

Wiltshire Council

Standards Committee

October 2024

TO ENDORSE THE DEVELOPMENT OF THE REDRAFTED WHISTLEBLOWING POLICY AND NOTE THE SUBJECT WORK TO BE UNDERTAKEN ONCE ADOPTED.

Purpose of Report

1. To ask the Standards Committee to note and provide any comment on the redrafted Wiltshire Council Whistleblowing Policy (“the Policy”).

Relevance to the Council’s Business Plan

2. The Policy provides an avenue for staff to raise serious concerns and ensures that they should not suffer any prejudice for raising such concerns.
3. The redrafted Whistleblowing Policy contains additional provisions setting out the Council’s commitment to considering disclosures made by members of the public in respect of serious misconduct which are to be handled in the same way as concerns raised by employees (unless it is considered more appropriate for the concerns to be dealt with using an alternative Council procedure, for example the Complaints Procedure).
3. It is reflective of the Council’s aims within its business plan to be open and transparent and ensure that all are working together. It is also consistent with the Council’s aim for prevention and early intervention which would equally apply with internal arrangements. Providing staff (and others) with the ability to raise any serious concerns also assists in ensuring the Council maintains and supports a skilled and committed workforce working for its residents and the communities they live in.

Background

4. The Policy itself states that it must be regularly reviewed in line with future changes and developments and at least every two years. The last review took place in 2022.
5. Attached as **Appendix 1** to this report is the redrafted Whistleblowing Policy. The proposed amendments to the current Whistleblowing Policy are shown in red in **Appendix 2**.
6. It should be noted that the Whistleblowing Bill is being read in the House of Lords. Its aims are to establish an independent Office of the Whistleblower to protect whistleblowers and whistleblowing in accordance with the public interest; to make provision for the Office of the Whistleblower to set, monitor and enforce standards

for the management of whistleblowing cases, to provide disclosure and advice services, to direct whistleblowing investigations and to order redress of detriment suffered by whistleblowers; to create offences relating to the treatment of whistleblowers and the handling of whistleblowing cases; and to repeal the Public Interest Disclosure Act 1998. Should this Bill become law, a further review of the Policy will become necessary to update it from the Public Interest Disclosure Act 1998.

Main Consideration for the Council

7. Whistleblowing is not an investigative process in its own right. It is a mechanism whereby staff and former staff (workers) can be assured that they can raise any serious concerns they may hold and they will have statutory protection from possible reprisals or victimisation for raising those concerns.
8. Under the Public Interest Disclosure Act 1998, when a worker raises a concern with their employer which falls within the definition of a protected disclosure (usually an issue which relates to illegal activity or risk to health or safety) then they have statutory protection for making such a disclosure.
9. However, that investigation is likely to be carried out under other investigative processes. For example, concerns raising allegations of fraud are likely to be carried out under the anti-fraud investigative processes, concerns relating to Health and Safety are likely to be carried out under the Health and Safety investigative processes and issues of unlawful action may be carried out the Police and/or Monitoring Officer investigative processes.
10. The Policy is designed to ensure: -
 - i. That staff (and others) have an avenue to raise any serious concerns.
 - ii. The disclosure can be assessed as to whether it is a protected disclosure.
 - iii. If it is such a protected disclosure for such confirmation to be given to the worker as soon as possible after they have made such a disclosure.
 - iv. That the concerns raised will be investigated by the appropriate process and in a timely fashion.
11. The Policy identifies that there is a difference between a complaint and a protected disclosure. Similarly, it also identifies the difference between a grievance and a protected disclosure.
12. The amendments to the current Whistleblowing Policy are designed to make it clear that the initial assessment of the concern (to firstly, determine the nature of the concern/issue being raised and whether it is a protected disclosure and secondly, which investigative process should be utilised in determining the concern/issue) can be carried out by either the Council or the Council may ask another body (e.g. SWAP) to carry it out. However, there is a requirement that where a decision is made for the initial assessment to be carried out internally by the Council, SWAP will be notified of the initial assessment.
13. The current Whistleblowing Policy has been amended to make it clear that it does not cover schools as every maintained school should have their own whistleblowing policy.

14. The redrafted Whistleblowing Policy contains additional provisions to cover where concerns are raised by members of the public and where these do not fall within the Council's Complaints process or any other applicable policy. The proposed amendments to the policy set out the Council's commitment to handle disclosures made by members of the public in respect of serious misconduct in the same way as concerns raised by employees (although noting that PIDA only offers legal protection for disclosures made by employees). This approach was discussed and agreed with SWAP and is the approach taken by some other local authorities.

Overview and Scrutiny Engagement

15. As this matter was considered by the Audit and Governance Committee in July 2024 and is then being considered by the Standards Committee in October 2024, there has been no engagement with the Overview and Scrutiny Committee.

Safeguarding Implications

16. The Policy is designed to give workers assurance that they have an avenue where they can raise issues where they have serious concerns (including where appropriate safeguarding) and therefore the Policy is consistent with the Council's safeguarding duties.

Public Health Implications

16. The Policy is designed to give workers assurance that they have an avenue where they can raise issues where they have serious concerns (including where appropriate where they consider there is a risk of danger) and therefore the Policy is consistent with the Council's furthering Public Health and well-being.

Procurement Implications

17. There are no procurement implications.

Equalities Impact of the Proposal

18. The Policy is designed to give workers assurance that they have an avenue where they can raise any issues where they have serious concerns and will be applied equally to all staff, and the Policy has considered members of the public - and therefore the Policy is consistent with the Council's public sector equalities duties.

Environmental and Climate Change Considerations

19. As this relates to consideration of adoption of a policy relating to whistleblowing there are no environmental or climate change considerations.

Risks that may arise if the proposed decision and related work is not taken

20. The current Whistleblowing processes would remain with reasonable assurance and the Council could be criticised for not driving forward with continued improvement and not be in accordance with either best practice or the changed governance arrangements.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

21. If the action is taken it will be necessary to:-
 - a. Update the Council's external facing website and internal Council intranet;
 - b. Develop appropriate messaging to ensure that it is rolled out to embed the new Whistleblowing Policy within Council processes.

Financial Implications

22. There are no financial implications to this report.

Legal Implications

23. The proposed Whistleblowing Policy is consistent with the Public Interest Disclosure Act 1998 and provides an appropriate avenue for workers to raise any serious concerns they may have without fear of victimisation or harassment.
24. The proposed Whistleblowing Policy will be in replacement of an existing policy and is modelled on best practices and ensures that there is an appropriate governance checks in place for the Council.
25. Adoption of this redrafted Whistleblowing Policy will ensure that the organisation has appropriate procedures in place for ensuring any serious concerns held by workers are able to be raised and appropriately considered.
26. The proposed Whistleblowing Policy is consistent with the Council's anti-fraud, complaints and the HR policies relating to grievance.
27. It is proposed that the adoption of the redrafted Whistleblowing Policy will be by way of decision by the relevant Cabinet Member who has authority to make decisions pursuant to Part 3 Section C of the Constitution.

This report is being taken to The Standards Committee which has the role and function of overseeing the Council's Whistleblowing Policy (paragraph 2.5.7.8 of Part 3B of the Council's constitution) and asks them to note and provide any comment on the redrafted Whistleblowing Policy and its operation.

By way of background, this report was taken to the Audit & Governance Committee in July 2024 for them to note and provide any comment.

Workforce Implications

28. There are no direct work-place implications. This redrafted Whistleblowing Policy has been developed in consultation with SWAP utilising their knowledge of best practices from a number of local authorities they audit and provides all workers with an appropriate avenue to raise serious concerns without fear of harassment or victimisation.

Options Considered

29. Whilst the existing Whistleblowing Policy did give reasonable assurance it was due for review and needed to be streamlined and redrafted.

Proposal

30. The committee to note the development of the Draft Whistleblowing Policy appended to this report as Appendix 1 and the subject work to be undertaken once adopted.

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Date of report October 2024

Appendices

Appendix 1 Redrafted Whistleblowing Policy

Appendix 2 Changes to Current Whistleblowing Policy

Background Papers

The following documents have been relied on in the preparation of this report: None