

**REPORT FOR: GOVERNANCE, AUDIT
AND RISK MANAGEMENT
COMMITTEE**

Date of Meeting: 6 September 2011

Subject: INFORMATION REPORT - Whistle-blowing

Responsible Officer: Hugh Peart, Director of Legal and Governance Services

Exempt: No

Enclosures: Whistle-blowing Policy

Section 1 – Summary

This report sets out information on how the Council deals with Whistle-blowing complaints, in accordance with the requirements of the Public Interest Disclosure Act 1998.

FOR INFORMATION

Section 2 – Report

Background

- 2.1 The Public Interest Disclosure Act 1998 (The Act), commonly referred to as the 'Whistle-blowing Act', provides legal protection to workers against being dismissed or penalised by their employers, as a result of making a 'protected disclosure' over concerns about malpractice or wrongdoing.
- 2.2 The Act protects workers who disclose information in good faith which they reasonably believe 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.
- 2.3 The two principal rights covered by the Act are a right not to be dismissed and a right not to be subject to a detriment, e.g. the denial of promotion, because the worker has made a protected disclosure.
- 2.4 The provisions of the Act represent an exception to the normal duties of confidentiality that a worker owes to their employer as they allow concerns to be raised, in specified circumstances, to certain external authorities as well as to the employer.

Current situation

- 2.5 The Council does not limit the issue of whistle-blowing to the types of concern specifically listed in the Act. In common with most authorities, the Council's policy is broader in scope, covering any impropriety, breach of procedure or failure of the manner in which services are being provided, including suspected breach of the Council's Constitution, Contract Procedure Rules and Financial Regulations. The Policy was most recently considered and approved by the Standards Committee on 26 March 2007.
- 2.6 The Policy has been strongly recommended for adoption by school governing bodies, following consultation with their staff. Governing bodies are urged to adhere to the principles outlined in the Policy.

2.7 The Policy's stated aims are to:

- encourage workers to feel confident in raising serious genuine concerns and to question and act upon concerns;
- provide avenues for workers to raise those concerns and receive feedback on any action taken;
- encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem or taking it outside of the organisation.
- ensure that workers are aware of how to pursue concerns if they are not satisfied with the action taken;
- reassure workers in the strongest terms that they will be protected from possible reprisals or victimisation for Whistle-blowing in good faith in accordance with this procedure.
- ensure for consistency and fairness in dealing with Whistle-blowing across the council.

2.8 The Policy includes the procedure by which Council workers should raise any matter that might qualify as a protected disclosure. The policy provides that concerns should be raised in the first instance with the worker's immediate manager, or a senior council official. The person who raises the concern will receive a written acknowledgement and an explanation of the process by which the matter will be dealt.

2.9 The Policy seeks to ensure that the worker is kept informed throughout the process and, at the end of the matter, receives feedback on the outcome of any investigation, subject to any legal constraints. If they are dissatisfied with the outcome they have the option to refer the matter to an external regulator. The policy lists contact details for the prescribed regulators that deal with different types of disclosure.

2.10 The Policy makes it clear that the Council endeavours to maintain the confidentiality of a person who raises a concern, but in order for the matter to be investigated fully and fairly, complete confidentiality may not be possible. It is also stressed that concerns must be raised in good faith and appropriate action will be taken where the motives behind a complaint are otherwise.

2.11 The Monitoring Officer has overall responsibility for the maintenance and operation of the Whistle-blowing Policy. The Monitoring Officer maintains a register which records all Whistle-blowing complaints.

2.12 The Whistle-blowing Policy is published on the intranet to allow access by staff and Members. The Policy is also available to residents, partners and the general public on the Council's website.

- 2.13 The Coalition's 'Programme for Government' indicated an intention to 'introduce new protection for whistle-blowing in the public sector'. There are currently no proposals to amend provisions in relation to whistleblowing for Local Government. Further to this, a Consultation concluded in January 2011 on proposals to amend the NHS constitution in order to give greater prominence to the issue of whistleblowing. A response to the consultation is still awaited.

The Council's Whistle-blowing Policy in Practice

- 2.14 Recent efforts have been made to better promote the policy including, for example, its inclusion on the Standards Committee's new webpage. Going forward, this will help the Council to monitor the use of the policy more effectively.
- 2.15 During the past ten months, the Council received four complaints under the Whistle-blowing Policy. The first involved a range of allegations relating to financial matters and safeguarding which, following investigation, were found to be unsubstantiated. The second concerned alleged misconduct by a governor at a school. The matter was not investigated as the subject concerned was not an employee of the Council. The third concerned alleged unfair practices within a Council service. Following investigation no malpractice had been found. The fourth concerned an allegation of malpractice within an organisation the Council had no responsibility for. The Council ensured that there were no safeguarding issues in respect those it was responsible for.
- 2.16 One further complaint has been made within the last two months under the whistleblowing policy and is currently being investigated.

Risk Management Implications

- 2.17 The existence of an accessible whistleblowing policy is a key element of the Council's overall risk management.

Section 3 - Financial Implications

- 3.1 All investigations undertaken under the whistleblowing policy were completed within existing budgets.

Section 4 - Corporate Priorities

- 4.1 The report relates to the current corporate priority of 'United and Involved Communities: A Council that listens and leads' by providing information on the background to and the operation of the Council's whistleblowing policy.

Name: Julie Alderson



Chief Financial Officer

Date: 25 August 2011

Section 5 - Contact Details and Background Papers

Contact: Vishal Seegoolam, Senior Democratic Services Officer Ext. 2883

Background Papers:

Public Interest Disclosure Act 1998