

# **Title of report: Whistleblowing policy review**

**Meeting: Audit and governance committee**

**Meeting date: Thursday 30 September 2021**

**Report by: Solicitor to the council (monitoring officer)**

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

(All Wards)

## **Purpose**

To review the council's whistleblowing policy.

## **Recommendation(s)**

**That:**

- (a) the council's whistleblowing policy is reviewed and any recommendations made.**

## **Alternative options**

1. To not review the policy, this is not recommended as it is a function of the committee to maintain an overview of this policy.

## **Key considerations**

2. This policy plays an important part in meeting the council's commitment to openness, honesty and ethical propriety and compliments the objectives of a number of other council policies, for example the anti-fraud and bribery policy and the code of conduct for qualifying employees of the council.
3. The policy was last reviewed in October 2020 with significant changes made following recommendations from this committee's working group.

4. One change introduced the ability for staff to contact the monitoring officer at Buckinghamshire Council anonymously. This service has been utilised and eight contacts have been made to discuss concerns outside of the organisation. It is recommended that this service is continued.
5. A review of the use of the policy since 2017 and trends is set out below:

Municipal year	Total number of complaints	Risk identified				
		Make you feel uncomfortable in terms of known standards	In breach of the officer or councillor code of conduct	Fall below established standards of practice that the council subscribes	Are not in keeping with the council's constitution and policies	Improper
17/18	5	1	1	1	1	1
18/19	11	3	3	3	2	0
19/20	8	2	0	0	3	3
20/21	6	3	0	2	1	0
21/22	8	4	1	2	1	0

6. At the full council meeting in April 2021 following the YY judgement in children services the whistleblowing policy was questioned as to how effective it was in practice.
7. It is fair to say that the whistleblowing policy is still used infrequently. It is seen as an available escalation route but only as a last option.
8. A staff panel was convened to better understand what staff know about the Whistleblowing Policy and find out what support they require to help feel more empowered to go through the process should they need to.
9. The analysis of the session identified what employees want addressing to create a better whistleblowing experience for them and their teams. These can be seen in the table below.

Themes	
Barriers prevent staff whistleblowing	<ol style="list-style-type: none"> <li>I. Negative connotations from the word whistleblowing make individuals want to avoid being associated with it.</li> <li>II. Experience of senior officers not taking action after previous issues have been raised.</li> <li>III. Not having physical evidence to support their point makes them feel like they will not be trusted.</li> <li>IV. Experience of not being listened to.</li> </ol>
Staff do not feel they have the right support to go through the process	<ol style="list-style-type: none"> <li>I. Would help to have an internal, or external contact who will have confidential conversations and provide guidance and advice anonymously.</li> <li>II. Process is taxing on mental health, so would like someone to provide support throughout.</li> </ol>
Workplace culture disempowers employees to raise concerns	<ol style="list-style-type: none"> <li>I. A culture of keeping matters hidden, it needs to be more transparent.</li> <li>II. Council should be open minded to the positive change that whistleblowing's outcome brings.</li> </ol>

<p>Fears for own safety and others prevents staff speaking up</p>	<ul style="list-style-type: none"> <li>III. Need a leadership that creates a positive culture; currently negative behaviours are being enabled.</li> <li>IV. Want a safer psychological environment where problems can be voiced.</li> <li>V. Policy will only work if culture allows it.</li> </ul> <ul style="list-style-type: none"> <li>I. Afraid of matter not staying confidential: <ul style="list-style-type: none"> <li>- Private matter spreading around the council</li> <li>- Individual who is being whistle blown on finding out who raised the issue</li> </ul> </li> <li>II. Fear there will be repercussions for others: <ul style="list-style-type: none"> <li>- Reputation damage for who is being whistle blown on</li> <li>- Fear the outcome for their manager</li> </ul> </li> <li>III. Fear repercussions for self: <ul style="list-style-type: none"> <li>- How will they be viewed by colleagues going forwards?</li> <li>- Future job safety during restructures</li> <li>- Outcome not improving the situation for them</li> <li>- Not feeling supported by members</li> </ul> </li> </ul>
<p>Whistleblowing policy is not well known</p>	<ul style="list-style-type: none"> <li>I. Many not recently read the policy.</li> <li>II. Not knowing areas of concern in whistleblowing.</li> <li>III. Unsure how whistleblowing differs from code of conduct and complaints.</li> <li>IV. Policy is not well embedded in council.</li> </ul>
<p>Majority do not feel empowered to go through whistleblowing process</p>	<ul style="list-style-type: none"> <li>I. Lack confidence - need to develop confidence to raise issues.</li> <li>II. Need re-assurances from others to talk up.</li> <li>III. Trust and integrity is needed in the process.</li> <li>IV. Should be allowed to be true to moral obligations and speak up without resistance.</li> </ul>

Participants also suggested some actions that could be considered going forwards:

10. To develop knowledge on the policy, it was proposed that a mandatory training course is created to ensure people are reminded about the policy on a yearly basis. Having a course will also promote a culture where people feel allowed to discuss whistleblowing more openly.
11. Having a dedicated person that focuses on providing whistleblowing guidance. With a preference for employees to have a number to call instead.
12. Consider whether positive outcomes could be shared from those who have gone through the whistleblowing process in a confidential and anonymous manner. This is to help increase transparency of the process and for it to not be a "hidden" matter, empowering people to speak up should they need to.
13. Regarding culture and leadership, there was an emphasis on a change happening top down, where seniors model good leadership, whilst being more accountable for their actions and not enabling a culture where negative behaviours are allowed. A positive work environment helps create psychological safety and for those not in senior management positions, this is essential for them to feel comfortable and confident to raise any problems.

14. Across the 3 groups, the negative connotations around the word “whistleblowing” were raised. Participants stated that this term sounded harsh and the way it is portrayed in the media leads to individuals being more likely to avoid the whistleblowing process. They would prefer a softer term to be used going forwards that is more approachable to raise their concerns.

### **Conclusion**

15. Overall, the following areas are needed to be focused on to help improve understanding of the process and feel confident to whistle blow if the situation arises:
- I. Addressing the barriers mentioned in the table above.
  - II. Developing a system to support and guide individuals throughout the whistleblowing process.
  - III. Creating a positive workplace culture to provide a psychologically safe environment.
  - IV. Reducing individual’s fears by ensuring the safety of those involved in the process.
  - V. Developing the workforce’s understanding of the whistleblowing policy.
  - VI. Helping employees feel more empowered to go through the whistleblowing process.
16. The annual review with the chief executive and internal audit has been undertaken and identified that the chief executive should have a mechanism to see the content of exit interviews.
17. It would seem at this stage that the policy does not need revision (unless we change the name) and that it is the culture and embedding of the policy that needs additional work. It is suggested that the monitoring officer undertakes an awareness campaign addressing the barriers listed above and reports back to the committee what work has been achieved in 9 months’ time.

### **Community impact**

18. Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition the council has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. It is essential that, as a whole, we can demonstrate the appropriateness of all our actions across all our activities and have mechanisms in place to encourage and enforce adherence to ethical values and respect the rule of law. The confidential reporting code is part of the council’s governance arrangements. Periodic reviews to ensure the code remains current, fit for purpose and effective helps the council to meet the principles within its code of corporate governance

### **Environmental impact**

19. There are minimal environmental impacts in the whistleblowing policy though of course any environmental concerns can be raised under the policy.

### **Equality duty**

20. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

21. The review of the code will seek to ensure that, the council fully complies with the public section equality duty.

### **Resource implications**

22. The role for the Monitoring Officer from Buckinghamshire Council, required a service level agreement detailing the support to be provided payable on an hourly rate. To date £780 has been paid.

### **Legal implications**

23. None arising from the recommendations.

### **Risk management**

24. Failure to maintain a legally compliant whistle blowing policy could contravene employment law and leave the council open to challenge with associated financial penalties and bring the council into disrepute.

### **Consultees**

25. As set out in the report.

### **Appendices**

None.

### **Background papers**

None identified.