

Subject:	Governance: Whistleblowing Update		
Date of Meeting:	10 March 2015 26 March 2015		
Report of:	Head of Legal & Democratic Services		
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Audit & Standards Committee have received reports on Governance arrangements, particularly within the Annual Governance Statement and progress update reports.
- 1.2 One aspect of Governance is Whistleblowing and the council has recognised that further and continuing work is required to strengthen governance arrangements. This report provides Members with an update of progress and future actions proposed to improve co-ordination of effort and improve understanding both within our organisation and by our customers.

2. RECOMMENDATIONS:

- 2.1 That Members:
 - 2.1.1 Agree in principle to the proposed changes to council's the Whistleblowing Policy and Procedure.
 - 2.1.2 Note that a report will be made to the 23 June 2015 committee to recommend to Full Council to approve the proposed changes to Whistleblowing Policy.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Governance is expected of all large organisations. Corporate Governance is defined as 'the systems and processes, culture and values by which the authority is directed and controlled and its activities through which it accounts to, engages with and leads its communities'¹.
- 3.2 Recently there has been a number of reports on whistleblowing in respect of other public sector organisations and people's experiences of whistleblowing which has highlighted potential issues and findings. This has provided the council with an opportunity to review its current policies and procedures on whistleblowing.

¹ Definition from 'Delivering Good Governance in Local Government – Addendum CIPFA/SOLACE 2012.

- 3.3 In addition the council is undergoing changes to its structure, arrangements and working in different ways with many partners. Strong Governance may be seen as an essential element to underpin activity and ensures that the council continues to operate within legal requirements and regulations in an accountable, open and honest way.
- 3.4 As part of the delivery of the Modernising Agenda, the council has set up a 'Good Governance & Leadership Programme' sponsored by the Head of Legal & Democratic Services and supported by relevant officers. Sixteen Workstreams are identified within that programme. Two Workstreams which specifically relate to Whistleblowing are:
- Workstream 7: 'Update and re-launch Whistleblowing Policy and ensure database is fit for purpose'; and
 - Workstream 12: 'Review/update corporate governance rules and procedures to ensure fit for purpose and support modernisation agenda'.
- 3.5 Whistleblowing includes concerns including:
- Conduct which is an offence or a breach of law
 - Disclosures related to miscarriages of justice
 - Individual(s) covering up wrongdoing
 - Health & safety risks, including risks to the public as well as other employees
 - Damage to the environment
 - The unauthorised use of council funds
 - Action that is contrary to the council's financial procedures or contract regulations
 - Possible fraud, corruption or financial irregularity
 - Practice which falls below established standards or practice
 - Sexual or physical abuse of clients
 - Other unethical conduct
- 3.6 In the autumn 2014 the council reviewed its Whistleblowing Policy (Raising Concerns in the Public Interest) which was first published in March 2014. The policy applies to all 'members of staff', i.e. employees, casual and agency workers, apprentices, contractors and self-employed consultants working on the council's premises. All such 'members of staff' are protected² against detrimental treatment or dismissal for disclosing normally confidential information because they reasonably believe it is in the public interest to do so (known as a 'qualifying disclosure').
- 3.7 To make improvements to the council's Whistleblowing Policy and procedures to strengthen Governance, it is proposed:

² Provisions incorporated into the council's Whistleblowing Policy from the Public Interest Disclosure Act 1998 (as amended by the Enterprise & Regulatory Reform Act 2013).

- That the scope of the Whistleblowing Policy and procedure is extended to provide a general gateway to enable members of the public, (as well as those who work for the council) to raise a concern which is in the public interest.
- That there is more clarity about how the council's Whistle blowing Policy applies to Schools. Further it is proposed that mechanisms are put in place to monitoring how schools are dealing with whistle blowing.
- To review the relationship of the Whistleblowing Policy and procedure with other processes and procedures such as employment related procedures (e.g. HR procedure , 121's between managers and their staff), complaints procedure, fraud hot-line reports and internal audit activity and recommendations.
- To change the process for registering centrally all concerns which are reported to the council. It is proposed that responsibility for maintaining and holding the Register of Whistleblowing allegations transfers from Internal Audi to the Head of Legal & Democratic Services.
- To raise awareness of the policy and procedure by devising a flowchart on what happens when a concern is raised. In addition, produce clearer guidance and publicity to:
 1. Ensure that there is clear understanding by those reporting concerns (the 'whistleblowers') of the council's policy and procedure as to how they can raise a concern.
 2. Ensure that there more clarity as to the process for dealing with, and the consideration of concerns by officers with line management responsibilities, and the action to be taken within clear timescales. A process chart process will be devised and consulted on.
- To undertake a review of related arrangements e.g.:
 - i. Support for whistleblowers
 - ii. Action taken for wrong doing
 - iii. Publicising what action has been taken to encourage more reporting and give confidence to our customers/stakeholders in our arrangements.

4. **FINANCIAL & OTHER IMPLICATIONS:**

Financial Implications:

- 4.1 There are no direct financial implications arising from the recommendations in this report.

Legal Implications:

- 4.2 The Public Interest Disclosure Act 1998 protects whistleblowers from detrimental or unfavourable treatment and victimisation from their employers and co-workers after they have raised a qualifying concern in the public interest.

A qualifying concern covers:

- Criminal offence
- Failure to comply with legal obligations
- Miscarriages of justice
- Threats to health and safety of an individual
- Damage to the environment: or
- A deliberate attempt to cover up any of the above

- 4.3 The Act allows people to apply to an Employment Tribunal for a remedy or compensation if they feel they have suffered bad treatment as a result of whistle blowing.

- 4.4 The Act covers all people working for the council, including those working on temporary contracts or agency workers, and trainees.

- 4.5 The Act does not extend to cover members of the public, however it is proposed that the Council's policy and procedures is extended to cover members of the public to enable them which to raise a concern which is in the public interest.

- 4.6 The proposed changes to the Council's policies procedures will ensure that the process for raising concerns are more effective in the future.

Lawyer Consulted: Gina Clarke

Date: 11 February 2015

SUPPORTING DOCUMENTATION

Appendices:

1. Whistleblowing Policy (Raising Concerns in the Public Interest) March 2014.

Documents in Members' Rooms

1. None.

Background Documents

1. Good Governance & Leadership Programme Board Working papers.

