

Wiltshire Council

Audit & Governance Committee

27 April 2022

TO NOTE THE OUTCOME OF THE REVIEW OF THE COUNCIL'S WHISTLEBLOWING POLICY.

Purpose of Report

1. To ask the Audit and Governance Committee to note the outcome of the review of Wiltshire Council Whistleblowing Policy as a result of the internal audit of this area namely the development of a redrafted Whistleblowing Policy.

Relevance to the Council's Business Plan

2. The draft Whistleblowing Policy provides an avenue for staff and former staff to raise serious concerns and ensures that they should not suffer any prejudice for raising such concerns.
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 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. In an internal audit on the Council's Whistleblowing processes conducted by South-West Audit Partnership (SWAP) it was determined that there was reasonable assurance but also identified a number of actions that the Council could undertake to strengthen its systems/processes including: -
 - Updating the Council's web page including use of a dedicated hotline and flow diagram of the process to assist staff to understand the processes,
 - Development of staff training and awareness.
 - Working to review policy in conjunction with other policy development (e.g. anti-fraud) and tying these policies in with the suite of governance policies (e.g. grievance, complaints, dignity at work, code of conduct etc).
 - Look at a centralised database to capture whistleblowing reports, fraud allegations, gifts and hospitality etc.
5. As any updating of the web page and staff training developed would benefit from a review of the underlying policy, the initial work focussed in that area and Legal Services and SWAP staff worked on reviewing and ultimately re-drafting the

Council's whistleblowing policy. The re-drafted policy was developed utilising SWAP's knowledge of best practices from a number of differing authorities for whom they carry out internal audits.

6. Attached as **Appendix 1** to this report is the draft Whistleblowing Policy.
7. Attached as **Appendix 2** is a one-page flow diagram of the Whistleblowing procedure.

Main Considerations for the Council

8. 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.
9. 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.
10. 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.
11. The Council's Whistleblowing Policy is designed to ensure: -
 - i. That staff 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.
12. 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.
13. Therefore, the Policy provides for a triage process to be applied 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.
14. In this draft Policy it is proposed that the triage process will be carried out by Head of Internal Audit with SWAP (or their representative) in consultation with the Council's s151 or Monitoring Officer (or their representatives). It should be noted that SWAP already provide this function for the Council in respect of fraud allegations and adopting this approach brings the Whistleblowing policy in line with the Council's anti-fraud processes.

15. It should be noted that at the time of the original internal audit due to a lack of Head of Governance within the Council the Head of Legal Services carried out the responsible officer function for whistleblowing functions. However, there is now in post a Head of Democracy and Governance. Therefore, it is proposed that going forward the Head of Democracy and Governance will oversee on behalf of the Monitoring Officer the adoption and roll out to staff of the redrafted Policy.

Overview and Scrutiny Engagement

16. As this matter is to be considered by the Audit and Governance Committee and then the Standards Committee there has been no engagement with the Overview and Scrutiny Committee.

Safeguarding Implications

17. 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

18. 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

19. There are no procurement implications.

Equalities Impact of the Proposal

20. 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 therefore the policy is consistent with the Council's public sector equalities duties.

Environmental and Climate Change Considerations

21. 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

22. The current Whistleblowing processes would remain with only 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

23. If the action is taken it will be necessary to: -
 - a. Update the Council's web site
 - b. Develop appropriate messaging and training and to ensure that it is rolled out to embed the new policy within Council processes.
 - c. Develop a centralised register to capture all whistleblowing reports.

Financial Implications

24. There are no financial implications to this report.

Legal Implications

25. The proposed 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.
26. The proposed 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.
27. Adoption of this redrafted 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.
28. The proposed policy is consistent with the Council's anti-fraud, complaints and the HR policies relating to grievance.
29. Adoption of this policy on behalf of the Council will be via the Standards Committee who have the role and function of overseeing the Council's Whistleblowing policy (paragraph 2.5.6 of Part 3B of the Council's constitution)

Workforce Implications

30. There are no direct work-place implications. The Council has an existing whistleblowing policy which had not been reviewed for a number of years and 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

31. Whilst the existing policy did give reasonable assurance it did not adopt best practices and did not clearly set out the triage nature of the whistleblowing process and therefore maintaining the status quo was discounted.

Proposal

32. 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.

Director: Perry Holmes; Director of Legal & Governance

Report Author: Frank Cain, Head of Legal Services, [email
frank.cain@wiltshire.gov.uk](mailto:frank.cain@wiltshire.gov.uk)

Date of report 7 April 2022

(Make sure above includes name, title and contact details of report author)

Appendices

- Appendix 1 Draft Whistleblowing Policy
Appendix 2 1 page flow diagram of procedure

Background Papers

The following documents have been relied on in the preparation of this report:

None