

AUDIT COMMITTEE

29 SEPTEMBER 2016

WHISTLEBLOWING, ANTI-BRIBERY AND ANTI-MONEY LAUNDERING POLICIES: REPORT ON INSTANCES SEPTEMBER 2015 – SEPTEMBER 2016 AND PROPOSED REVISIONS TO WHISTLEBLOWING POLICY

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Summary

This report advises Members about the nature of concerns raised, between September 2015 and September 2016, under the Council's Whistleblowing, Anti-Bribery and Anti-Money Laundering Policies and also proposes some revisions to the Whistleblowing Policy.

1. Budget and Policy Framework

1.1 The Council's Whistleblowing Policy, Anti-Bribery Policy and Anti-Money Laundering Policy are set out within the Council's Constitution. These policies require annual reports on the number and nature of instances raised to be provided to the Audit Committee. This report is also submitted to the Employment Matters Committee. It is for Full Council to agree any revisions to the Whistleblowing Policy.

2. Background

2.1 The Council has agreed a number of policies to tackle all types of unlawful acts, including fraud, bribery, corruption, unethical conduct and malpractice regardless of who commits them, or where in the Council they are committed. These can be summarised as follows:

- Whistleblowing Policy

This policy covers the procedure for anyone wishing to raise a concern relating to any unethical or unprofessional conduct within the council, including malpractice, and abuse and is designed to enable

concerns to be raised without fear of reprisals or victimisation where disclosure is made in good faith.

- Anti-Bribery Policy

This policy sets out the Council's commitment to the prevention and detection of bribery and the arrangements in place to ensure compliance by Councillors and employees, including contractors, volunteers and consultants.

- Anti-Money Laundering Policy

This policy sets out the Council's commitment to ensuring there are appropriate and proportionate anti-money laundering safeguards to prevent, where ever possible, the organisation and its staff being exposed to money-laundering.

2.2 The Council's Anti-Fraud and Corruption Policy states that regular reports will be made to this Committee on the number, nature and status of whistleblowing events. The requirement to report to members is repeated within the Council's Whistleblowing Policy, Anti-Bribery Policy and Anti-Money Laundering Policy.

2.3 There will be a separate report to Members on the Anti-Fraud and Corruption policies.

3. Whistleblowing concerns raised from September 2015 to September 2016

3.1 The following table summarises the concerns raised under the Whistleblowing Policy from September 2015 to September 2016.

Nature	Raised by	Outcome
Concern related to the conduct of a manager and his relationship with an external contractor. Also allegations regarding his time keeping and possible theft of a client's property.	Employee	Investigation Completed by Audit & Counter Fraud. Insufficient evidence to warrant disciplinary action but management recommendations made.
Concern relating to private use of council vehicle. Employee using council vehicle to commute to and from work	Anonymous letter	Investigated previously and management recommendations made as senior officers were aware of the use of vehicle. HR to raise the matter with relevant service manager/Assistant Director.
Concern relating to an employee working while off sick and running his own company	Member of the public	Investigation commenced by Audit & Counter Fraud. Employee refused to co-operate with the investigation

		and subsequently resigned from his post.
Concern about relationship between manager and team member and preferential treatment. Concern about propriety with named contractor.	Anonymous letter	Investigation underway.

3.2 For comparison purposes the table below sets out the number of concerns raised under the Whistleblowing Policy since 2010/11:

2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/16
5	1	3	4	4	4

4. **Anti-Bribery and Anti-Money Laundering concerns raised from September 2015 to September 2016**

4.1 Members are advised that there are no instances to report.

5. **Proposed Revisions to the Whistleblowing Policy**

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

5.2 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.

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

5.4 The proposed changes were reported to the Employment Matters Committee on 7 September 2016 where Members were advised that consultation on the changes had 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. No comments were received.

5.5 The Employment Matters Committee agreed to recommend the revised policy to Council, noting that the proposed changes will also be considered by this Committee.

6. Risk Management

6.1 The Council's Whistleblowing Policy, Anti-Bribery Policy and Anti-Money Laundering Policy set out its commitment to tackling unlawful acts including fraud, corruption, unethical conduct and malpractice.

Risk	Description	Action to avoid or mitigate risk
Staff members with concerns with Whistleblowing process may release information into the public domain	Failing to promote the Whistleblowing policy or inform staff of the protections under the Public Interest Disclosure Act 1998 potentially increase the reputational risk to the Council.	Promote awareness of the Whistleblowing Policy and encourage staff to raise concerns through the confidential process. Whistleblowing officers have been identified to assist staff when raising concerns.
Reputational, legal and financial	Money laundering or bribery offences are committed by members of staff or supplier or customer leading to liability for the council	The agreed Anti-Money Laundering Policy and the Bribery Policy, provide information to staff and Councillors via the internet and through training.
Reputational, legal and financial	Agency staff, suppliers and contractors are not aware of the policy	Include reference to preventing money laundering and preventing bribery in contracts and tender specifications.
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 to the correct page

7. Financial and Legal implications

7.1 The Public Interest Disclosure Act 1998 protects a worker from victimisation or detriment following a disclosure made in accordance with the provisions of this act. The Whistleblowing policy has been developed in line with the provisions of the Public Interest Disclosure Act 1998. A written policy is indicative of good corporate governance practice. The policy also gives the council an opportunity to give

prominence to the issue and to express its commitment to the legal protection afforded to whistle-blowers.

- 7.2 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.
- 7.3 There are no direct financial implications arising from this report. However, a successful claim brought under the Public Interest Disclosure Act 1998, against the Council may result in a substantial financial award as compensation for a person who has suffered detriment under the Act.
- 7.4 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.
- 7.5 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.
- 7.6 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.

8. Diversity Impact Assessment (DIA)

- 8.1 A Diversity Impact Assessment in relation to the changes to the Whistleblowing Policy is attached at Appendix 2 to the report.

9. Recommendations

- 9.1 Members are recommended to note the contents of this report and recommend the revised Whistleblowing Policy to Council.

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Background Papers:

None

Appendices:

Appendix 1 - Proposed revised Whistleblowing Policy

Appendix 2 - Diversity Impact Assessment