

Audit & Governance Committee Report

Date of Meeting: 15 March 2018

Report Title: Update on the Council's Whistleblowing Arrangements and Development of New Policy

Portfolio Holder: Cllr Paul Findlow

Senior Officer: Daniel Dickinson/Sara Barker

1. Report Summary

- 1.1. Members were previously advised that the Council's Whistleblowing Policy and arrangements would be reviewed by Public Concern at Work (PCaW), in addition to the provision of additional whistleblowing support by PCaW to complement the Council's existing arrangements. This report provides an update on the use of the additional support and on the outcome of the review.
- 1.2. It is essential that the Council's Whistleblowing policy and procedures are compliant with best practice to inspire confidence and trust in the arrangement by those able to use them. Encouraging staff to voice concerns they may have are fundamental to supporting the Council's corporate objective of being a responsible, effective and efficient organisation.

2. Recommendations

- 2.1. That the Committee
 - 2.1.1. Note the progress made in implementing the action plan developed to address the findings of the policy review. (Appendix B)
 - 2.1.2. Approve the revised Whistleblowing Policy (Appendix C).

3. Reasons for Recommendations

- 3.1. The Audit and Governance Committee has responsibility for monitoring and approving the Council's Whistleblowing policy and therefore needs to be provided with periodic assurance on the effectiveness of these arrangements.

4. Other Options Considered

- 4.1. The alternative option of not obtaining an external review and additional support for the Whistleblowing Policy would not have achieved the objective of ensuring an independent assessment on the adequacy of the Council's arrangements.

5. Background

- 5.1. The Council is committed to the highest possible standards of openness, honesty and accountability and does not tolerate malpractice or wrongdoing. We value our employees and the services that they provide to the people of Cheshire East and as such we need to know when things are going wrong.
- 5.2. As reported to this Committee in September 2017, Cheshire East committed to undertake a review of its existing whistleblowing arrangements to ensure that the end to end process is fit for purpose and that there is adequate support in place for its staff.
- 5.3. Further to a procurement exercise the Council appointed Public Concern at Work to deliver additional whistleblowing support to complement its current arrangements and undertake a review of current arrangements.
- 5.4. Public Concern at Work is an independent whistleblowing charity and legal advice centre. Launched in 1993; they have worked extensively in a variety of ways with many commercial, financial, voluntary, and public sector organisations.
- 5.5. The level of support PCaW are providing to Cheshire East Council is as follows:
 - 5.5.1. Provision of an independent Whistleblowing Advice Line (email and Freephone number during the working hours of 09.00am -6.00pm Monday to Friday, excluding bank holidays) providing safe and confidential advice to our staff should they ever find themselves in a dilemma about what to do if they witness wrongdoing in their workplace.
 - 5.5.2. A full desk based review of current policy, procedures and supporting documents, to be benchmarked against the Whistleblowing Commission's Code of Practice. PCaW will provide a RAG rated report with recommendations and an action plan for improvement.
 - 5.5.3. Provision of a best practice guide, presentation, attendance at training workshops and an annual report on the volumes of calls to the advice line and freephone number.

- 5.6. The support arrangements commenced on 1st October 2017. An initial progress report and consideration of further action required has been undertaken.

Independent Whistleblowing Advice Line

- 5.7. Both the telephone line and the email address went live as of the 1st October 2017. The arrangements have been publicised across the Council via an all staff email, through Team Voice (staff newsletter), and an article on the staff intranet.
- 5.8. PCaW are required to provide an annual report on volume, but further to a request have confirmed that as of the 1st February activity for both the freephone and email is as follows:
- 5.8.1. No emails have as yet been received via cheshirespeakout@pcaw.org.uk
- 5.8.2. Two telephone calls have been received by PCaW to the Cheshire East dedicated telephone number; as the advice line is entirely confidential, we will not receive any further details as to the nature of the telephone call or any advice given..

Desk based review of current policy, procedures and supporting documents, to be benchmarked against the Whistleblowing Commission's Code of Practice.

- 5.9. On the 4th December 2017, PCaW submitted a report of findings along with a RAG rating for relevant Code of Practice (CoP) principles on their desk top review of the Council's whistleblowing arrangements (Appendix A). It should be noted that the Council scored mostly amber and green against the CoP standards.
- 5.10. In summary the key recommendations relate to:
- 5.10.1. Cheshire East Council Whistleblowing Policy - CEC to review the policy in light of stated observations and specific recommendations in the RAG assessment;
- Consistent and uniform definition,
 - Suggested amendments to wording used within policy,
 - Policy could be made simpler.
- 5.10.2. Draft Procedures
- Reinforcement of key messages and assurance to staff,
 - Accuracy of procedures (in relation to the Public Interest Disclosure Act).

5.10.3. Communications

- Recommunicate the whistleblowing arrangements
- Clear reinforcement and endorsement from the Corporate Leadership Team

5.10.4. Training

- Training materials to be refreshed
- Support ongoing training for line managers on the policy and procedures

5.10.5. Report to Audit and Governance Committee

- Inclusion of data and feedback on our arrangements to inform future work plans and provide a measure of effectiveness.

5.11. An action plan has been developed to address the findings of the desk top review (Appendix B).

Compliance toolkit (including PCaW's model policy, Best Practice Guide and a whistleblowing presentation)

5.12. No work has commenced as yet that utilises the compliance toolkit, this is built into the action to respond to the findings of the desk top review.

Two places at the PCaW expert whistleblowing training workshops.

5.13. PCaW hold monthly training workshops. It is suggested that attendees from Internal Audit and HR attend the workshop within the next three months.

5.14. As outlined in the action plan (Appendix B) further work is now needed to address the findings of the desk top review. This work will be led by Sara Barker, Head of Strategic HR.

Updated Whistleblowing Policy

5.15. In recognition of the comments and feedback from PCaW on the length of the existing policy, the potential for mixed messages, and the benefits of a uniform definition of whistleblowing, a revised Whistleblowing Policy, based on the model policy provided by PCaW is attached as Appendix C.

5.16. This policy will be supported by the development of internal procedures and training for Officers and Members who may receive concerns.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. The legislative framework for whistleblowing in England is contained in the Employment Rights Act 1996, as amended the Public Interest Disclosure Act 1998 (PIDA), and the Enterprise and Regulatory Reform Act 2013 (ERRA). The purpose behind these Acts is to provide protection to those employees who raise concern, and ensure that they are not unfairly treated as a result of raising their concern.
- 6.1.2. The whistleblowing legislation does not impose any positive obligations on employers to encourage whistleblowing or to implement a whistleblowing policy. However, the Government expects all public bodies to have written policies and the whistleblowing arrangements in local authorities are assessed as part of their annual audit process.

6.2. Finance Implications

- 6.2.1. Unless employees have confidence in the Council's whistleblowing arrangements, they are likely to stay silent where there is a threat to the employer or the wider public interest. Such silence denies the organisation the opportunity to deal with a potentially serious problem before it causes real damage. The costs of such a missed opportunity can be great in terms of fines, compensation, higher insurance premiums, fraudulent cases and poor value for money.

6.3. Equality Implications

- 6.3.1. An equality impact assessment has been completed with no issues identified.

6.4. Human Resources Implications

- 6.4.1. Given recent concerns in the press and on social media around the potential effectiveness of the Council's whistleblowing arrangements and issues raised by members of the Audit and Governance Committee, the Council wishes to ensure that every effort is taken to improve confidence in our arrangements and that all staff feel able to voice any concerns that they may have, hence the independent review of arrangements being commissioned.
- 6.4.2. Assessment of the arrangements and implementation of actions arising from the review will improve confidence in our arrangements and support staff to feel able to voice any concerns that they may have. The implementation of actions arising from the Whistleblowing review will also support and be supported by the actions arising from the LGA's Review of Culture which has recently reported.

6.5. Risk Management Implications

- 6.5.1. Without clear arrangements which offer employees safe ways to raise a whistleblowing concern, it is difficult for an organisation to effectively manage the risks it faces.

6.6. Rural Communities Implications

- 6.6.1. There are no direct implications for rural communities.

6.7. Implications for Children & Young People

- 6.7.1. There are no direct implications for children and young people.

6.8. Public Health Implications

- 6.8.1. There are no direct implications for public health.

7. Ward Members Affected

- 7.1. The Whistleblowing Policy is applied across the Council.

8. Consultation & Engagement

- 8.1. No formal consultation has taken place as this is a change to an existing policy. However, input has been received from Corporate Leadership Team and Unison.

9. Access to Information

- 9.1. ["Whistleblowing Arrangements" report to Audit and Governance Committee, 28th September 2017](#)
- 9.2. [Local Government Association Culture Review – Cheshire East Council](#)

10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

Name: Sara Barker

Job Title: Head of Strategic HR

Email: sara.barker@cheshireeast.gov.uk