

Urgency Committee

Report of the Head of Human Resources

Whistleblowing

Summary

1. This report outlines proposed changes to the Council's Whistleblowing Policy, Procedure and Guidelines and seeks approval of these revisions. This matter is urgent as the Council is required to make and implement changes to its whistleblowing arrangement before the 31st March 2007. The Council's whistleblowing arrangements are critical to the Council's overall Comprehensive Performance Assessment (CPA) score due to the scoring methodology of the CPA. The 31st March 2007 is a critical date in this respect as it is the cut off date advised by the District Auditor/Audit Commission nationally for considering the Council's arrangements for the purposes of the 2007 CPA Use Of Resources (UOR) assessment. Should the amendments not be made and implemented before this date the assessment would be based on pre-review arrangements which are known to require strengthening.

Background

2. The Council has operated a Whistleblowing Policy since the inception of the Public Interest Disclosure Act 1998 (PIDA). Whilst there is no strict legal requirement to do so, it is good practice for the Council to operate a policy under which concerns covered by the PIDA can be raised.
3. As with all Council policies and procedures the Whistleblowing Policy, Procedure and associated Guidelines are regularly reviewed to ensure they are fit for purpose and to incorporate any lesson from their use. A recent such review has highlighted the need to revise the Council's whistleblowing processes to add clarity in a number of areas and to review the scope of the policy in relation to access by Elected Members.

Consultation

4. In revising the Whistleblowing processes consultation has been undertaken with the Chief Executive and Officer Governance Group. The proposed revisions also take into account recommendations made by the Audit Commission.

Options

Option 1 – revise the Whistleblowing Policy, Procedure and Guidelines to add clarity to the process and to continue to allow Elected Members access to the policy

Option 2 – revise the Whistleblowing Policy, Procedure and Guidelines to add clarity to the process and to remove Elected Members' access to the policy

Analysis

Option 1 – revise the Whistleblowing Policy, Procedure and Guidelines to add clarity to the process and to continue to allow Elected Members access to the policy

5. The clarity added to the process involves more guidance being included in relation to the investigation of whistleblowing concerns, specifically:
 - i. The automatic reporting of all concerns raised under the Whistleblowing Policy to the Chief Executive, Head of Human Resources and Head of Audit;
 - ii. More clarity regarding the undertaking of the initial enquires and who decides if a full investigation is required;
 - iii. Clarified roles and responsibilities under the policy;
 - iv. Stronger and clearer links to the Council's disciplinary procedure and, if required, Standards Committee in the case of malicious or frivolous complaints, or complaints made for personal gain.
6. In relation to the issue of allowing Elected Members access to the policy, if such access is to be retained it is proposed that the guidelines are revised to clarify that:
 - i. Whistleblowing is not a means of political opposition;
 - ii. Elected Members have many opportunities to question officers, participate in decision making or review decisions made;
 - iii. Elected Members have other means of raising concerns, including the responsibilities under the Code of Conduct.
7. The PIDA does not include Elected Members as a group of people who are covered by the scope of the Act. However it is recognised that, if used properly, the Whistleblowing Policy is an important feature in detecting wrong doing and other serious failure in service and are at the top of the hierarchy of the receipt of information about problems. It is therefore desirable that Elected Members are still included as a group of people who can raise concerns under the Whistleblowing Policy, subject to revised guidelines to provide clarity regarding when and how Elected Members can raise concerns and the other options available.

Option 2 – revise the Whistleblowing Policy, Procedure and Guidelines to add clarity to the process and to remove Elected Members' access to the policy

8. It is proposed that the revisions to add clarity to the whistleblowing process are the same as above.
9. There is no legal requirement to operate a whistleblowing policy for Elected Members, nor are Elected Members covered by the PIDA. As detailed above, there are compelling reasons to continue to include Elected Members as a group of people who can raise concerns under the Whistleblowing Policy, providing that the guidelines are clear regarding when and how concerns can be raised. There are however other mechanisms available to Elected Members through the democratic process to allow them to raise concerns and as such there is less reason to afford Elected Members the opportunity to raise concerns through the Whistleblowing Policy.

Corporate Priorities

10. This report and action proposed relate to the corporate priority of "Improving our organisational effectiveness".

Implications

11. **Human Resources (HR)** – The HR implications are contained in the body of the report.
12. **Corporate Governance** - The corporate governance implications are contained in the body of the report.
13. **Legal** - The legal implications are contained in the body of the report.
14. There are no other identified implications relating to **finance, equalities, crime and disorder, information technology** or **property**.

Risk Management

15. In compliance with the Council's risk management strategy the main risks that have been identified in this report are those which could lead to financial loss (financial), damage to the Council's image and reputation and failure to meet stakeholders' expectations (governance) and those arising from employees and their relationship with the Council (people).
16. Measured in terms of impact and likelihood, the risk score has been assessed at 12, placing the issue in the medium category. The implementation of the recommendation in this report will reduce the risk to low.
17. The management of this risk provides the Council with the opportunity to provide enhanced and effective services to all Council customers.

Recommendations

18. It is recommended that Urgency Committee agree Option 1 – revise the Whistleblowing Policy, Procedure and Guidelines to add clarity to the process and to continue to allow Elected Members access to the policy.

Reason: The Whistleblowing Policy is an important feature in detecting wrong doing and other serious failure in service and are at the top of the hierarchy of the receipt of information about problems. It is therefore desirable that Elected Members are still included as a group of people who can raise concerns under the Whistleblowing Policy, subject to revised guidelines to provide clarity regarding when and how Elected Members can raise concerns and the other options available.

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Specialist Implications Officer(s)

Legal

Suzan Hemmingway, Head of Civic, Democratic and Legal Services

Corporate Governance

Max Thomas, Head of Audit

Wards Affected: None

All

For further information please contact the author of the report

Background Papers:

None.

Annexes

Annex 1 - Proposed revised Whistleblowing Policy
Annex 2 - Proposed revised Whistleblowing Procedure
Annex 3 - Proposed revised Whistleblowing Guidelines