

TEWKESBURY BOROUGH COUNCIL

Report to:	Audit Committee
Date of Meeting:	21 September 2016
Subject:	Whistleblowing Policy
Report of:	Graeme Simpson, Corporate Services Group Manager
Corporate Lead:	Mike Dawson, Chief Executive
Lead Member:	Councillor Mrs E J MacTiernan
Number of Appendices:	One

Executive Summary:

The Counter Fraud Unit was asked to review this policy on behalf of Tewkesbury Borough Council.

The draft Policy has been developed in consultation with the Counter Fraud Unit, as part of the counter fraud provision, and with the four authorities in the GO Shared Service partnership (GOSS); Cheltenham Borough Council, Cotswold District Council, West Oxfordshire District Council and Forest of Dean District Council.

The policy has been updated to reflect legislative requirements and employer responsibilities to ensure that the Council protects staff who report or whistle-blow about any areas of concern within the authority and to safeguard those against whom allegations are made.

Recommendation:

To RECOMMEND TO EXECUTIVE COMMITTEE the approval of the updated Whistleblowing Policy, subject to any minor amendments as a result of consultation with the GO Shared Service partnership (GOSS).

Reasons for Recommendation:

The Whistleblowing Policy is a governance policy and has been redrafted with the assistance of the Counter Fraud Unit because referrals relating to wrong-doing form a significant role within the counter fraud service.

As the governance committee for counter fraud activity, the Audit Committee is asked to review and approve the policy. This is a complete redraft and Audit Committee will need to recommend the policy go to the Executive Committee for approval due to the significant revisions.

It should also be recognised that the counter fraud service provision is a partnership, so co-ordinating policy across multiple organisations is critical to the success of the partnership.

This policy highlights the key legislation and the roles and responsibilities of Members, Officers and other parties.

Resource Implications:

There are no direct financial implications as a result of this report. However, the adoption of this

Whistleblowing Policy will help support the prevention and detection of fraud and reduce potential financial loss to the Council.

Legal Implications:

Whistleblowing is subject to The Public Interest Disclosure Act 1998 which came into force on 2nd July 1999 and has been amended by the Enterprise and Regulatory Reform Act 2013. The Whistleblowing Policy is set out to ensure it complies and follows the Legislation. It enables those protected e.g. if you are a worker, employee, office worker, a trainee, an agency worker, to make a protected disclosure.

Any breach of the Policy or revealing the identity of someone that has made an anonymous disclosure could result in litigation action against the Council and a significant fine.

Risk Management Implications:

If the Council does not have effective Whistleblowing Policy it puts staff members and its reputation at risk. The authority must fulfil its legal obligations in relation to whistleblowing arrangements. Without an appropriate policy in place the Council are unable to take effective and efficient measures to ensure staff are protected when making allegations of wrongdoing and that staff are protected from vexatious allegations.

Performance Management Follow-up:

The Counter Fraud Unit will review and amend this policy as necessary, in conjunction with Tewkesbury Borough Council and the four authorities within the GOSS partnership, as necessary to ensure that it continues to remain compliant.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1 The Council's Whistleblowing Policy was reviewed by officers in One Legal, the Human Resources section and the Counter Fraud Unit. The Counter Fraud Unit is undertaking a review of a number of policies and procedures to enable data matching and criminal investigations to be legally undertaken and in support of each service area.
- 1.2 All referrals received by the Counter Fraud Unit must be dealt with in the correct manner adhering to regulations, legislation and guidance. This includes internal alerts of wrongdoing which must adhere to whistleblowing legislation.
- 1.3 As such the Counter Fraud Unit was asked to review Tewkesbury Borough Council's revised policy. It has also been involved in reviewing the four separate policies within the GOSS partnership. The aim was to redraft a best practice policy for all, to facilitate continuity amongst Tewkesbury Borough Council and the GOSS partnership.
- 1.4 The policy has been initially compiled from a review of our policy and all policies across the region and current legislation.

2.0 WHISTLE-BLOWING POLICY

2.1 If an individual is considering raising a concern the policy will enable them to understand the type of issues which can be raised, how the person raising a concern will be protected from victimisation and harassment, how to raise a concern and what the Council will do as a consequence of the report.

2.2 In administering its responsibilities this Council has a duty to protect staff members who choose to alert the authority to wrong doing and to protect employees against whom vexatious allegations are made.

2.3 The Council has a responsibility to prevent wrong doing within the authority by promoting high ethical standards and encouraging the exposure of any abuse, thus supporting corporate and community plans.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 The policy has been compiled from a review of all the policies across the region and current legislation by the Counter Fraud Team. Following the initial drafting of the policy, the document is now being circulated to Cotswold District Council, West Oxfordshire District Council, Cheltenham Borough Council and the Forest of Dean District Council. Due to the nature of the policy the Trade Unions are currently being consulted.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Anti-Fraud, Corruption and Bribery Policy, the Anti-Bullying and Harassment Policy, Disciplinary and Grievance Procedures, the Constitution, Code of Conduct for Employees and the Members Code of Conduct, RIPA Procedure and Guidance, Financial Rules and Contract Rules.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 Whistleblowing is embedded in the Employment Rights Act 1966 (as amended by the Public Interest Disclosure Act 1998). This legislates that an employee has the right to take a case to an employment tribunal if they have been victimised at work or lost their job as a consequence of "blowing the whistle."

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 It will be essential that the Counter Fraud Team and the HR Team work closely together on any issues relating to staff investigations as the Council's Disciplinary Process will need to be followed and the process managed carefully to ensure any criminal investigation is not compromised and that HR Policies are not breached.

Managers should ensure that all staff, including agency staff, consultants and contractors etc. are aware of and follow Council Policies and Procedures.

There are no property implications associated with this report.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 The Counter Fraud Team Leader has ensured that the Whistleblowing Policy draft reflected appropriate ethical considerations and human rights.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None.

Background Papers: None.

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Appendices: 1. Whistleblowing Policy.