

Audit and Governance Committee

30 September 2024

Whistleblowing Arrangements – 2023/24 Update and Policy Development

Report of: Janet Witkowski, Interim Director of Governance and Compliance and Monitoring Officer

Report Reference No: AG/15/21-22

Ward(s) Affected: All Wards

Purpose of Report

- 1 This report provides the Audit and Governance Committee with an overview of the use of the Council's Whistleblowing Policy during 2023/24 and sets out the proposals for the review and refresh of the Whistleblowing Policy.
- 2 The Audit and Governance Committee receives a variety of reports from across the organisation to support its consideration of the Council's arrangements for governance, risk management and control. Assurance on the use of the Council's whistleblowing arrangements, and recommendations for the further development of the Whistleblowing Policy support the Committee's oversight and understanding of these areas.

Executive Summary

- 3 An update on the use of the Council's whistleblowing arrangements is provided for the Committee to receive assurance on how concerns raised via the whistleblowing mechanisms are reviewed and treated.
- 4 Proposals on how the Council's current policy will be reviewed are set out for the Committee. Following review, the updated policy will be brought back to the Committee for consideration and recommendation for adoption by the Council.

RECOMMENDATIONS

The Audit and Governance Committee is recommended to

1. Note the use of the Council's whistleblowing arrangements during 2023/24.
2. Endorse the proposals for reviewing and refreshing the Whistleblowing Policy.

Background

Referrals through Whistleblowing during 2023/24

- 5 Cheshire East has an established Whistleblowing Policy and detailed supporting guidance accessible via the Council's intranet (Centranet) and the Council's website. The current policy was introduced in March 2018 following a review of the Council's arrangements by Public Concern at Work (now known as Protect), the leading advocate for whistleblowing in the UK.
- 6 The policy is based on the model policy as then recommended by Protect but was adapted to meet Cheshire East's specific requirements such as members of Audit and Governance Committee being designated contacts under the policy. Further development of the policy is set out in the next section of the report.
- 7 It can be difficult to determine whether an organisation's whistleblowing arrangements are effective as it is important to take into consideration more than simply the volume of reports received. This is because a single, well-founded concern received over a number of years more than justifies maintaining the whistleblowing arrangements.
- 8 It is therefore important to ensure that employees, members and external parties working for the Council are aware of the arrangements and provided with assurance that any concerns raised will be taken seriously and that anyone raising concerns will be protected from suffering any detriment as a result of "blowing the whistle".
- 9 The Council's policy, and guidance to those who may wish to raise a concern, as well as those who may receive a concern, are all available on the Council's external facing website.¹
- 10 The Audit and Governance Committee's role as individuals in the current policy to whom concerns may be raised is covered as part of the Committee induction for members of this committee.

¹ https://www.cheshireeast.gov.uk/system_pages/information-for-staff/whistleblowing/whistleblowing.aspx

- 11 The table below shows the number of referrals received during 2023/24 along with a breakdown of how the referrals were managed and comparative figures from 2019/20. The figures include all referrals via the online reporting tool and to the dedicated whistleblowing email account.

	2023/24	2022/23	2021/22	2020/21	2019/20
Total number of Referrals Received	8	10	6	8	7
Met criteria and action taken:					
Unfounded after testing concerns	0	0	1	0	0
Referred for investigation after testing concerns	2	1	0	1	1
Did not meet criteria and action taken:					
Referred to other Council service for resolution	4	9	3	7	2
Referred for disciplinary investigation	0	0	0	0	1
No further action required after testing concerns	2	0	2	0	3

- 12 Of the two concerns raised which met the Whistleblowing Policy criteria, both appeared to be as a result of what appeared to be genuine unease on the part of staff, and sufficient information was provided to allow for the concerns raised to be tested in each case. Each referral, whilst not found to have any substance to support the concern, had been made in good faith.
- 13 A number of other referrals were received during 2023/24 which did not meet the criteria for whistleblowing. In these cases, the whistleblowing mechanisms (email address and online reporting form), had been used by parties both inside and outside of the Council to raise concerns.
- 14 As a result of these concerns being received, referrals were made into the Council's Adult's Safeguarding Team for further investigation and a referral into the Council's Monitoring Officer for consideration under the Council's Member Code of Conduct was completed.

Review of the Whistleblowing Policy and Arrangements

- 15 The Council's Whistleblowing Policy has been subject to periodic review to ensure it maintains current good practice and relevance to the Council's circumstances. The policy, supporting procedures and guidance/training would now benefit from a refresh and relaunch.
- 16 Awareness raising about the policy and arrangements is critical to creating a positive organisational culture which encourages, and expects, concerns being raised. Effective communication about how to

do so, and clarity about how concerns raised will be treated and responded to, will provide confidence to those who may need to raise a concern.

- 17 Proposals will be subject to further consultation and discussion with the following groups;
 - (a) Brighter Futures
 - (b) Unions
 - (c) Risk and Assurance Board
 - (d) Wider Leadership Community
 - (e) Members of the Audit and Governance Committee
- 18 Consultation and engagement with these groups will ensure that we can ensure arrangements will achieve high levels of awareness of the policy and proposed guidance arrangements, identify and address any concerns, and ensure every effort has been made to ensure staff feel able to voice any concerns that they may have.
- 19 The policy document will necessarily cover the technical aspects of whistleblowing, referencing relevant legislation, key points of contact etc. The policy document will also make the distinctions of who, and what is (and isn't) covered by the Whistleblowing Policy and provide clarity on other routes to raise concerns.
- 20 To ensure that policy content is as accessible as possible, supporting guidance will be made available, and we will explore formats such as an e-learning module, FAQs and "user guides" for this.
- 21 Once approved, the policy and guidance documents will be launched through existing staff engagement channels such as the Manager Share and Support meetings, Team Voice and attendance at Directorate Management Teams.
- 22 The Audit and Governance Committee will receive annual updates to provide assurance on how the Whistleblowing Policy has been utilised, along with any feedback on the communication and training provided. Any amendments to the policy will also be put forward for approval.

Consultation and Engagement

- 23 Arrangements to consult and engage on an updated policy will be set out in the body of the report.

Reasons for Recommendations

- 24 The Audit and Governance Committee has responsibility for monitoring and approving the Council's Whistleblowing Policy therefore needs to be provided with periodic assurance on the effectiveness of these arrangements as well as recommendations for updates.

Other Options Considered

- 25 The Council could choose not to have clear policy and guidance in place to support the raising of reasonable concerns; however, this would not be consistent with the Council's values and behaviours around openness and transparency, nor would it support our employees to work in a positive, accountable and supportive culture, and would risk the Council failing into legislative requirements.

Implications and Comments

Monitoring Officer/Legal

- 26 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.
- 27 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.

Section 151 Officer/Finance

- 28 Unless employees have confidence in the Council's whistleblowing arrangements, they are likely to stay silent. 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.
- 29 There is no anticipated impact upon the MTFs position as a result of reviewing the policy and guidance in this area. Existing staff capacity and resources will be utilised to develop, deliver and communicate the updated policy.

Policy

- 30 The Whistleblowing Policy, whilst a cornerstone of effective good governance arrangements, is not part of the Council's Policy Framework. However, the achievement of the Council's strategic objectives, delivery of the Corporate Plan and compliance with relevant legislation and local procedures is all enhanced by having clear and cohesive arrangements for concerns to be raised and dealt with.

Equality, Diversity and Inclusion

- 31 An equality impact assessment will be undertaken to support the final proposed updated policy.

Human Resources

- 32 The Whistleblowing Policy provides information, guidance and a procedure by which a "worker" (a term that covers Council employees and former employees, contractors and agency workers) can make a "protected disclosure" – often referred to as a "whistle blowing".
- 33 The adoption and promotion of the Council's arrangements to receive concerns under the Whistleblowing Policy supports effective employment relationships and a positive organisational culture.

Risk Management

- 34 The adoption and promotion of the Council's arrangements to receive concerns under the Whistleblowing Policy mitigates the risk of non-compliance with legislation, mitigates the risk of failing to identify and respond to whistleblowing concerns resulting in reputational risk for the Council.
- 35 Effective routes for raising concerns need to be communicated, otherwise the risk of issues not being identified and addressed could result in financial loss or prosecution by regulatory authorities.

Rural Communities

- 36 There are no direct implications for rural communities.

Children and Young People including Cared for Children, Care Leavers and Children with Special Educational Needs and Disabilities (SEND)

- 37 There are no direct implications for Children and Young People communities.

Public Health

38 There are no direct implications for Public Health.

Climate Change

39 There are no direct implications for Climate Change.

Access to Information	
Contact Officer:	Josie Griffiths, Head of Audit and Risk Management Josie.griffiths@cheshireeast.gov.uk
Appendices:	No appendices
Background Papers:	Whistleblowing (cheshireeast.gov.uk)