



AGENDA ITEM: 12

STANDARDS COMMITTEE: 3 June 2010

COUNCIL: 21 July 2010

Report of: Council Secretary and Solicitor

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SUBJECT: WHISTLEBLOWING CODE

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To update the Council's Whistleblowing arrangements.

2.0 RECOMMENDATIONS

2.1 That the updated Whistleblowing Code, as set out in Appendix 2 be agreed and circulated to all staff and Councillors, and that Divisional Managers promote the Code to contractors and suppliers as appropriate.

3.0 BACKGROUND

3.1 The Council's Anti Fraud and Corruption Policy was recently revised by Members and the updated version disseminated to all staff. Whistleblowing is a further tool in the detection and prevention of fraud or misconduct. Indeed the Audit Commission's report 'Protecting the Public Purse' published in September 2009, states 'Councils should ensure that their whistleblowing arrangements are sound, embedded in everyday procedures and have been communicated to and understood by staff'.

3.2 Public Sector organisations are often highly vulnerable to accusations of unprofessional or unethical behaviour. Since its launch under the chairmanship of the late Lord Nolan, the Committee on Standards in Public Life has continued to highlight the role whistleblowing plays both as an instrument of good governance and a manifestation of a more open culture.

3.3 How an organisation responds to a whistleblowing situation can also be seen as a litmus test of its corporate governance arrangements.

4.0 WHISTLEBLOWING CODE

- 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 Now is a particularly appropriate time for employers to update and promote a Whistleblowing Code and its benefits as, during the current financial climate, employees may, with fears for job security, be more reluctant to speak out. Furthermore, during times of recession, the incentive to commit fraud or cut corners can be heightened.
- 4.3 The Accounting scandal at Enron, and subsequent examples of excessive risk taking in the banking sector, has underlined the damage that fraud and business malpractice can cause. They also highlight the need for organisations to ensure that whistleblowing procedures are in place and supported by the management culture. By the time the Enron failures came to light – by the actions of whistleblowers – they were so far advanced that it was too late to stop a corporate meltdown.
- 4.4 It is essential that employees are aware of the Code, understand the necessity to express concern quickly and have trust in the process to ensure that whatever action is necessary will be undertaken without any repercussions for themselves.
- 4.5 Staff should also be aware that the Council is committed to protecting and supporting those individuals who speak out in good faith, as, without their actions, the repercussions could be of significant detriment to the Council.

5.0 REVIEW OF CURRENT ARRANGEMENTS

- 5.1 The Government expects all public bodies to have a Code in place. Whistleblowing schemes in Local Authorities in England are assessed regularly as part of external audit review and the Audit Commission has recently expressed satisfaction with the Council's arrangements.
- 5.2 The Council has had a Whistleblowing Code in place for many years and a copy of the current version is attached at Appendix 1. The Code has worked well in practice and been formally used on two occasions, evidencing that staff are aware of its contents and how to proceed under its provision. Now is a good time to review the Code given new guidance that is available and, as mentioned earlier, the current economic climate.
- 5.3 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. However, by reviewing and promoting this Code the Council is demonstrating that it is committed to good governance and

accountability, to weaning out malpractice and where necessary taking effective action to prevent further instances occurring or a situation escalating.

- 5.4 Once the Standards Committee and Council have agreed the new Code, I will circulate it to all staff and Councillors, ask Divisional Managers to promote it through team briefings and the Chief Executive will include reference to it in '7 days'. Divisional Managers will also promote the document with their contractors and suppliers as appropriate.
- 5.5 The Whistleblowing Code is also available on the Authority's website and whistleblowing arrangements are detailed within Contract documentation.

6.0 NEW GOOD PRACTICE GUIDANCE

- 6.1 To mark 10 years of the Public Interest Disclosure Act 1998 (the key piece of whistleblowing legislation), the British Standards Institution, in partnership with Public Concern at Work, have produced a Whistleblowing arrangements Code of Practice, which sets out good practice for the introduction, revision, operation and review of effective whistleblowing arrangements.
- 6.2 The Code of Practice recommends that Employers should make clear what to do if malpractice is suspected, staff should be aware of and trust the whistleblowing avenues and there should be regular communication to staff about the avenues open to them. Whistleblowers can ask for their concerns to be treated in confidence, be given assurance that they will not be penalised for speaking up and kept informed of the investigation's progress and outcome.
- 6.3 The Code must have the full support of Members and Senior Managers and the Organisation should continually review how the whistleblowing procedures work in practice. Whistleblowing should be treated separately to the Organisation's grievance procedure.
- 6.4 A new Code has been prepared, in line with the Institution's Code of Practice, and is attached at Appendix 2. Members are asked to consider and endorse its contents. The updated Code has been shared with the Trade Unions and a copy of any comments received will be circulated at the meeting.
- 6.5 The main changes include amending the layout of the document for easier reading, updating internal and external contacts, more explanation on whistleblowing, its purpose and benefits, who the Code applies to, protections and safeguards and a commitment to reviewing the Code and practices and ensuring lessons are learned from concerns raised.

7.0 RISK ASSESSMENT

- 7.1 Business ethics are increasingly seen as an issue that can build or destroy an Organisation's reputation. 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.
- 7.2 It may be that the Code should extend to other partnerships and this is something for a future review.
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Background Documents

Protecting the Public Purse – Audit Commission September 2009
British Standards Institution's Whistleblowing arrangements Code of Practice
Lord Nolan's 'Standards in Public Life'

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

Appendix 1 – Current Whistleblowing Code
Appendix 2 – Whistleblowing Code 2010