

## Reporting a Concern (Whistleblowing) Policy



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# Reporting a Concern (Whistleblowing) Policy

## 1 Policy Purpose

- a) North East Lincolnshire Council (the Council) aims to provide a safe and effective working environment, which enables individuals working for or on behalf of the Council (workers) such as employees, elected members, contractors, volunteers or consultants to raise genuine concerns about malpractice or unlawful conduct in the workplace. This policy is intended to empower workers to disclose serious wrongdoing or unlawful conduct without fear of victimisation.
- b) This policy is intended to:
- i. promote a culture of openness in order to protect the ethical reputation of the Council.
  - ii. provide safeguards to enable individuals to raise genuine concerns about malpractice in confidence and without fear of repercussions.
  - iii. ensure that all individuals working for the Council have a clear and effective means of raising concerns and may be accompanied by his/her Trade Union representative or work colleague of his/her choice.
  - iv. ensure that individuals who raise concerns receive feedback on any action taken.
- c) The Council will investigate any concerns raised, that are related to the actions of Council employees, elected members, contractors, volunteers or consultants in the course of their work for the Council, and where relevant, take appropriate action.
- d) This policy does not relate to concerns from members of the public, who should raise their concerns through the Council's [Feedback Policy](#)<sup>1</sup> However, all referrals will be taken just as seriously.

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

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#### 2 How to raise a concern

- a) Concerns can be raised with the Monitoring Officer in the following ways:
- By email to [simon.jones1@nelincs.gov.uk](mailto:simon.jones1@nelincs.gov.uk)
  - In writing to Monitoring Officer, Municipal Offices, Grimsby, North East Lincolnshire, DN31 1HU
- b) Prior to raising a concern or making a disclosure you may wish to discuss the matter with the Monitoring Officer, Internal Audit, a manager or with a trade union representative.
- c) There are other options if you do not want to report your concern to the Council including seeking legal advice or going to a prescribed organisation which can take allegations without initially having to raise them with the Council. You can find a list of prescribed people and bodies on the [GOV.UK website](#)<sup>2</sup>

#### 3 Raising a concern anonymously or confidentially

- a) A concern can be raised anonymously, and we will investigate them as far as possible, based on the information provided. However, the Council may not be able to take the concern further if they do not have sufficient information.
- b) An individual reporting a concern can give their name but request confidentiality, in which case North East Lincolnshire Council will make every effort to protect their identity, and it will only be shared on a “need to know basis”. If the reporter wishes to raise a concern anonymously, this should be stated at the start of the process.
- c) If a concern is reported to the media, in most cases Protected Disclosure rights do not apply.

#### 4 What protection does the individual reporting the concern have under law?

- a) The council understands how difficult it is to raise a concern, and that it is important that you feel able to do so in a safe and supportive environment, to enable them to be investigated, and action taken where appropriate as soon as possible. We are therefore committed to listening to you and providing you with support through the process.
- b) This policy aims to ensure that the reporter of the concern should not be concerned about the following:
- i. Fear of reprisal or victimisation (e.g. loss of job).
  - ii. Too much to lose (e.g. reputation, damage to career).
  - iii. Feelings of disloyalty.
  - iv. Worries about who may be involved.

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<sup>2</sup> <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

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- v. No proof, only suspicions.
  - vi. Fear of repercussions if there is no evidence or the concern is proved wrong.
- c) When a concern, listed in 5b, is raised in the public interest and in accordance with this policy, the individual raising the concern has legal protection from harassment or victimisation because of the disclosure. This is called a 'protected disclosure'.
- d) PIDA (Public Interest Disclosure Act 1998) will protect the individual 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 an individual acting as a service user would still fall under the PIDA protection).
- e) Independent advice can be sought from organisations such as Citizens' Advice should any individual be unsure whether their disclosure would be protected.

#### **5 When concerns should be raised**

- a) The concern will typically (although not necessarily) be something witnessed at work. To be covered by Protected Disclosure, the individual reporting the concern / making the disclosure must reasonably believe two things:
- i. They are acting in the public interest. The public interest is something that may affect the welfare or well-being of the general public. This means in particular that personal grievances and complaints are not usually covered by Protected Disclosure.
  - ii. They must reasonably believe that the disclosure shows past, present or likely future wrongdoing.
- b) There are various reasons why a concern should be raised with the Council. Below are examples of the types of concerns that would be classed as a Protected Disclosure under this policy.
- i. A criminal offence (e.g. fraud, corruption or theft) has been/is likely to be committed.
  - ii. A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject.
  - iii. A miscarriage of justice has been/is likely to occur.
  - iv. The health or safety of any individual has been/is likely to be endangered.
  - v. Sexual harassment (as defined by section 26 of the Equality Act 2010), including where the disclosure relates to a failure to prevent sexual harassment in the workplace.
  - vi. The environment has been/is likely to be damaged.
  - vii. Public funds are being used in an unauthorised manner.
  - viii. The Council's Constitution has not been observed or is being breached.
  - ix. Physical, sexual and/or mental abuse by an officer on a service user is taking place.
  - x. 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.

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- xi. Any other form of improper action or conduct is taking place. This could include breaches of the 'Nolan' Principles of Public Life.
  - xii. Information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same.
- c) The worker raising the concern will not be expected to prove the truth of an allegation, but it will be helpful if they can demonstrate that there are sufficient grounds for concern. They should provide names, dates and places where possible, and the reason as to why they are particularly concerned about the situation.

#### **6 Allegations regarding individuals who work with children or adults**

- a) 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.
- b) 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 [Safer NEL website](#).<sup>3</sup>

#### **7 Concerns that don't count as Protected Disclosures**

- a) Protected Disclosures do not cover personal grievances (e.g. bullying, harassment, discrimination) unless it is in the public's interest.
- b) 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.

#### **8 How will concerns be dealt with?**

- a) The Council is committed to dealing with all Protected Disclosure concerns appropriately, consistently, fairly and professionally.
- b) The action taken by the Council will depend on the nature of the concern. The matters raised may:
- i. Be investigated internally.
  - ii. Be referred to the Police.

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<sup>3</sup> <http://www.safernel.co.uk/local-safeguarding-childrens-board/>

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- iii. Be referred to the external Auditor.
  - iv. Form the subject of an independent inquiry by another public body such as the Local Government Ombudsman or the Information Commissioners Office.
- b) 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 another existing procedure (e.g. child protection, fraud, money laundering or discrimination issues) will normally be referred for consideration under those procedures.
- c) The Council will write to the reporter of the concern within a maximum of 10 working days, acknowledging that their concern has been received and if appropriate giving further details of what action the Council will be taking.
- d) Please note, in certain high-risk situations, for example child protection concerns, interim action will already have been taken.
- e) The amount of contact between the body considering the issues and the reporter of the concern 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.
- f) The Council will take steps to protect the reporter of the concern from any mistreatment, detriment or harassment that they may experience because of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the Council will advise and support them through the procedure.
- g) The Council accepts that the individual reporting the concern needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcome of any investigations.

### **9 Taking further action**

- a) If there are genuine concerns about how North East Lincolnshire Council has handled a Protected 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.
- b) If an allegation is made but subsequently, following an investigation, not upheld then no action will be taken against the reporter of the concern providing they:
- i. Have acted in the reasonable belief that the disclosure is in the public interest.
  - ii. Believe that the information disclosed, and any allegation contained in it, is substantially true.
  - iii. Have not acted for personal gain, and
  - iv. Have not acted maliciously or made a false allegation.

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- c) It should be noted that if an allegation is made maliciously, falsely or for personal gain, appropriate action may be considered against the reporter. This could result in disciplinary action being considered and protection under PIDA will no longer apply.
- d) If the reporter of the concern 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.
- e) If the reporter of the concern 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.

#### 10 Awareness raising

- a) To emphasise the importance of the Reporting a Concern policy, it will be promoted to staff annually

#### 11 Reporting and Monitoring

- a) All personal data collected and used in the handling of Protected Disclosure concerns is processed in accordance with relevant data protection legislation and Council policies.
- b) The effectiveness of the policy will be reported annually via an annual report to the Audit and Governance Committee by the Monitoring Officer.
- c) A register of Protected Disclosure concerns is maintained with access restricted to only those authorised to access the information.