

## **EMPLOYMENT MATTERS COMMITTEE**

**7 SEPTEMBER 2016**

### **WHISTLEBLOWING POLICY**

Report from: Carrie Mckenzie, Head of HR and Organisational Change

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#### **Summary**

To seek agreement to the proposed revisions to the council's Whistleblowing Policy

#### **1. Budget and Policy Framework**

1.1 The Whistleblowing Policy is in the current suite of policies that lay in the Council's policy and budget framework and the Committee's terms of reference. Therefore, this is a matter for the Employment Matters Committee.

#### **2. Background**

2.1 The current version of the Council Whistleblowing Policy now requires revising to reflect a change to the overarching legislation.

2.2 Further changes of an administrative nature have been made to reflect current post titles, e-mail addresses and contact numbers and the revised Policy is at Appendix 1 to this report.

#### **3. Advice and analysis**

3.1 These changes ensure continued compliance with legislation and further reflect the Council's current administrative arrangements.

#### **4. Consultation**

4.1 Consultation on these changes has taken place involving the Trade Unions and the employee forums using the agreed consultation protocol, within the period 4 July 2016 and 3 August 2016.

4.2 No comments were received.

## 5. Financial and legal implications

- 5.1 The legislative framework for whistleblowing is set out Public Interest Disclosure Act 1998, which amended the Employment Rights Act 1996.
- 5.2 A number of changes to whistleblowing law were introduced through the Enterprise and Regulatory Reform Bill 2013 (ERRA 2013) on 25 June 2013 and in March 2015, the Department for Business, Innovation & Skills published Whistleblowing: Guidance for Employers and Code of Practice. The guidance explains an employer's responsibilities with regard to employees who blow the whistle and recommends that employers use whistleblowing policies and ensure that they are promoted and accessible.
- 5.3 Section 148 of the Small Business, Enterprise and Employment Act 2015 has inserted a new section 43FA into the Employment Rights Act 1996 (ERA 1996), giving the Secretary of State powers to issue new regulations that require prescribed persons for the purposes of whistleblowing legislation to produce annual reports of the disclosures of information made to them by whistleblowers, but without identifying the workers or employers concerned. This new section 43FA came into force on 1 January 2016.
- 5.4 Draft Prescribed Persons (Report on Disclosures of Information) Regulations 2015, were published by the Department for Business, Innovation & Skills with the response to the consultation on new regulations. However, the draft Regulations were not passed before the dissolution of Parliament on 30 March 2015. Officers will need to monitor any further announcements from the Department for Business, Innovation & Skills in this area.
- 5.5 There are no direct financial implications arising from this report.

## 6. Risk Management

- 6.1 As detailed below:

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>	<b>Risk rating</b>
Failure to comply with the statutory whistleblowing legislation could bring the Council into legal breach, and cause loss of confidence in the use of whistleblowing as a confidential way of raising concerns of a serious nature.	Concerns that are raised under the scope of the policy are not managed appropriately and the whistle-blower may not be protected as allowed for under the statutory legislation.	Whistleblowing Officers have received appropriate training, and a current list of Officers is maintained on the Council Self-Serve 4 You system. All other documents that refer to Whistleblowing Officers have a link directing the reader	E4

		to the correct page.	
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**7. Diversity Impact Assessment (DIA)**

7.1 A Diversity Impact Assessment is attached at Appendix 2 to the report.

**8. Financial and legal implications**

8.1 It is not envisaged that there will be any additional financial implications with the implementation of this Policy.

8.2 Implementation of this Policy enables the Council to comply with its various statutory obligations and is within the Council's powers. It is essential that a fair and consistent approach is to be applied to all staff in order to minimise successful legal challenges.

**9. Recommendation**

9.1 That the Committee notes the report and recommends the revised policy to Council, noting that the proposed changes will also be considered by the Audit Committee on 29 September.

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**Background papers**

There are no background papers.

**Appendices:**

Appendix 1 - Proposed revised Whistleblowing Policy

Appendix 2 – Diversity Impact Assessment