

CITY AND COUNTY OF CARDIFF DINAS A SIR CAERDYDD

STANDARDS AND ETHICS COMMITTEE:

20th March 2007

REPORT OF THE MONITORING OFFICER

AGENDA ITEM: 5

WHISTLEBLOWING POLICY AND PROCEDURE - REVISED DRAFT

Reason for this Report

1. To provide the Committee with a revised draft Whistleblowing Policy for consideration.

Background

2. The terms of reference of the Standards & Ethics Committee include a responsibility to 'oversee and monitor the Council's Whistleblowing Policy'. The Whistleblowing Policy states that the Policy and its operation will be reviewed annually by the Standards and Ethics Committee.
3. At its meeting on 14th March 2006, the Committee considered a report from the Monitoring Officer on the Whistleblowing Policy and agreed that Internal Audit should be asked to carry out a review of the Policy, and to report to Committee on the outcome.
4. The Audit and Risk Manager reported the findings of their review to the Committee meeting on 10th January 2007, and made a number of recommendations in this regard. The Committee considered these recommendations, made observations thereon, and resolved to instruct the Monitoring Officer to re-draft the Whistleblowing Policy to take account of the recommendations of the review and the Committee's comments.

Issues

5. A draft revised Whistleblowing Policy, based on best practice examples identified in Internal Audit's review of other local authorities' policies, is attached as **Appendix A** to this report for the Committee's consideration.

Recommendations

The Committee is recommended to:

1. Consider the draft revised Policy attached at Appendix A, and agree any appropriate amendments;
2. To instruct the Monitoring Officer to circulate the draft revised Policy, with any agreed amendments, for consultation with trade unions and staff;
3. To instruct the Monitoring Officer, following consultation with trade unions and staff, to recommend the draft revised Policy to the Executive for approval and adoption;
4. To request the Monitoring Officer to report back to the Committee on progress in this matter; and
5. To review the further recommendations of the Internal Audit Review, such as appropriate measures to ensure dissemination and awareness of the Policy, when the revised Policy is approved.

Financial Implications

There are no direct financial implications resulting from this report.

Legal Implications

There are no direct legal implications resulting from this report.

Kate Berry

Monitoring Officer & Chief Legal and Democratic Services Officer
14th March 2007

Appendices

Appendix A Draft Revised Whistleblowing Policy

Background papers

Report of Monitoring Officer 'Whistleblowing Policy and Procedure - Review' 14th March 2006
Minutes of Committee meeting 14th March 2006
Report of Audit and Risk Manager 'Whistleblowing Policy – Internal Audit Review' 10th January 2007

WHISTLEBLOWING POLICY

1. INTRODUCTION

- 1.1. Workers are often the first to realise that there may be something seriously wrong within the Council, and under the Employees' Code of Conduct are required to report such matters. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect workers, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3. This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Policy is intended to encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle outside.
- 1.4. This policy has been discussed with the relevant trade unions and professional organisations and has their support.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:-
 - encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
 - provide avenues for you to raise those concerns and receive feedback on any action taken
 - ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
 - reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith
 - provide a mechanism by which the County Council's Anti-fraud and Corruption Strategy can be implemented.
- 2.2 The Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public, service users, as well as other employees
- damage to the environment
- the inappropriate or unauthorised use of public funds or other resources
- possible fraud and corruption
- abuse of clients, or
- other unethical conduct.

Who can raise a concern under this Policy?

2.3 The Policy applies to all:

- employees of Cardiff County Council
- employees of contractors working for the Council, for example, agency staff, builders and drivers
- employees of suppliers
- those providing services under a contract or other agreement with the Council in their own premises, for example, care homes
- voluntary workers working with the Council.

This policy does not apply in the following circumstances:

2.4 Grievances

If you are an employee, there are existing procedures in place to enable you to lodge a grievance relating to your own employment. You should always use the grievance procedure before this Whistleblowing Policy.

2.5 Disciplinary matters

If a matter raised results in disciplinary action, the Council's Disciplinary Policy and Procedure will apply.

2.6 Elected Members Conduct

Concerns relating to the conduct of elected Members should be raised in accordance with the Members' Code of Conduct.

2.7 Complaints

This policy does not replace the corporate Complaints Procedure which is concerned with addressing complaints about County Council services.

2.8 Other Services

If you have any concerns about a service provided by another organisation on behalf of the County Council you should contact the service provider in the first instance. In cases where the County Council contracts with a private organisation it may be appropriate to notify the relevant Service Area of the County Council. In some cases it may also be necessary to inform the appropriate regulatory organisation.

3. SAFEGUARDS AGAINST HARASSMENT OR VICTIMISATION

- 3.1 The County Council is committed to good practice and high standards and wants to be supportive of employees and others covered by this policy.

Your legal rights

- 3.2 The Public Interest Disclosure Act 1998 provides legal protection, in certain circumstances, to workers making disclosures in good faith about malpractice. The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.
- 3.3 The County Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.4 The County Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action, including disciplinary action if necessary, to protect you when you raise a concern in good faith.

Support to you

- 3.5 Throughout this process:
- you will be given full support from Senior Management
 - your concerns will be taken seriously; and
 - the County Council will do all it can to help you throughout the investigation e.g. provide advocacy services, interpreters etc.
- 3.6 If appropriate, the Council will consider temporarily re-deploying you for the period of the investigation.
- 3.7 For those who are not County Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

- 3.8 Any investigation into allegations of potential malpractice will not influence or be influenced by other procedures such as investigations and hearings under the disciplinary, sickness, capability, redundancy or any other dismissal procedures that already affect you or may affect you in the future.

4. CONFIDENTIALITY

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. However, you should appreciate that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence. At the appropriate time you may need to come forward as a witness.

5. ANONYMOUS ALLEGATIONS

- 5.1 This Policy encourages you to put your name to your allegation whenever possible. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the County Council. It should be remembered that wherever possible confidentiality will be preserved.
- 5.2 In exercising this discretion the factors to be taken into account would include:
- the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

6. UNTRUE ALLEGATIONS

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. HOW TO RAISE A CONCERN

- 7.1 As a first step, you should normally raise concerns with your immediate manager or their superior. In some cases it may be more appropriate to raise concerns with someone more senior or directly with one of the internal contacts listed at the end of this document. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that your management is involved, you should approach the Chief Executive, the Chief Financial Services Officer, the Monitoring Officer or Internal Audit Manager.

- 7.2 Concerns may be raised verbally or in writing. If you wish to make a written report, you are invited to use the following format:
- the background and history of the concern (giving relevant dates); and
 - the reason why you are particularly concerned about the situation.
- 7.3 If your concern is raised verbally, a written note will be taken in line with the format above.
- 7.4 The earlier you express the concern the easier it is to take action.
- 7.5 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.6 Advice or guidance on how to pursue matters of concern may be obtained from your line manager or the people named in the Internal Contact List at the end of this document.
- 7.7 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or have the same concerns.
- 7.8 You may invite your trade union representative or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised.

8. HOW THE COUNTY COUNCIL WILL RESPOND

- 8.1 The person to whom you report your concerns under this policy must, in turn, report them to the Monitoring Officer within five working days.
- 8.2 The County Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.3 Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process
 - be referred to the police
 - be referred to the Wales Audit Office
 - form the subject of an independent inquiry.
- 8.4 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The

overriding principle which the County Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection, vulnerable adults, discrimination or harassment issues) will normally be referred for consideration under those procedures.

- 8.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.6 Within ten working days of a concern being raised, the Monitoring Officer will write to you:
- acknowledging that the concern has been received
 - indicating how the County Council proposes to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - supplying you with information on support available to you, and
 - telling you whether further investigations will take place and if not, why not.
- 8.7 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the County Council will seek further information from you.
- 8.8 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union representative or a work colleague.
- 8.9 The County Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the County Council will arrange for you to receive advice about the procedure.
- 8.10 The County Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation but you must keep that information confidential.

9. THE RESPONSIBLE OFFICER

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the County Council.

10. HOW THE MATTER CAN BE TAKEN FURTHER

- 10.1 This policy is intended to provide you with an avenue within the County Council to raise concerns. The County Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the County Council, further possible contact points are given in the External Contact List at the end of this booklet.
- 10.2 If you do take the matter outside the County Council, you should ensure that you do not disclose information which should properly remain confidential. You will need to confirm this with the person or organisation you decide to contact.

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INTERNAL CONTACT LIST

Advice or guidance about how to pursue matters of concern may be obtained from any of the people named below:

Chief Executive	Byron Davies	029 2087 2400
Corporate Directors:		
Emyr Evans	Sustainable Cardiff	029 2087 3900
Tom Morgan	Marketing and Tourism	
	Waste Management	029 2078 8300
Steven Phillips	Prosperous Cardiff	029 2087 2900
Neelam Bhardwaja	Opportunities Cardiff	029 2087 2460
Monitoring Officer	Kate Berry	029 2087 2421
Deputy Monitoring Officer	Paul Anderton	029 2087 2464
Chief Financial Services Officer	Christine Salter	029 2087 2300
Audit and Risk Manager	Derek King	029 2087 2248
Standards Committee Chair	Akmal Hanuk	c/o 029 2087 2567

Any Chief Officer or any local trade union official.

EXTERNAL CONTACT LIST

If you have used the appropriate internal procedures and are not satisfied with any action taken in relation to your concerns and if you feel it is right to take the matter outside the County Council, further possible contact points are given below. It is stressed that the list below is not exhaustive and you are free to contact any organisation which you feel will be able to deal properly with your concerns.

Audit Commission Anti-fraud and Corruption Hotline	020 7630 1019
Public Ombudsman for Wales – Adam Peat	01656 641 150
Wales Audit Office	029 2026 0260
South Wales Police	029 2022 2111

Professional bodies (examples):

The Chartered Institute of Public Finance and Accountancy	01267 223442
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Regulatory organisations (examples):

Environment Agency	08708 506 506
Health and Safety Executive	0845 3450055
Care Standards Inspectorate for Wales	01437 761300

Your local Citizens Advice Bureau

See Yellow Pages for local numbers

Your trade union

If you are unsure whether or how to use this procedure or want independent advice, you may contact the independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage on how to raise a concern about serious malpractice at work.