

Whistleblowing Policy

**EAST AYRSHIRE LEISURE**

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**EAST AYRSHIRE LEISURE**

**WHISTLEBLOWING POLICY**

**1. POLICY STATEMENT**

1.1 East Ayrshire Leisure is committed to the highest possible standards of honesty and openness, probity and accountability. It seeks to conduct its business in a responsible manner, ensuring that all its activities are open and effectively managed and that its integrity is sustained.

1.2 The Public Interest Disclosure Act 1998, is the Act which protects workers who, in prescribed circumstances “blow the whistle” about wrongdoing. This Act and the Enterprise and Regulatory Reform Act 2013 amended the Employment Rights Act 1996 and makes provision about the kinds of disclosures which may be protected, the circumstances in which such disclosures are protected and the persons who may be protected.

1.3 In support of that commitment, East Ayrshire Leisure encourages employees who may have serious concerns about circumstances or incidents they come across during their work to come forward and voice those concerns.

1.4 It is recognised that most concerns will be expressed in confidence. Where possible that confidentiality will be maintained. Where that is not possible an explanation will be given with further support offered to the employee concerned.

1.5. Employees are often the first to realise that there may be something seriously wrong with certain aspects of their employer’s activities. However, employees may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. East Ayrshire Leisure believes that it is the responsibility of each employee to report any suspected improper actions or omissions.

1.6 East Ayrshire Leisure recognises the positive contribution that employees who raise concerns can make. This policy makes it clear that employees can raise concerns without fear of victimisation, subsequent discrimination, or disadvantage.

1.7 East Ayrshire Leisure recognises that the decision to report a concern can be a difficult one for an employee to make. Employees will have nothing to fear if they have a reasonable belief that the concern raised is in the public interest. They will be doing their duty to their employer and those for whom East Ayrshire Leisure is providing a service.

**2. DEFINITION OF WHISTLEBLOWING**

2.1 “Whistleblowing” is the common term given used to describe circumstances when an employee discloses information which in the reasonable belief of the employee tends to show that one or more of the following has occurred, is occurring or is likely to occur and that the disclosure is in the public interest:

(a) a criminal offence

(b) a failure to comply with any legal obligation

(c) a miscarriage of justice

(d) a health and safety danger

(e) damage to the environment

(f) the deliberate concealment of information relating to matters falling within (a) to (e) above

The factors described at (a) to (f) are known as protected disclosures.

The employee does not require to be personally affected by the circumstances giving rise to the disclosure to raise the matter.

This policy does not apply to an employee’s concern relating to the workplace competence of colleagues.

2.2 An employee cannot be dismissed as a result of whistleblowing if when making a protected disclosure they think that what they are reporting is true and that they are telling the right person.

**3. GENERAL PRINCIPLES**

3.1 This policy applies to all employees of East Ayrshire Leisure; bank workers, agency workers and people who are training with East Ayrshire Leisure, but not employed.

3.2 This policy aims to:

* Encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice;
* Provide a mechanism for employees to raise those concerns and, where appropriate, receive feedback on any action taken;
* Ensure that employees receive a prompt response to their concerns and are aware of how to pursue them if they are not satisfied; and
* Reassure employees that they will not be subject to reprisals or victimisation as a result of whistleblowing.

3.3 Individual employees have a right and responsibility to raise any matters of concern regarding **serious malpractice, wrongdoing or maladministration** within East Ayrshire Leisure. Examples of this include: misuse of East Ayrshire Leisure property for personal use or gain.

3.4 Employees should not mistreat a colleague who submits a protected disclosure under the Whistleblowing Policy and any breach of this will be dealt with under East Ayrshire Leisure’s Disciplinary Policy and Procedures.

3.5 Employees also have a right and responsibility to raise any concerns they may have with regard to bribery or corruption within East Ayrshire Leisure or in an organisation wholly or partly funded by East Ayrshire Leisure. In particular employees should raise any concerns they have that an offence has been committed under the Bribery Act 2010. The two principle offences with regard to this Act are firstly the offering, promising or giving of a bribe and secondly the requesting, agreeing to receive or accepting of a bribe.

3.6 This policy is designed to deal with concerns of **serious malpractice, wrongdoing, or maladministration**, and is not designed to replace the Grievance or Harassment and Bullying Procedures, which are used to consider employee concerns relating to terms and conditions of service and harassment and bullying, respectively.

3.7 Any complaints about breaches of employees’ own contracts of employment should be raised as a grievance under East Ayrshire Leisure’s Grievance Procedure.

**4. RESPONSIBILITIES**

4.1 In order to ensure fair and consistent application of the policy, all parties have responsibilities as follows:-

**East Ayrshire Leisure**

* Will delegate responsibility to the Chief Officer for ensuring maintenance of the Whistleblowing Policy;
* Will provide a supportive culture within which issues can be raised.

**Head of Corporate Services and Development Managers**

* Should implement and communicate the policy to all employees;
* Should ensure fair, effective and consistent treatment of all employees and act reasonably in a whistleblowing complaint;
* Should ensure that no employee is subjected to victimisation or harassment as a result of whistleblowing.

**Employees**

* Should accept the terms and conditions of the policy;
* Should familiarise themselves with the rules and standards expected of them as employees and to abide by them;
* Should co-operate with management during investigation and throughout the whole whistleblowing process.

**5. CONFIDENTIALITY**

5.1 All matters raised under this procedure will be treated in confidence and every

effort will be made not to reveal an employee’s identity if they so wish. However, an employee may need to be identified and/or called as a witness in connection with internal or external proceedings at a later date. On these occasions further support and assistance will be given to the employee concerned.

**6. ADVICE AND GUIDANCE**

6.1 Employees can obtain advice and guidance on how to pursue matters of concern from:

* EAC Human Resources Officer
* Chief Officer
* Head of Corporate Services
* East Ayrshire Council Chief Auditor
* East Ayrshire Council’s Monitoring Officer (Chief Governance Officer)
* Trade Union Representative

6.2 Before submitting their concerns formally, an employee may wish to consider discussing the matter with a colleague first and they may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concern.

6.3 An employee can be accompanied by their trade union or a colleague during any meetings or interviews in connection with the concerns they have raised.

**7. HOW TO RAISE A CONCERN**

7.1 An employee wishing to raise a concern formally should in the first instance contact the Council’s Human Resources Officer who will provide guidance on the policy and will direct them to an appropriate Designated Officer to consider the complaint. The Council’s Human Resources Officer, in agreement with the employee, will forward their concerns to the relevant Designated Officer. The overriding principle which East Ayrshire Leisure will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

7.2 Designated Officers are the Chief Officer and Head of Corporate Services.

7.3 The Council’s Human Resources Officer will arrange for the employee to be supported in relation to general welfare issues as necessary during the process.

7.4 Concerns may be raised verbally or in writing. Employees are encouraged to raise their concerns in writing and those who wish to do so should outline:

* The background and history of their concern (giving relevant dates);
* The reason(s) why they are particularly concerned about the situation.

7.5 The earlier that an employee raises a concern then the easier it is for action to be taken.

7.6 Although employees are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

7.7 Where concerns are raised with a Designated Officer, they will arrange an initial interview, which will if requested be confidential, to ascertain the area of concern. The employee may be accompanied at this interview by their trade union or a work colleague. At this stage the whistleblower will be asked whether they wish their identity to be disclosed and will be reassured about protection from possible reprisals or victimisation. They will be asked whether or not they wish to make a written or verbal statement. In either case the Designated Officer will write a brief summary of the interview, which will be agreed and signed by both parties.

**8. ANONYMOUS ALLEGATIONS**

8.1 East Ayrshire Leisure encourages employees to put their name to an allegation whenever possible.

8.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Designated Officer receiving the allegation.

8.3 In exercising this discretion the factors to be taken into account by the Designated Officer would include:

* The seriousness of the issues raised;
* The evidence provided to support the allegation;
* The credibility of the concern; and
* The likelihood of being able to substantiate the allegation from attributable sources.

**9. UNSUBSTANTIATED ALLEGATIONS**

9.1 If an employee makes an allegation in good faith, but it is not substantiated by the investigation, no action will be taken against them. If, however, an employee makes an allegation frivolously, maliciously or for personal gain, then the matter will be considered under East Ayrshire Leisure’s Disciplinary Policy and Procedures.

**10. HOW EAST AYRSHIRE LEISURE WILL RESPOND**

10.1 Where appropriate, the matters raised may be considered in one or more of the following ways:

* investigation by management, internal audit, the Council’s Corporate Fraud Team or through the disciplinary process;
* referral to the Police;
* referral to the external Auditor or;
* independent inquiry.

**11. INVESTIGATION PROCEDURE**

11.1 Within 5 working days of a concern being raised, the Designated Officer dealing with the investigation will write to the employee:

* Acknowledging that the concern has been raised;
* Indicating the proposals for dealing with the matter;
* Giving an estimate of how long it will take to provide a full response;
* Informing them whether any initial enquiries have been made;
* Providing them with information on appropriate support mechanisms, and;
* Advising them whether a further investigation will take place and, if not, why not.

11.2 The amount of contact between the Designated Officer and the employee after considering the issues will depend on the nature and complexity of the concerns raised, and the clarity of the information provided. If necessary, the Designated Officer will seek further information from the employee.

11.3 Where any meeting is arranged, at a location that is convenient and acceptable, the employee can be accompanied by their trade union or a work colleague.

11.4 East Ayrshire Leisure will take steps to minimise any difficulties which an employee may experience as a result of raising a concern. For instance, if an employee is required to give evidence in criminal or disciplinary proceedings, arrangements will be made for them to receive advice about the procedure.

11.5 East Ayrshire Leisure accepts that an employee needs to be assured that the matter has been properly addressed. Subject to legal or other constraints, the employee will be informed of the outcome of the investigation. In addition, any employee who has been interviewed as part of the whistleblowing investigation will receive appropriate feedback.

11.6 All concerns received that result in an investigation will be reported to the Chief Officer and East Ayrshire Council’s Monitoring Officer at both the receipt stage and at the completion of the investigation stage. The Council’s Monitoring Officer will be responsible for the commission of any further investigation.

11.7 Depending on the seriousness of the matter raised the timescales laid out in section 11.1 may be accelerated.

**12. RAISING A CONCERN EXTERNALLY**

12.1 This Policy is intended to provide employees with an avenue within East Ayrshire Leisure to raise concerns. East Ayrshire Leisure trusts that employees will be satisfied with any action taken. If they are not and if they feel it is right to take the matter outside East Ayrshire Leisure within the context of whistleblowing, the following are possible contact points:

* The employee’s local councillor
* East Ayrshire Leisure’s external auditor
* Relevant professional bodies or regulatory authorities
* The employee’s solicitor
* The Police
* The employee’s MP or MSP
* The charity – Public Concern at Work – www.pcaw.co.uk
* Another appropriate person or organisation

12.2 An employee is protected when making external disclosures under certain circumstances which includes the ‘reasonable in all circumstances’ test, and that the disclosure is in the public interest and is not for personal gain. Full information can be found within the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013.

12.3 Further advice regarding making a complaint to an external body can be obtained from the independent charity Public Concern at Work on 020 7404 6609 or at www.pcaw.co.uk.

**13. RECORD KEEPING**

13.1 It is important that accurate record keeping is maintained throughout the process. All correspondence and documentation must be kept confidential in accordance with the Data Protection Act 2018.

13.2 Unless there is a statutory requirement to retain notes and correspondence relating to the Whistleblowing action, all documentation will be securely destroyed after expiry of the designated time limit period in accordance with East Ayrshire Leisure’s Retention Policy.

**14. MEDIA CONTACT**

14.1 This procedure has been developed to enable employees to raise certain concerns on the basis that it is in the public interest to make such matters known to the nominated officer within East Ayrshire Leisure. However, the reporting of concerns does not mean that such matters should be made available for public consumption through the media.

14.2 Employees are reminded that in accordance with East Ayrshire Leisure’s Code of Conduct in their work with East Ayrshire Leisure, contact should not be made with the media unless such contact is authorised by the Relationship & Business Development Manager.

14.3 Full information regarding protection for disclosures to the media can be found within the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013, or advice can be obtained from Public Concern at Work on 020 7404 6609 or at www.pcaw.co.uk.

**15. THE RESPONSIBLE OFFICER**

15.1 The Head of Human Resources has overall responsibility for the maintenance and operation of this Policy and will maintain a record of concerns raised and the outcomes (in a form which does not compromise employee confidentiality) and will report as necessary to the Council.

**16. TRAINING**

16.1 A range of training interventions will be available for relevant employees to access to ensure that all complaints are dealt with in a consistent manner

**17. REVIEW**

17.1 The Policy will be subject to an annual desktop review to assess whether a more detailed review is required. The desktop review will take account of operational experience or impending legislative changes.

**Record of Change**

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| --- | --- |
| **Date Reviewed** | **Date of next review** |
| Aug 2020 | Aug 2021 |