

APPENDIX A



LUTON BOROUGH COUNCIL

CONSTITUTION

PART 12

WHISTLEBLOWING POLICY

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PART 12: WHISTLEBLOWING POLICY

1. INTRODUCTION

- 1.1 Luton Borough Council is committed to the highest possible standards of openness, probity and accountability. This policy recognises that employees may sometimes have serious concerns about how the Council conducts its business but feel unable to raise these in the normal way.
- 1.2 This policy is intended to provide employees with a means of making serious allegations about standards, conduct, financial irregularity or possible unlawful action in a way that will not be seen as being disloyal to their colleagues or to the Council. This policy is also intended to provide “whistleblowers” with protection from being victimised, discriminated against or disadvantaged for having made an allegation in good faith.
- 1.3 The policy applies to all employees and to contractors working for the Council, for example, agency staff, builders, drivers. It also applies to suppliers and those providing services under a contract with the Council in their own premises, for example, care homes. References in this Policy to employees are to be read as also referring to those mentioned in this Paragraph. Any protection or benefit available to an employee under this Policy will also be available as far as reasonably practicable to those mentioned in this Paragraph.
- 1.4 This policy is in addition to the Council’s complaints procedure and other specifically laid down statutory reporting procedures applying to some departments e.g. Social Services abuse procedures.
- 1.5 This policy has the support of the relevant trade unions.
- 1.6 This Policy is intended to ensure that the Council complies with its duty under the Public Interest Disclosure Act 1998.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:-

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- encourage employees to feel confident in making serious allegations;
- provide a means for employees to make those allegations and receive feedback on any action taken;
- ensure confidentiality if required;
- reassure employees that they will be protected from possible reprisals or victimisation;
- reassure employees that they will suffer no detriment or disadvantage from making allegations as long as they do so in good faith, genuinely believing their allegations to be valid.

2.2 This policy does not replace other Council policies. In particular if employees have a grievance about their manager and/or their working conditions they should use the Council's Grievance Procedure or discuss the matter with their Trade Union representative. Similarly if employees have concerns about the conduct of fellow employees in the working environment they should raise these with their line manager, or if that is not possible with a more senior manager, or, if a member of a Trade Union, discuss these with their Trade Union representative. This policy is not intended to cover conduct which may arise in any working environment and which can be dealt with through the Council's normal mechanisms (e.g the Disciplinary procedure, or the Procedure on Unfair Discrimination, Harassment and Bullying). This policy is intended to cover serious allegations that fall outside the scope of other Council policies and procedures or where employees may lack the confidence or be too fearful to use those policies and procedures.

2.3 This policy applies to allegations about any of the following:

- conduct which is an offence or a breach of law.
- alleged miscarriages of justice.
- health and safety risks, including risks to the public as well as to other employees.
- the unauthorised use of public funds.
- possible fraud and corruption.
- Sexual, physical or verbal abuse of, or bullying or intimidation of customers or service users
- abuse of authority .
- other unethical conduct.

These are examples: the list of not exhaustive.

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2.4 Any serious allegation that an employee has about the conduct of officers or members of the Council or others acting on behalf of the Council in any of the areas listed above (or similar) may be reported under this policy. This may be:-

- a significant and serious departure from accepted standards, or the standards the Council subscribes to; or
- amounts to serious improper conduct; or
- where someone appears to be vulnerable or at risk.

2.5 This Policy does not apply to schools or to employees based in schools.

3. SAFEGUARDS

3.1 The Council is committed to good practice and high standards and wants to be supportive of its employees.

3.2 The Council recognises that the decision to make a serious allegation can be a difficult one to make. However, employees who make serious allegations in good faith, have nothing to fear because they are doing their duty to their employer and those for whom they are providing a service.

3.3 The Council will take appropriate action to protect an employee who makes a serious allegation in good faith from any reprisals, harassment or victimisation.

3.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any other procedures to which the employee making the allegation may be subject, or may have instigated, e.g. disciplinary, grievance redundancy procedures.

4. CONFIDENTIALITY

4.1 All allegations will be treated in confidence and every effort will be made not to reveal an employee's identity unless the employee otherwise requests. However, if the matter is subsequently dealt with through other Council procedures such as the Disciplinary Procedure the complainant's identity may have to be revealed in accordance with that procedure if the matter is to be effectively dealt with.

4.2 In order to help employees decide whether or not an issue should be raised, they may, in the first instance wish to discuss it with a Support

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Worker or Trade Union representative. It may be that the person confided in may feel more comfortable taking the matter forward on behalf of the employee. It may also be easier to raise the matter if there are two (or more) people who have had the same experience(s).

5. ANONYMOUS ALLEGATIONS

- 5.1 This policy encourages employees to put their name to an allegation whenever possible as anonymous allegations may often be difficult to substantiate/prove.
- 5.2 Allegations made anonymously are much less powerful but allegations raised internally will be considered at the discretion of the Monitoring Officer.
- 5.3 In exercising discretion to accept an anonymous allegation the factors to be taken into account by the Monitoring Officer would include:-
- the seriousness of the issues raised
 - the credibility of the allegation; and
 - whether the allegation can realistically be investigated from facts or sources other than the complainant.
- 5.4 Allegations made through “In Touch” (see below) may be made anonymously through their confidential telephone line which has special facilities to handle anonymous allegations.

6. UNTRUE ALLEGATIONS

- 6.1 No disciplinary or other action will be taken against an employee who makes an allegation in good faith genuinely believing it to be true even if the allegation is not substantiated by an investigation. However, disciplinary action may be taken against an employee who makes an allegation frivolously, maliciously or for personal gain (i.e. not in good faith).

7. HOW TO MAKE A SERIOUS ALLEGATION

- 7.1 As a first step, an employee should if possible make a serious allegation with their immediate manager. However, this may depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the employee believes that management is involved it would be inappropriate to raise the matter directly with them For

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these reasons the following reporting methods have been put in place to help employees to raise the matter:

- Direct to the Council's Monitoring Officer (Tel: 01582 546020, e-mail: whistle@luton.gov.uk) (Internal: *LBC Whistle)
- By using the Council's external confidential reporting line "In Touch" (Tel: (Freephone) 0800 097 0129)

7.2 Serious allegations may be made orally or in writing. Whether a written or oral report is made it is important that relevant information is provide including:-

- The name of the person making the allegation and a contact point. As referred to above it will be more difficult for the Council to pursue issues if allegations are made anonymously.
- the background and history of the allegation (giving relevant dates and names and positions of those who may be in a position to have contributed to the allegation).
- the particular reason for the allegation .

7.3 The earlier the allegation is made the easier it is to take action

7.4 Although someone making a allegation will not be expected to prove the truth of any allegations, in order to assist management in any investigation to be carried out, they will need to provide information to the person contacted that there are reasonable grounds for the allegation.

7.5 Someone making a allegation may invite their trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the allegation.

8. HOW THE COUNCIL WILL RESPOND

8.1 The Council will respond in every case to an allegation made under this policy. The way in which the Council will respond is set out below.

8.2 Where the allegation is made internally and not direct to the Monitoring Officer, the person with whom the allegation is first raised (e.g. a support worker or line manager) is the "receiving officer". The receiving officer will discuss the allegation with the complainant. If, following discussion, the complainant wants to proceed with the allegation the receiving officer will take the following steps:

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- (1) The receiving officer will notify the Monitoring Officer by telephone or e-mail that the allegation has been made and give details to the Monitoring Officer. This is so that the allegation can be registered in the Register of Whistleblowing Complaints. The Register is confidential.
 - (2) If the allegation relates to fraud or potential fraud or other financial irregularity the Monitoring Officer will notify the Head of Internal Audit in writing.
 - (3) The Monitoring Officer will discuss with the receiving officer the best way of investigating the allegation. If the allegation relates to fraud or potential fraud or other financial irregularity the Monitoring Officer will also discuss this with the Head of Internal Audit.
 - (4) The Monitoring Officer and the receiving officer will agree on the method of investigation. If the Monitoring Officer and the receiving officer cannot agree on the method of investigation the Monitoring Officer's decision will prevail. In the case of fraud, potential fraud or other financial irregularity the method of investigation will be determined by the Head of Internal Audit after discussions with the receiving officer and the Monitoring Officer.
- 8.3 Where the complaint is made direct to the Monitoring Officer then the Monitoring Officer, after liaison with any other appropriate officer(s) will decide if and how the matter should be investigated and will follow the steps set out below.
- 8.4 If the allegation discloses evidence of a criminal offence the Monitoring Officer or the Head of Internal Audit may decide to inform the Police.
- 8.5 Some allegations may be resolved by agreed action without the need for investigation.
- 8.6 Within 10 working days of an allegation being made, the Monitoring Officer will write to the person who raised the allegation (unless they have requested not to be contacted or to be contacted in a different way other than through a letter):
- acknowledging that the allegation has been received.
 - indicating how the Council propose to deal with the matter.

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- giving an estimate of how long it will take to provide a final response.
 - indicating whether any initial enquiries have been made.
 - supplying information on employee support mechanisms, and
 - indicating whether further investigations will take place and if not, why not.
- 8.7 Where the allegation has been made internally and anonymously, obviously the Council will be unable to communicate what action has been taken.
- 8.8 The amount of contact between the officers considering the issues and the person making the allegation 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 person making the allegation.
- 8.9 The Council will take steps to minimise any difficulties which may be experienced as a result of making a allegation. For instance, if an employee is required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure and ensure that support mechanisms are made available where needed or desired.
- 8.10 The Council accepts that employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform those making allegations of the outcome of any investigation.

The Council will ensure that support is provided to those making allegations.

9. CONFIDENTIALITY

- 9.1 The Council will keep the identity of the complainant confidential at all times unless the complainant otherwise requests.
- 9.2 A receiving officer will disclose the complainant's identity to the Monitoring Officer put to no other person. A receiving officer and the Monitoring Officer will not reveal any facts which could lead to the disclosure of the complainant's identity. These may, depending on the circumstances, include the complainant's sex, position in the organisation or work area.

10. REGISTER OF ALLEGATIONS

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10.1 The Council's Monitoring Officer has overall responsibility for the maintenance and operation of this policy. The Monitoring Officer will maintain a Register of allegations made under this policy and the outcomes and will report as necessary to the Council's Standards Committee. The recording and reporting procedure will be in a form which ensures confidentiality.

This Policy and Procedure has been fully discussed and jointly agreed between the Council's constituent trade unions and management.

Signed:
Branch Secretary of UNISON

Signed:
Head of Human Resources
Employers Side Secretary

Signed:
Trade Union Co-ordinator

Date:

Date: