

Whistleblowing Procedure

December 2022

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Key Points

The Whistleblowing Procedure sets out the framework for dealing with allegations of illegal and improper conduct.

Luton Rising is committed to the highest standards of transparency, probity, integrity and accountability.

This procedure is intended to provide a means of making serious allegations about standards, conduct, financial irregularity or possible unlawful action in a way that will ensure confidentiality and protect those making such allegations in the reasonable belief that it is in the public interest to do so from being victimised, discriminated against or disadvantaged.

This procedure does not replace other policies and procedures such as the Complaints - Procedure, Luton Council's Grievance and Unfair Discrimination, Harassment and Bullying Policies and other specifically laid down statutory reporting procedures.

The Public Interest Disclosure Act 1998 is primarily intended to protect employees who make whistle-blowing allegations and, therefore, any concerns of permanent employees related to their employment should be raised through Luton Council's Whistleblowing Policy or other appropriate employment policies and procedures.

Luton Rising recognises, however, that other parties such as agency or contracted staff, service users and members of the public may wish to raise concerns about Luton Rising and they are able to do so directly with us through this procedure.

Scope

This procedure is available to all those working for, with or on behalf of Luton Rising, including permanent or fixed-term employees of Luton Council, agency staff or those working under a contract for services, contractors, and to service users and members of the public.

This procedure does not replace other Luton Rising policies or procedures. For example, if a permanent employee has a grievance about their working conditions they should use the Luton Council's Grievance Policy or, if they felt that their manager or a colleague was treating them unfavourably, they should use the Luton Council Unfair Discrimination, Harassment and Bullying Policy. Similarly if a permanent employee has a concern about the conduct of a fellow employee in the working environment (e.g. that they are not treating colleagues with respect) they should raise these with their line manager, or if that is not possible, with the Executive Director, Governance.

This procedure applies to, but is not limited to, allegations about any of the following:

- Conduct which is an offence or breach of the law
- Alleged miscarriage of justice
- Serious Health and Safety risks
- The unauthorised use of public funds

- Possible fraud and corruption
- Sexual, physical or verbal abuse, or bullying or intimidation of employees, customers or service users
- Abuse of authority
- Other unethical conduct

Reporting

Contact Details for Reporting: (in writing): whistleblowing@lutonrising.org.uk

Luton Rising recognises that the decision to make an allegation can be a difficult one to make. However, whistle-blowers who make serious allegations in the reasonable belief that it is in the public interest to do so have nothing to fear because they are doing their duty either to Luton Rising and/or to those for whom Luton Rising or they are providing a service.

Luton Rising will take appropriate action to protect a whistle-blower who makes a serious allegation in the reasonable belief that it is in the public interest to do so from any reprisals, harassment or victimisation.

Confidentiality

All allegations will be treated in confidence and every effort will be made not to reveal a whistle-blower's identity unless the whistle-blower otherwise requests. However, if the matter is subsequently dealt with through other Luton Council procedures such as the Disciplinary Procedure, it may be necessary in the interests of natural justice to disclose the whistle-blower's identity. Where this is the case, the whistle-blower will be informed in advance, supported and afforded protection as set out above.

Similarly, if the allegation results in court proceedings then the whistle-blower may have to give evidence in open court if the case is to be successful.

Luton Rising will not, without the whistle-blower's consent, disclose the identity of a whistle-blower to anyone other than a person undertaking an investigation into the allegation.

Anonymous Allegations

This procedure encourages whistle-blowers to put their name to an allegation wherever possible as anonymous allegations may often be difficult to substantiate/prove. Allegations made anonymously are much less powerful but anonymous allegations will be considered at the discretion of the Executive Director, Governance.

In exercising discretion to accept an anonymous allegation the factors to be taken into account are:

- The seriousness of the issue raised;
- The credibility of the allegation; and
- Whether the allegation can realistically be investigated from factors or sources other than the complainant.

Untrue Allegations

No disciplinary or other action will be taken against a whistle-blower who makes an allegation in the reasonable belief that it is in the public interest to do so even if the allegation is not substantiated by an investigation. However, disciplinary action may be taken against a whistle-blower who makes an allegation without reasonable belief that it is in the public interest to do so (e.g. making an allegation frivolously, maliciously or for personal gain where there is no element of public interest).

Procedure for Making an Allegation

It is preferable for allegations to be made to an employee's immediate manager to whom they report. However, this may depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the whistle-blower believes that management is involved it would be inappropriate to raise it directly with them. The whistle-blower may then make an allegation direct to the Executive Director, Governance in the first instance or the Chief Executive Officer.

Allegation

Whether a written or oral report is made it is important that the whistle-blower provides the relevant information including:

- The name of the person making the allegation and a contact point;
- 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); and
- The specific reason for the allegation. Although someone making an allegation will not be expected to prove the truth of any allegations, they will need to provide information to the person they have reported to, to establish that there are reasonable grounds for the allegation.

Someone making an allegation may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation. However, if the matter is subsequently dealt with through another procedure the right to be accompanied will at that stage be in accordance with the relevant procedure.

Action on receipt of an Allegation

The person receiving the allegation will record and hold in confidence (save where the information is passed in confidence to another person for the purpose of undertaking an investigation) details of the allegation gathering as much information as possible including:

- The record of the allegation;
- The acknowledgement of the allegation; and
- Any documents supplied by the whistle-blower.

Such information will be passed to the Executive Director, Governance for the purpose of maintaining the Register (see Monitoring below).

The person receiving the allegation or an investigator appointed by him/her will ask the whistle-blower for his/her preferred means of communication and contact details and use these for all communications with the whistle-blower in order to preserve confidentiality.

If the allegation relates to fraud, potential fraud or other financial irregularity Internal Audit must be informed within 5 working days of receipt of the allegation. The Audit & Risk Manager will determine whether the allegation should be investigated and the method of investigation.

If the allegation discloses evidence of a criminal offence it will immediately be reported to the Executive Director, Governance and a decision will be made as to whether to inform the Police. If the allegation concerns suspected harm to children or vulnerable adults the appropriate authorities will be informed immediately.

Timetable

Luton Rising will acknowledge the allegation in writing within 10 working days with:

- An indication of how Luton Rising proposes to deal with the matter
- An estimate of how long it will take to provide a final response
- An indication of whether any initial enquiries have been made
- Information on whistle-blower support mechanisms
- Indication whether further investigations will take place and if not, why not

Where the allegation has been made internally and anonymously, obviously Luton Rising will be unable to communicate what action has been taken.

Support

Luton Rising will take steps to minimise any difficulties which may be experienced as a result of making an allegation. For instance, if a whistle-blower is required to give evidence in criminal or disciplinary proceedings Luton Rising will arrange for them to receive advice about the procedure and advise on the support mechanisms that are available.

Luton Rising accepts that whistle-blowers 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.

Responsibility for the Procedure

The Executive Director, Governance has overall responsibility for the operation of this Procedure and for determining the administrative processes to be followed and the format of the records to be kept.

Monitoring

A Register will record the following details:

- The name and status (e.g. employee or service user) of the whistle-blower
- The date on which the allegation was received

- The nature of the allegation
- Details of the person who received the allegation
- Whether the allegation is to be investigated and, if yes, by whom
- The outcome of the investigation
- Any other relevant details

The Register will be confidential and only available in an anonymised form for inspection by the Board of Directors.

The Executive Director, Governance will report annually to the Board of Directors on the operation of the Procedure and on the whistleblowing allegations made during the period covered by the report. The report will be in a form which does not identify whistle-blowers.