

REPORT OF THE MONITORING OFFICER**WHISTLEBLOWING UPDATE****Purpose of the Report**

1. To update Committee on whistleblowing activity during 2019 and 2020 and to report an update with regards to the review of the Whistleblowing Policy.

Information and Advice

2. 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council. The aim of the County Council's Whistleblowing Policy is to encourage Council and other relevant employees who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. Having effective whistleblowing procedures enables employees to raise serious concerns within the County Council rather than ignoring a problem or 'blowing the whistle' outside the County Council.
3. The County Council's Whistleblowing Policy is designed to ensure that employees can raise concerns without fear of victimisation, subsequent discrimination, disadvantage or dismissal. Employees who raise concerns under the Whistleblowing Policy have protection against victimisation and dismissal under the law.
4. The County Council logs concerns it receives centrally on its corporate register. All matters which fall under the Whistleblowing Policy are required to be reported to the Monitoring Officer. During 2019, two matters were reported under the Whistleblowing Policy but one was found not to be a Council Whistleblowing after an initial review by Audit as it related to issues already raised within a school HR procedure. In 2020 two concerns were raised.
5. The concerns which have been reported, are summarised in the tables below in order to provide an update to Committee. Given the confidential nature of such complaints this report can only refer to the general nature of the concerns.

Table 1

No.	Nature of concern	Dept.	Status of complaint	Outcome
1	Home Care Contractor Performance	ASCPH	Closed	Investigated by unannounced audits which showed reasonable assurance of contractual and legal compliance.

Table 2

No.	Nature of concern	Dept.	Status of complaint	Outcome
1	Health and safety issues: risk assessments relating to equipment	Place	Closed	Investigated by H&S Manager and further advice provided to service.
2	Concern about Committee staffing decision	ASCPH	Closed	Investigated by Department. Not upheld.

6. The following table sets out the number of complaints for each Department recorded for the last three years: It can be seen that one concern was reported in 2019 and two concerns were reported during 2020.

Year	Number of complaints recorded per Department			
	ASCH	CF	Place	CEX
2020	1		1	
2019	1			
2018	1			1

7. The reasons for these levels of reporting are not immediately clear, although possible scenarios include a) it could just be good news, b) there is a lack of awareness and understanding of what Whistleblowing is and how to raise concerns, c) issues of concern are being raised elsewhere in the Council and being properly dealt with under other monitoring channels (such as financial monitoring and complaints procedures) which are not considered to be Whistleblowing matters.
8. In November 2019 Committee agreed to a number of suggested changes to the Policy. Committee also agreed that a full review of the Policy was necessary. Unfortunately, due to the Covid-19 pandemic it was not possible to undertake this work as scheduled. However, in light of the current low levels of reporting it is suggested that this more fundamental review of the arrangements is required before any changes are made to the Policy and that the findings and recommendations of the review are reported back to Governance and Ethics Committee.

9. It is proposed that a full review would consider:

- a. Clarification of what constitutes a Whistleblowing referral (compared to other types of concern or complaint which may be raised through other channels, such as the Corporate complaints process, HR grievance and harassment procedures or financial monitoring systems);
- b. The wording of the documents setting out the Council's Whistleblowing arrangements to provide clarity (including practice at other comparator Councils and clarification of the correct procedure for reporting Whistleblowing concerns relating to schools);
- c. The different ways in which whistleblowing concerns are received across the Council, how they are logged and tracked to a conclusion;
- d. Training for officers handling whistleblowing referrals and for the wider workforce, to improve awareness and aid understanding of the relevant procedures;
- e. Awareness raising activities

10. It is expected that key service areas within the Council who may receive relevant referrals (e.g. Audit, Human Resources, Legal Services, Office of Chief Executive, Monitoring Officer, Complaints Team) will be invited to contribute towards this review to ensure consistency of approach and interpretation of the procedures and what constitutes Whistleblowing. Subject to the capacity of colleagues from each of these areas in light of the ongoing pandemic, it is anticipated that this full review will be completed by the end of the 2021/2022 financial year.

11. In the meantime, clarification has been sought regarding whether there is a need to have a Policy for Whistleblowing or whether a Code/Protocol or Procedure would suffice. This has been checked and there is no legal requirement in the UK to have a Policy on Whistleblowing. As such, it is proposed that any review will adapt the documentation into a Whistleblowing Code which will be reported to Governance and Ethics Committee for any reviews and updates.

12. Any review will also need to consider and reflect, as necessary, any changes to UK legislation regarding whistleblowing law which may arise as a result of the UK having left the EU. As the UK government did not adopt the new EU Whistleblowing Directive before leaving the EU, it is currently unclear how future reforms to whistleblowing laws will sit with the UK government's wider domestic agenda.

Other Options Considered

13. The law offers protection to Council employees making protected disclosures and the Council is committed to providing a safe and effective procedure for making such disclosures without fear of intimidation or victimisation. The proposed review should result in a clear and effective procedure which can then be easily communicated to staff to ensure awareness.

Reason/s for Recommendation/s

14. To ensure that the Council complies with its legal obligations regarding protected disclosures. It is important that the Whistleblowing Policy is fit for purpose and that employees are aware of it and understand what to do if they wish to make a disclosure.

Statutory and Policy Implications

15. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

- 1) That the Committee considers the contents of the report and decides whether any further action is required.
- 2) That the Committee supports the full review of the current policy in line with the criteria set out in paragraphs 9 to 12 above.

Marjorie Toward, Monitoring Officer

For any enquiries about this report please contact:

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Constitutional Comments (HD – 10/3/2021)

The proposals within the report fall within the remit of the Committee

Financial Comments (SES 17/3/2021)

There are no specific financial implications arising directly from the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All