

CHESHIRE EAST COUNCIL

Constitution Committee

Date of meeting: 14th July 2011
Report of: Head of Policy & Performance
Title: Whistleblowing Policy

1.0 Report Summary

- 1.1 This report advises the Committee on the content of the revised Whistleblowing Policy which was endorsed by the Audit and Governance Committee on 30 June 2011.

2.0 Recommendation

- 2.1 That the revised Whistleblowing Policy as set out in the Appendix be recommended to Council for adoption and inclusion in the Constitution.

3.0 Reasons for Recommendation

- 3.1 In November 2010 the Audit and Governance Committee received and endorsed a number of proposed changes to the Council's Whistleblowing Policy following a review of the document against the *Whistleblowing Arrangements Code of Practice Publicly Available Specification 1998:2008*. Consultation with the unions took place prior to the Policy being endorsed by the Audit and Governance Committee.
- 3.2 The Whistleblowing Policy forms part of the Constitution and therefore needs to be endorsed by the Constitution Committee prior to its referral to Full Council for final approval and adoption.

4.0 Wards Affected

- 4.1 All wards.

5.0 Local Wards Affected

- 5.1 Not applicable.

6.0 Policy Implications (including Climate Change and Health)

6.1 Not applicable.

7.0 Financial Implications

7.1 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 or higher insurance premiums.

8.0 Legal Implications

8.1 The Public Interest Disclosure Act 1998 protects employees against detrimental treatment or dismissal as a result of any disclosure of normally confidential information in the interests of the public. The Act only covers protected disclosures under six categories, namely: crime, illegality, miscarriage of justice, damage to health and safety, damage to the environment, and 'cover-ups' about these issues.

8.2 To obtain protection, employees must first disclose the information to the employer or to a body prescribed by the Secretary of State for the purposes of receiving such information. A list of the prescribed bodies is available on the government's website, along with a useful Guide on the Act.

8.3 The Council will introduce this Whistleblowing Policy in line with the Act.

9.0 Risk Assessment

9.1 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.

10.0 Background and Options

10.1 Employees are often the first to realise that there may be something seriously wrong within an organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation.

- 10.2 In order to mitigate this risk the Council introduced a whistleblowing policy that is intended to encourage and enable all to raise serious concerns within the organisation rather than overlooking a problem.
- 10.3 The Public Interest Disclosure Act (PIDA) provides that employers should not victimise any worker who blows the whistle in one of the ways set out in the legislation. Although there is no statutory requirement in the PIDA for organisations to have a whistleblowing policy the Government expects public bodies to have a policy in place and the whistleblowing schemes in local authorities in England are assessed regularly as part of their external audit and review.
- 10.4 Furthermore, it should also be noted that, under PIDA, the adequacy of an organisation's whistleblowing arrangements is one of the factors that tribunals and courts look at when they consider whether a wider public disclosure is protected under the legislation.
- 10.5 Finally, and importantly, regulators and the courts are increasingly looking at the adequacy of whistleblowing and other risk management arrangements to determine whether an offence has been committed by an organisation under regulatory or criminal laws, and is also a factor when determining the level of fine or penalty.
- 10.6 It is, therefore, necessary to regularly review the Council's Policy to ensure that it remains compliant with best practice. As such the Policy has been revised in accordance with the Publicly Available Specification (PAS) which sets out good practice for the introduction, revision, operation and review of effective whistleblowing arrangements. This is because the recommendations and guidance in the PAS are of particular relevance to public bodies. Members are referred to the Policy contained in the Appendix which was endorsed by the Audit and Governance Committee on 30th June 2011.
- 10.7 The Whistleblowing Policy includes a series of measures designed to encourage staff to raise concerns and the steps to be taken to investigate such concerns. The Committee is asked to endorse the Policy prior to final approval by Full Council.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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