

Title of report: Whistleblowing Policy

Meeting: Audit and Governance Committee

Meeting date: Monday 13 March 2023

Report by: Senior Lawyer, Corporate Services

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards)

Purpose

This report seeks to provide members with a revised Whistleblowing Policy for approval.

Recommendation(s)

That:

- a) **Members agree the revised Whistleblowing Policy and associated guidance set out at Appendix A**

Alternative options

1. Not to agree the Whistleblowing Policy. This is not recommended as members have previously agreed that the policy is in need of revision.

Key considerations

2. At its meeting on 21 November 2022, members noted that there was a need to simplify the Whistleblowing Policy and provide further guidance for staff. The revised policy has been simplified and made clearer for both staff and managers to operate, and includes a checklist for managers on how they should deal with whistleblowing concerns.
3. The revised Policy also provides alternative routes for staff to raise whistleblowing concerns in the event that they do not want to discuss these with their manager; they can contact the Monitoring Officer direct and they are also signposted to the Council's fraud hotline if the matter concerns financial irregularities, as well as external bodies. The Monitoring Officer is

appointed by the Council and has a statutory duty under S5 Local Government & Housing Act 1989 to prepare a report to the Council in the event that they become aware of maladministration or any unlawful action on the part of the Council.

4. The revised policy also includes a provision to allow it to be used by staff at maintained schools, if they are unable to raise their concern within their own school. This is in accordance with guidance issued by the Department of Education.
5. Members were advised at their November meeting that external companies provided whistleblowing hotlines, and that this area would be explored. We have contacted two providers who run whistleblowing hotlines as part of their employee assistance work, for quotations to provide an external service. These costs range from £1380-£4500 p.a. as set out in Section 13. We have also contacted Buckinghamshire Council who currently provide this service and a verbal update will be given on whether they are willing to continue.
6. The number of whistleblowing cases has been fairly consistent over the last four years, ranging from between 6-8 cases p.a. This consistency would indicate that the figures are probably correct, even if they have not been held in a single place. Given the low level of external use (2 last year) it would seem disproportionate to employ a company to provide a service and hold data for the Council, particularly as there are a number of external organisations which whistleblowers can use in the event that they feel uncomfortable with reporting internally. These external organisations are highlighted in the whistleblowing policy.
7. The Monitoring Officer does not therefore recommend that an external company be used, and the Whistleblowing Policy now clearly highlights alternative avenues which whistle-blowers can use. The new Policy also provides that the Monitoring Officer must receive notification of all whistleblowing complaints, and this will allow for them to be tracked and reported centrally for the future.
8. As part of the Council's agreement with the trade unions, (GMB, UNISON and Unite) they must be consulted on policy changes affecting staff, including the whistleblowing policy. All three unions have been sent the revised policy for approval, but none raised particular concerns with the policy and have not provided feedback.

Community impact

9. 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 and helps safeguard public funds. 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

10. There are minimal environmental impacts in the Whistleblowing Policy though of course any environmental concerns can be raised under the policy.

Equality duty

11. 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.

12. The revised Whistleblowing Policy fully complies with the public sector equality duty as all members of staff are able to raise a concern in a number of ways, and an equalities impact assessment is attached.

Resource implications

13. The Council obtained quotes from two providers for an external service. All prospective providers have been made aware that the average number of whistleblowing cases p.a. is 6-8 cases, and that two were external referrals last year.

Revenue budget implications	2023/4 One-off	2023/4 Recurring	Comments
<i>Provider A</i>	£1000	£4500	Hotline, web and case management software
<i>Provider B</i>	None	£1 per member of staff covered (approx. 1340 staff)	24/7 hotline, translation, web reporting

14. Buckinghamshire Council provided external support to the Council for two external cases last year, at a cost of £780. In the event that it is felt that independent investigations are needed, then the Council is still able to commission external support to carry this out, but doing so on an 'ad hoc' basis would mean that the support could be tailored to the area of concern and a relevant specialist could be utilised, if needed.

Legal implications

15. Legal implications are set out in the body of this report.

Risk management

16. 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

17. All three unions (Unite, Unison and GMB) were advised of the review and asked for their views on any areas they thought need considering as part of the review. They did not provide any

comments but have now received a copy of the draft policy for comment. At the time of writing their views have not been received.

Appendices

- A. Whistleblowing Policy
- B. Equalities Impact Assessment

Background papers

None