

REPORT TO: East Lothian Council

MEETING DATE: 24 June 2014

BY: Depute Chief Executive (Resources & People Services)

SUBJECT: Whistleblowing Policy

1 PURPOSE

- 1.1 The purpose of the report is to inform Council of the updated Whistleblowing Policy.

2 RECOMMENDATION

- 2.1 Council is asked to approve the updated Whistleblowing Policy.

3 BACKGROUND

- 3.1 The Council has in place a Whistleblowing Policy. The Policy is designed to provide guidance to employees on reporting incidents of malpractice or wrongdoing which occur at work. The Policy gives clear instructions on how matters can be dealt with thoroughly, discreetly and in a confidential way.
- 3.2 The Council's Whistleblowing Policy was initially approved by Cabinet in December 2004 and was subsequently updated in 2009 and 2012.
- 3.3 The Policy has recently been updated to reflect:
- the provisions of the Enterprise and Regulatory Reform Act 2013;
 - changes to the nominated Whistleblowing contact officers.
- 3.4 The updated Whistleblowing Policy is attached as Appendix A.

4 POLICY IMPLICATIONS

4.1 None

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well being of equalities groups and Equality Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Cabinet Report, 14 December 2004 – Council Policy on Whistleblowing

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DATE	12 June 2014

WHISTLEBLOWING POLICY

(Disclosure of Serious Concerns in the Workplace)

This policy applies to all employee groups

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*Updated May 2009
Updated June 2012
Updated June 2014*

Whistleblowing Policy

December
2004

WHISTLEBLOWING POLICY - DISCLOSURE OF SERIOUS CONCERNS IN THE WORKPLACE

1 INTRODUCTION

- 1.1 This Policy is designed to provide guidance to employees on reporting incidents of malpractice or wrongdoing, which occur at work. It gives clear instructions on how matters can be dealt with thoroughly, discreetly and in a confidential way.
- 1.2 At one time or another you may have had concerns about certain incidents, which have occurred at work. Usually these concerns can be easily resolved. However, when they relate to unlawful conduct, financial malpractice, health and safety issues or dangers to the environment, it can be difficult to know what to do.
- 1.3 The Council, with the support of the Trade Unions, has introduced this Policy to enable you to raise your concerns as soon as you have a suspicion of any malpractice or wrongdoing. The disclosure should be made in the public interest, which includes a risk to the wider public, customers, staff or the organisation itself.
- 1.4 This Policy applies to all employees of the Council and to all workers engaged in the business of the Council e.g. consultants and sub-contractors.
- 1.5 This Policy does not deal with individual employee grievances; a separate Procedure exists for this purpose.

2 SCOPE OF THE POLICY

- 2.1 This Policy covers the following categories of malpractice or potential malpractice:
 - a) A criminal offence;
 - b) A failure to comply with any legal obligation;
 - c) A miscarriage of justice;
 - d) A danger to the health and safety of any individual;
 - e) Damage to the environment; or,
 - f) The deliberate concealment of information indicating any of the above matters.

2.2 Examples of malpractice which should be reported might include:

- Theft of Council property
- Misappropriation of Council Funds
- Release of illegal substances into the water system
- Delivery of services when not registered to do so
- Breach of Health and Safety Regulations
- Concealment of fraudulent conduct

3 POLICY COMMITMENT

Your Security

3.1 East Lothian Council is committed to good practice and high standards and wants to be supportive of employees who raise a genuine concern. The Council recognise that the decision to raise a concern can be a difficult one to make and will protect an employee who raises a genuine concern if:

- they honestly and reasonably believe that what they are reporting is true; and
- they believe that their disclosure is in the public interest.

3.2 The Council will not tolerate harassment or victimisation and will take appropriate action to protect an employee who raises a concern in the public interest. The Council will consider it a disciplinary matter if any employee causes detriment to a Whistleblowing colleague.

Keeping Your Confidence

3.3 We recognise that you may want to raise a concern in confidence under this Policy. All concerns raised in accordance with this Policy will be treated with the utmost sensitivity and will be kept confidential unless there is an overriding reason why the identity of the employee(s) raising the concern should be disclosed (for instance if the evidence is needed in court or at a disciplinary hearing). In such circumstances, we may be unable to resolve the concern without revealing your identity. If it becomes necessary to reveal your identity the reasons for doing so will be fully discussed with you in advance.

3.4 To assist in the effective investigation of concerns this Policy strongly encourages individuals to reveal their identity when reporting a concern. Protection can only be given under this policy to someone who discloses their identity to the contact officer when reporting their concern.

However, where an anonymous report is received about an alleged malpractice or wrongdoing this also will be acted upon.

4 RAISING A CONCERN

4.1 There are a number of routes available to raise any concern you may have (either in person, in writing or by telephone):

Route 1: If you have a concern about malpractice, we hope you will feel able to raise it first with your line manager or team leader. This may be done verbally or in writing.

Route 2: You can call the Council's dedicated Whistleblowing hotline **01620 827878** or email whistleblowing@eastlothian.gov.uk

Route 3: You can raise your concern with any of the nominated Whistleblowing contact officers from within your service area. Contact details of these individuals are attached as Appendix 1.

Route 4: If you prefer not to raise your concern within your service area, you can raise your concern with any of the nominated Whistleblowing contact officers from other service areas or with any of the Council-wide contact officers. Details of Council-wide contact officers are attached as Appendix 2.

Route 5: If you are unable to make a disclosure using routes 1, 2, 3 or 4 and prefer not to raise your concern internally, you can raise it with an appropriate External Agency such as the Health and Safety Executive, the Scottish Environmental Protection Agency or Audit Scotland. A list of useful contact details is attached as Appendix 3.

(Please note: The statutory provisions providing protection to individuals reporting a concern to external agencies are effective only if certain conditions are satisfied). Confidential advice about external agencies and the circumstances in which you should contact them, is available from Public Concern at Work (see below, under Section 6 - Independent Advice).

5 RESPONSIBILITIES OF THE PERSON WITH WHOM YOU RAISE YOUR CONCERN

5.1 Whichever route you choose, the person with whom you raise your concern has the responsibility to:

- consider if your disclosure is being made in the public interest,
- consider the details of your concern and confirm that it falls within the scope of this Policy,

- formally record your concern and consider how best to deal with it (a Record Form is attached as Appendix 5),
- review the details of your concern and determine how to progress it,
- tell you how your concern will be dealt with and keep you up to date with progress.

6 INDEPENDENT ADVICE

- 6.1 You may wish to talk to someone confidentially **before** you raise your concern. Independent, free and confidential advice is available to you from Public Concern at Work (Tel: **0207 404 6609** or email: help@pcaw.org.uk).
- 6.2 Public Concern at Work are an independent charity providing advice on what to do if you have a serious concern about possible malpractice at work. They will be able to advise you on the appropriate route to follow to raise your concern and on the circumstances in which you may be able to raise your concern with an external agency.
- 6.3 If you are a member of a Trade Union, you may also contact your Trade Union representative. Contact details for local Trade Unions are attached as Appendix 4.
- 6.4 Free independent advice is also available from the Acas helpline on **0300 123 1100**.

7 HANDLING YOUR CONCERN

- 7.1 Once you have informed a contact officer of your concern, the officer (or external agency) will assess what action should be taken. This may involve an internal investigation. You will be told who is handling the matter, how you can contact them and whether you may be needed to give any further assistance. If you wish, we will write to you summarising your concern and setting out how we propose to handle it.
- 7.2 When you raise your concern, you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, you must tell us at the outset.
- 7.3 A summary of the procedure to be followed in handling your concern is attached as Appendix 6.

8 THE OUTCOME OF YOUR CONCERN

- 8.1 You will be given feedback on the outcome of any investigation. If you wish, we will provide this feedback in writing. However we may not be able to tell you the precise action taken where this would infringe the duty of confidence owed by us.
- 8.2 If following investigation, it is established that an employee raising a concern, did not do so in good faith, but instead knowingly made a false and malicious allegation, then this will be regarded as potential misconduct, which may warrant disciplinary action.

9 MONITORING THIS POLICY

- 9.1 A summary of concerns raised under this Policy and the outcomes arising from these concerns will be reported to the Audit and Governance Committee on an annual basis. No individuals will be named in this report.
- 9.2 The Head of Council Resources, Service Manager – Legal and Procurement and Internal Audit Manager will undertake an overview of the operation of this Policy. To assist in this, anyone raising a concern under the scope of this Policy may contact any of these three officers to give feedback of their experiences of using the Policy, including suggestions for improvements.

Whistleblowing Contact Officers

Resources and People Services

Sharon Saunders, Head of Children's Wellbeing
ssaunders@eastlothian.gov.uk
01620 827632

Richard Parker, Service Manager – Education (Strategy & Operations)
rparker@eastlothian.gov.uk
01620 827494

Raymy Boyle, GIRFEC Service Manager
rboyle@eastlothian.gov.uk
01875 824335

Richard Campbell, Service Improvement Officer
rcampbell@eastlothian.gov.uk
01620 826650

Kenny Christie, Service Manager – Revenues
kchristie@eastlothian.gov.uk
01620 827431

Alan Cruickshank, Service Manager – IT Infrastructure
acruickshank@eastlothian.gov.uk
01620 827220

Partnerships and Community Services

Tom Shearer, Head of Communities and Partnerships
tshearer@eastlothian.gov.uk
01620 827560

Paul Iannetta, Service Manager – Engineering Services & Building Standards
pianetta@eastlothian.gov.uk
01620 827241

Tony McAuley, Service Manager – Trading Standards
tmcauley@eastlothian.gov.uk
01620 827919

Joyce Marlow, Service Manager – Facilities
jmarlow@eastlothian.gov.uk
01620 827820

East Lothian Health and Social Care Partnership

Fiona Duncan, Service Manager – Criminal Justice
fduncan@eastlothian.gov.uk
01620 827897

Margaret O'Connor, Service Manager – Resources
moconnor@eastlothian.gov.uk
01620 827576

Linda Young, Service Manager – Operations
lyoung@eastlothian.gov.uk
01620 827969

Council-Wide Contact Officers

Morag Ferguson, Service Manager – Legal and Procurement

mferguson@eastlothian.gov.uk

01620 827770

Jim Lamond, Head of Council Resources

jlamond@eastlothian.gov.uk

01620 827278

Mala Garden, Internal Audit Manager

mgarden@eastlothian.gov.uk

01620 827326

External Contacts

Health and Safety Executive (HSE)

Belford House
59 Belford Road
Edinburgh
EH4 3UE

Tel: 0131 247 2000 Information line: 0870 145 5500

Fax: 0131 247 2121

Website: www.hse.gov.uk

Scottish Environmental Protection Agency (SEPA)

Clearwater House
Heriot Watt Research Park
Avenue North
Riccarton
Edinburgh
EH14 4AP

Tel: 0131 449 7296

Fax: 0131 449 7277

Website: www.sepa.org.uk

Audit Scotland

110 George Street
Edinburgh
EH2 4LH

Tel: 0131 477 1234

Fax: 0131 477 4567

Website: www.audit-scotland.gov.uk

Email: info@audit-scotland.gov.uk

Trade Union Contact Details

UNISON

John Nisbet
Branch Secretary
East Lothian Branch
Block B, Brewery Park
Haddington
EH41 3HA
Tel : 01620 827345
Jnisbet.unison@eastlothian.gov.uk

EIS

Gael Gillan
Secretary
Block B, Brewery Park
Haddington
EH41 3HA
Tel: 01620 829010
eastlothian@eis.org.uk

GMB

Dominic Allen
Organising Officer
2/4 Glebe Street
Falkirk
FK1 1HU
Tel: 01324 670676

UCATT

Graham Turnbull
Full-Time Officer
53 Morrison Street
Glasgow
G5 8LB
Tel: 0141 420 2880

UNITE

Please contact your local representative

Whistleblowing Record Form

Section 1: To be completed by the Contact Officer on receipt of Concern

INITIAL CONTACT:

Contact Officer:

Name:

Tel No:

Date of 1st Contact:

Concern Raised by:

Name:

Tel No:

Post:

Business Unit:

Method of 1st Contact:

Brief Details of Concern:

Course of Action:

Section 2: To be completed by the Contact Officer and Concerned Individual

CONFIDENTIAL DISCUSSION MEETING:

Present:

Date:

Summary of Concern Raised:

Individual's Suggestions for Handling Concern:

Course of Action:

In Confidence (Permission to Disclose Name): Yes / No

Signed:

Concerned Individual:

Contact Officer:

Date:

Section 3: To be completed by Contact Officer

STEPS TO BE TAKEN TO INVESTIGATE CONCERN:

Section 4: To be completed by Contact Officer

OUTCOME OF CONCERN RAISED:

Section 5: To be completed by Contact Officer

RECORD OF FEEDBACK TO CONCERNED INDIVIDUAL:

Signed

Contact Officer:

Date:

SUMMARY

Procedure for Handling Your Concern

You: Identify Your Concern and gather together any evidence you may have uncovered.

You: Obtain a copy of the Whistleblowing Policy (available from ELNet, your Line Manager, your Trade Union or from Human Resources).

You: May take independent advice on How to Handle Your Concern.

You: Raise Your Concern: 1st Contact With Internal/External Contact Officer.

Contact Officer: Listens to your Concern, identifies that it falls within the Scope of the Policy, makes a written record of your 1st Contact, agrees a time to meet with you privately and in confidence to discuss in greater depth.

Contact Officer and You:

Meet and discuss in detail the substance of your Concern. You provide any evidence you may have uncovered. Agree if there is any requirement to give further evidence. Jointly, complete the Record Form. Contact Officer provides you with details of how to make further contact.

Contact Officer: Considers the details you have provided. Identifies how best to investigate your Concern. Identifies whom to pass details for investigation. Advises you of this step and of any role you may play in the investigation.

Investigation Officer:

Investigates the Concerns raised, considers any evidence provided, conducts the investigation to the standard adopted in internal disciplinary processes e.g. signed statements etc.

Contact Officer: Receives details of the outcome of the investigation. Considers these and provides you with feedback on the outcome of the investigation. Potential outcomes may include:

Changes to Policy and Practice
Improved Management Practices
Disciplinary Processes
Audit Investigation
Police Enquiry etc.