



Audit and Standards Committee Report

Report of: Gillian Duckworth, Monitoring Officer

Date: 12 April 2018

Subject: Whistleblowing

Author of Report: Michele Hassen, HR Service Manager

Summary:

This report

- Provides the Audit and Standards Committee with information on activity under the Whistleblowing Policy from December 2014 to the present date in accordance with the requirements of the Constitution (Appendix A)
 - Recommends an amendment to the Policy and Procedure following feedback on its operation and relationship to the Redeployment Policy
 - Informs the Committee on the ongoing support, training and development provided to the Contact Advisors by HR Senior Management Team
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Recommendations:

It is recommended that the Audit and Standards Committee:

- Note the information on the activity under the Whistleblowing Policy since December 2014
 - Accept the recommended changes to the Whistleblowing Policy and Procedure and its communication
 - Note the ongoing support, training and development offered to the Contact Advisors
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Background Papers: Attached

Category of Report: OPEN

* Delete as appropriate

Statutory and Council Policy Checklist

Financial Implications
YES/NO - Cleared by:
Legal Implications
YES/NO - Cleared by:
Equality of Opportunity Implications
YES/NO - Cleared by:
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
NO
Area(s) affected
None
Relevant Cabinet Portfolio Member
Councillor Olivia Blake, Cabinet Member for Finance
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

WHISTLEBLOWING POLICY

1. Introduction

Sheffield City Council is committed to the highest standards of ethics, transparency, integrity and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of the proper use of public funds and the standards required in public life. If employees feel that this is not happening then the Council encourages them to tell us. This is called Whistleblowing.

The Council has a Whistleblowing Policy to enable employees to raise matters of concern that are in the public interest so that they may be investigated and where appropriate acted upon.

2. Background

The Sections of the Policy and Procedure cover the following:

- How to raise a concern and who with, for example a Supervisor, Manager or more Senior Manager in their Service; directly with a Whistleblowing Co-ordinator; a Contact Advisor or with an external organisation.
- What will happen when an employee has raised a Whistleblowing concern, for example, process of verification, investigation and outcome.
- Responding to a Whistleblowing concern; guidance for managers and whistleblowing co-ordinators for example verification, investigation and outcome.
- Flowcharts, which was a recommendation from the Committee at the point the new policy was implemented, to ensure clarity of understanding of the procedure.

3. Findings and Governance

The Council's record in relation to the receipt of allegations under the Whistleblowing procedure is referenced in Appendix 1.

It is noted that there are a number of allegations which are initially raised as 'Whistleblowing' concerns and which often become managed through different procedures – this is due to ensuring the outcome can be

pursued in the most transparent manner in the event that the 'public interest test' is not met. All allegations recorded through the process are referenced for transparency.

Monitoring and communication arrangements have been put in place to ensure promotion of the new policy. It is noted that few allegations are received under the Whistleblowing Policy and HR will continue will communications activity to ensure further promotion of the policy and procedure.

The Head of HR, Director of Legal and Governance (Monitoring Officer) and Finance Manager (Internal Audit) meet on a quarterly basis to review both the Whistleblowing and Financial Irregularities monitoring report as part of the Councils governance mechanisms.

4. Reasons for Policy/Procedure and Recommendations for Improvement to the Policy/Procedure

If employees bring information about an alleged wrongdoing to the attention of their employer or a relevant organisation, they are protected in certain circumstances under the Public Interest Disclosure Act 1998. This is commonly referred to as 'blowing the whistle'.

The law that protects whistle-blowers is for the public interest – so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'. A qualifying disclosure is where an employee reasonably believes (and it is in the public interest) that one or more of the following is either happening, has taken place, or is likely to happen in the future:

A criminal offence

A failure to comply with any legal obligation

Fraud, theft or corruption

A danger to the health and safety of any individual (including risks to the general public as well as other employees)

Damage to the environment

'Public interest' means that whistleblowing cannot be used to challenge financial and business decisions properly taken by Sheffield City Council or to seek re-consideration of any matter already addressed under other internal procedures, e.g. grievance, disciplinary, dignity and respect. If an employee is going to make a disclosure it should be made to the employer first, or if they feel unable to use the Council's procedure the disclosure

should be made to a prescribed person, so that employment rights are protected. In the case of the Council the prescribed person is the external auditor.

Employees who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure. If a case goes to a tribunal and the tribunal thinks the disclosure was made in bad faith, it will have the power to reduce compensation by up to 25%.

An employee will have to show three things to claim Public Interest Disclosure Act protection:

- that he or she made a disclosure
- that they followed the correct disclosure procedure
- that they were dismissed or suffered a detriment as a result of making the disclosure

Whilst there is no legal requirement for the Council to have such a policy a robust whistleblowing regime is now an integral part of governance best practice and should help to avoid expensive claims by picking up on disclosures at an early stage and dealing with them properly and appropriately. It also helps to ensure that all employees – particularly managers – understand the rights of those who blow the whistle.

A Whistleblowing policy demonstrates that the Council understands the importance of being aware of any wrongdoing or malpractice and of putting it right and makes it more likely that concerns will be raised internally. This reduces the risk of involvement by external Bodies (such as the Tribunal and the external auditor) or the risk of reputational damage.

Having adopted the new policy since November 2016 it is proposed that further clarity is required for employees who have raised a legitimate complaint under the Whistleblowing Procedure and how redeployment may be considered if they feel unable to remain. This is referenced in Appendix B. It is further recommended that repromotion of the policy takes place across the organisation further to this amendment.

5. The Contact Advisor Scheme

This Scheme was introduced as part of the Dignity and Respect at Work Policy and Procedure. The role of the Contact Advisor is to enable employees to access relevant advice and information and to help them to explore and understand various routes to resolving the issues.

Previous feedback on the Whistleblowing Policy has identified a need to have similar support for people using this procedure or people who are subject to Whistleblowing investigations. The role of the Contact Advisor was broadened to include support in these circumstances.

The Contact Advisors receive direct support and guidance from a HR Service Manager including quarterly meetings to discuss the application of relevant policies and procedures; lessons learned from cases and an opportunity for the Service Manager to provide an update on relevant employment and case law and how this may have an impact on policy updates and enquiries they may receive.

6. Recommendations

It is recommended that the Audit and Standards Committee:

Note the information on activity under the Whistleblowing Policy since December 2014

Agree the proposed changes to the Whistleblowing Policy and Procedure
Support the recommendation of re-promoting the Policy and Procedure

Note the support provided to the Contact Advisors

Offer any further recommendations as appropriate to improving organisational processes.

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