

Appendices: 1



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	Updating the Whistleblowing Policy and Procedure
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	10 th May 2017
Key Decision:	YES
Within Policy:	YES
Policy Document:	YES
Directorate:	Borough Secretary & Monitoring Officer
Accountable Cabinet Member:	Leader
Ward(s)	All

1. Purpose

- 1.1 The purpose of this report is to ask Cabinet to recommend that Full Council approve the draft revised Whistleblowing Policy which includes the provision of an external whistleblowing hotline.

2. Recommendations

It is recommended that Cabinet:

- 2.1 recommend to Full Council that the Council retain an external provider to operate an external whistleblowing hotline for the Council;
- 2.2 recommend the draft Whistleblowing Policy and Procedure attached at Appendix 1 to Full Council for approval;
- 2.3 approve the expenditure on an external whistleblowing hotline as detailed in paragraph 4.2.1 of this report, subject to Full Council approving a revised Whistleblowing Policy and Procedure that includes use of an external whistleblowing hotline;

- 2.4 delegate authority to the Borough Secretary & Monitoring Officer in consultation with the Leader of the Council, to select an external whistleblowing provider and determine the specific level of expenditure within the range approved by Cabinet, following a process conducted in accordance with the Contract Procedure Rules; and
- 2.5 recommend to Full Council, that upon adoption of a new Whistleblowing Policy and Procedure, training on whistleblowing is provided to Councillors and Council staff, alongside a campaign to raise awareness of whistleblowing arrangements.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Council currently has a Whistleblowing Policy in place as part of its overall Anti-Fraud and Corruption Policy and Strategy.
- 3.1.2 Whistleblowing refers to the act of reporting or exposing wrongdoing either internally, within the organisation, or externally, for example to a regulator.
- 3.1.3 The purpose of the Council's Whistleblowing Policy is to enable those who work for the Council to disclose allegations of malpractice and be confident that the matter will be effectively investigated and that they will not be left vulnerable to any form of victimisation, or be subject to reprisal as a result of "blowing the whistle".
- 3.1.4 The following lists examples of types of malpractice that might be reported/disclosed under the Council's Whistleblowing Policy:
- Conduct which is a criminal offence or a breach of law
 - Dangerous procedures risking the health, safety or welfare of other employees or members of the public
 - Damage to the environment
 - Unauthorised use of public funds
 - Fraud or corruption
 - Sexual or physical abuse of customers
 - Disclosures related to miscarriages of justice
 - Other unethical conduct
- 3.1.5 Whistleblowing is an important aspect of good governance within organisations. Maintaining an effective Whistleblowing Policy contributes to an organisational environment where the prevention of fraud and malpractice is encouraged and where its detection is promoted.
- 3.1.6 A full review of the Whistleblowing Policy is being undertaken as part of the implementation of the Council's Governance Action Plan (that was considered by Audit Committee on 5th December 2016).
- 3.1.7 The Council's Standards Committee has a role in promoting good governance within the organisation. Therefore, the Standards Committee has in

accordance with its Work Plan, participated in the preparation of a revised draft Whistleblowing Policy (at Appendix 1). On 2nd March 2017, a Working Group of the Standards Committee considered the broad principles of the draft Whistleblowing Policy at Appendix 1 and also considered in detail the principle of the Council having an external whistleblowing hotline. The draft Whistleblowing Policy was then considered by the Standards Committee on 20th March 2017, who resolved to recommend it to Cabinet.

3.2 Issues

3.2.1 The draft Whistleblowing Policy at Appendix 1 is based broadly on a good practice example. It is intended to be relatively short to encourage those who may need to access the Policy to use it.

Introducing an external whistleblowing hotline

3.2.2 Organisations sometimes provide the option for their staff to blow the whistle to an external provider, in addition to the ordinary routes for whistleblowing disclosures to be made within the organisation. The draft Whistleblowing Policy at Appendix 1 includes the provision of an external whistleblowing hotline. The Council's current Whistleblowing Policy does not include an external hotline.

3.2.3 The draft Whistleblowing Policy encourages staff to raise any concerns they may have through standard Line Management initially, to allow those in positions of responsibility to address the issue and seek an explanation for the behaviour or activity. The draft Policy states that if the individual with the concern does not feel that Managers within their area have addressed the concern, or they prefer not to raise it with their own managers for any reason, they can also contact either the Monitoring Officer, the Chief Executive or the confidential external whistleblowing hotline.

3.2.4 The draft Policy does not provide for the external whistleblowing hotline provider to deal with or investigate the subject of any disclosures. It is anticipated that an external provider would receive and log any disclosures made and report them back into the relevant part of the Council, taking into account any potential conflicts of interest arising from the subject matter of the disclosure. It is expected that an external whistleblowing hotline would include alternatives to making a telephone disclosure, for example the ability to report a concern to a secure online area.

3.2.5 There are a number of potential advantages of using an external whistleblowing hotline in addition to the Council's ordinary internal whistleblowing routes. For example:

- People who work for an external hotline who are trained in talking to individuals who may want to make a disclosure can build rapport with those individuals and successfully gather relevant information.
- Hotline can be covered outside of ordinary office hours.

- The existence of an external hotline can assist in allaying any suspicions that staff may have about how the organisation treats whistleblowing and can demonstrate that the organisation is completely committed to hearing any concerns that its staff may have.
- It can provide an alternative route for staff who do not wish to use internal reporting options, but does not need to replace the existence of those internal reporting options.
- Generally, being able to report to an external whistleblowing hotline may lead to a more positive perception by Council staff of whistleblowing arrangements and lead to a higher number of reports being made. (If an organisation receives a very low number of disclosures or no disclosures, this could indicate a lack of confidence in the organisation's whistleblowing arrangements rather than indicating that there are no matters of concern within the organisation).

Protection for whistleblowers

3.2.6 The law on whistleblowing is contained in the Employment Rights Act 1996 ('ERA') as amended by the Public Interest Disclosure Act 1998 ('PIDA'). The ERA was amended by PIDA to introduce protection for workers (including employees) who "blow the whistle" on wrongdoing at work. Workers have a right not to be dismissed or suffer detriment at work as a consequence of making a "protected disclosure". The draft Whistleblowing Policy explains that whistleblowers must not suffer any detrimental treatment as a result of raising a concern. (Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern).

Whistleblowing disclosures by members of the public

3.2.7 The draft Policy explains that people who are not Council employees can still contact the Council to report any concerns or disclosures over wrongdoing. This is to ensure that those who come into contact with the Council or its services have a mechanism through which to report concerns, and to ensure that all information about suspected malpractice or wrongdoing reaches the appropriate individuals within the Council, who can then investigate further. The protections available under PIDA, in certain circumstances, to employees who have made a whistleblowing disclosure, do not extend to disclosures made by members of the public.

Training

3.2.8 The Standards Working Group discussed the importance of training to ensure that all Councillors and staff are aware of the Council's whistleblowing arrangements. When a revised Whistleblowing Policy is formally adopted by the Council, it will be important to ensure that there is a campaign to raise awareness of the Policy and Procedure and ensure that training takes place.

3.3 Choices (Options)

Option 1 (recommended)

3.3.1 That Cabinet:

- recommend to Full Council that the Council retain an external provider to operate an external whistleblowing hotline for the Council;
- recommend the draft Whistleblowing Policy and Procedure attached at Appendix 1 to Full Council for approval;
- approve the expenditure on an external whistleblowing hotline as detailed in paragraph 4.2.1 of this report, subject to Full Council approving a revised Whistleblowing Policy and Procedure that includes use of an external whistleblowing hotline;
- delegate authority to the Borough Secretary & Monitoring Officer in consultation with the Leader of the Council, to select an external whistleblowing provider and determine the specific level of expenditure within the range approved by Cabinet, following a process conducted in accordance with the Contract Procedure Rules; and
- recommend to Full Council, that upon adoption of a new Whistleblowing Policy and Procedure, training on whistleblowing is provided to Councillors and Council staff, alongside a campaign to raise awareness of whistleblowing arrangements.

3.3.2 Adopting the draft Whistleblowing Policy is recommended as it is based on current good practice and it is important that this Policy is reviewed and refreshed regularly to ensure it is up to date and operating effectively. The potential advantages of introducing an external whistleblowing hotline are summarised in paragraph 3.2.5.

3.3.3 A potential disadvantage of using an external hotline is that it adds another stage or layer into the process for dealing with whistleblowing concerns when they are raised. However, any contract with an external provider would include service levels to cover timescales within which reports back to the Council need to be made. Further, the Council's operational processes used to deal with whistleblowing disclosures can be easily modified to integrate the use of an external hotline.

3.3.4 The advantages of training staff and Councillors about whistleblowing are that it will ensure that staff are aware of the relevant avenues for raising concerns, that they gain an understanding of how whistleblowers are protected by legislation, and have confidence that the Council takes whistleblowing seriously.

Option 2 (not recommended)

3.3.5 That Cabinet does not recommend the draft Whistleblowing Policy to Full Council for approval, or recommends an alternative to Full Council.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 If Full Council accepts Cabinet's recommendations, this will result in a policy change as detailed in this report.

4.2 Resources and Risk

- 4.2.1 Cabinet is asked to approve the expenditure on an external whistleblowing hotline subject to Full Council approving the draft Whistleblowing Policy and Procedure. It is estimated that costs of retaining an external whistleblowing hotline will be between £1000 and £9000 per year depending on the provider and package selected.
- 4.2.2 The Council's Whistleblowing Policy is an important part of the Council's overall governance framework and its strategy to prevent fraud and corruption. Strengthening and improving the Policy therefore assists in identifying and managing certain types of risks that may exist in the organisation.

4.3 Legal

- 4.3.1 The legal implications are set out in the body of this Report.

4.4 Equality and Health

- 4.4.1 Full regard will be had to equality and diversity considerations in the implementation of a revised Whistleblowing Policy and any associated awareness raising campaign.

4.5 Consultees (Internal and External)

- 4.5.1 Standards Committee have been consulted and have recommended the draft Policy to Cabinet.

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 Adopting a revised Whistleblowing Policy which incorporates an external whistleblowing hotline to strengthen current arrangements contributes to the priority set out in the Council's 2017-2022 Corporate Plan to 'improve our governance' and implement the Governance Action Plan.

4.7 Other Implications

- 4.7.1 None

5. Background Papers

- 5.1 Report to Standards Committee of 20th March 2016 – *Updating the Whistleblowing Policy and Procedure*

Francis Fernandes
Borough Secretary and Monitoring Officer