



# **BOSTON BOROUGH COUNCIL WHISTLEBLOWING POLICY**

APPROVED BY FULL COUNCIL 2<sup>ND</sup> MARCH 2015

## Who and what does this policy cover?

This policy applies to all employees of Boston Borough Council, regardless of whether you have a temporary, permanent or fixed term contract. It also applies to secondees, external consultants, contractors and agency employees whilst they are at the Council. You are not required to have worked at the Council for a minimum amount of time before you can use this policy.

This policy is primarily for concerns where the interests of others or the Council itself are at risk.

Our Objectives:

This confidential reporting policy is intended to cover major concerns which fall outside the scope of other policies or procedures. Thus any serious concerns you have about the conduct of officers or members of the Council or service provision or others acting on behalf of the Council can be reported under this policy.

It can be difficult to know what to do. You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. These procedures are intended to encourage and enable you to raise serious concerns within the Council rather than overlooking a problem or "blowing the whistle" outside. Premature or unnecessary publicity may damage the Council's reputation, impede proper investigations or hurt individuals unnecessarily.

Throughout this policy the term 'whistleblower' denotes the person raising the concern or making the complaint.

## Principles

This policy incorporates the following principles:

- **Fairness** Any action taken will be reasonable and necessary. Members of staff involved are entitled to be heard with courtesy and respect
- **Confidentiality** Information relating to Whistleblowing matters will only be shared with individuals who have a need to know
- **Representation** If issues arise within these procedures and a formal approach is required to deal with them, employees will be entitled to be accompanied by a trade union representative or by a work colleague

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## **1. How do I know if this is the right policy to use?**

There are existing policies designed to resolve many of the concerns which an employee may have. The procedures to be followed in raising and dealing with issues under the relevant policy are set out in the relevant entry in the Employee Handbook. For example there are policies on:

Grievances; equal opportunities; disciplinary matters; Health and Safety; capability:

This procedure is intended to supplement rather than replace existing Council policies whereby employees of the Council may already raise complaints on matters of genuine concern with the Council.

The Whistleblowing Policy is intended to cover major concerns that fall outside, or in a particular instance do not appear to have been properly addressed within the scope of other procedures. These may include:

- Conduct which is an offence or a breach of the law
- Issues which are against the Council's standing orders, financial regulations, contracts code or other policies
- Disclosures related to miscarriages of justice
- Health & 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 /or corruption
- Other unethical conduct
- Deliberate concealment of any of the above.

This is not an appeal mechanism for other procedures, unless - exceptionally - you think the process of another procedure you have been through was compromised.

If something is troubling you which you think the Council should know about or look into, please use this policy. If, however, you are aggrieved about your personal position please use the grievance procedure.

Appendix 1 shows some examples of situations in which employees might blow the whistle and the procedure to use.

## **2. How do I raise a concern?**

You might find it useful to make a note of the details using the template in Appendix 2. When you are raising a concern please make it clear that you are raising your concern as part of the Council's Whistleblowing Policy. It is important to note that in response to concerns raised with any of those listed below; they will initially act independently of each other when making investigations.

Depending on the circumstances there are a number of ways in which you can raise your concern. We encourage you to do this in writing where possible, setting out the background and history of your concerns (giving names, dates and places where possible) and indicating the reasons for your concerns. You should have sufficient information or evidence to enable the Council to consider whether there is a need for a formal investigation.

### **Option 1: Line Manager**

Tell your immediate manager. This can be done either face-to-face or in writing. The matter will then be referred, when appropriate, to the relevant Head of Service.

### **Option 2: Head of Service**

If your concern involves your immediate Line Manager or Supervisor, or if for any reason you would prefer not to tell them, you may raise the matter directly with your Head of Service.

### **Option 3: Director**

If the concern involves your line manager or Head of Service or for any reason you would prefer not to tell them, you may raise the matter directly with your Director. If the concern involves your Director you may speak to another Director.

### **Option 4: People Services**

If for any reason you would prefer not to follow stages 1-4 listed above, you may raise the matter directly with People Services.

### **Option 5: Speak in Confidence**

You can use our online communications tool Speak in Confidence which will enable you to raise issues or concerns with senior managers whilst remaining anonymous <https://secure.speakinconfidence.com/company/en/boston>

### **Option 6: Other Relevant Bodies**

If your disclosure comes under the responsibility of another public body prescribed for the purpose under the Public Interest Disclosures Act (PIDA), you can contact the relevant body. A list of prescribed regulators can be found on <http://www.pcaw.co.uk/law/lawregulatorses.htm>

### **Option 7**

If the matter is of an extremely sensitive or serious nature or management is believed to be involved it can be raised with one of the following:

- Monitoring Officer or Deputy Monitoring Officer
- Section 151 Officer/Deputy Section 151 Officer

- Internal Audit (ext. 486)
- Externally appointed auditors

### **Safeguarding/Child protection**

If your concerns relate to child or adult safeguarding then you can also contact Lincolnshire County Council or go straight to the Police. Please refer to the Council's Safeguarding policy for further information.

### **3. Can I make an anonymous disclosure?**

The Council encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Council. You should be aware that if you do make an anonymous disclosure the Council will be unable to give you any feedback, although the concern may be investigated at the discretion of the Council.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

If you disclose your identity, it will be easier for us to:

- look into the matter;
- protect your position; and
- give you feedback.

We very much hope that the assurances we give in this policy will encourage you to disclose your identity to those here who need to know. However, if you wish to raise an issue anonymously, the Council will, of course, consider it.

### **4. How can I raise a concern and be protected by this policy?**

Certain kinds of disclosures qualify for protection ("qualifying disclosures"). Qualifying disclosures are disclosures of information which the whistleblower reasonably believes tend to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health or safety of any individual
- damage to the environment or
- deliberate covering up of information tending to show any of the above five matters

It should be noted that in making a disclosure the whistleblower must have reasonable belief that the information disclosed is in the public interest. The belief need not be correct - it might be discovered subsequently that the whistleblower was in fact wrong - but they must show that they held the belief, and that it was a reasonable belief in the circumstances at the time of disclosure. In order for the disclosure to be protected the whistleblower must follow the reporting procedures laid out in this policy.

## **5. What happens when I raise a concern?**

Where appropriate, the matters raised may:

- Be investigated by appropriate management representatives, internal audit, or through the disciplinary process;
- Be referred to the Police;
- Be referred to the external appointed auditor;
- Form the subject of an independent inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection, adult abuse or discrimination issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required (e.g. precautionary suspension) this will be taken before any investigation is conducted.

In line with legislative changes due to be introduced in 2016 we will report annually on the disclosures that we receive. The detail of this will be agreed once the legislation has been formally changed.

## **6. What if other employees have the same concern?**

You can, and may find it easier to, raise the matter jointly if there is another person who has the same concern as you and who will support your allegations.

## **7. What takes place during an investigation?**

Once your complaint has been received an Investigating Officer will be appointed. This will normally be a Head of Service or Internal Audit. They will contact you to ensure they have full details of your complaint and clarify any details. This will be a fact finding meeting and if we need you to attend these meetings you can be accompanied by:

- a fellow employee of your choice who may be a friend or colleague;
- a local representative or full-time official of a trade union.

You will be able to confer with your companion during the course of the meeting and they may address the meeting but may not answer questions on your behalf. This meeting can be held off site if you prefer.

Those under investigation may also be accompanied by a fellow employee of their choice who may be a friend or colleague, or a trade union representative. We will not ask you to attend a meeting where those under investigation are also present.

## **8. What is the role of the Investigating Officer?**

- acknowledge the whistleblower's disclosure;
- indicate to the whistleblower how (s)he proposes to investigate the disclosure, where appropriate, and the likely timescales;
- keep the whistleblower regularly informed of progress;
- take concerns seriously, considering them fully and fairly;
- resolve issues as promptly as possible;
- liaise with the relevant managers/ People Services Manager / Monitoring Officer as relevant in matters that have been raised with them directly; and
- communicate the findings of any investigation to the whistleblower (where possible), the individual(s) under investigation and, if appropriate, other external authorities.

## **9. What happens after the investigation?**

The Investigating Officer will ensure that the findings of the investigation (subject to any legal constraints) are communicated to:

- You, as the person raising the wrongdoing concern;
- The individual(s) under investigation; and, if appropriate,
- Members of Council management or other external authorities who may need to consider whether action should be taken on the basis of the findings.

Please note, however that we may not be able to tell you the precise action that we take where this would infringe a duty of confidence owed by us to someone else and data protection requirements.

## **10. How long will it take to resolve?**

Due to the varied nature of these sorts of complaints, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer will ensure that their investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

### **11. How will I know when my concern has been resolved?**

The investigating officer, should within 7 calendar days, send a written acknowledgement of the concern to you and thereafter report back to you in writing the outcome of the investigation and on the action that is proposed. This will be done within 7 calendar days of the investigation being concluded. If the investigation is a prolonged one, the investigating officer should keep you informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded. All responses to you should be in writing and sent to your home address.

### **12. What if I am not satisfied with the outcome?**

While the Council cannot guarantee to respond to your disclosure in the way in which you might wish, we will handle the matter fairly and properly. By using this procedure you will help us to achieve this. If you are dissatisfied after using this procedure and getting a final written response you can raise the matter with the other levels and bodies set out in this policy.

### **13. How will the Council support me?**

The Council will take steps to minimise any difficulties what may be experienced as a result of raising a concern. For instance if you may be required to give evidence in a criminal or disciplinary procedure, the Council will arrange for advice about the procedure and any support and/or counselling required.

### **14. What about my confidentiality?**

In raising a concern about wrongdoing, you may be assured that only those Council staff investigating it will know your identity. We will not reveal your identity outside this group except:

- where we are under a legal obligation to do so
- where that information is already in the public domain
- on a strictly confidential basis to a professionally qualified lawyer or accountant for the purposes of obtaining advice; or
- to the police or as otherwise required under anti-money-laundering requirements
- when making a complaint that involves an Elected Member which may be considered under the Member Code of Conduct

If there are any other circumstances in which we are required to reveal your identity outside those identified above, we will discuss this with you first. Under no circumstances will you find that your identity has been revealed outside this list without your knowledge.

## **15. What if my concern is about fraud or corruption – doesn't the Council have a Fraud Department?**

Anyone who has a genuine concern about potential fraud, corruption, or weak financial systems within the Council is encouraged to bring it to the council's attention (in confidence) through any of the following channels:

- The Section 151 Officer or their deputy: Tel; 01205 314250
- The Monitoring Officer: Tel: 01205 314292
- The Council's internal auditors Tel: 01205 314486
- The Audit Commission Tel: 0303 4448346

Remember, the Council also has in place an Anti Fraud & Corruption policy which this policy is designed to compliment. The responsibility for the investigation of fraud and corruption perpetrated against the Council generally rests with the Fraud Officers for all benefit related cases and with the internal audit section for all non-benefit related matters. In some cases, police or external agencies may also be involved.

## **16. How do I know what is covered by the terms "fraud", "corruption" or "theft"?**

The Audit Commission Fraud Manual defines Fraud as:

*"The intentional distortion of financial statements or other records by persons internal or external to the Council which is carried out to conceal the misappropriation of assets or otherwise for gain"*

Fraud occurring within an organisation is known as Corporate Fraud. This involves deliberate dishonesty to deceive the public, lending companies or others, usually resulting in financial gain to the criminals, organisation or individuals working within. The Anti-fraud & Corruption Policy sets out further detail about Corporate Fraud. If you suspect anyone of Corporate Fraud you should use the provisions within this policy to raise your concerns.

Most actual and attempted fraud against local authorities is committed by people who do not work for the Council, usually by claiming grants and benefits to which they are not entitled. For their purposes fraud does not include petty theft or misappropriation without the distortion of financial statements or other records. The following, more general definition of fraud is also appropriate, as this policy is designed to promote propriety in public office *"deliberate deception, trickery or cheating with the intention to gain advantage"*.

The Audit Commission Fraud Manual defines Corruption as:

*"the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person"*.

Theft is defined as:

*"intentional and dishonest borrowing, misappropriation or misuse of Council assets or*

*facilities, including actions that may fall short of offences under criminal law”*

**17. What happens if I may be implicated?**

If you blow the whistle and actively co-operate with an investigation in which you may be implicated in any wrongdoing, you are likely to receive a lighter sanction than might otherwise have been the case (unless the misconduct is so serious that no amount of co-operation or other mitigating conduct can justify a decision not to bring any action). In making any disclosure you must tell the Council as soon as possible if you have any involvement or direct personal interest in the matter.

**18. What effect will it have if I raise a concern and am involved in another process such as disciplinary, capability, redundancy or grievance?**

These matters will, rightly, not have any bearing on the investigation of your complaint, but may be taken into consideration if you are found to have not acted in good faith.

**19. What if an investigation finds that my concern was unfounded?**

If you make an allegation where you have reasonable belief that the disclosure is in the public interest which is not confirmed by subsequent investigation, no action will be taken against you. It does not matter if you are mistaken or if there is an innocent explanation for your concerns. In making a disclosure you should exercise due care to ensure the accuracy of the information you provide.

**20. When might disciplinary action be taken against a Whistleblower?**

This is not something which should deter you from raising a genuine concern. However, if you made frivolous, malicious or vexatious allegations, or allegations for personal gain, and particularly if you persisted with making them, disciplinary action may be taken against you.

If you knowingly made false allegations disciplinary action may also be taken and also if you raise concerns without following the procedures within this policy.

**21. What if there's a breach of confidentiality during the process?**

Any parties involved will be required to observe confidentiality. If there is a breach of this confidentiality by anyone involved with resolving your concern, then you can take the appropriate action under the Grievance Procedure. Action will also be taken under the disciplinary policy where appropriate.

## **22. What role does the Union have in Whistleblowing?**

The Council recognises that employees may wish to seek advice and to be represented by their trade union officers when using the provisions of this policy. A number of Trade Unions have issued guidance on 'whistle blowing', and the Council acknowledges and endorses the role trade union officers play in this area. If you are unsure who your representative is you can find details on the notice boards, or you can contact People Services for current details.

## **23. How long are records relating to Whistleblowing kept?**

The records will be destroyed after seven years.

## **24. What about the confidentiality clause in my contract?**

Breach of confidence clauses in an employment contract are not enforceable as long as a whistleblower is truly disclosing confidential information in good faith. Where the procedure allows a matter to be taken outside the Council the whistleblower should not disclose confidential information unless the information relates to the matter under investigation and not until the internal procedures have been exhausted. No confidential information shall be disclosed externally in a frivolous or vexatious manner.

## **25. Will it be a disciplinary offence to victimise a whistleblower?**

Yes. If you blow the whistle and suffer detriment because of it, the disciplinary procedure will apply to the individual or individuals who caused the detriment. Detriment may take a number of forms, such as denial of promotion or training opportunities which may otherwise have been offered.

## **26. When can I make a disclosure outside the Council?**

The Council stresses that you should raise concerns internally first, but the law also provides for you to make a wider disclosure (which could include to the police or an MP) **if, and only if:**

- The matter is exceptionally serious.
- You are reasonably afraid that you would be victimised.
- You believed reasonably that there would be a cover up and there is no prescribed person (Audit Commission etc).
- The matter was raised internally or with a prescribed person but was not dealt with properly.

## **27. Where can I get further information or independent advice?**

This policy is designed to provide you with an avenue within the Council to raise concerns.

The Council hopes you will be satisfied with any action taken. If you are not, and you feel it's right to take the matter outside the Council, the following are possible contact points (this list is not exhaustive)

- The Health & Safety Executive ([www.hse.gov.uk](http://www.hse.gov.uk))
- HM Revenue & Customs ([www.hmrc.gov.uk](http://www.hmrc.gov.uk))
- The Police (<http://www.police.uk/>)
- Crimestoppers ([www.crimestoppers-uk.org](http://www.crimestoppers-uk.org))
- The Audit Commission/Externally Appointed Auditor ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk))
- Your trade union – GMB/UNISON
- Confidential Fraud Hotline provided by the Audit Lincolnshire Partnership
  - Telephone: 0800 0853716
  - Email: [whistleblowing@lincolnshire.gov.uk](mailto:whistleblowing@lincolnshire.gov.uk)
  - Mail address: Lincolnshire Local Authorities, PO Box 640, Lincoln, LN1 1WF

Advice can also be given by ACAS, the Advisory, Conciliation and Arbitration Service ([www.acas.org.uk](http://www.acas.org.uk)).

If you feel you need independent advice at any stage of the process, you may also contact the independent charity - Public Concern at Work (<http://www.pcaw.co.uk/index.htm>) on 0207 404 6609, or email [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk). Public Concern gives free and confidential advice on whistleblowing matters.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

## **28. What are the do's and don'ts of whistle blowing?**

Do

- Make an immediate note of concerns.
- Note all relevant details, such as what was said, the date, time and names of the people involved.
- Let your Manager / Head of Service / People Services Advisor know about your suspicions.
- Deal with the matter quickly. Any delay may allow the problem to continue.

Don't

- Do nothing
- Be afraid of raising concerns
- Approach or accuse individuals directly
- Try to investigate the matter yourself

## Appendix 1

Situations in which employees might blow the whistle

### Example one

You are working in an area which regularly engages outside contractors. You have noticed how the one which has been named Boston Borough Council's preferred supplier doesn't deliver on time or to budget. Your manager, who is very friendly with one of the staff in the contracting firm, doesn't appear to share your concerns, but is quick to make excuses for them. Senior management seems to have accepted these explanations and don't seem to be concerned. You suspect your manager may be receiving inducements. What should you do?

*Report the suspicion to your Head of Service, relevant Director or People Services.*

### Example two

You are in the gym and you notice that everyone using a piece of equipment is now complaining of back trouble. You see that one part of it is loose, but, despite reporting it to the manager of the gym, nothing had happened. What should you do?

*Report the matter immediately to the Health & Safety Advisor under the Health & Safety policy. Allow a reasonable time for the problem to be resolved and ask about progress. If you have genuine concerns that nothing is being done, contact your Union representative, Service Manager or the People Services Manager.*

### Example three

A former colleague supervised XYZ firm as part of their work. You inherit his work and note there are no records of his visits to the firm. What should you do?

*Report the incident immediately to your manager. If the concern involves your immediate manager, Head of Service or Director, or for any reason you would prefer them not to be told, raise the matter directly with another Director or People Services.*

### Example four

You work for the Leisure Pool and are often in reception. Over the past few weeks you notice a member of the public who doesn't seem to be paying for their entry. You put this down to your error or their genuine mistake. However, recently you notice the same person doing this on a daily basis. You are not sure what to do and you are worried because you did not report it the first time. What should you do?

*Report the incident immediately to your Manager. If the concern involves your immediate manager report it to your Head of Service. If for any reason you would prefer them not to be told, raise the matter directly with a Director or People Services.*

Example five

You have a concern that could impact on the Council's reputation, but do not want to raise it with your Head of Service as you believe they are compromised in some way. What should you do?

*Report the incident directly to a Director or People Services.*

Example six

You raised a concern under the Council's Whistleblowing Policy, but you do not feel confident that the matter was dealt with appropriately by the Council. What do you do?

*Refer the matter to next most senior person. If you have already followed this process to the most senior employee of the council, you should raise the matter externally. A list of where you can get more information or advice is listed in this policy.*

## Appendix 2

Name: ..... Department: .....

### WHAT CONCERN(S) DO YOU WISH TO RAISE?

(In your own words describe your concern(s), include date(s), time(s), persons involved, including any witnesses, location, the length of time you have been concerned. Continue on a separate sheet if necessary)

.....  
.....  
.....  
.....  
.....

### WHY ARE YOU CONCERNED ABOUT THE ISSUE(S)?

.....  
.....

HAVE YOU DISCUSSED THE ISSUE(S) WITH ANYONE ELSE? YES / NO

If so, who with, when (date) .....

### WHAT WAS THE OUTCOME OF THIS PREVIOUS DISCUSSION?

.....  
.....  
.....  
.....  
.....

Please give details of how you wish to be contacted i.e. in writing, verbally, at home, at work. Please include a current telephone number if you wish to be contacted by telephone:.....

.....  
.....