

# CHESHIRE EAST

## STANDARDS COMMITTEE

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**Date of meeting:** 25 November 2008  
**Report of:** Interim Monitoring Officer  
**Title:** Whistleblowing Protocol

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### **1.0 Purpose of Report**

- 1.1 To inform the Committee of the Council's progress in respect of the adoption of a Whistleblowing Protocol.

### **2.0 Decision Required**

- 2.1 That the report be noted.

### **3.0 Financial Implications for Transition Costs**

- 3.1 There are no financial implications for transition costs.

### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 There are no financial implications 2009/10 and beyond

### **5.0 Legal Implications**

- 5.1 The legal implications of the Protocol are built into the draft Protocol itself.
- 5.2 It is proposed that the Protocol should be contained in the new unitary Council's Constitution.

### **6.0 Risk Assessment**

- 6.1 The adoption of a Whistleblowing Policy is an important element of the emerging unitary Council's approach to Corporate Governance. Such a Policy can be said to minimise risk to the authority in ensuring that the highest standards of openness, probity and accountability are embedded into the Council's work.

## **7.0 Information**

- 7.1 This report appends a report previously presented to the Council's Governance and Constitution Committee. The Committee endorsed the Protocol and it is intended that this should be embodied within the Council's Constitution.
- 7.2 Whilst the Governance and Constitution Committee "owns" the Council's Whistleblowing Protocol, the Standards Committee is responsible for promoting high standards of ethical behaviour within the organisation. It is therefore appropriate for the Standards Committee to be informed of the development of the Protocol.

## **8.0 Background**

- 8.1 One indicator of local authority good governance is that the authority in question has a Whistleblowing Policy or Protocol. The document "Delivering Good Governance in Local Government: Guidance Note for English Authorities" cites such a Policy or Protocol as a source document or good practice which may be used to demonstrate compliance with the requirement that: the authority "has arrangements in place for whistle-blowing to which staff and all those contracting with the authority have access".
- 8.2 The Accounts and Audit Regulations 2003 require that an annual governance statement be produced by local authorities. A Whistleblowing Policy/Protocol is envisaged as being a "proper practice" for local authority good governance and for meeting the requirements of the Regulations.
- 8.3 The purpose of the Protocol is to provide for circumstances in which an employee, Member or contractor, supplier to or consultant witnesses practices that seem suspicious. It seeks to address situations in which those individuals may be deterred from expressing their concerns because they may fear harassment or victimisation.
- 8.4 The Protocol sets out a process by which the individual can report their concerns internally and how the Council will then respond.
- 8.5 Members are referred to the draft Protocol contained in the Appendix to this report.

***For further information:***

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***Background Documents:***

- Cheshire Local Authority Constitutions
- DETR Modular Constitution
- Delivering Good Governance in Local Government: Framework

*Documents are available for inspection at:*

Cheshire East Shadow Council Support Office  
Congleton Borough Council  
Westfields  
Middlewich Road  
Sandbach

# CHESHIRE EAST

## GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 6 October 2008  
**Report of:** Interim Monitoring Officer  
**Title:** Whistleblowing Protocol

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### **1.0 Purpose of Report**

- 1.1 To seek the approval of the Committee in respect of the new unitary Council's Whistleblowing Protocol.

### **2.0 Decision Required**

- 2.1 To endorse the proposed Whistleblowing Protocol

### **3.0 Financial Implications for Transition Costs**

- 3.1 There are no financial implications for Transition Costs

### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 No financial implications 2009/10 and beyond arise over and above those which would apply to any local authority.

### **5.0 Legal Implications**

- 5.1 The legal implications of the Protocol are built into the draft Protocol itself.
- 5.2 It is proposed that the Protocol should be contained in the new unitary Council's Constitution and, therefore the Committee will need to make a recommendation to the Shadow Council to that effect.

### **6.0 Risk Assessment**

- 6.1 The adoption of a Whistleblowing Policy is an important element of the emerging unitary Council's approach to Corporate Governance. Such a Policy can be said to minimise risk to the authority in ensuring that the highest standards of openness, probity and accountability are embedded into the Council's work.

### **9.0 Information**

- 9.1 One indicator of local authority good governance is that the authority in question has a Whistleblowing Policy or Protocol. The document "Delivering

Good Governance in Local Government: Guidance Note for English Authorities” cites such a Policy of Protocol as a source document or good practice which may be used to demonstrate compliance with the requirement that: the authority “has arrangements in place for whistle-blowing to which staff and all those contracting with the authority have access”.

- 9.2 The Accounts and Audit Regulations 2003 require that an annual governance statement be produced by local authorities. A Whistleblowing Policy/Protocol is envisaged as being a “proper practice” for local authority good governance and for meeting the requirements of the Regulations.
- 9.3 The purpose of the Protocol is to provide for circumstances in which an employee, Member or contractor, supplier to or consultant witnesses practices that seem suspicious. It seeks to address situations in which those individuals may be deterred from expressing their concerns because they may fear harassment or victimisation.
- 9.4 The Protocol sets out a process by which the individual can report their concerns internally and how the Council will then respond.
- 9.5 Members are referred to the draft Protocol contained in the Appendix to this report.

## **10.0 Conclusion**

- 10.1 The Committee is asked to endorse the proposed Protocol and to note that, in view of its implications for staff, that there will need to be consultations with unions before the contents of the draft can be finalised.

### ***For further information:***

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### ***Background Documents:***

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[CHESHIRE EAST][CHESHIRE WEST] COUNCIL

WHISTLE BLOWING PROTOCOL

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## 1.0 INTRODUCTION

- 1.1.1 As an employee, Member or contractor, supplier to or consultant with, the Council you may, from time to time, witness practices that seem suspicious. However, you may be deterred from expressing your concerns because you fear harassment or victimisation. You may feel that it may be easier to ignore the concern rather than to report your suspicions.
- 1.1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of reprisals. This policy document makes it clear that you can do so, without the fear of victimisation, subsequent discrimination or disadvantage.
- 1.1.3 These procedures are intended to encourage and enable you to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. Premature or unnecessary publicity may damage the Council's reputation, impede proper investigations, or hurt individuals unnecessarily.
- 1.1.4 A Member shall not disclose confidential information, using the public interest exemption in the Council's Member Code of Conduct without first considering using the procedure in this Whistle Blowing Protocol to raise concerns about an issue, unless it is necessary for the disclosure to be made to the Police or a Regulatory Body.

## 2.0 PURPOSE & SCOPE

- 2.1.1 These procedures have been introduced to provide employees, Members and contractors, suppliers or consultants with a secure basis for reporting suspicions of impropriety, in the knowledge that the matter will be treated confidentially.
- 2.1.2 This policy covers the reporting of a malpractice, the information that will need to be recorded and the steps that need to be followed to ensure that you do not suffer any recriminations or victimisation.
- 2.1.3 These procedures are intended to supplement, rather than replace, existing Council policies and procedures (for example the Council's grievance procedures and the policies dealing with harassment) whereby employees of the Council may already raise complaints or matters of genuine concern with the Council. They are therefore designed to provide for those instances where the person reporting the matter feels that, for any reason, they cannot make use of other procedures.

2.1.4 This policy has been designed to take into account Human Rights considerations.

## 2.2 CONTRACTORS, SUPPLIERS AND CONSULTANTS

2.2.1 In your dealings with the Council you will often work very closely with Council employees and Councillors. You will also operate under the Council's procedures and policies. The Council is fully aware that if you notice anything suspicious, or come across malpractice, you may be concerned about your relationship or future relationship with the Council if you raise this. As with employees and Councillors, the Council wants to encourage you to voice any concerns you may have, secure in the knowledge that the matter will be taken seriously and investigated, and that you and your organisation will not suffer any disadvantage.

## 3.0 LEGISLATION

3.1.1 The Public Interest Disclosure Act 1998 has been introduced to protect employees who expose serious wrongdoing in the workplace. It applies where a malpractice is disclosed involving:-

- a crime or breach of regulatory, administrative and common law;
- a miscarriage of justice;
- danger to health and safety;
- damage to the environment;
- unauthorised use of public funds;
- possible fraud and corruption; and
- sexual, physical or financial abuse of clients

3.1.2 The Act protects you from victimisation where you reasonably believe the information, and are acting in good faith.

3.1.3 A disclosure is protected if you have an honest and reasonable suspicion that a malpractice has occurred, is occurring or is likely to occur. As an employee you can raise the matter with your line manager who will refer it to one of the named below, or if you prefer direct to:-

- Head of Paid Service;
- Monitoring Officer;
- [Relevant Director];
- [Audit Manager].

3.1.4 Councillors can report suspicions to:-

- Head of Paid Service
- Monitoring Officer
- [Relevant Director];
- [Audit Manager]



A confidential record will be maintained by the [Audit Manager] of all concerns raised (except if the complaint is against the [Audit Manager's] Team).

- 3.1.5 It is important to note that in response to concerns raised with any of the above, they will initially act independently of each other when making investigations, except for the Audit Manager who may be asked to carry out the investigation.

#### 4.0 SAFEGUARDS

##### 4.1 HARASSMENT OR VICTIMISATION

- 4.1.1 The Council is committed to good practice and high standards, and wants to be supportive of employees.
- 4.1.2 The Council recognises that the decision to report a concern can be a difficult one to make. It will not tolerate any harassment or victimisation and will protect you if you raised a concern in good faith.
- 4.1.3 If you happen to be already involved in any disciplinary or redundancy procedures these will be kept separate from the investigation of your complaint.

##### 4.2 CONFIDENTIALITY

- 4.2.1 The Council will protect the confidentiality of all matters raised by concerned employees and Councillors.
- 4.2.2 If there is any breach of confidentiality by any of the four named officers in paragraph 3.1.3, the employee raising the concern can take the appropriate action under the grievance procedures.

##### 4.2.3 ANONYMOUS ALLEGATIONS

- 4.3.1 This policy encourages you to put your name to your allegation whenever possible.
- 4.3.2 This is because concerns expressed anonymously are much less powerful than those raised by an identified individual. Anonymous allegations will, however, be considered at the discretion of the Council.
- 4.3.3 In exercising this discretion the factors to be taken into account would include:-

- the seriousness of the issues raised;
- the credibility of the concern; and

- the likelihood of confirming the allegation from attributable sources.

#### 4.4 UNTRUE ALLEGATIONS

- 4.4.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, as an employee you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you. In the case of Members, the Standards Committee will consider the matter and make recommendations to the Council.

#### 5.0 PROCEDURES

##### 5.1 RAISING A CONCERN

- 5.1.1 You can raise your concern orally, (i.e. face to face or over the phone) or in writing. If you write, mark the envelope 'personal, private and confidential' and if the concern is of a serious nature, hand deliver the envelope to the person you wish to report the matter to.
- 5.1.2 Whichever way you choose, please give as much information as you can. Remember also to give your name, job and say if you do not want to be contacted at work (if so, give your home address and phone number).
- 5.1.3 You should include the following:-
- background information;
  - information as to why you are concerned;
  - details of any other procedures which you have already used, and what happened;
  - the names of the employee/Members involved and where they work (if applicable);
  - dates or periods of time relating to the matter;
  - the names and jobs of any other employees/Members who may support your concern.
- 5.1.4 The earlier you express your concern, the easier it will be to take action.
- 5.1.5 Although you will not be expected to prove beyond doubt the truth of an allegation, you will need to demonstrate that there are reasonable grounds for the concern.
- 5.1.6 You may find it easier to raise the matter jointly if there is another employee/Member who has the same concern, and will support your allegation.

- 5.1.7 You would be advised to invite your trade union representative, or another person, to be present during any meetings or interviews in connection with the concern raised. In this case you can remain anonymous when the concern is first raised, but you may have to be involved personally if the matter goes further.

## 5.2 HOW THE COUNCIL WILL RESPOND

- 5.2.1 One of those named in paragraphs 3.1.3 will firstly decide whether to carry out an investigation and determine which Council procedure it is appropriate to use.

- 5.2.2 If it is decided that the matter should be taken further under Whistleblowing procedures, the concern raised will be:-

- investigated by the Monitoring Officer, Management or [Internal Audit];
- referred to the police;
- referred to the external auditor;
- considered to become the subject of an independent inquiry;
- considered under the Council's Member Code of Conduct.

You may be interviewed by the person investigating the matter.

- 5.2.3 In order to protect individuals accused of a possible malpractice, enquiries will be made to decide whether an investigation is appropriate. Some concerns may be resolved by agreed action without the need for an investigation. If urgent action is required, this will take place before an investigation is undertaken.

## What You Will be Told

- 5.2.4 The person to whom you have raised your concern will contact you in writing within 10 working days detailing the following:

- acknowledging that the concern has been received;
- indicating how the Council intends to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- detailing any initial enquiries that have been made; and
- informing you whether further investigations will take place (and if not, why not).

- 5.2.5 The amount of contact you have with the people considering the matter will depend on the type of concern, the potential difficulties of the investigation and the availability of information. Wherever possible, you will be told the final outcome of any investigation.

- 5.2.6 The Council will take steps to minimise any difficulties you may experience as a result of raising a concern. For example, if required to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive advice about the procedure.

### 5.3 THE RESPONSIBLE OFFICER

- 5.3.1 The Council's Monitoring Officer has overall responsibility for the maintenance and operation of this policy.

### 5.4 IF YOU ARE NOT SATISFIED WITH THE COUNCIL'S RESPONSE

- 5.4.1 This procedure is meant to give everyone an effective way to raise a concern within the Council (and if possible resolve it internally). However, if you are still unhappy after using the procedure (and getting a final written response) you are entitled to consider taking your concern elsewhere. If you do this, these are some of the contacts that are available:

- the Council's external auditors [insert link/contact details]
- UNISON Whistle blowing Hotline – 0800 597 9750
- Audit Commission Anti Fraud and Corruption Unit – 020 7630 1019
- The independent charity Public Concern at Work – 020 7404 6609
- a Citizens Advice Bureau
- the Standards Board for England – 0845 0788181
- a relevant professional or regulatory body
- a relevant voluntary organisation
- the police