

CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY

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	Contents	Page No.
1.	Introduction	3
2.	Aims and scope of policy	4
3.	Safeguards – Harassment or Victimisation	4
4.	Confidentiality	5
5.	Anonymous allegations	6
6.	Untrue allegations	6
7.	How to raise a concern	6
8.	How the council will respond	7
9.	The Responsible Officer	8
10.	How the matter can be taken further	9
11.	Review	9

CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY

“North West Leicestershire District Council is committed to the prevention, deterrence, detection and investigation of fraud, corruption, and malpractice in all forms. It encourages employees and members of the Council and its contractors who have serious concerns about any aspect of its work, including matters of health and safety, to voice those concerns.”

1. INTRODUCTION

1.1 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we expect employees, members and others that we deal with, who have serious concerns about any aspect of the Council’s work to come forward and voice those concerns. This Confidential Reporting Policy is intended to encourage and enable employees, members, contractors, or suppliers to raise serious concerns **within** the Council rather than overlooking a problem or “blowing the whistle” outside.

1.2 This Policy provides guidance on the way in which concerns may be raised.

This Policy also sets out how matters can be taken further if a person remains dissatisfied with the Council’s response to any concerns raised.

1.3 Employees, members, contractors, and suppliers are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council, or they perceive that it could harm their chances of future business or their career prospects. They may also fear harassment or victimisation. In such circumstances individuals may consider it to be easier to ignore the concern rather than report what may only be a suspicion of malpractice. This Policy document makes it clear that individuals raising concerns will do so without fear of victimisation, subsequent discrimination, or disadvantage.

1.4 It is recognised that, where concerns are raised, most cases will have to proceed on a confidential basis. The Council will do everything it can to protect the confidentiality of those individuals raising concerns. However, there may be times when the person making the complaint can be identified due to the nature of the allegation made and, in such cases, it will not be possible to keep the identity of the complainant confidential. In addition, there may be times when the Council will believe it is appropriate to let the subject of a complaint know who made any allegation.

1.5 The Council recognises that individuals raising concerns, termed “qualifying disclosures” under the Public Interest Disclosure Act 1998 are entitled to protection under that Act and/or this Policy and may be eligible to compensation if they subsequently suffer victimisation, discrimination, or disadvantage. Under the Enterprise and Regulatory Reform Act 2013, any disclosure using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest. It must also show one or more of the following:

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,

- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

1.6 This policy is designed for workers. Workers include:

- Employees;
- Agency workers;
- People that are training with an employer;
- Self-employed workers, if supervised or working on site.

1.7 The procedures outlined in this Policy **are in addition to** the Council's complaints procedures and other statutory reporting procedures applying to some divisions.

1.8 This Policy has been discussed with the relevant trade unions and has their support.

1.9 The principles of this Policy also apply to concerns of the general public.

2. AIMS AND SCOPE OF THE POLICY

2.1 This Policy aims to:

- encourage workers to feel confident in raising concerns that are in the public interest and to question and act upon concerns;
- provide avenues for workers to raise those concerns and receive feedback on any action taken;
- ensure that workers receive a response to their concerns and that they are aware of how to pursue matters if they are not satisfied;
- reassure workers that they will be protected from the risk of reprisals or victimisation if they have a reasonable belief that they have made any disclosure in good faith.

2.2 If Council employees have concerns relating to their employment with the organisation, these should be raised under the Council's Grievance Policy. This Policy is intended to cover major concerns that fall outside the scope of other policies and procedures. As stated in paragraph 1.5, these include:

- conduct which is an offence or a breach of law,
- disclosures related to miscarriages of justice,
- health and safety risks, including risks to the public as well as other employees,
- damage to the environment,
- the unauthorised use of public funds,
- possible fraud and corruption,
- sexual or physical abuse of clients, or
- other unethical conduct.

3. SAFEGUARDS - HARASSMENT OR VICTIMISATION

3.1 The Council is committed to good practice and high standards and aims to be

supportive of employees and others using this policy.

3.2 The Council recognises that the decision to report a concern can be a difficult one to make. Workers are legally entitled to protection from unfair treatment if:

- (a) they honestly think what they are reporting is true,
- (b) they believe that they are telling the right person,
- (c) they believe that raising concerns is in the public interest.

Put simply, if an individual is acting in good faith when raising any concerns, they should have nothing to fear because they will be doing their duty to their employer, and/or the Council and those for whom the Council provides a service. In the event that the concerns raised are substantiated, they will be ensuring that bad practice / unethical behaviour / illegal conduct is curtailed.

3.3 The Council will not tolerate any harassment or victimisation (including informal pressures) against individuals who raise concerns in good faith under this Policy and will take appropriate action to protect those who raise a concern in good faith and, where necessary, will take action against those subjecting any complainant to harassment, victimisation or any other pressures as a result of raising concerns.

3.4 Any investigation into allegations of matters listed in paragraph 2.2 of this Policy will not influence, or be influenced by, any disciplinary, redundancy or similar procedures which may already affect either the person raising the concerns or the individual(s) who are the subject of those concerns.

4. CONFIDENTIALITY

4.1 All attempts will be made to ensure any concerns raised will be treated in confidence and to protect the identity of the person making the complaint where they so wish. The Council cannot ensure confidentiality where the individual has themselves informed others of any alleged concerns.

4.2 In addition, there may be times when the identity of the person making the complaint is clear due to the nature of any allegations made. In such cases, the Council cannot take any steps to protect the individual's identity. The individual will, however, still be entitled to the same protection against harassment, victimisation, and other pressures as if their identity remained confidential.

4.3 In a small number of cases, the Council may find it is appropriate to disclose the identity of the individual raising the concern to the person who is the subject of any complaint. It will, however, inform them of this before doing so. Again, they will receive the same protection against harassment, victimisation, and other pressures as if their identity had remained confidential.

4.4 It should be noted that, whilst every effort will be made to protect an individual's identity, the Council may, at an appropriate time ask them to come forward as a witness. If they do become a witness in any case, they will be entitled to the same protection against harassment, victimisation, and other pressures that they are entitled to when making the initial complaint under this Policy.

5. ANONYMOUS ALLEGATIONS

- 5.1 This Policy aims to protect those raising concerns and, therefore, it is hoped that any person raising concerns will do so in their own name whenever possible.
- 5.2 Whilst any concern will be taken seriously, those expressed anonymously will carry less weight but will be given consideration by the Council; an investigation into the matters raised will be investigated at the discretion of the Council.
- 5.3 In exercising this discretion, the factors to be taken into account will include:
- the nature and seriousness of the issues raised,
 - the apparent credibility of the concern, and
 - the probable likelihood of being able to confirm the allegation from attributable sources.
- 5.4 If the Council does not know who has made an allegation, it will not be possible for the Council to offer reassurance and protection to the individual.

6. UNTRUE ALLEGATIONS

- 6.1 If an allegation is made in good faith but is not confirmed following an investigation by the Council, no action will be taken against the person making the allegation. This should encourage those who have concerns to raise them in the appropriate manner without fear of any reprisals.
- 6.2 If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken against the person making that allegation where appropriate.

7. HOW TO RAISE A CONCERN

- 7.1 Advice and guidance on how to pursue matters of concern may be obtained from the Council's nominated contact points who are:
- Chief Executive:
Allison.thomas@nwleicestershire.gov.uk
Telephone 01530454500
 - Monitoring Officer:
elizabeth.warhurst@nwleicestershire.gov.uk
Telephone 01530 454762
 - Interim Section 151 Officer:
glenn.hammons@nwleicestershire.gov.uk
 - Audit Manager:
kerry.beavis@nwleicestershire.gov.uk
Telephone 01530 454378

- 7.2 Concerns may be raised verbally or in writing, to any of the above-named individuals. If raising a concern in writing, it should be addressed to the named individual at the:

Whitwick Business Centre
Whitwick Business Park
Stenson Road
Coalville
Leicestershire
LE67 3FJ

Clearly mark the envelope “Confidential”.

Alternatively, any concerns can be raised with North West Leicestershire District Council’s external auditors:

Azets
6th Floor
Bank House
Cherry Street
Birmingham
B2 5AL

or via email - Gary.Devlin@azets.co.uk

- 7.3 Concerns can be raised in the following ways –

- A written report using the following format:
 - the background and history of the concern (giving relevant dates);
 - the reason why the situation is of particular concern.

- A verbal report of any concerns identified by contacting one of the officers named at paragraph 7.1 above to arrange a mutually convenient appointment. When arranging an appointment, it would be helpful to refer to raising a matter under the Confidential Reporting Policy.
 - When making a verbal report set out the facts using the same format identified at paragraph 7.3 above.

- 7.5 The earlier concerns are raised the easier it is for the Council to investigate and take any relevant action.

- 7.7 When raising a concern, the individual will not be expected to prove beyond doubt the truth of an allegation but will need to demonstrate to the person contacted that there are reasonable grounds for concern.

- 7.8 An individual may wish to consider discussing their concern with a colleague or trade union representative first and may find it easier to raise the matter if two (or more) share any concerns.

- 7.9 The individual wishing to raise a concern may invite a trade union representative, professional association representative or a member of staff to be present during any meetings or interviews in connection with the concerns raised, any meetings may be arranged off-site if appropriate.

- 7.10 If an individual feels unable to raise concerns directly with the Council, they should report the matter to a “prescribed person”. This will ensure that their legal rights are protected. The list of prescribed persons can change and so up to date information can be obtained by accessing an online brochure entitled;
“Whistleblowing: list of prescribed people and bodies”
available at www.gov.uk

8. HOW THE COUNCIL WILL RESPOND

- 8.1 The Council will respond to concerns but within the constraints of maintaining confidentiality or observing any legal restrictions. In any event, a confidential record of the steps taken will be kept in accordance with the Data Protection Act 2018.
- 8.2 The Council may also ask to meet with the individual raising the concern in order to gain further information. Do not forget that testing out concerns is not the same as either accepting or rejecting them. It is sometimes necessary to test out any concerns raised in order to identify how strong any evidence may be.
- 8.3 Where appropriate, the matters raised may be:
- investigated internally,
 - referred to the police,
 - referred to the external auditor,
 - made the subject of an independent enquiry.

Following any of the action above, a concern may be upheld or may be dismissed.

- 8.4 In order to protect individuals and those accused of misdeeds or possible malpractice, the Council will undertake initial enquiries to decide whether an investigation is appropriate and, if so, what form it should take. In most cases, it is anticipated that these initial enquiries will be completed within ten working days of an allegation being made. The overriding principle, which the Council will have in mind when deciding what steps to take, is whether the matter falls within the public interest. Any concerns or allegations which fall within the scope of any other specific procedures (for example, misconduct or discrimination issues) will normally be referred to the relevant service area for consideration under those procedures.
- 8.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.6 Within seven working days of a concern being raised, the nominated contact will write to the individual raising the concern:
- acknowledging that the concern has been received,
 - indicating how the Council propose to deal with the matter,
 - give an estimate of how long it will take to provide a final response,
 - advising whether any initial enquiries have been made,
 - providing information on staff support mechanisms, and
 - advising whether further investigations will take place and if not, why not.
- 8.7 The amount of contact between the officers considering the issues and the individual will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the Council will seek further

information from the individual.

8.8 The Council will take steps to minimise any difficulties the individual may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure.

8.9 The Council accepts that an individual needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform the individual of the outcome of any investigation.

9. THE RESPONSIBLE OFFICER

9.1 The Chief Executive has overall responsibility for the maintenance and operation of this Policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will immediately notify the Monitoring Officer and Section 151 Officer of all issues raised under this Policy and will report as necessary to the Council.

10. HOW THE MATTER CAN BE TAKEN FURTHER

10.1 This Policy is intended to provide individuals with an avenue within the Council to raise concerns. The Council hopes the individual will be satisfied with any action taken. If not, and they feel it is right to take the matter outside the Council, the following are possible contactpoints:

- one of the “prescribed persons”
- trade union
- local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation (Public Concern at Work - 020 7404 6609)
- the Police.

10.2 If the matter is taken outside the Council, the individual should ensure that they do not disclose confidential information. Check with one of the Council’s nominated contact points about that (see 7.1).

11. Review

11.1 This policy will be reviewed annually and whenever the relevant legislation changes.