



Audit and Governance Committee

6 February 2019

Report of the Head of Internal Audit

Whistleblowing Update

Summary

- 1 The purpose of the report is to update the committee on whistleblowing activity in the current financial year. The report also includes a proposed new whistleblowing policy, for comment.

Background

- 2 As a local authority, it is essential that the council complies with legal and ethical standards. Those working for the council are often best placed to raise awareness about concerns that such standards are not being met. It is also important that anyone raising concerns is listened to and that they are adequately protected. The whistleblowing policy provides a framework for employees and contractors to raise concerns which they believe are in the public interest and may relate to illegal, improper or unethical conduct. This report provides an update on whistleblowing arrangements at the council and a summary of the numbers of whistleblowing concerns raised in 2018/19 to date.
- 3 Veritau took over responsibility for providing support to the council with whistleblowing arrangements in 2018. A review of the current policy and arrangements against best practice has subsequently been completed. This includes 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). Veritau is currently working with council officers to introduce an updated policy and guidance. The proposed new policy is included in this report, for comment.

Whistleblowing update

- 4 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).
- 5 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 effective and accessible whistleblowing policy as a demonstration of local government’s commitment to integrity, ethics, and respect for the rule of law.¹ It is important that the council has a clear whistleblowing policy which encourages employees to raise serious concerns and reassures them that they will not be adversely affected by doing so. The council’s current whistleblowing policy (annex 1) was last updated in 2014.
- 6 Since its inception Veritau has acted as a secondary point of contact for whistleblowers when they are reluctant to contact their managers or senior managers. The HR department provides support to council managers when they request assistance in dealing with whistleblowing reports. Both Veritau and the HR department log all reports they receive, however, neither Veritau nor HR have a complete record of all whistleblowing reports made within the council. The number of reports logged by Veritau and HR during the last three financial years are relatively low.

2016/17	2017/18	2018/19 ²
7	4	2

¹ CIPFA – Delivering Good Governance 2016

² As at 31/12/18

New whistleblowing policy

- 7 When Veritau assumed overall responsibility for whistleblowing arrangements last year, it instigated a review of the current policy taking into consideration national guidance and best practice. The review found that the existing policy was effective, and reflects the current legislative framework. But some further improvements could be made to take into account recent best practice guidance from the Government, NAO and the charity Public Concern at Work.
- 8 A proposed new whistleblowing policy is included at annex 2. This is being shared with the committee at the draft stage, for comment, prior to a final version being taken forward for approval. Consultation on the policy has already been undertaken with HR and Legal Services and consultation with the Unison, GMB and Unite unions is underway. Further consultation with the portfolio holder for HR and with CMT is planned, before formal approval of the policy by the Chief Executive.
- 9 The proposed new policy (and guidance) at annex 2 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.
- 10 Once the new policy is in place an awareness campaign will be undertaken for both members of staff and managers. The HR 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 already taken place with key departmental stakeholders – Human Resources and Legal Services. Consultation is underway with Unison, GMB, and Unite. Further consultation with the portfolio holder for HR and with CMT will be undertaken.

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;
- Note the whistleblowing activity during 2018/19 and provide comments on the proposed new policy and guidance.

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.

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**Report
Approved**



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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 – CYC Whistleblowing Policy 2014 (current)

Annex 2 – CYC Whistleblowing Policy 2019 (proposed)