



COUNCIL
23rd February 2022

Report of: Legal and Democratic Services Manager & Monitoring Officer

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SUBJECT: REVIEW OF THE WHISTLEBLOWING POLICY

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

- 1.1 To seek approval of the revised Whistleblowing Policy following which the Code shall be adopted.

2.0 RECOMMENDATIONS TO STANDARDS COMMITTEE

- 2.1 That subject to any further agreed amendments arising out of the meeting, that the amended draft Whistleblowing Policy be adopted forthwith, and the Constitution be updated accordingly.

4.0 BACKGROUND

- 4.1 As part of the Corporate Governance Audit Review 2020/21, it was identified that there was a need to review the Whistleblowing Code
- 4.2 The Whistleblowing Code had not been reviewed in detail for some time. The Auditor had undertaken a review of the Code using the National Audit Office (NAO) Assessment Criteria for Whistleblowing Policies. The Auditor also reviewed the code in line with the Public Interest Disclosure Act (PIDA) requirements and the Department for Business, Innovation and Skills Whistleblowing Guidance for Employers and Code of Practice.
- 4.3 A copy of the existing Whistleblowing Policy can be found at Appendix 1
- 4.4 The main aim of the Review was to ensure that the Whistleblowing Code was fit for purpose when assessed against the NAO criteria. The current Whistleblowing

Code was assessed as not meeting all the necessary requirements as set out in the NAO assessment tool.

4.5 The following recommendations were therefore made:

- The current Whistleblowing Code should become a Policy document and be refreshed taking into consideration the requirements of the National Audit Office criteria and meet the needs of the Public Interest Disclosure Act (PIDA) and Department for Business, Innovation and Skills Whistleblowing Guidance for Employers and Code of Practice.
- A contents page should be added to give structure and allow the reader to easily navigate the document
- The new Whistleblowing Policy should explain the Public Interest Disclosure Act (PIDA) 1998 and its purpose. The Policy must be clear about who has protection under the PIDA.
- The new Whistleblowing Policy should clearly explain what constitutes a disclosure under PIDA and include examples of what a disclosure could be.
- The new Whistleblowing Policy should make it clear that disclosures can be reported to prescribed regulators as recommended by the Government. A link/list should be included within the Whistleblowing Policy.
- The New Whistleblowing Policy should include procedures for contractors, Council Members and members of the public to Whistleblow. There should be clear distinctions made between what constitutes a Whistleblow as opposed to a complaint, Freedom of Information Request or Subject Access Request
- The section for raising a concern and how the Council will respond needs to be reviewed and updated to ensure that a logical sequence is followed
- There should be standard documents/forms available for completion by the Whistleblower that captures all the required information for any investigation to commence.
- There should be guidance notes for named contacts on how to manage and deal with the concern raised to ensure a consistent approach.
- A suite of standard forms should be devised and made available to the named contact officers in the new Whistleblowing Policy and any appointed Investigating Officer to ensure that all the relevant information is captured, and a consistent approach is used
- When the Whistleblowing Policy is produced and approved the Council's Intranet and Internet web page must be updated with links to the latest version.
- The new Whistleblowing Policy must be promoted on the intranet and internet as part of our website and should be available on the search facility a-z under 'w'.
- There should be an online form to allow a whistleblower to raise a concern via the online facility.
- In line with National Audit Office best practice, consideration should be given to adding a flow chart or diagram to the policy show how the process will work

- The new Whistleblowing Policy should be mandatory reading all staff and for any new starter as part of the Induction Process. Additionally, there should be evidence that the Policy has been read
- Mandatory training should be developed and undertaken by designated contacts named in the new Whistleblowing Policy as well as all Senior Managers so that Whistleblowing requirements can be reported and investigated appropriately and consistently.
- A register is maintained, in accordance with the Department for Business, Innovation and Skills Whistleblowing Guidance for Employers and Code of Practice documents, of any subsequent whistleblows.
- A case record is held that holds the detail of the whistleblow, the investigation and outcome and these are stored in a secure system.
- Whistleblowing is added to the Terms of Reference for Audit & Governance Committee as a regular agenda item to show that the Council promotes Whistleblowing and has a robust and transparent process in place.

5.0 CURRENT POSITION

- 5.1 A full review has been undertaken on the Whistleblowing Policy in accordance with the above recommendations. Consideration has been given to Policies in place at other organisations.
- 5.2 A new draft policy has been created and is attached at Appendix 2. This policy incorporates all the recommendations from the Audit Review.
- 5.3 In order to ensure the highest standards of clear and transparent Governance it has been decided that any issues arising from a Whistleblowing complaint should be considered jointly between the Monitoring Officer (MO) and Internal Audit Manager (IAM). This will ensure that there are cross cutting checks and balances across the organisation and gives a higher level of assurance than that recommended by the review.
- 5.4 The draft policy has been created in consultation with the IAM and a proposed agreed course of action to implement the other recommendations is in place.

6.0 TIMETABLE FOR CONSIDERATION OF THE WHISTLEBLOWING POLICY

- 6.1 A "consultation draft" of the draft policy was considered by Standards Committee on the 21st September 2021 and then by Audit & Governance Committee on the 26th October 2021.
- 6.2 The draft policy was then be the subject of a consultation exercise between the 16th December 21 and 14th January 22 with direct emails being sent to all employees, Members, Parish and Town Councils, and trade unions. In addition, the consultation was highlighted on the Council's website and the Comms Team posted several posts on social media in order to bring it to the attention of the general public.

6.3 Attached at Appendix 3 is a list of the consultation responses. Relevant amendments have been made to the draft Code and are attached for your consideration.

6.4 The remainder of the recommendations in the Audit review will be completed once the Code has been approved at full Council.

6.0 SUSTAINABILITY IMPLICATIONS

6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are no significant financial or resource implications arising from this report.

8.0 RISK ASSESSMENT

8.1 This item does not require a formal risk assessment and no changes have been made to risk registers as a result of this report.

9.0 HEALTH AND WELLBEING IMPLICATIONS

9.1 Ensuring high standards of governance including protection measures for those that submit whistleblowing reports promotes health (in particular mental health) and wellbeing within West Lancashire. This report provides an update on actions taken in consideration of the Corporate Governance Audit Review 2020/21 to help to ensure that the Whistleblowing Code was fit for purpose when assessed against the NAO criteria and to demonstrate clear and transparent governance across the authority.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

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

Appendix 1 – Current Whistleblowing Policy

Appendix 2 – West Lancashire Borough Council revised Whistleblowing Policy.

Appendix 3 – Table of Responses.