

## **Whistleblowing Update**

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### **Summary**

- 1 The purpose of the report is to seek final comments from the committee on a proposed new whistleblowing policy.

### **Background**

- 2 The Public Interest Disclosure Act 1998 (PIDA) introduced amendments to the Employment Rights Act 1996 (ERA). PIDA was later amended by the Enterprise and Regulatory Reform Act 2013. PIDA provides protections to workers who report serious issues within an organisation. Employers who subject workers to detriment (such as dismissal or unfair treatment) due to them “blowing the whistle” can be ordered to pay compensation at an employment tribunal. Workers who do not feel that their concerns have been addressed are entitled to raise their concerns outside of their organisation to relevant prescribed bodies as detailed within legislation (for example the Health and Safety Executive and OFSTED).
- 3 Whistleblowing is seen as an important and essential part of maintaining good governance, encouraging high standards of ethical behaviour and promoting an anti-fraud culture within an organisation. CIPFA cite having an effective and accessible whistleblowing policy as a demonstration of local government’s commitment to integrity, ethics, and respect for the rule of law.<sup>1</sup>
- 4 The whistleblowing policy forms part of the wider counter fraud policy framework, which includes the counter fraud and corruption policy and counter fraud strategy. The policies set out how anyone can raise suspicions of fraud or wrongdoing

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<sup>1</sup> CIPFA – Delivering Good Governance 2016

with the council. However, because of the specific protections in law afforded to workers, the arrangements for them to blow the whistle are set out in a separate whistleblowing policy. This makes clear the circumstances where blowing the whistle will afford the protections set out in legislation, and outlines how concerns will be investigated.

### **Revised Whistleblowing Policy**

- 5 The council's current whistleblowing policy was last updated in 2014.
- 6 Veritau took over responsibility for providing support to the council with whistleblowing arrangements in 2018. A review of the current policy and procedures against good practice guidance was completed in early 2019. This included the Government's Whistleblowing: Guidance for Employers & Code of Practice (Department for Business Innovation & Skills, March 2015) and the National Audit Office's Assessment Criteria for Whistleblowing Policies (January 2014). While it was found that the existing policy remained effective, it required updating to reflect the latest guidance and a revised policy was prepared.
- 7 The proposed new policy and related guidance builds on the aims, principles and information set out in the current policy. Areas updated include the following.
  - Further clarification for employees of the types of issues that may be reported and the protections the law affords them.
  - The introduction of more detailed guidance for managers on how to respond when a whistleblowing report is made to them.
  - The introduction of central reporting and recording requirements for all whistleblowing allegations.
  - Clarification of reporting requirements to senior officers and to members.
- 8 On 6 February 2019 the new draft policy was considered by the Audit and Governance Committee. The committee provided a number of comments to be taken into account in finalising the policy. Separately, the draft policy was considered by the Standards Task Group, who also provided

comments. The draft policy has subsequently been amended in light of the views expressed.

- 9 A final draft of the policy is included at annex 1. The policy includes tracked changes showing amendments made to the version considered by the committee on 6 February. Subject to any further comments, the policy will now be considered by the council's Corporate Management Team on 15 January 2020 prior to approval of the policy by the Chief Executive.
- 10 Once the new policy is in place an awareness campaign will be undertaken for both members of staff and managers. The Human Resources department and Veritau will continue to provide ongoing support and advice to all parties. Veritau will regularly report relevant whistleblowing activities to the Chief Executive, Section 151 Officer and Monitoring Officer. Veritau will also report annually to the Audit and Governance Committee, detailing numbers of reports, any significant trends, and further details of any reports that lead to significant issues being uncovered.

### **Consultation**

- 11 Consultation has taken place with key departmental stakeholders including Human Resources and Legal Services; and with the Unison, GMB, and Unite unions. The draft policy has also been considered by the Audit and Governance Committee and Standards Task Group, and by the Governance Risk and Assurance Group (GRAG). The policy will be considered by Corporate Management Team before approval.

### **Options**

- 12 Not relevant for the purpose of the report.

### **Analysis**

- 13 Not relevant for the purpose of the report.

### **Council Plan**

- 14 Robust whistleblowing arrangements help to support overall aims and objectives by enabling concerns about working practices to be addressed through creating an environment where employees and those working on behalf of the council can raise issues with confidence.

## **Implications**

- 15 There are no implications to this report in relation to:
- **Finance**
  - **Human Resources (HR)**
  - **Equalities**
  - **Legal**
  - **Crime and Disorder**
  - **Information Technology (IT)**
  - **Property**
- 16 There are no direct implications from this report in relation to HR or legal matters. There are however wider implications for the council in relation to whistleblowing matters. Workers who make a 'protected disclosure' can make a claim to an employment tribunal if they have been treated badly or dismissed - which could result in compensation. For example a claim for detrimental treatment (by the council or colleagues) or unfair dismissal, as a result of whistleblowing.

## **Risk Management Assessment**

- 17 It's important to have appropriate whistleblowing arrangements in place to help protect employees and the council. A clear procedure provides guidance to employees on what to do and the circumstances under which they enjoy the protection of the law. Having clear guidance for managers helps to ensure that concerns are dealt with appropriately and employees are not subject to detriment as a result of whistleblowing.

## **Recommendations**

- 18 Members are asked to;
- provide final comments on the proposed new whistleblowing policy and guidance, and note the arrangements for the policy to be approved by the Chief Executive as outlined in the report.

Reason

*In accordance with the committee's responsibility to assess the effectiveness of the council's counter fraud arrangements including the whistleblowing policy and other relevant counter fraud policies and plans.*

**Contact Details**

**Author:**

**Chief Officer Responsible for the report:**

Max Thomas  
Head of Internal Audit  
Veritau Limited  
Telephone: 01904  
552940

Ian Floyd  
Director of Customer & Corporate  
Services  
Telephone: 01904 551100

**Report  
Approved**

**Date** x/x/x

**Specialist Implications Officers**

Not applicable

**Wards Affected:** Not applicable

**All**

**For further information please contact the author of the report**

**Background Papers**

Department for Business Innovation & Skills – Whistleblowing  
Guidance for Employers and Code of Practice (2015)

National Audit Office – Whistleblowing Policies & Assessment  
Criteria for Whistleblowing Policies (2014)

CIPFA – Delivering Good Governance (2016)

Public Concern at Work – The Whistleblowing Commission – Codes  
of Practice (2014)

**Annexes**

Annex 1 – proposed Whistleblowing Policy