



AGENDA ITEM: 18

AUDIT & GOVERNANCE COMMITTEE: 28 January 2014

STANDARDS COMMITTEE: 4 February 2014

COUNCIL: 26 February 2014

Report of: Borough Solicitor and Borough Treasurer

Relevant Managing Director: Managing Director (People and Places)

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SUBJECT: WHISTLEBLOWING CODE

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To update the Council's Whistleblowing Code.

2.0 RECOMMENDATION TO AUDIT AND GOVERNANCE COMMITTEE AND STANDARDS COMMITTEE

2.1 That the updated Whistleblowing Code, as set out in Appendix 1, be considered and endorsed.

3.0 RECOMMENDATION TO COUNCIL

3.1 That the updated Whistleblowing Code be agreed and circulated to all staff and Councillors, and that Service Managers promote the Code to contractors and suppliers as appropriate.

4.0 BACKGROUND

4.1 Whistleblowing occurs when an employee or contractor provides certain types of information to the Council which has come to their attention through work. Usually concerns are about danger or illegality that could potentially affect others.

4.2 Whistleblowing acts as an instrument of good corporate governance and helps demonstrate a culture within an organisation that is open, honest, accountable

and transparent. It can also aid in the detection and prevention of fraud or misconduct.

- 4.3 The Government expects all public bodies to have a Code in place and Whistleblowing schemes in Local Authorities in England are assessed regularly as part of external audit review. The Council's Whistleblowing Code is available on the Authority's website.

5.0 CURRENT ARRANGEMENTS

- 5.1 The Council has had a Whistleblowing Code in place for many years but in 2010 it was reviewed and substantially updated to ensure compliance with the Code of Practice produced at that time by the British Standards Institution and Public Concern at Work.

- 5.2 The Code has continued to work well in practice since that time. The Council has robust systems of internal control, a strong regulatory environment and effective Codes of Conduct, which means that cases of suspected impropriety are rare.

- 5.3 The Code was disseminated in 2010 to all staff and Councillors and annual reminders are also issued to ensure that employees are aware of the Code, understand the necessity to express concern quickly, know how to proceed under its provisions and have trust in the process to ensure that whatever action is necessary will be undertaken without any repercussions for themselves.

- 5.4 It is also stressed that the Council is committed to protecting and supporting those individuals who speak out, as, without their actions, the repercussions could be of significant detriment to the Council. Effective action will be taken, where necessary, to rectify concerns raised and prevent further instances occurring or a situation escalating.

- 5.5 The Council is committed to regularly reviewing the Code to ensure compliance with current best practice and this has recently been undertaken following a change to the Public Disclosure Act 1998 and the publication of a Draft Code of Practice Whistleblowing Arrangements by the Whistleblowing Commission.

- 5.6 Once the Audit and Governance Committee, Standards Committee and Council have reviewed and agreed the updated Code, it will be circulated to all staff and Councillors, promoted through team briefings, and the Managing Directors will include reference to it in 'West Lancs Now'. Service Managers will also promote the document with their contractors and suppliers as appropriate.

6.0 LEGISLATIVE CHANGES AND NEW GOOD PRACTICE GUIDANCE

- 6.1 Legal protection for Whistleblowers was introduced by the Public Interest Disclosure Act in 1998.

- 6.2 Despite its title there has, until now, been no specific requirement that a protected disclosure be made in the "public interest". This has enabled workers, who complain about their individual employment contracts or minor issues, to claim protection under the whistleblowing rules. The Government has said this

was not what the whistleblowing legislation was intended to achieve and that “this loophole” should be closed.

- 6.3 Under this new approach any disclosure made by a worker will only count as a “qualifying disclosure” if the worker reasonably believes that the disclosure is both “made in the public interest” and fits into one of the categories set out in the legislation (e.g. a criminal offence, a breach of a legal obligation, a miscarriage of justice etc.).
- 6.4 This change means disclosures of a personal nature will not be protected. For example, if an employee receives an incorrect amount of holiday pay, in breach of their employment contract, that would constitute a matter of personal, rather than wider, interest. It will be for the whistleblower to show why they believe that the disclosure is in the public interest, and that the belief was reasonable in all circumstances.
- 6.5 As a result the Council’s Whistleblowing Code, attached at Appendix 1, has been updated to include this change.
- 6.6 The Whistleblowing Commission, set up by Public Concern at Work, and responsible for examining the effectiveness of existing arrangements for workplace whistleblowing, has recently compiled a Draft Code of Practice Whistleblowing Arrangements.
- 6.7 The Council’s Code was reviewed against this and found to be, essentially, compliant with it. The main area that has been strengthened is providing commitment to whistleblowers who believe they have suffered reprisals or a detriment due to raising a concern at work.
- 6.8 The Code now stresses that if a detriment is suffered, as a result of raising a concern, for example, denial of training, closer monitoring, ostracism, demotion or re-assignment, from those responsible for the malpractice or any other member of staff, then this should be reported to either the Managing Directors, the Borough Solicitor, the Borough Treasurer, the Internal Audit Manager or the HR Advisor. If required, disciplinary action will be taken.
- 6.9 The Code has always stated ‘How procedures are working in practice will be continually reviewed to ensure lessons are learned and appropriate action is taken for each concern raised’. It now stresses that so too will any complaints of victimisation or failure to maintain confidentiality.
- 6.10 The Code states that anonymous allegations will be considered at the discretion of the Council but now stresses that if it is not known who provided the information it is, of course, not possible to reassure or protect them.
- 6.11 A copy of the updated Code has been provided to the Trade Unions and any significant comments raised will be reported back to Members.
- 6.12 Members are asked to consider and endorse the updated Code.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

7.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

8.1 All the activity referred to in this report is covered by existing budget provisions.

9.0 RISK ASSESSMENT

9.1 Good whistleblowing procedures can protect the Council against numerous risks, and by encouraging employees to raise concerns, can help deter wrongdoings, detect problems early, minimise costs and potential compensation claims and maintain and enhance reputation.

Background Documents

Whistleblowing Commission 'Draft Code of Practice Whistleblowing Arrangements'
Public Interest Disclosure Act 1998

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix 1 – Whistleblowing Code – track changes 2014

Appendix 2 – Minute of the Audit & Governance Committee: 28 January 2014

Appendix 3 – Minute of Standards Committee: 4 February 2014