

TITLE OF REPORT: CONFIDENTIAL REPORTING CODE (WHISTLEBLOWING) POLICY REVIEW

REPORT OF THE DEPUTY MONITORING OFFICER

1. SUMMARY

1.1 A report to consider further amendments to the Confidential Reporting Code.

2. FORWARD PLAN

2.1 This is not relevant to the Forward Plan.

3. BACKGROUND

3.1 The Council's Confidential Reporting Code is a policy which falls within the jurisdiction of the Standards Committee as well as Human Resources. It plays an important part in meeting the Council's commitment to openness, honesty and ethical propriety as set out in the Anti-Fraud and Corruption Policy.

3.2 The policy was reviewed in 2008 and was considered by both the Joint Staff Consultative Committee and Standards Committee at that time. The proposed policy was agreed by both Committees in December 2008 but due to personnel changes and resource issues was never implemented. The current policy remains the Policy implemented in December 2007.

3.3 The 2008 policy agreed by JSCC and Standards Committee forms the basis of the proposed policy attached at Appendix 1. The recommendations made by those committees and how they have been responded to are covered within the next section of this report, together with details of other changes made to the agreed 2008 draft policy.

4. ISSUES

Previous consideration by Standards Committee

4.1 Reflecting the comments of the Standards Committee of 16 September 2008 the policy was amended to make clear:

- That whilst the Council encourages employees to speak to their line managers, there is a process for escalating concerns where they are sensitive or serious;
- What employment protections are offered to staff who want to report their concerns;
- Openly discussing concerns is a culture that the Council would like to encourage, but confidentiality is assured for sensitive cases;
- That external reporting is possible but should be a last resort.

- 4.2 The current 2007 policy was thought to be confusing because it had too many reporting lines: either to the line manager, the audit manager, the Chief Financial Officer, the Chief Executive or the Chair of the Standards Committee. All of these officers then had to report the matter to the Monitoring Officer. The revisions to the policy make clear that whenever possible, concerns should be addressed to the line manager unless they are particularly sensitive or serious, in which case the officer should go direct to the Monitoring Officer.
- 4.3 The current 2007 policy did not clarify when and to whom the officer should report if he wanted to take the concern outside of the authority. In such cases officers may believe that the press would be the appropriate means of airing their concerns, when the regulator (currently the Audit Commission) is in fact the body most likely to assist with the concern. In addition, the Audit Commission will give advice on raising concerns through the internal procedures if the officer has not already done so.
- 4.4 The policy now addresses the approach taken to anonymous allegations and confidential reporting and when confidentiality might not be possible.
- 4.5 The policy also aims to distinguish between personal concerns of the employee for which the grievance procedure is available and concerns which affect colleagues and other persons.
- 4.6 Standards Committee on 15 December 2008 made two further suggested amendments:
- That the Employment Protection section be tightened.
 - That the “Who do I speak to?” section should be re-worded to reflect that complainants should only contact the Audit Commission to discuss the matter once all internal processes had been exhausted.
- 4.7 The first suggestion has been included in the proposed policy. With regard to the second suggestion, after careful consideration it was considered that seeking to limit access to the Audit Commission does not fit well with the Council’s view that whistleblowing is an important part of its commitment to good governance ie it should not be seeking to limit access to any channel. The wording has been amended to reflect the stated purpose of the Audit Commissions Whistleblowing Hotline, which includes ‘where officers are unable, or unwilling, to report internally’.

Previous consideration by Joint Staff Consultative Committee

- 4.8 The Joint Staff Consultative Committee of 10 December 2008 made two suggestions on the proposed policy:
- The policy needed to cover a scenario where the concern or complaint was about the Monitoring Officer.
 - A flowchart for initiating and, if necessary, escalating a complaint through the system should be appended to the policy.
- 4.9 The first suggestion has been incorporated. The second suggestion has not been, as although an attempt was made to map the various different strands that run through the proposed policy, it was not possible to present it in a usable format due to the number of different strands.

Other amendments

- 4.10 Upon review of the proposed 2008 policy previously considered some further changes were identified and made to tighten the policy:
- At the request of the Head of Community and Cultural Services a reference has been added to the Council's duty to participate in the Safeguarding of Children and Vulnerable Adults and the relevant policy which deals with this.
 - The tone of the policy was felt to be slightly defensive/negative and therefore an additional line was added to the end of the introduction recognising the importance of whistleblowing to good governance.
 - The first three paragraphs of the "Who do I speak to section" were re-ordered to make it clearer that officers could still approach the Monitoring Officer directly (rather than their line manager) where appropriate.
 - The various contact details have been updated
 - Various tweaks to the wording for clarity
- 4.11 Further consideration of the policy also identified that an advice note to provide guidance for line managers in dealing with whistleblowing matters could be beneficial. The proposed note is attached at Appendix B and the Committee's comments are sought on this guidance note.

Remaining Work on this Policy

- 4.11 Standards Committee of December 2008 resolved that the then Deputy Monitoring Officer be requested to work with the Audit Manager in order to produce protocols for the investigation and review process and that these be referred to a later Standards Committee for any further comment, prior to approval. This work remains outstanding for the same reasons that the 2008 policy was not implemented. Due to the upcoming changes in the delivery of the Audit function the benefit of developing such protocols at this time is under review. The potential need for protocols could be reviewed once the new shared Audit function is established. The views of the Committee on this point are sought.

5. LEGAL IMPLICATIONS

- 5.1 The Public Interest Disclosure Act 1998 was introduced to offer employment protection to any worker who raised concerns about the employers means of operation. It provides for protection against victimisation and particularly offers more ready protection for those employees go outside of the authority where there are no or ineffective whistleblowing arrangements within the authority. This alone is reason for a suitable policy
- 5.2 In order to be effective whistleblowing policies should be audited and the Monitoring Officer should be assessed for their accountability in operating the scheme. Suitable audits of the process could be undertaken by regular reporting to the Standards Committee of the number of reports received and the outcomes.
- 5.3 The Council has a commitment in its Anti-Fraud policy to confidential reporting.
- 5.4 The proposed policy is being considered by the Standards Committee (who oversee the Policy) before being presented to Cabinet who are tasked under the constitution with preparing and agreeing to implement policies and strategies other than those reserved to Council.

6. FINANCIAL AND RISK IMPLICATIONS

- 6.1 This work already falls within the remit of the Monitoring Officer and requires no further resource to implement.

7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS

- 7.1 The Human Resources team will support the application of this policy with advice to staff where required.
- 7.2 The Council incorporates the statutory equalities duties which apply to all its activities into policies and services as appropriate, as set out in the Council's Corporate Equality Strategy. We also recognise that in our society, groups and individuals continue to be unfairly discriminated against and we acknowledge our responsibilities to actively promote good community relations, equality of opportunity and combat discrimination in all its forms.
- 7.3 During the development and consideration of the protocols the impact of equality of access should be considered, for example ensuring that all officers are able to submit a concern.

8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 8.1 JSCC received and endorsed the proposed policy on 15 December 2010. The Committee did not receive the guidance note for managers as this was not available at the time of the meeting, although JSCC did endorse the principle of such a note.
- 8.2 Audit and Risk Committee are also considering the report on 28 February 2011 as it monitors council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the council's complaints process. Any comments will be verbally reported at the Standards Committee meeting.

9. RECOMMENDATIONS

- 9.1 That the Standards Committee consider and make any suggestions for amendment to the Council's internal employment policy for Confidential Reporting.
- 9.2 That the Standards Committee consider and make any suggestions for amendment to the guidance for line managers in dealing with whistleblowing matters.
- 9.3 That the Standards Committee provide its view on whether the protocol between the Monitoring Officer and Audit (see paragraph 4.11) should be developed at this time.

10. REASONS FOR RECOMMENDATIONS

- 10.1 To ensure that the Council has effective means of tackling fraud issues.

11. ALTERNATIVE OPTIONS CONSIDERED

- 11.1 None.

12. APPENDICES

- 12.1 Appendix A - The Confidential Reporting Code for employees.
Appendix B - Handling Whistleblowing: Practical Tips for Managers

13. CONTACT OFFICERS

- 13.1 Anthony Roche, Deputy Monitoring Officer ext 4588

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14. BACKGROUND PAPERS

- 14.1 Cipfa / Solace Chapter 5 Summary of the Framework for Good Governance.