

HUMAN RESOURCES & COUNCIL TAX COMMITTEE

6 JULY 2023

REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS)

A.1 WHISTLEBLOWING POLICY & PROCEDURE

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To update the Human Resources & Council Tax Committee on the review of the Council's Whistleblowing Policy in line with identified best practice and employment legislation.

EXECUTIVE SUMMARY

Tendring District Council is committed to high standards of openness, integrity, and accountability in the provision of quality services for the benefit of the local community and is fully committed to being fully accountable for those services.

The Council has set in place rules, regulations, quality standards and procedures to ensure that high standards of conduct and commitment to service are observed, but it recognises that malpractice can occur.

Whistleblowing is the action someone takes to report wrongdoing at work. For example, where there has been suspected misconduct, illegal acts, or failure to act within the Council's established governance frameworks.

The Whistleblowing Policy and Procedure document makes it clear that employees can raise concerns without fear of victimisation, subsequent discrimination, disadvantage or dismissal. It is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking the problem or "blowing the whistle" outside of the organisation.

The Policy applies to all:-

- employees of Tendring District Council;
- employees of contractors working for the Council, for example agency staff;
- employees of suppliers;
- those providing services under a contract or other agreement with the Council; and
- voluntary workers working with the Council.

Disclosures against Elected Members are dealt with under a separate procedure and the Council's Monitoring Officer should be contacted directly in this regard.

The recently published "*Lessons from Public Interest Reports and other interventions Report*" (Part II) by Grant Thornton (*a professional services network which provides assurance, tax and advisory services to privately held businesses, public interest entities, and public sector entities*) outlines a number of recommendations to encourage best practice and mitigate risk.

A number of the recommendations from the report specifically relate to 'Whistleblowing' and the Council's Policy on these matters as follows:-

- Cultivate an open and transparent culture;
- Ensure staff can raise concerns/whistle blow, and that this practice is encouraged and is independently investigated. Formal channels must be in place for the involvement of both the s151 and Monitoring Officers;
- Embed an active review of all complaints and a zero-tolerance approach to inappropriate behaviours;
- Undertake regular training to ensure officers are aware of the Officer code of conduct and that they understand their roles;
- If not already in place, councils should consider the introduction of regular reviews of key governance policies such as their, whistleblowing and confidential reporting, fraud prevention and anti-corruption policies.

Therefore, the review of the Council's Whistleblowing Policy, considers these recommendations, specifically the reporting and investigation mechanisms for dealing with, and responding to, Whistleblowing concerns, and the roles and responsibilities of those involved, as outlined under the 'Procedure for Making a Disclosure' heading.

Furthermore, the 'Monitoring & Review' heading outlines the Council's approach to the monitoring of disclosures, including the introduction of regular reporting of the number of disclosures made to the Audit Committee as part of the usual Table of Outstanding Issues reporting process.

As a result the Audit Committee will evaluate the effectiveness of this policy to ensure that the Policy fulfils its objective of providing a clear, transparent, and robust procedure to deal with disclosures and that Whistleblowers are supported and confident in the procedure.

Finally, the information held in the central disclosure record will be evaluated and reviewed periodically by the Council's Statutory Officers, to establish whether current policies, procedures and protocols need to be reviewed and whether any further action must be taken by the Council.

RECOMMENDATION(S)

It is recommended that the Human Resources & Council Tax Committee approves and adopts the Council's updated Whistleblowing Policy & Procedures.

REASON(S) FOR THE RECOMMENDATION(S)

As it is considered that the changes made to the Whistleblowing Policy and Procedure go beyond the delegated authority that the AD for Partnerships has to make Minor amendments to Human Resources Policies and Procedures necessary as a result of legislation, national guidance or best practice, it is considered appropriate that the HR & CTAX Committee approves these changes in line with Part 3 of the Council's Constitution.

ALTERNATIVE OPTIONS CONSIDERED

There is no alternative option to consider, as this Policy outlines the Council's statutory obligations with regard to the handling of Whistleblowing Disclosures or 'making a disclosure in the public interest'.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council's Whistleblowing Policy & Procedures support the authority's governance framework and provides assurance to the residents of Tendring that the Council has set in place rules, regulations, quality standards and procedures. This will ensure that high standards of conduct and commitment to service are observed by officers, thus, contributing to the Corporate Plan 2020/24 priority requirements of '*strong finances and governance*' and the '*delivering high quality services*'.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Whistleblowing was introduced by the Public Interest Disclosure Act 1998 (PIDA), now Part IVA of the Employment Rights Act 1996. The legislation provides the legal protection given to Whistleblowers when specific criteria is satisfied. An employee or worker must not be subject to disciplinary action, dismissed or subjected to any other detriment if, in good faith, they have made a "protected" or "qualifying" disclosure.

Other relevant legislation is as follows:

- Public Interest Disclosure (Compensation) Order 1999;
- Public Interest Disclosure (Prescribed Persons) Order 1999 and amendments 2003, 2004 and 2005; and
- Enterprise and Regulatory Reform Act 2013.

FINANCE AND OTHER RESOURCE IMPLICATIONS

No specific risks have been identified. This is a policy review and update which is needed to ensure best practice and continued legal compliance. This work sits within existing budgets.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Whistleblowing Policy & Procedure captures disclosures relating to financial irregularities as well as other areas of malpractice.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The revised Whistleblowing Policy & Procedure forms part of the Council's governance framework. It provides a mechanism to ensure that employees can voice legitimate concerns without fear of; victimisation, subsequent discrimination or disadvantage. This in turn ensures that the highest possible standards of openness, probity and accountability are maintained.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	As a major employer in the district, the Council's ambition is to contribute to building a more prosperous local community by modelling good employment practice. Tendring District Council is also An 'Anchor' organisation – Anchors play a key role in shaping and developing the skills of the local workforce.

MILESTONES AND DELIVERY
<ul style="list-style-type: none"> (a) Agreement by Management Team 13 June 2023 (b) Human Resources & Council Tax Committee 6 July 2023 (c) Officer Decision 7 July 2023 (d) Publication to TDC intranet 10 July 2023
ASSOCIATED RISKS AND MITIGATION
The updated Whistleblowing Policy & Procedure will ensure that the authority meets its statutory obligations with regard to the handling of Whistleblowing Disclosures.
OUTCOME OF CONSULTATION AND ENGAGEMENT
Full consultation has taken place with the local Unison Branch Executive, and they are fully supportive of the recommended approach (<i>in line with best practice</i>) to the reporting & monitoring of disclosures.
EQUALITIES
<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.</p> <p>The Council is committed to being an inclusive employer and a 'Disability Confident Leader', in all of its people policies and practices.</p> <p>The revised Whistleblowing Policy & Procedure will ensure that the Council continues to comply with all relevant employment legislation and identified best practice.</p> <p>The Whistleblowing Policy & Procedure is explicit in that all cases will be dealt with in a non-discriminatory and consistent way and in accordance with the Council's Diversity and Equality Policies.</p> <p>Having undertaken an Equality Impact Assessment, the conclusion is that the proposal does not impact on the protected characteristics.</p>
SOCIAL VALUE CONSIDERATIONS
<p>The Council aims to lead by example as a major local employer. This includes following recognised best practice and ensuring full compliance with legislation.</p> <p>Examples of this include being a Disability Confident Leader and an Employer Recognition Scheme Gold Award holder; both of these commit the authority to being an advocate in these areas.</p> <p>The Council is also an Anchor organisation. Anchor organisations are usually large organisations which are local to place and have the leverage to maximise social value through their role as workplace developers, employers and procurers, their core business (for example health and education) and the linkages they have to the place they operate.</p>
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030
This report has no direct implication on the Council's aspiration to be net zero by 2030.

OTHER RELEVANT IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	Not applicable
Health Inequalities	Not applicable
Area or Ward affected	Not applicable
ANY OTHER RELEVANT INFORMATION	
None	

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>The Council's Whistleblowing Policy has undergone a comprehensive review.</p> <p>The revised document provides more clarity on the terms used by including a section entitled 'definitions', and guidance on the procedure that should be followed.</p> <p>The amended policy and procedure offers a fair and consistent approach to all employees and workers. It gives clear guidance what alleged concerns and 'wrongdoings' are covered by the policy, and what procedure should be followed where someone wants to make a 'protected' disclosure about that concern or 'wrongdoing'.</p> <p>It also highlights when it is appropriate to use other internal policies and procedures such as the Grievance, Harassment and Bullying, Equality and Diversity, Job Evaluation and Complaints policies and procedures.</p> <p>Timescales have also been added to the procedure as a guide to ensure the prompt investigation of concerns.</p> <p>The updated policy contains the new contact details for the charity Protect (previously known as Public Concern at Work) and other appropriate support and advice for employee and workers.</p>
PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.
The original Whistleblowing Policy was introduced in 2015.
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
There are no background papers or published reference material associated with this report.
APPENDICES
Appendix A – Whistleblowing Policy & Procedure June 2023

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