



## **AUDIT AND RISK MANAGEMENT COMMITTEE**

**Tuesday, 26 March 2024**

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| <b>REPORT TITLE:</b> | <b>ANNUAL UPDATE OF WHISTLEBLOWING<br/>CONCERNS RAISED IN THE MUNICIPAL YEAR<br/>2023/24</b> |
| <b>REPORT OF:</b>    | <b>DIRECTOR OF LAW AND CORPORATE SERVICES<br/>(MONITORING OFFICER)</b>                       |

### **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.

### **RECOMMENDATION**

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 1 April 2023 to Date there has been one whistleblowing report made. The concerns/issues raised are within the Resources Directorate in respect of the acquisition of corporate IT systems.
- 3.8 An investigation is presently underway. The Whistleblower has been interviewed and extensive documentation examined, with further witnesses having now been identified and interviews being carried out. The outcome of the whistleblowing investigation will be reported at a subsequent update to the Committee.
- 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 Minor amendments were made to the Whistleblowing Policy in the last year, there have been no relevant legislative changes or issues arising around its effectiveness in the last year, however a planned review will be carried out in the forthcoming municipal year.

#### **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)**

| <b>Council Meeting</b>              | <b>Date</b>  |
|-------------------------------------|--|
| Audit and Risk Management Committee | 27 September 2021<br>24 February 2022<br>01 March 2023 |