



AUDIT AND RISK MANAGEMENT COMMITTEE

30 November 2021

REPORT TITLE:	WHISTLEBLOWING REPORTS Q1 & Q2 2021
REPORT OF:	DIRECTOR OF LAW AND GOVERNANCE (MONITORING OFFICER)

REPORT SUMMARY

The Council's Whistleblowing Policy requires officers to provide this Committee with a quarterly report to communicate as follows:

1. The number and nature of whistleblowing concerns raised in the municipal year, and
2. That the investigations are being effectively monitored / progressed

The report will not disclose details of any staff (or other confidential information) but will summarise (so far as is possible without undermining or exposing the Council to unacceptable risk or challenge) the number / nature of the concerns raised under the Whistleblowing Policy, details of the service(s) to which the concerns relate, and the steps being taken to investigate the concerns further.

RECOMMENDATIONS

That the Audit and Risk Management Committee note the report.

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 being 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.
- 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 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".
- 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. The worker has to have a reasonable belief that the disclosure is made “in the public interest”.

- 3.6 All concerns raised under the Whistleblowing Policy are referred to the Whistleblowing Board who discuss the progress of investigations and identify and address any issues that arise that may hinder or otherwise prevent the timely investigation of the concern(s) raised.
- 3.7 During the period 01/04/21 to 30/06/21 there was one whistleblowing report made. The concerns/issues raised in respect of an alleged failure to follow defined service procedures and record keeping requirements by members of staff in the Neighbourhoods Directorate arose out of ongoing HR processes. A very brief and basic allegation was made. The initial information has been discussed with and considered by the relevant service area but without further information there is no way of investigating the concerns raised. As such the individual has been asked to provide the further detailed information necessary to allow the concerns to be investigated.
- 3.8 During the period 01/07/21 to 30/09/21 there was one whistleblowing report made. The concerns/issues raised in respect of an alleged failure to comply with health and safety requirements within the Neighbourhoods Directorate arises out of ongoing HR processes. Again only the briefest of allegations as set out above was made. As such the individual has been asked to provide the further detailed information necessary to allow the concerns to be investigated.
- 3.9 Every effort will be made to encourage the individuals to provide the further information that they have said they possess in order to allow the concerns raised to be investigated.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are none arising directly from this report.

5.0 LEGAL IMPLICATIONS

- 5.1 There are none arising directly from this report.

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 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

None

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
Constitution and Standards Committee	24 February 2021 Whistleblowing Policy approved
Audit and Risk Management Committee	27 September 2021 Whistleblowing Policy Implementation Update