

South Lakeland District Council
Audit Committee
Thursday, 5 December 2019
Review of Whistleblowing

Portfolio:	Customer and Commercial Services and People
Report from:	Section 151 Officer
Report Author:	Helen Smith – Finance Lead Specialist (Section 151 Officer)
Wards:	All wards
Forward Plan:	Not applicable

1.0 Expected Outcome

1.1 This report summarises the progress to date on reviewing the Council's whistleblowing arrangements and to provide information on cases reported under the Whistleblowing policy.

2.0 Recommendation

2.1 It is recommended that Audit Committee:-

- (1) note the actions taken following the whistleblowing case; and**
- (2) note the proposals for revising the whistleblowing arrangements.**

3.0 Background and Proposals

3.1 The Audit Committee Work Programme for 2019/20 includes a review of the Whistleblowing Policy and activity.

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law. The second thing that a worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone's health and safety
- damage to the environment
- covering up wrongdoing in the above categories

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a

case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.

3.2 As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer's commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. This is also demonstrated by the following:

- Recognising workers are valuable ears and eyes: Workers are often the first people to witness any type of wrongdoing within an organisation. The information that workers may uncover could prevent wrongdoing, which may damage an organisation's reputation and/or performance, and could even save people from harm or death.
- Getting the right culture: If an organisation hasn't created an open and supportive culture, the worker may not feel comfortable making a disclosure, for fear of the consequences. The two main barriers whistleblowers face are a fear of reprisal as a result of making a disclosure and that no action will be taken if they do make the decision to 'blow the whistle'. Employers should demonstrate, through visible leadership at all levels of the organisation, that they welcome and encourage workers to make disclosures.
- Training and support: An organisation should implement training, mentoring, advice and other support systems to ensure workers can easily approach a range of people in the organisation.
- Being able to respond: It is in the organisation's best interests to deal with a whistleblowing disclosure when it is first raised by a worker. This allows the organisation to investigate promptly, ask further questions of a worker and where applicable provide feedback. A policy should help explain the benefits of making a disclosure.
- Better control: Organisations that embrace whistleblowing as an important source of information find that managers have better information to make decisions and control risk. Whistleblowers respond more positively when they feel that they are listened to.
- Resolving the wrongdoing quickly: There are benefits for the organisation if a worker can make a disclosure internally rather than going to a third party. This way there is an opportunity to act promptly on the information and put right whatever wrongdoing is found.

3.3 The Whistleblowing Policy was last revised by Human Resources Committee in July 2013 and is attached at Appendix 1. No amendments have been made since the last review except to update details such as the telephone number of the whistleblowing hotline and the internal audit contractor. The policy is due to be refreshed by the Human Resources Specialist alongside updating other HR policies and will be considered by the Joint Consultative Panel and Human Resources Committee.

3.4 In February 2013 Public Concern at Work set up a Commission to focus on workplace whistleblowing. The Whistleblowing Commission published a report in November 2013 which recommended a Code of Practice for effective whistleblowing arrangements which could be rooted in statute and taken into account in court cases and by regulators. The Council's current policy incorporates the main requirements of the Code of Practice. Public Concern at Work are now called Protect and the refresh of the HR policy will be based on the latest best practice from Protect.

- 3.5 The review of this policy demonstrates that the Council takes the matter very seriously and is genuinely committed to providing an environment of openness where individuals feel that they are able to raise genuine concerns without fear of future reprisal or detriment.
- 3.6 While whistleblowing protection applies only to employees the Council encourages others to raise concerns about potential wrongdoing including employees of the Council's contracts and members of the public. The Council's Whistleblowing Policy is published on the intranet and the Council's website. A review of the website will be carried out during the next 6 months to ensure it is clear and comprehensive. It is also forwarded to the Council's principal contractors who undertake services on behalf of the Council. The policy is also referred to in the induction process for new staff entrants.
- 3.7 One issue has been raised under the whistleblowing procedure since this was last reported in December 2017 which concerned health and safety arrangements. A full investigation was carried out and improvements made to staff facilities.

5.0 Alternative Options

- 5.1 It is good practice to regularly review processes of corporate governance including systems for raising concerns and ensuring they are dealt with appropriately.

6.0 Links to Council Priorities

- 6.1 Appropriate systems of corporate governance underpin Council Plan activities.

7.0 Implications

Financial, Resources and Procurement

- 7.1 The Whistleblowing Policy is included in the packs issued to tenderers as part of the Council's procurement process.

Human Resources

- 7.2 The Whistleblowing Policy forms part of the locally agreed policies and procedures which are incorporated into the Terms and Conditions of Employment for all employees. Full consultation with the recognised unions took place in line with statutory requirements before the current policy was approved by the Human Resources Committee.

Legal

- 7.3.1 The Code refers to the Public Interest Disclosure Act 1998 which protects employees who make disclosures about certain matters and who, in effect, 'blow the whistle'. An employee cannot be dismissed because of whistleblowing and a claim in unfair dismissal could be made should an employee be dismissed for whistleblowing.
- 7.3.2 It is noted that a copy of the policy is sent to contractors but it is good practice to extend the application of a whistleblowing policy to contractors, partners and sub-contractors. In doing so, it provides protection from any claims by the Council for anybody indirectly involved with the Council who 'blows the whistle' on any unsafe or irregular practices.

Health, Social, Economic and Environmental

- 7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No
- 7.5 If you have not completed an Impact Assessment, please explain your reasons: The review of the whistleblowing policy is a corporate governance issue and has no direct social, economic and environmental impacts.

7.6 Summary of health, social, economic and environmental impacts: N/A

Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? No

7.8 If you have not completed an Impact Assessment, please explain your reasons: This review of whistleblowing is a corporate governance issue, the review of the HR policy will include an Equality Impact Analysis

7.9 Summary of equality and diversity impacts: N/A

Risk

Risk	Consequence	Controls required
Failure to have a Whistleblowing Policy in place.	There will be no high level direction to the way in which potential fraudulent or corrupt acts are reported, investigated or dealt with. Fraud and corruption will not be reported resulting in significant losses in council finances and bad publicity.	A policy that clearly reflects the Council's stance on reporting of potential fraud and corruption which protects potential whistleblowers. A policy that clearly defines responsibilities and the introduction of monitoring arrangements to highlight high risk areas.
Failure to have effective whistleblowing monitoring in place	Potential fraud and corruption will not be detected resulting in significant losses in Council finances and bad publicity	A Policy that clearly identifies responsibilities and monitoring arrangements to highlight high risk areas.

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Whistleblowing Policy

Background Documents Available

Name of Background document	Where it is available
Department for Business Innovation and Skills: Whistleblowing Guidance for Employers and Code of Practice	https://tinyurl.com/u6nngg4

Tracking Information

Signed off by	Date sent
Legal Services	19/11/19
Section 151 Officer	19/11/19

Signed off by	Date sent
Monitoring Officer	19/11/19
CMT	21/11/19

Circulated to	Date sent
Lead Specialist	19/11/19
Human Resources Lead Specialist	19/11/19
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A
Committee	5/12/19
Executive (Cabinet)	N/A
Council	N/A