent workplace culture, where employees are encouraged to raise concerns at the earliest opportunity. Leicestershire County Council recognises that employees are often the first to realise that there may be something seriously wrong within an organisation.

This policy is intended to cover concerns that fall outside the scope of other existing Council procedures (e.g., complaints procedures, safeguarding reporting and employment policies and procedures).

If something is troubling you, which you think we should know about or look into, please use this policy and the procedures below. If, however, you wish to make a complaint about your employment or how you have been treated, please use existing employment (HR) policies and procedures (e.g., grievance policy, which you can obtain from your manager or the intranet).

Whistleblowing arrangements are not intended to give you a further opportunity to pursue a grievance once other relevant employment procedures have been exhausted.

You should only consider raising concerns through Whistleblowing arrangements if:

- You have genuine reasons why you cannot use the above policies and procedures;
- or**

- You have reason to believe that these policies are failing or are not being properly applied; **and** in any case;
- There is a public interest aspect.

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## Scope

This policy applies to all those who work for Leicestershire County Council, whether full time or part-time, self-employed, employed through an agency or as a volunteer.

If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact the independent whistleblowing charity Protect on 020 3117 2520 or by completing the contact form on their website.

Further detail on this is available at [www.protect-advice.org.uk](http://www.protect-advice.org.uk).

This service is available to all employees of the Council (excluding schools) and allows you the opportunity to speak freely about your concerns, discuss all related issues and receive practical, constructive advice.

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## Introduction

Sometimes you may have concerns about what is happening at work. In most cases these concerns can be dealt with through the usual line management arrangements and are easily resolved. We strongly encourage you to raise concerns with your manager but if that is not possible or if your concern feels more serious because it may relate to illegal, improper or unethical conduct and could threaten service users, colleagues, public or the Council itself then you may wish to use the whistleblowing procedures as an alternative.

The Council is committed to running the organisation in the best way possible and to do so we need your help. Experience shows that employees are often the first to realise that there may be something seriously wrong or often have worries or suspicions and could, by reporting their concerns help put things right and stop potential wrongdoing.

We have introduced this policy to reassure you that it is safe and acceptable to speak up without fear of reprisal and to enable you to raise any concerns you may have at an early stage, and in the right way.

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## What is Whistleblowing?

Whistleblowing is the formal raising of concerns that are in the public interest. A whistleblower is generally a term used for a person who works for an organisation and raises a concern about a danger or illegality that has a public interest aspect to it, usually because it threatens others (service users, colleagues, public).

Examples of concerns that may be in the public interest (this list is not exhaustive):

- Criminal offences (Fraud, Corruption, Bribery etc.);

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Positivity



Trust and respect



Flexibility



Openness and transparency

- Failure to comply with legal obligations (such as professional or regulatory requirements);
- Actions which endanger the health or safety of any individual;
- Actions which may cause damage to the environment;
- Bribery, facilitating tax evasion or financial fraud or mismanagement;
- Breach of our internal policies and procedures including our Code of Conduct; and
- Actions which are intended to conceal any of the above.

This policy provides you with a framework for raising concerns, which you believe are in the public interest. If you are uncertain whether something is within the scope of this policy you can seek advice from the Director of Law and Governance or Director of Corporate Resources whose contact details are on page 5 below.

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## Public Interest Disclosure Act (PIDA)

The Public Interest Disclosure Act 1998 (PIDA) protects individuals who make certain disclosures of information in the public interest and provides that employers must not victimise any worker who blows the whistle in one of the ways set out in the legislation. This policy complies with PIDA.

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## Our Commitment to You

### Your safety

We recognise that you may be worried about formally raising a concern 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;
- Concerns that there is no proof, only suspicions;
- Fear of repercussions if there is no evidence or you are proved wrong.

The Corporate Management Team, Chief Executive and Trade Unions are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any reprisal such as harassment, victimisation or bullying. Provided you are acting in good faith, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

If you do experience problems, we will treat any reprisals as a disciplinary matter.

### Your confidence

We would like to assure you that if you raise a concern:

- 'Openly' - we will protect you from reprisal;

- ‘Confidentially’ - we will protect you from reprisal and will not disclose your identity, without your consent, unless required by law.

As mentioned we will endeavour to protect your identity wherever possible; however, you must understand that there may be circumstances where this is not feasible. For example, if you are an essential witness and further investigation would be prevented without revealing your identity or the concern could only have come from one service. Should this situation arise, we will discuss directly with you, whether and how the matter can best proceed.

If you raise a concern ‘anonymously’, we will **not** be able to protect your position and you should not assume we can provide the assurances we offer in the same way, if you report a concern in this manner and your identity later becomes known. You should be aware that proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible.

If you are already the subject of disciplinary procedures or redundancy procedures for other reasons, whistleblowing will not halt these procedures - but every effort will be made by the investigating officer(s) to ensure that the issues are not inter-related or connected in any way.

Trade union representatives can support you through the whistleblowing procedure. Trade union representatives also play an important role in ensuring all staff are aware of this policy and procedure and their responsibilities and they are consulted on the review, monitoring and improvement of the policy and procedure where required.

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## How to Raise a Concern

We hope that the assurances above allow you to raise your concern internally and openly with us. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made. You may also choose not to identify yourself at any stage, to anyone, but we do not encourage anonymous reporting as the concerns are more difficult to investigate.

We trust that you will:

- Raise concerns at an early stage (i.e. when you have reasonable suspicion);
- **Not** wait and investigate yourself, or wait to prove that your concern is well founded.

If you are unsure about raising a concern at any stage, you can get independent advice from Protect (details above).

### Step one

The seriousness of the issue may influence who you decide to raise it with, but we hope that in the first instance, you raise it with your immediate line manager. In most cases this is likely to be the most effective and appropriate route to address any concerns that you may have identified. If this is not practical (for whatever reason), please raise the concern with another senior officer (Head of Service) or Director (Chief Officer).

This may be done verbally or in writing and we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern, including background and history giving names, dates and places where possible. If you have any personal interest in the matter, we do ask that you tell us at this stage.

### Step two

If you feel unable to raise the matter with any of the above (for whatever reason) please raise the concern with either of the following designated officers:

- Lauren Haslam, Director of Law and Governance and Monitoring Officer: Telephone (0116) 305 6240
- Declan Keegan, Director of Corporate Resources: Telephone (0116) 305 6199

These people have been given special responsibility in dealing with whistleblowing concerns. If these individuals are unable to speak with you immediately, contact the secretariat on (0116) 305 6001 or (0116) 305 7372 who will arrange an appointment for you.

### Step three

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally, but if the steps above have been followed and you still have concerns, or you feel that the matter is so serious that you cannot discuss it with any of the above, you can properly report a concern to an outside body. In fact, we would rather you raised a matter with the appropriate regulator - such as the Care Quality Commission, Ofsted, your professional regulator - than not at all. There is a list of bodies to whom you can make a referral if you wish to do so:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>. [Protect](#) (details above) will be able to advise you on such an option if you wish.

You may also find it helpful to consider other relevant Council policies including, for example, the Anti-Fraud and Corruption Strategy and the Anti-Bribery Policy which are available on the County Council's website see link <https://www.leicestershire.gov.uk/about-the-council/council-spending/fraud>.

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## How We Will Handle the Matter

Once you have told us of your concern, we will assess it and consider what further action may be needed. Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take - these will be made confidentially. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. If we think your concern falls more properly within our existing complaint or employment policies and procedures, we will let you know.

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

- Advice only;
- Resolved by agreed action without the need for investigation;

- Investigated internally;
- Investigated externally;
- Referred to the relevant safeguarding team;
- Referred to the Police;
- Referred to the internal or external auditor;
- The subject of an independent inquiry.

Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this policy, you will help us to achieve this.

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## Responsible Officer

The Monitoring Officer (Director of Law and Governance) has overall responsibility for the maintenance and operation of this Whistleblowing Policy. This officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger employee confidentiality) and will report as necessary to the Corporate Governance Committee.

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## Managers Receiving the Whistleblowing Concern

Guidance on what managers should do if they receive a concern is contained in [Appendix A](#). If the whistleblowing concern has elements of suspected fraudulent activity (or other financial irregularity), managers are required under Financial Procedure Rules to notify the Director of Corporate Resources. This can be done via the Head of Internal Audit

### Document Control:

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## Appendix A – Procedure for Managers Receiving a Concern

These procedures should be used in conjunction with the Whistleblowing Policy.

### 1. Managers receiving the whistleblowing concern

It is important that managers listen carefully to the concern being raised and avoid pre-judging the issue. If unable to do this, the employee should be encouraged to raise the concern with someone more senior or a designated officer.

### 2. Establish the details of the concern

Managers should complete the [whistleblowing checklist](#).

In all cases, managers must send a copy of the checklist to the Director of Law and Governance so that a central record may be maintained.

### 3. What happens next?

#### Step 1 - Explain to the employee what will happen next

- Now that we have listened to and recorded your concern, we will assess it and consider what further action may be needed;
- Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take – but you will not be involved in this process;
- We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you;
- If we think your concern falls more properly within our existing complaint or employment policies and procedures, we will let you know;
- We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you.

#### Step 2 - Record the concern and agree next steps

In all cases, managers must send a copy of the checklist to the Director of Law and Governance so that a central record may be maintained.

Before any further action is taken there should be a discussion between:

- Manager of the person making the referral (or alternative officer if the matter was not raised with the manager or it is not appropriate in the particular case)
- Director of Law and Governance (or nominee)
- Head of People Services (or nominee)
- Head of Internal Audit (or nominee)

The purpose of the discussion is to determine the next steps including:

- How the referral is to be progressed;
- Who is to lead on any investigation that may be required;
- Any immediate actions that may be required;
- Estimated timescales for completion; and

- Reporting arrangements including any requirement to report to the police (or other external agency) and /or confidentially to members

Where possible it is expected that this discussion will take place within 5 working days of the referral being made.

The group referred to above will consider the information in the context of what they know about the particular area or activity and the information the employee provides. The first issue to be decided is whether the concern is best dealt with under the Whistleblowing Policy or some other existing policy/procedures. When considering this, the following advice will help:

- Whistleblowing presupposes there is an outside agency (regulator, media or police) which would have a legitimate interest to investigate the underlying public interest concern;
- A 'whistleblower' is best viewed as a witness who is putting the organisation on notice of the risk, rather than as complainant seeking to dictate to the organisation how it responds;
- Whistleblowing is an aspect of good citizenship in that the employee is speaking up for and on behalf of people who are at risk but are unusually unaware of it and so is unable to do anything to protect themselves;
- Whistleblowing is about serious matters of public concern (examples are given in the policy); it is not about whether the whistleblower agrees with the approach or ethos of the service. Thus, a complaint that the service is not sufficiently helpful or is not engaging with the community effectively is not whistleblowing concern.

Concerns or allegations which fall within the scope of specific existing procedures (HR, Safeguarding, etc.) will normally be referred for consideration under those procedures.

### **PIDA explained:**

- Step 1 - PIDA readily provides protection when an employee reasonably suspects there is wrongdoing and makes an internal disclosure;
- Step 2 - Disclosures to prescribed regulators / external are protected where the employee reasonably believes that the information and allegation in it are substantially true;
- Steps 3 & 4 - Wider disclosures (to MP or Media) are only protected where there is a justifiable cause for going wider and where the disclosure is reasonable.