



AUDIT AND RISK MANAGEMENT COMMITTEE

01 March 2023

Report Title:	ANNUAL UPDATE OF WHISTLEBLOWING CONCERNS RAISED IN THE MUNICIPAL YEAR 2022/23
Report of:	DIRECTOR OF LAW AND GOVERNANCE (MONITORING OFFICER)

REPORT SUMMARY

The Council's Whistleblowing Policy requires the Director of Law and Governance to provide the Audit and Risk Management Committee with an annual report to communicate "any relevant matters and issues arising in connection with the Whistleblowing Policy".

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, and any relevant matters or issues that have arisen in connection with the Whistleblowing Policy.

This report and the operation of the Whistleblowing Policy serve to protect and ensure the effective delivery of Council services and all priorities contained in The Wirral Plan 2021-26. This is not a Key Decision.

RECOMMENDATION/S

The Audit and Risk Management Committee is recommended to 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. The Whistleblowing Policy will be reviewed every three years, unless otherwise required for some other reason, such as, due to legislative changes or if an issue arises around its effectiveness.
- 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 01/04/22 to 31/03/23 there were a minimal number of Whistleblowing complaints. In order to protect complainants, the service areas and those involved in resolving any complaints, the information provided is of a more generic nature, recognising that this is contained in a published report. Therefore in the last municipal year there have been less than five whistleblowing reports made. The concerns/issues raised involved:
- 3.7.1 The appointment process relating to an external supplier; and
- 3.7.2 The alleged failure of a manager to respond to concerns raised by members of staff.
- 3.8 Independent investigators are appointed to consider whistleblowing complaints who will interview the Whistleblower and relevant officers, and examine relevant documentation and the Council’s procedures that relate to the concerns raised. Independent investigators found one minor lapse in respect of the formal declaration of a relevant interest of a service manager but other than that the concerns raised were not upheld.
- 3.9 During the previous year steps were taken to continue to raise awareness of the Whistleblowing Policy and its importance by making reference to it in the corporate anti-fraud and corruption awareness raising and training materials.
- 3.10 Work is also currently under way in reviewing the Corporate Officers’ Code of Conduct. There have been discussions with officers from HR about including a section on reporting misconduct and linking to the Whistleblowing Policy.
- 3.11 It is not considered at present that any amendments are required to the Whistleblowing Policy, there have been no relevant legislative changes or issues arising around its effectiveness.

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: STAFFING, ICT 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, 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 EQUALITY 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/equalityimpact-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

TERMS OF REFERENCE

This report is being considered by the Audit and Risk Management Committee in accordance with Section 10.2(d)(iv) of its Terms of Reference, namely - to be appraised of any steps arising from Whistleblowing investigations and to ensure appropriate actions are being taken and reported.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Audit and Risk Management Committee	30 November 2021
Audit and Risk Management Committee	27 September 2021
Constitution and Standards Committee	24 February 2021