

WIRRAL COUNCIL

EMPLOYMENT AND APPOINTMENTS COMMITTEE

29 SEPTEMBER 2011

SUBJECT:	WHISTLEBLOWING POLICY
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF LAW, HR AND ASSET MANAGEMENT
RESPONSIBLE PORTFOLIO HOLDER:	CLLR ADRIAN JONES
KEY DECISION?	YES

1.0 EXECUTIVE SUMMARY

1.1 This report sets out the details of the proposed revised Whistleblowing Policy and procedure.

2.0 RECOMMENDATION/S

2.1 That the Employment and Appointments Committee considers and agrees the revised Whistleblowing Policy and Procedure.

2.2 That the Employment and Appointments Committee recommend that the Council should take out a 'bespoke' subscription to Public Concern at Work, a national charity set up to provide support for individuals and organisations, around Whistleblowing issues.

3.0 REASON/S FOR RECOMMENDATION/S

3.1 On 14 April 2011, Cabinet accepted a report from an independent investigation undertaken by Martin Smith into allegations of bullying and abuse of raised by Martin Morton, a former employee in Adults Social Services. The Cabinet resolved to;

- Resolution 3a) - instructs the Chief Executive Designate to ensure that the Council's policies in relation to Harassment Bullying and Victimisation (HBV); Grievances; and Whistleblowing are all reviewed as a matter of urgency: with a view to incorporating those changes and improvements recommended by Mr Smith (and all other provisions that officers consider appropriate), to ensure that the policies are up to date and fit for purpose;
- Resolution 3 (b) - following completion of (a) above, a timely and comprehensive programme of training for all Council managers be put in place to ensure that the revised policies are understood and applied throughout the Authority;
- Resolution 3 (d) - the Chief Executive takes all necessary action to ensure that Resolution 3(a) (relating to the Council's corporate governance

arrangements for dealing with employees' complaints) is implemented as soon as practicable;

- 3.3 This report addressed specifically the Council's Whistle blowing policy and procedure. Further reports will follow to the Employment and Appointments Committee in relation to Harassment Bulling and Victimisation, Grievances, a Council case work system, with details of the training packages to support the effective implementation.
- 3.4 It is critical for the Council to have a clear, robust and transparent policy and procedure for dealing with Whistleblowing disclosures.
- 3.5 This revised policy and procedure is designed to strengthen current arrangements and ensure that any concern about the Council's business matters could adversely affects service users, employees, and/or the public can be raised and fully investigated without employees fearing the consequences of doing so.
- 3.6 Adoption of this policy and subscription to an external, independent organisation to allow employees to seek advice and guidance on issues of concern will enable the Council to demonstrate its full commitment to the highest standards and integrity of public service.

4.0 BACKGROUND

- 4.1 The current Whistleblowing Policy was agreed by The Employment and Appointments Committee on 24 September 2008.
- 4.2 In April 2011 Cabinet accepted a report from an independent investigation undertaken by Martin Smith into allegations of bullying and abuse of power raised by Martin Morton, a former employee in Adults Social Services.
- 4.3 In addition to the findings of the report, Mr Smith made a number of recommendations about the management of Whistleblowing disclosures which he considered would strengthen the Council's corporate governance.

KEY ISSUES

The key recommendations arising from Mr Smith's reports were;

Recommendation 1

Suggested definition of what concerns fall under 'whistleblowing' and what the scope of the policy should be

Recommendation 2

The Council's existing approach places the emphasis on the individual employee to decide for themselves how and where they will report their whistleblowing concerns. Employees have a multiple of choices and, while they are encouraged to approach their line manager in the first instance, it is

recognised that this may not be appropriate due to the nature of the complaint. There does not appear to be any single or corporate dimension to coordinating these arrangements.

There is a corporate role to be played by the Council's Monitoring Officer who should be given overall responsibility for the successful operation of the Whistleblowing Policy by acting as the focal point for all whistleblowing concerns.

This role would include:

(i) Acting as the Nominated Officer to receive all whistleblowing complaints and determining, with the other officers mentioned in the policy, as appropriate, the arrangements to be made for addressing or investigating each complaint;

(ii) Coordination and overall supervision of each whistleblowing complaint and investigation;

(iii) Preparing a performance management report on a regular basis, at least annually, to the appropriate Lead Member/Committee of the Council, including the appropriate Overview and Scrutiny Committee, with a variety of casework management data including the number/type of cases dealt with and the outcome achieved;

Recommendation 3

In support of the Monitoring Officers role, there should be an officer in a corporate HR role who would provide a "filter mechanism" for all staff complaints, i.e. whistleblowing; grievance; and harassment/bullying.

This role would include:

i) Receiving and examining all staff complaints which are proposed to be submitted to the Council's Appeals Sub- Committee in order to determine the suitability of the case to be dealt with in accordance with either the Grievance procedure or the HBV policy;

(ii) Liaising with Departmental colleagues, as appropriate, in making the appropriate decision and subsequent arrangements for the case to proceed;

(iii) Acting on behalf of the Monitoring Officer, as required, in the discharge of her/his responsibilities for Whistleblowing cases, including liaison with colleagues, as appropriate, in determining the arrangements to be made for addressing or investigating each complaint;

(iv) Maintaining a Casework Management Register for all staff complaints received under all procedures, which facilitates the coordination and overall supervision of each grievance, HBV and whistleblowing complaint and investigation;

(v) Overseeing the quality control of all cases in the Casework Management Register in order to facilitate the performance management reporting system;

If the changes above are accepted and the Council's Monitoring Officer is given overall responsibility for the successful operation of the Whistleblowing Policy, the current reporting arrangements may also need to change and the opportunity could be taken to make them more user friendly and, by doing so, perhaps encourage employees who have whistleblowing concerns to report them. In these circumstances, consideration could be given to providing a variety of reporting methods including

- (i) an online facility via the Council's intranet;
- (ii) a dedicated confidential contact telephone number/helpline;
- (iii) a dedicated e-mail address; and (iv) a confidential internal postal address.

- 4.4 In addition to the recommendations in Mr Smith's report, a review of other Local Authority, NHS and other public sector policies has been undertaken to ensure that best practice has been adopted within the policy.
- 4.5 As a further step, the policy has also been reviewed by Public Concern at Work have reviewed the draft policy and offered advice and suggestions to ensure it meets best practice.
- 4.6 The feedback from Public Concern at Work is that the Council draft, revised policy meets with best practice in a range of areas and *'has helped to focus on the key messages to staff that it is safe and acceptable to speak up at any time about a potentially serious risk or concern in the workplace and to offer alternatives to silence if staff are not sure who to speak with either because of the nature of the concern, or because they are worried about their own position. The Policy offers confidentiality, and assurances on reprisals. It states who staff can go to outside line management and externally where necessary, and access to independent advice'*.
- 4.7 Public Concern at Work also advised that normally best practice would be for line managers have greater empowerment to deal with a concern without automatically referring the matter to senior management as has been proposed within this policy and procedure.
- 4.8 However, the Council's requirement for a more robust arrangement for quality assuring the response to concerns raised and minimising the risk to the organisation at this time has been discussed. This issue will be considered when the policy is reviewed.
- 4.9 Appendix A details the key changes to the policy.

External Validation and Support

- 4.10 To enhance the level of support available to employees and the organisation, it is recommended that the Council works with Public Concern at Work.

4.11 Public Concern at Work is a national Whistleblowing charity established in 1993, which has four activities;

- free, confidential advice to people concerned about crime, danger or wrongdoing at work;
- help organisations to deliver and demonstrate good governance;
- inform public policy; and
- promote individual responsibility, organisational accountability and the public interest

4.12 This will give benefits of:

- External validation of the Whistleblowing Policy and Procedure and support to the Council in communication and training around raising concerns at work and Whistleblowing
- Additional, independent external support for any employees who have concerns and may need advice about how to take them forward
- Will serve as a visible demonstration of Council's commitment to the highest standards and integrity of public service.

4.13 A wide range of organisations including, Local Authorities and the NHS, subscribe to Public Concern at Work

4.14 The recommendation for Committee is that the Council subscribes to the bespoke package offered by Public Concern at Work. This is the most comprehensive package available. The details are attached at Appendix C

4.15 Public Concern at Work has reviewed the draft policy and their suggestions have been incorporated. This work has been undertaken ahead of any agreed subscription and will be offset against the consultancy hours within the packages.

5.0 RELEVANT RISKS

5.1 There are significant risks for the Council if the policy, procedure and arrangements in place do not promote an environment where employee feels able to raise a concern about potential malpractice or wrong-doing or if the procedures in place mean that such concerns are not deal with appropriately and comprehensively.

5.2 There is a potential risk if employees are reluctant to raise concerns as, the policy states that concerns will automatically be referred to senior management level. This is mitigated by the clear commitment to protect such employees from any reprisal or disadvantage and the provision of an external helpline for advice and support.

6.0 OTHER OPTIONS CONSIDERED

6.1 Not applicable for this report.

7.0 CONSULTATION

7.1 There has been consultation with the Trade Unions on the policies.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 No issues arising.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 Subscription to Public Concern at Work (enhanced package) would be £10,000 per annum. There is no minimum subscription period so this can be reviewed.

10.0 LEGAL IMPLICATIONS

10.1 There are no legal implications.

11.0 EQUALITIES IMPLICATIONS

11.1 There are no legal implications.

12.0 CARBON REDUCTION IMPLICATIONS

12.1 There are no carbon reduction implications.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 There are no planning or community safety implications.

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APPENDICES

- A Summary of the key changes to the Whistleblowing policy.
- B Whistleblowing Policy and appendices
- C: Public Concern at Work Subscription details

REFERENCE MATERIAL

No reference material included.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Employment and Appointments Committee	24 September 2008
Cabinet	14 April 2011

Summary of the Key Changes required to current arrangements for dealing with Whistleblowing concerns

The key changes reflecting recommendation from Martin Smith report, advice from Public Concern at Work and good practice from other Local Authority Policy and Procedures.

	Key Change Required	Addressed with Policy and Procedure
1	Definition of what concerns raised under Whistleblowing may include	Addressed in Policy Section 2.3
2	One point of co-ordination with key reporting requirement, prescribed timescales for referral to Monitoring Officer.	Addressed at Policy Section 8 and 9
3	Further guidance for managers in ensuring distinction between Whistleblowing and other procedures, particularly the grievance procedure.	Addressed at Policy Section 3
4	Consistent co-ordination and supervision of investigations	Addressed at Policy Section 13
5	Maintenance of a corporate casework register	Addressed at Policy Section 13.3
6	Performance Management reporting to Committee with numbers and nature of Whistleblowing complaints with outcomes.	Addressed at Policy Section 13.5
7	Accessibility and usability of the Whistleblowing Policy. Revised form and dedicated e-mail address and helpline/ freephone advice	Addressed throughout the Policy with specific reference to Policy Section 8.19
8	The use of an external body to provide independent support and advice for employees and the organisation	Addressed at Policy Section 11
9	A change in terminology and emphasis. This is designed to reflect the change in culture required in the Organisation. Employees who raise Whistleblowing concerns are regarded as 'witnesses' rather than 'complainants'. Issues raised are called "concerns", rather than "complaints"	Addressed at Policy Section 1.5 Throughout the policy.
10	Clarification of the process if person raising a concern is dissatisfied with response.	Addressed at Policy Section 8.4

Public Concern at Work Subscription details

Wirral Council Bespoke package	Cost
<p>This is designed for large/complex organisations and those who work in high risk areas or require further support. The package has the following key features:</p> <ul style="list-style-type: none"> • helpline subscription • freephone number • bespoke email facility • 7 hours' consultancy • annual review of the organisation's whistleblowing arrangements for Audit Committee or Board and in line with the Combined Code of Corporate Governance. This includes a helpline report. • periodic helpline briefings • compliance toolkit (including model policy, Best Practice Guide for Subscribers and a whistleblowing presentation); and licence to reproduce PCaW intellectual property in print and on intranet. 	<p>£7,500 plus 25 pence per employee per annum.</p> <p>There is no minimum time commitment with this package</p> <p>Total Cost (per annum) £10,000</p>