

CITY AND COUNTY OF CARDIFF DINAS A SIR CAERDYDD

STANDARDS AND ETHICS COMMITTEE:

14 MARCH 2006

REPORT OF THE MONITORING OFFICER

AGENDA ITEM 7

WHISTLEBLOWING POLICY AND PROCEDURE - REVIEW

Reason for this Report

1. To provide the Committee with information on the use of the Council's Whistleblowing Policy and Procedure, to inform the Committee's review.

Background

2. The terms of reference of the Committee include at paragraph (e):

"to oversee and monitor the Council's whistleblowing procedures and to consider ethical issues arising from complaints under the procedure and other complaints".
3. At its meeting in May 2004 the Standards & Ethics Committee recommended revisions to the Council's Whistleblowing Policy and Procedure and associated Anti-Fraud and Anti-Corruption Strategy, and recommended arrangements for publicity. Following consultation with staff, these recommendations were duly approved by the Council on 18 November 2004.
4. Paragraph 8 of the Whistleblowing Policy approved by Council on 18 November 2004 provides that the policy and its operation will be reviewed annually by the Standards & Ethics Committee. At its meeting on 21 November 2005 the Committee received a report providing an overview of the Policy and resolved to request Internal Audit to undertake a review of the implementation of the Policy, and to report to the Committee on this in 2006.
5. At its last meeting the Committee discussed this matter further and resolved to consider this matter firstly, by requesting information on the use of the Policy to be reported to the next meeting of the Committee; and secondly, for this to be followed by a report from Internal Audit on their review of the implementation of the Policy.

Issues

6. The Whistleblowing Procedure (paragraph 9) provides that the person to whom whistleblowing disclosures should be reported (and who should retain relevant records) varies depending upon the nature of the disclosure, as follows:
 - Information that tends to show fraud or corruption is to be reported to the Internal Audit Manager;
 - Information raised in the course of a disciplinary investigation is to be reported to the appointed Investigating Officer; and
 - Any other cases are to be reported to the Monitoring Officer.

7. Enquiries have therefore been made of the Internal Audit Manager, the Chief Officers of each of the 18 Council service areas, and the Monitoring Officer's records, seeking responses to the following questions:
 - '(i) Are you and staff within your Service Area aware of the existence of the Policy and its purpose? If yes, please indicate how you and staff were made aware; and

 - (ii) Are you aware of any disclosures that have been made under the Policy? If yes, please respond to the questions in the attached Questionnaire in respect of each disclosure.'

The Questionnaire referred to above is attached at **Appendix A**.

8. The response received from the Internal Audit Manager indicated that in the past 12 months (since 01/04/05) 37 referrals were made to Internal Audit of matters concerning alleged fraud and or corruption. These matters were reported, investigated and dealt with in accordance with the Anti-Fraud and Anti-Corruption Strategy, a copy of which is attached at **Appendix B**. All of these referrals were made by managers in the employ of the Council, and concerned members of their staff. 15 allegations related to criminal offences, mostly theft, and 22 related to failures to comply with Council policies. The Internal Audit Team either conducted or assisted or advised upon the investigation in each case. The outcomes of these cases have been reported as follows:
Advice given - 17 cases; Nothing found - 5 cases; Proceeding to investigatory / disciplinary - 4 cases; Employee resigned / disciplined – 2 cases; Investigation ongoing – 9 cases.
The average time reported to conclude a referral is 28 days.
Internal Audit have advised that the information recorded above in respect of the last 12 months is typical of earlier years.
The Questionnaire response from Internal Audit is attached at **Appendix C**.

9. The Internal Audit Manager has suggested that the Committee may wish to review the Anti-Fraud and Anti-Corruption Strategy alongside the Whistleblowing Policy and Procedure as these are closely related. The Committee may wish to request the Internal Audit Manager to provide a report to the next meeting of the Committee for this purpose.
10. Responses were received from 17 out of the 18 service areas of the Council, and are summarised in the table below:

SERVICE AREA	AWARENESS OF POLICY & PROCEDURE	DISCLOSURES MADE	FURTHER INFORMATION
Legal & Democratic	New staff are made aware of policy during induction process; other staff are also aware of policy.	No	
Adults	Staff are aware of policy through trade union representatives, but 'not through any formal process'.	Yes	'Some disciplinary cases in 2001/02 where whistleblowing was used as a defence.' 'Three members of staff made disclosures during 2001/02 via this process, although in the subsequent disciplinary investigations and appeals, the basis of this claim was subject to challenge by Management.' – Further details awaited from HR (see below) / Service Area.
Regulatory	Chief Officer is aware of existence and purpose of policy, but says '..I suspect staff lower down in the organisation may not be so aware or familiar with it.'	No	
Leisure, Libraries & Parks	Yes	No	
Scrutiny	'This team is aware of the Whistleblowing policy from previous e-mail circulations.'	No	
Marketing & Tourism	Staff are generally aware of the policy and purpose; to be raised during BIMs	No	
Schools & Lifelong Learning		No	
Human Resources		Yes	Aware of 1 disclosure made in 2001/02 in Social Care – Further details awaited (as above).
Housing & Neighbourhood Renewal	'There is a general awareness of this policy.'	No	

Children	No response received		
Information & Communication Technology	Chief Officer is aware of policy and 'staff know that all corporate processes and procedures are held on the CIS' to which all staff have access.	No	
Policy & Economic Development	Yes	No	
Highways & Transportation	Yes, to be reinforced through team briefings; included in induction process for new staff; and available on intranet to most staff.	No	
Communications		No	
Projects, Design & Development (new service area)	Policy will be communicated through team briefings.	No	
Financial	Most Managers will be aware of the existence of the Policy but not necessarily the content, which would need to be referred to via the intranet CIS site as necessary. Consider that communication of the policy could be improved.	No	No Whistleblowing disclosures made within Financial Services, but the Internal Audit team has received referrals under the Anti-Fraud and Anti-Corruption Strategy – see paragraphs 8 & 9 above.
Waste Management	'Management and trade union representatives only' are aware of the policy and its purpose.	Yes	'The disclosures came via 2 disciplinary hearings, although the people making the statements did not realise they were Whistleblowing. They preferred to believe that anything they said in the disciplinary process remained confidential to that process.' The disclosures were made by employees and were reported to the Chair of the Disciplinary Hearing. The disclosures related to an alleged Health & Safety danger in one instance; and alleged deliberate covering up in one instance. One case was referred to the Chief Legal Services Officer for investigation; and the other case was closed because of a refusal to support the allegation. The case which remains open is still ongoing after approximately 1 year. The Chief Officer has asked the Committee to consider the question of appropriate redress in the case of false allegations being made. The completed Questionnaire is attached at Appendix D.

11. The Monitoring officer is aware of no disclosures being made within Legal Services since she took up employment with the Council in June 2005; and has no record of any disclosures reported previously.
12. As a result of the preliminary enquiries and consideration of this matter as noted above, it has become apparent that the scope and procedure of the Whistleblowing Policy could be clarified, particularly with regard to other related policies and procedures such as those relating to complaints, grievances and fraud or corruption related disclosures. The Committee may wish to request the Monitoring Officer and or the Internal Audit Manager to further review this issue and report on this to the Committee.

ADVICE

This report has been prepared on behalf of the Monitoring Officer. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the advice contained in this section.

Legal Implications

All decisions taken by or on behalf the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers of behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

There are no financial implications arising directly from this report.

RECOMMENDATION

The Committee is recommended to:

- (a) Note the information contained in this report; and
- (b) Make any further recommendations with regard to the review of the Whistleblowing Policy and Procedure and Anti-Fraud and Anti-Corruption Strategy to be conducted by the Internal Audit Team as it considers appropriate.

Kate Berry

Monitoring Officer and Chief Legal & Democratic Services Officer
07 March 2006

Background papers

The Council's Whistleblowing Policy – Report to the Standards & Ethics Committee 21 November 2005; and minutes of that meeting

Whistleblowing Policy and Anti-Fraud and Anti-Corruption Strategy – Report to Council 18 November 2004; and minutes of that meeting

Minutes of Council meeting 29 July 2004

Whistleblowing Policy and Anti-Fraud and Anti-Corruption Strategy – Report to Standards & Ethics Committee 10 May 2004; and minutes of that meeting

Appendices

- Appendix A - Whistleblowing Questionnaire – February 2006
- Appendix B - Anti-Fraud and Anti-Corruption Strategy
- Appendix C - Internal Audit Response to Whistleblowing Questionnaire
- Appendix D - Waste Management Services Response to Whistleblowing Questionnaire

Whistleblowing Policy and Procedure
Standards & Ethics Committee Review
QUESTIONNAIRE

APPENDIX

To inform the Standards & Ethics Committee's review of the Whistleblowing Policy and Procedure, we would be grateful for your response to the following questions:

How many disclosures under the Policy are you aware of? [The disclosures came via 2 disciplinary hearings, although the people making the statements did not realise they were Whistle Blowing. They preferred to believe that anything the said in the disciplinary process remained confidential to that process.](#)

- 1.
2. In respect of each disclosure, please provide the following information:
 - (i) When was the disclosure made? DISCIPLINARY HEARINGS
 - (ii) Who was the disclosure reported to? CHAIR FOLLOWED BY CHIEF LEGAL SERVICES OFFICER IN ONE INSTANCE AND IN THE OTHER CASE A REQUEST FOR FURTHER INFORMATION TO SUPPORT ALLEGATION REFUSED
 - (iii) Who holds the records of the disclosure? HR IN NOTES OF DISCIPLINARY HEARINGS
 - (iv) Was the Whistleblowing Report form used? (If not, how was the disclosure made?) NO
 - (v) Who made the disclosure: – a Member / employee / contractor, supplier or agency worker / anonymous person / other (please specify)? EMPLOYEES
 - (vi) Did the disclosure relate to: - a criminal offence / breach of a legal obligation / miscarriage of justice / danger to the health or safety of any person / damage to the environment? IN ONE INSTANCE H&S
 - (vii) Was there a deliberate covering up of any of the above? ALLEGATION OF COVERING UP IN ONE INSTANCE
 - (viii) Was any concern raised about harm or potential harm to children or vulnerable adults? NO
 - (ix) Was any allegation of (i) fraud or (ii) corruption made? NO
 - (x) Did the disclosure arise during the course of a disciplinary investigation? YES
 - (xi) How did the matter disclosed concern the Council? SEE ABOVE

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Whistleblowing Policy and Procedure
Standards & Ethics Committee Review
QUESTIONNAIRE

APPENDIX

- (xii) Were further enquiries made? If so, what type of enquiries? IN ONE INSTANCE PASSED TO CHIEF LEGAL SERVICES OFFICER FOR INVESTIGATION AND IN THE OTHER CLOSED BECAUSE OF REFUSAL TO SUPPORT ALLEGATION
 - (xiii) Was any referral made? If so, why and to whom? SEE ABOVE
 - (xiv) What was the outcome of the disclosure? AWAITED
 - (xv) How long after the disclosure was made was the matter concluded? STILL OPEN AFTER ABOUT 1 YEAR
3. Is there any other information either about this disclosure, or generally, that you wish to draw to the attention of the Standards & Ethics Committee? SHOULD FALSE ALLEGATIONS BE MADE THERE NEEDS TO BE PROPER REDRESS

Thank you for your assistance.

Whistleblowing Policy and Procedure
Questionnaire for Standards and Ethics Committee

To supply the required information I have interrogated the spreadsheet used to record referrals (assignment control). I have not pulled files and reviewed the investigation working papers etc.

49 referrals have been received to date (12 excluded for the purpose of the questionnaire as 2 passed to Team 2 as not considered fraud and 10 referrals relate to NFI benefit investigations).

1. 37

2.

- i 01/04/05-03/03/06
- ii Internal Audit Investigation Team
- iii Internal Audit Investigation Team
- iv No, predominantly verbal and standard audit referral form used
- v Employees (managers)
- vi 15 allegations related to criminal offence, 22 related to Council Policies – failure to comply
- vii I think the answer to this is no
- viii No
- ix As point vi 15 related to criminal offence (mostly theft)
- x No
- xi Related to employees
- xii Allegation reviewed advice given or investigation conducted
- xiii All of the above are referrals
- xiv As point xii or Advice given = 17, Nothing found = 5, proceeding to investigatory/disciplinary = 4, Employee resigned/disciplined = 2
- xv Average of 28 days (28 closed 9 ongoing)