

## **Standards Committee**

**November 2021**

### **Whistleblowing Policy (Confidential Report Policy)**

**Report by Director of Law and Assurance**

**Electoral division: Not applicable**

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#### **Summary**

The Committee is responsible for oversight of the use and effectiveness of the Council's whistleblowing policy. The Committee last saw a report in November 2020 when it received a summary of matters dealt with under the policy and considered a revised version of the policy which had recently been approved by the Governance Committee as part of the 'good governance' activity.

This report covers activity relating to the policy since the last report and addresses a question raised by a member of the Standards Committee at the meeting in November 2020.

#### **Recommendations**

- (1) To note the activity generated by referrals made pursuant to the Council's Whistleblowing Policy.
  - (2) To consider whether there is any benefit in extending the policy to elected members of the Council.
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#### **Proposal**

##### **1 Background and context**

- 1.1 The County Council's whistleblowing policy is one of the ways it meets its obligation as an employer to make provision for officers to report concerns about any aspect of Council business on a confidential basis. This is in accordance with the Public Interest Disclosure Act 1998. It enables members of staff to access a process that guarantees confidentiality and protection from adverse treatment (e.g. disciplinary action) as a result of any complaint made in good faith.
- 1.2 The policy extends to staff working for suppliers and contractors of the County Council. The policy is also applicable to schools and any referrals from or about school settings are dealt with under the same procedures.

- 1.3 The role of this Committee is to provide a forum for member awareness and assurance in relation to the Council's approach to whistleblowing and how the Council responds to issues raised by whistleblowing investigations.

## **2 Activity since November 2020**

- 2.1 During the period since the Committee last considered activity under the policy there have been no referrals made directly under the policy. This includes referrals relating to schools.
- 2.2 There may be simple explanations for the absence of referrals, although it is the case that the policy has tended not to be used for many complaints each year. One may of course relate to the national picture for the period since the last meeting during which normal work activity has been very different for all staff and where ways of working have been a very different experience.
- 2.3 In 2020 the policy was revised, updated and clarified. Part of the promotion of the new policy in 2020 was to highlight the use of other more straightforward routes for raising concerns – especially the use of informal grievance procedures for staffing concerns and the use of internal audit or line manager referrals for matters of more general concern. The whistleblowing policy was identified as a route for use when there are particular reasons for confidentiality. It may therefore be an indication of greater trust in other routes for raising concerns.
- 2.4 We will however continue to promote the whistleblowing policy and to be alert to any concerns from staff or other sources of concern

## **Review of the Policy**

- 2.5 For the benefit of the new members of the Committee the review of the policy in 2020 was part of the work to address and reset various aspects of the culture of the Council and its governance and how all working arrangements are seen to serve the interests and priorities of the Council. This review was undertaken with the involvement of service leads, with UNISON and an external consultancy with expertise in this area. The revised policy was then reported to the July meeting of the Governance Committee and received approval. The changes focused on making the policy more readable and accessible and in giving more practical assistance to officers wishing to raise concerns by the confidential route and by other routes.
- 2.6 Following its endorsement a simple plan for dissemination, awareness raising and promotion of the policy was carried out. This work was then reported to this Committee in November 2020 as it is responsible for oversight of the use of the policy.

## **Possible extension to elected members**

- 2.7 In the meeting of this committee in November 2020 one member enquired whether it would be reasonable for the whistleblowing policy to be extended to elected members. It was agreed that the matter would be considered by a future meeting of the Committee. The following are some considerations which the Committee may wish to take into account. The Committee may have other relevant matters to be added to the debate.

- 2.8 The legal background for the need for the policy is one of employment – that employees have a confidential route to raise complaints under a statutory protection from any adverse treatment from their employer. Essentially it provides an additional safeguard against poor employment practice by employers seeking to avoid taking action in response to internal concerns.
- 2.9 Elected members are not employees. The Council has no powers or influence in relation to the office held by a councillor. Members are answerable only to their electorate. In terms of the essential statutory purpose of a whistleblowing policy therefore there is no obvious benefit in extending its use to members.
- 2.10 In terms of providing a route for raising concerns or making complaints about the Council’s practices and procedures elected members do have the ability to raise these in a number of ways – direct to officers at all levels of seniority – direct to members of the executive and through their political groups where applicable. Every member should consider that they have direct access to the Council’s statutory officers (Chief Executive, Monitoring Officer and Chief Financial Officer) and to the key senior members (Leader and Chairman of the Council) of the Council should they wish to raise any concerns in relation to the Council’s operations and processes. No member should have any concerns that they may be dealt with adversely by the Council. It should be added perhaps that any member could, should they see the need, ask the relevant officer or senior member, to maintain personal confidence if they have particular reasons for it in relation to the complaint.

### **3 Consultation, engagement and advice**

- 3.1 Not applicable.

### **4 Finance**

- 4.1 There no implications arising in relation to this report. Investigations are largely undertaken by Council staff and internal audit officers. These will not have incurred additional costs.

### **5 Risk implications and mitigations**

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
Financial and reputational risks if concerns are not raised and addressed.	It is important that the Council’s whistleblowing policy is effective if the Council is to be confident in the proper investigation of concerns and in its arrangements for protecting those who wish to express them and who may worry about doing so openly or through other routes. The financial and reputational risks to the Council from failing to provide a route for individuals to express concerns in confidence are recognised. It is equally important to provide the forum of this committee to ensure that members have assurance as to the effective operation of the policy and its active review.

## **6 Policy alignment and compliance**

- 6.1 The whistleblowing policy forms one element of the Council's range of systems to reduce crime, to ensure compliance with the public sector equality duty and with the expectations of the rights of individuals within the Human Rights Act. Accessibility for all persons with protected characteristics must however be assured in the context of the implementation of the policy.

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**Appendices** – None.

**Background papers** – None.