

# Title of report: Whistleblowing Policy

**Meeting: Audit and Governance Committee**

**Meeting date: Friday 23 June 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; this item was considered by the committee on 13 March 2023, with subsequent amendments highlighted in these papers.

## **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. Costs were obtained from external providers, ranging from £1380-£4500 p.a. At its meeting in March 2023 members discussed the issue of external support to log and monitor whistleblowing cases, and agreed that this was not necessary for the amount of cases received, noting that external support could be brought in if required.
6. 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.
7. Members received this report at their meeting in March 2023. Members supported the policy, but were concerned that the Unions (GMB, UNISON and Unite) had not responded to the consultation. Subsequent to that meeting, we have now received confirmation from Unison that they have no concerns with the policy.
8. Members additionally requested several minor changes which have been incorporated into the policy, and HR have been requested to add an additional question to the staff survey to find out how comfortable staff feel about using the policy. Staff will be made aware of the revised policy through the established communications channels e.g. the chief executive's weekly update to staff and via the intranet.
9. An internal audit of whistleblowing is currently underway, and this may bring further required changes to our processes. It will be reported through to the committee in the usual way.

### **Community impact**

10. 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**

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

### **Equality duty**

12. 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.

13. 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**

14. There are no resource implications to this revised policy.

### **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 have been provided with the draft policy for comment. As set out above, only Unison have responded.

### **Appendices**

- A. Whistleblowing Policy with checklist and managers guidance
- B. Equalities Impact Assessment

### **Background papers**

None