



AUDIT AND RISK MANAGEMENT COMMITTEE

Monday, 27 September 2021

REPORT TITLE:	WHISTLEBLOWING POLICY
REPORT OF:	DIRECTOR OF LAW AND GOVERNANCE (MONITORING OFFICER)

REPORT SUMMARY

The Council's new Whistleblowing Policy was approved by the Constitution and Standards Committee on 24 February 2021 and further to the resolution of that Committee this report refers the Whistleblowing Policy to Audit & Risk Management Committee for information and seeks to update Members on the steps being taken in respect of the implementation of the Policy.

RECOMMENDATIONS

That the Audit and Risk Management Committee:

1. Note the contents of the Whistleblowing Policy.
2. Provide any comments they have in respect of the Policy to the Constitution and Standards Committee.
3. Endorse the steps being taken to implement and raise awareness in respect of the Policy.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To provide Members with assurance that concerns raised by workers in respect of possible fraud, danger or malpractice are appropriately managed.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Not to have a whistleblowing policy and procedure is not an option if the Council wish to comply with the requirements of the Employment Rights Act 1996 and the Public Interest Disclosure Act 1998 and align its practices with national best practice.

3.0 BACKGROUND INFORMATION

- 3.1 The Council's Constitution and Standards Committee approved the current Whistleblowing Policy on 24 February 2021 and resolved that the Policy be referred to Audit & Risk Management Committee for information.
- 3.2 Although the Constitution and Standards Committee are responsible for producing and approving the Council's Whistleblowing Policy, it is the role of this Committee to oversee its operation, and in particular as set out in its Terms of Reference, "to be appraised of any steps arising from Whistleblowing investigations and to ensure appropriate actions are being taken and reported".
- 3.3 The Whistleblowing Policy and procedure (attached at Appendix 1) outlines the legal obligations the council is under pursuant to the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998. The Policy provides information, guidance and a procedure by which a "worker" (a term that covers council employees and former employees, contractors and agency workers) can make a "protected disclosure" – a "whistle blow".
- 3.4 A "protected disclosure" is made where a worker raises concerns, which in the reasonable belief of the worker are in the public interest, and which tend to show:
- 3.4.1 That a crime has been committed, is being committed, or is likely to be committed.
 - 3.4.2 That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which he or she is subject – including contractors providing goods and services on behalf of the council.
 - 3.4.3 That a miscarriage of justice has occurred, is occurring, or is likely to occur.
 - 3.4.4 That the health and safety of an individual has been, is being, or is likely to be endangered.
 - 3.4.5 That the environment has been, is being or is likely to be damaged.
 - 3.4.6 That information tending to show any of the above has been concealed or is likely to be deliberately concealed.

- 3.5 A “protected disclosure” can be made by a number of methods under the Policy, namely, completion of a confidential reporting form, via the individuals line manager, a Designated Officer, or a relevant Prescribed Regulatory Body. The details of the whistleblower remain confidential however the individual can make a “protected disclosure” anonymously.
- 3.6 Workers who make a “protected disclosure” have the legal right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure. Any employee who does suffer detrimental treatment as a result of making a “protected disclosure” will be able to bring a claim against the Council for a breach of employment rights.
- 3.7 The Council, being the employer, may also be vicariously liable for any mistreatment the worker receives from others as a result of having made a disclosure. An employer is also prevented from seeking to impose a contractual term that prevents a worker blowing a whistle, for example in a “non-disclosure agreement”.
- 3.8 Not all disclosures will be protected. The worker has to have a reasonable belief that the disclosure is made “in the public interest”.
- 3.9 A number of steps are being taken to implement the new Policy and bring it to the attention of the Council workforce, agency workers and contractors
- 3.10 The new policy has been placed on a dedicated Council intranet page to which all employees have access
(<https://wirralcouncil.sharepoint.com/sites/people/SitePages/Whistleblowing.aspx>).
- 3.11 Refresher Training is to be arranged for Designated Officers and other officers involved in managing the procedure set out in the Policy. This training will be arranged through the Council’s existing subscription to PROTECT which is the UK’s whistleblowing charity whose aim is to stop harm by encouraging safe whistleblowing and are referred to in the policy. They provide a free, confidential advice line for Whistleblowers. They also work with organisations supporting, advising and training teams on improving their speak up arrangements.
- 3.12 An online training module is being developed by the Organisational Development Team to be included on the Council’s ‘We Learn’ e-learning training system, to be launched alongside an employee wide communications and awareness raising programme. This programme of implementation, training and awareness raising is being overseen by the Whistleblowing Board consisting of the Assistant Director: Human Resources and Organisational Development, the Head of Legal Services & Deputy Monitoring Officer, and Chief Internal Auditor.
- 3.13 In order to ensure appropriate Committee oversight, the Whistleblowing Policy requires a quarterly report to be prepared by the Whistleblowing Board for the Audit & Risk Management Committee. The purpose of this report is to communicate:
1. The number and nature of whistleblowing concerns raised in the municipal year; and
 2. That the investigations are being effectively monitored / progressed

3.14 The first of such reports will be brought to the Committee for its next meeting scheduled for 30 November 2021.

4.0 FINANCIAL IMPLICATIONS

4.1 There are none arising directly from this report.

5.0 LEGAL IMPLICATIONS

5.1 The legal implications are outlined in paragraphs 3.3 to 3.8 above.

6.0 RESOURCE IMPLICATIONS: ICT; STAFFING AND ASSETS

6.1 There are none arising directly from this report.

7.0 RELEVANT RISKS

7.1 That legal requirements and best practice are not complied with.

7.2 That concerns are not communicated and consequently remain unidentified by the Council resulting in financial loss or prosecution by regulatory authorities.

7.3 That failing to identify and respond to a whistleblowing concern may result in a reputational risk for the Council.

8.0 ENGAGEMENT / CONSULTATION

8.1 Relevant Officers, the trade unions, PROTECT, and this Committee were consulted in the production of the new Policy prior to being submitted to the Constitution and Standards Committee for approval.

9.0 EQUALITIES IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity

9.2 Equality implications were considered and developed as part of the development of the new Whistleblowing Policy prior to submission to the Constitution and Standards Committee for approval.

9.3 The Whistleblowing Policy will allow protected disclosures to be made where there is a failure by the Council, or any contractor providing goods and services on behalf of the Council, to comply with the Council's equality duties

9.4 An Equality Impact Assessment has been carried out in order to ensure equality and the necessary protection for anyone engaging in the whistleblowing process which can be found at <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The Whistleblowing Policy will allow protected disclosures to be made where the actions of the Council are or are likely to cause damage to the environment, therefore allowing issues and concerns to be highlighted and dealt with in a timely manner.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 The Whistleblowing Policy will serve to ensure the Council, its finances and service provision are adequately protected from possible fraud or malpractice and are appropriately managed to aid the advancement of economic, social and environmental justice for all residents.

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APPENDICES

Appendix 1 – Whistleblowing Policy 2021

BACKGROUND PAPERS

Wirral Borough Council Intranet Whistleblowing page
(<https://wirralcouncil.sharepoint.com/sites/people/SitePages/Whistleblowing.aspx>)
Employment Rights Act 1996
Public Interest Disclosure Act 1998

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Audit and Risk Management Committee	23rd September 2019 Urgent Business Whistleblowing Policy review - Deferred to next meeting
Audit and Risk Management Committee	18th November 2019 Whistleblowing Policy review - Report noted
Constitution and Standards Committee	24 February 2021 Whistleblowing Policy approved