

**Corporate Policy**

**Whistleblowing Policy**

This policy outlines how to make a whistleblowing complaint, to who, and the support and protection available.

Date Approved: 27 September 2022

This is an East Lothian Council Policy which has been subject to consultation with the Joint Trades Unions. Any review or amendment by the council will be following consultation with the Trades Unions.

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| **Policy Title** | Whistleblowing Policy |
| **Policy Section** | Corporate Policy |
| **Prepared By /Policy Author** | Internal Audit  |
| **Version Number** | V 6.0  |
| **Equality Impact Assessment** | Complete December 2021 |
| **Links to other Council Policies/ processes** | Code of Conduct for Employees PolicyData Protection PolicyEqual Opportunities Policy Flexible Working Hours PolicyIT Acceptable Use PolicyInformation Security PolicyInformation and Records Management PolicySocial Media Acceptable Use PolicyThe East Lothian WayWorksmart Policy |
| **Corporate Strategy** | East Lothian Council Plan 2022-2027The Workforce Plan 2018 - 2022Climate Change Strategy 2020 - 2025Council Asset Strategy and Management Plan 2018-2023 |
| **Approved By** | Duncan Stainbank |
| **Date Approved** | 27 September 2022 (Update September 2023) |
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| **Policy Lead** | Service Manager – Internal Audit |

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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, or the covering up of any of these issues it can be difficult to know what to do.

1.3 The Council, with the support of the Joint 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. Agency Workers, Supply Teachers.

1.5 This Policy does not deal with individual employee grievances; a separate Procedure exists for this purpose.

**2.** **Scope of Policy**

2.1 This Policy covers the following categories of malpractice or potential malpractice:

* A criminal offence;
* A failure to comply with any legal obligation;
* A miscarriage of justice;
* A danger to the health and safety of any individual;
* A risk of or actual damage to the environment; or
* The deliberate concealment of information indicating any of the above matters.

2.2 Examples of malpractice or wrongdoing 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; or
* Concealment of fraudulent conduct.

**3.** **Principles and Aims**

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. The following information outlines the new legislative protection offered to employees.

 Whistleblowers are protected if they:

* Reasonably believe the information disclosed tends to show that one of the following has happened, is happening, or is likely to happen:
	+ A criminal offence;
	+ A failure to comply with any legal obligation;
	+ A miscarriage of justice;
	+ A danger to the health and safety of any individual;
	+ A risk of or actual damage to the environment; or
	+ The deliberate concealment of information indicating any of the above matters.
* Make the disclosure in the public interest.
* Reasonably believe the information is true.
* Believe the whistleblowing allegation is being made to the right person.

Whistleblowers’ rights: An employee cannot be dismissed because of whistleblowing. An employee cannot miss out on opportunities for promotion, transfer, training or any other benefits because of whistleblowing.

The following people are protected:

* + Our employees;
	+ Agency workers;
	+ Supply Teachers;
	+ People who are training, but not employed;
	+ Self-employed workers; and
	+ Home workers.

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.

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 to the extent it is possible to do so without knowing the identity of the person reporting the concern.

**4. Preventing Fraud, Corruption & Bribery**

4.1 A number of rules and procedures have been approved and guidance produced to make sure the Council’s business is properly controlled. It is important that all elected members and employees are aware of these and act in accordance with their terms. Our guidance documents include the following:

* The Councillors’ Code of Conduct;
* Code of Conduct for Employees;
* Financial Regulations;
* Standing Orders and Scheme of Delegation;
* Procurement Manual; and
* Employees’ Conditions of Service.

4.2 Our employees must read, understand and act in accordance with these rules and procedures. If employees don’t follow these procedures and rules, they might after a full investigation of the facts be disciplined which may result in dismissal. All cases of actual or suspected fraud, corruption, bribery and theft must be reported immediately to the Service Manager – Internal Audit as required by the Council Strategy for the Prevention and Detection of Fraud & Corruption. Council Executive Directors and Heads of Service must make sure their employees are aware that this is a requirement of their employment with the Council.

1. **Raising a Whistleblowing Concern**

5.1 There are a number of routes available to raise any concern you may have (either in person, in writing or by telephone), independent legal advice can be sought from your Trade Union or the charity Protect (see section 7 below):

**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 on **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 are attached as Appendix 1.

**Route 4:** If you prefer not to raise your concern within your own service area, you can raise your concern with any of the nominated Whistleblowing contact officers in other service areas or with any of the Council-wide contacts 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 & 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. Translation services and communication support can be made available if required to assist in raising a whistleblowing concern)

**6. Responsibilities of the Person you raise your Concern with**

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

* Consider if your disclosure is being made in the public interest.
* Consider the details of your concern and confirm whether it falls within the scope of this Policy.
* Formally record your concern (a [Record Form](http://intranet.eastlothian.gov.uk/downloads/file/396/whistleblowing_record_form) is attached as Appendix 5 and can be found on the Intranet).
* 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.

**7. Independent Advice**

7.1 If you are a member of a Trade Union, you may contact your Trade Union representative. Contact details for local Trade Unions are attached as Appendix 4.

7.2 The charity Protect also offers a free, independent helpline on 020 3117 2520.

7.3 Free independent advice is also available from the ACAS helpline on 0300 123 1100.

**8. Communications**

8.1 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.

8.2 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.

8.3 A summary of the procedure to be followed in handling your concern is attached as Appendix 6.

**9. Outcome of your Concern**

9.1 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 data protection requirements or might compromise the taking of further action, including legal action or prosecution.

9.2 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.

1. **Monitoring of this Policy**

10.1 A summary of concerns raised under this Policy and the outcomes arising from these concerns will be reported on an annual basis. No individuals will be named in this report.

10.2 The Head of Corporate Support, Service Manager – Internal Audit and Service Manager – Governance will review the operation of this Policy. To assist in this review, 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.

**Service Manager – Internal Audit**

**September 2022**

**Appendix 1**

 **Service Contact Officers**

**Council Resources**

**Kenny Christie**

Service Manager – Revenues

kchristie@eastlothian.gov.uk

01620 827431

**Alan Cruickshank**

Service Manager – IT

acruickshank@eastlothian.gov.uk

01620 827220

**Education and Children’s Services**

**Nicola McDowell**

Head of Education

nmcdowell1@eastlothian.gov.uk

**Lindsey Byrne**

Head of Children’s Services

lbyrne@eastlothian.gov.uk

01620827437

**Place**

**Sharon Saunders**

Head of Communities &Partnerships ssaunders1@eastlothian.gov.uk

01620 827632

**Tom Reid**

Head of Infrastructure

treid@eastlothian.gov.uk

01620 827541

**James Coutts**

Service Manager – Community Housing & Homelessness

jcoutts@eastlothian.gov.uk

01620 827483

**Health and Social Care**

**David Hood**

Head of Operations

David.Hood@nhslothian.scot.nhs.uk

**Appendix 2**

 **Council-wide Contact Officers**

**Morag Ferguson**

Head of Corporate Support

mferguson@eastlothian.gov.uk

01620 827487

**Carlo Grilli**

Service Manager – Governance cgrilli@eastlothian.gov.uk

01620 827770

**Duncan Stainbank**

Service Manager – Internal Audit dstainbank@eastlothian.gov.uk

01620 827353

**Appendix 3**

 **External Contacts**

**Health and Safety Executive (HSE)**

Belford House

59 Belford Road

Edinburgh

EH4 3UE

 Information line: 0300 790 6787

Website: [www.hse.gov.uk](http://www.hse.gov.uk/)

**Scottish Environment Protection Agency (SEPA)**

Clearwater House

31 Heriot-Watt Research Park

Avenue North

Riccarton

Edinburgh

EH14 4AP

Website: [www.sepa.org.uk](http://www.sepa.org.uk/)

**Audit Scotland**

4th Floor

102 West Port

Edinburgh

EH3 9DN

Tel: 0131 625 1500

Email: info@audit-scotland.gov.uk

Website: [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk/)

 **Appendix 4**

**Trade Union Contact Details**

**UNISON**

Mike Dunlop

UNISON Full-time Officer

John Muir House

Haddington

EH41 3HA

Tel: 01620 827345

Email: mdunlop.unison@eastlothian.gov.uk

**Educational Institute of Scotland (EIS)**

Gael Gillan

EIS East Lothian Secretary

John Muir House Haddington

EH41 3HA

Tel: 01620 829010

Email: ggillan.eis@eastlothian.gov.uk

**Scottish Secondary Teachers’ Association (SSTA)**

Monique Dreon-Gould

District Secretary

West End House

14 West End Place

Edinburgh

EH11 2ED

Tel: 0131 313 7300

Email: info@ssta.org.uk

**GMB**

Benny Rankin

16/1 Timber Bush

Edinburgh

EH6 6QH

Tel: 0131 322 9270

Email: scotland@gmb.org.uk

**UNITE**

Scott Foley

UNITE Regional Officer

 22 York Place

 Edinburgh

 EH1 3EP

Tel: 0131 556 9676

Email: scott.foley@unitetheunion.org

**Whistleblowing Record Form Appendix 5**

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| **Section 1: To be completed by the Contact Officer on receipt of the Concern****Initial Contact:** |
| Contact Officer Name: |  | Contact Officer Tel No: |  |
| Date of first contact: |  |
| **Concern Raised By**: |
| Name: |  | Tel No: |  |
| Post: |  | Department: |  |
| Method of Contact: |  |
| Brief Details of Concern: |  |
| Course of Action: |  |

|  |
| --- |
| **Section 2: To be completed by the Contact Officer and the Concerned Individual****Confidential Discussion Meeting** |
| Present: |  | Date: |  |
| Summary of ConcernRaised: |  |
| Individuals Suggestion for handling Concern: |  |
| Course of Action: |  |
| In Confidence (Permission to Disclose): | YES/NO |  |
| Signed Concerned Individual |  | Date: |  |
| Signed Contact Officer |  | Date: |  |

**Section 3: To be completed by the Contact Officer**

Steps to be taken to investigate Concerns:

**Section 4: To be completed by the Contact Officer**

Outcome of Concerns raised:

**Section 5: To be completed by the Contact Officer**

Record of Feedback to Concerned Individual:

Signed:

Contacts Officer’s Name:

Date:

 **SUMMARY Appendix 6**

**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 on the Council’s Intranet, from your line manager, your Trade Union or 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 first contact, agrees a time to meet with your 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, conduct the investigation to the standard adapted 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.
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