

**REPORT OF THE MONITORING OFFICER**

**WHISTLEBLOWING UPDATE**

**Purpose of the Report**

1. To update Committee on Whistleblowing activity during 2021 and to update Committee with regards to the review of the current Whistleblowing Policy.

**Information and Advice**

2. 'Whistleblowing', also termed 'making a protected disclosure', is regulated by the Public Interest Disclosure Act 1998 (PIDA). Whistleblowing means the reporting by workers of suspected misconduct, illegal acts or failure to act within the organisation they work for. The aim of the County Council's Whistleblowing Policy is to encourage Council and other relevant workers who have serious concerns about any aspect of the operation of the Council to come forward and voice those concerns. Having effective Whistleblowing procedures enables workers to raise serious concerns within their organisation rather than ignoring a problem or 'blowing the whistle' elsewhere.
3. The County Council's Whistleblowing Policy incorporates the provisions in PIDA; that employees who raise concerns pursuant to it in good faith, will not suffer victimisation, subsequent discrimination, disadvantage or dismissal as a result of doing so.
4. All matters reported under the Whistleblowing Policy are referred to the Monitoring Officer. The County Council logs the concerns it receives centrally on its corporate register. During 2021, one matter was reported under the Whistleblowing Policy.
5. The concern which has been reported is summarised in the table below. Given the confidential nature of such complaints this report can only refer to the general nature of the concerns and cannot include specific details about any particular case.

No.	Nature of concern	Dept.	Status of complaint	Outcome
1	Practices at Secure accommodation unit, in particular emergency drills.	Children and Families Service	Closed	Complaint not upheld. Addressed in a response sent from the service on 17 September 2021. Procedures at the unit

				deemed to be appropriate.
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6. The following table sets out the number of complaints for each Department recorded for the last four years. It can be seen that two concerns were reported in 2018; one concern was reported in 2019 and two concerns were reported during 2020. There has been one concern reported in 2021.

Year	Number of complaints recorded per Department			
	Adults	Children's	Place	ChiefExec
2021		1		
2020	1		1	
2019	1			
2018	1			1

7. In addition to the above referrals, a delayed Employment Tribunal case in 2021 (which related to a historic dismissal from several years ago) reached a finding that given the facts of that case the Council should have treated the employee's grievance at the time as a Whistleblowing matter.
8. Appropriate learning has been identified from this case and an action plan to embed this learning has been developed. Part of this action plan includes reviewing the current Whistleblowing Policy and procedure with officers in HR and Legal Services, to ensure that all managers are aware of the Council's approach to Whistleblowing. This will look to embed within the Council the right to make a protected disclosure through the provision of information and training.
9. The above action links to a full review of the Council's Whistleblowing Policy and procedures that had already been commissioned. Unfortunately, due to the Covid-19 pandemic and more recent pressures relating to the proposed changing governance arrangements it has not been possible to complete this work.
10. The full review is currently being carried out and is considering the following:
- a. Clarification of what constitutes a Whistleblowing referral (compared to other types of concerns 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 protection the Council can afford to workers who are not direct employees of the Council;
  - d. Clarification that members of the public who have no working relationship with the Council are not subject to the provisions of PIDA;

- e. The different ways in which Whistleblowing concerns are received across the Council, how they are logged and tracked to a conclusion;
  - f. Training for officers handling Whistleblowing referrals and for the wider workforce, to improve awareness and aid understanding of the relevant procedures;
  - g. Awareness raising activities.
11. Those preparing this report have clarified that there is no legal requirement in the UK to have a Policy on Whistleblowing. As such, it is proposed that the revision of the current Policy will result in the adoption of a Whistleblowing Code which will be reported to Governance and Ethics Committee for any reviews and updates.
12. The key service areas within the Council who may receive Whistleblowing referrals (Audit, Human Resources, Legal Services, Office of Chief Executive, Monitoring Officer, Complaints Team) will be invited to contribute towards the review. Once completed, subject to the approval of this Committee, the Code will be adopted in the place of the existing Policy.

### **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 of the current Policy and subsequent adoption of a Whistleblowing Code 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 (or new Code) is fit for purpose and that employees and other relevant workers 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 supports the continuation of the work to review the policy with a view to replacing it with a Whistleblowing Code.

**Marjorie Toward, Monitoring Officer**

**For any enquiries about this report please contact:**

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**Constitutional Comments (CEH 14/02/2022)**

16. The report falls within the remit of Governance and Ethics Committee.

**Financial Comments (RWK 14/02/2022)**

17. There are no specific financial implications arising directly from this 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