

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**18 November 2021**

**Report of the Managing Executive Director**

**WHISTLEBLOWING POLICY**  
(Corporate Services & Budget)

**1. Divisions Affected**

1.1 County-wide

**2. Key Decision**

2.1 This is not a Key Decision

**3. Purpose**

3.1 To seek approval for a new Whistleblowing Policy.

**4. Information and Analysis**

4.1 'Whistleblowing' means the confidential reporting by an individual of any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for the Council. This includes reporting of suspected wrongdoing, malpractice or illegality within the Council.

4.2 The Council currently has in place the Confidential Reporting Code which was approved in November 2016, a copy of which is attached at Appendix 2 for information. It has been reviewed to ensure that it is up to date and fit for purpose. When conducting the review, the Guidance

for Employers and Code of Practice issued by the Department for Business Innovation & Skills has been taken into account. The guidance makes it clear there is no one-size-fits-all whistleblowing policy, however provides some tips about what a policy should include. It recognises policies will vary depending on the size and nature of the organisation, but should be clear, simple and easily understood.

- 4.3 In light of the guidance, the Confidential Reporting Code has been renamed Whistleblowing Policy as it is considered the purpose of the document will be more clearly understood. The document has also been re-drafted so that it is easier to read. A copy of the proposed Whistleblowing Policy is attached at Appendix 3 for approval.
- 4.4 The draft Policy sets out how the Council will handle and respond to any whistleblowing allegations and seeks to:
  - a) encourage employees and members of the public and/or their representatives to feel confident in raising concerns or allegations in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation;
  - b) give a clear message that allegations of serious wrongdoing or impropriety are taken seriously;
  - c) ensure that where the disclosure proves to be well founded, the individuals responsible for such serious wrongdoing will be held accountable for their actions;
  - d) set out what employees and members of the public can expect by way of confidentiality and protection when making a whistleblowing disclosure; and
  - e) identify independent support for employees who wish to make a whistleblowing disclosure.
- 4.5 Once the Policy is approved, the Council will ensure it is publicised via the intranet and the employee newsletter and training is provided. It will also be published on the internet. This will ensure that individuals are aware of the policy and how to make a disclosure.
- 4.6 Subject to Cabinet approving the new Policy, it will also be necessary to remove references to the Confidential Reporting Code and replace with Whistleblowing Policy in the Constitution, specifically the Code of Conduct for Officer, Financial Regulations and role and function of the Governance, Ethics and Standards Committee. This will be addressed through reports to Governance, Ethics and Standards Committee and Council.

## **5. Consultation**

- 5.1 The draft Policy has been presented to Audit Committee for comment in recognition of the Committee's role in providing independent assurance on the Council's arrangements for governance, risk management and internal control. Governance, Ethics and Standards Committee has also been given the opportunity to comment on the draft Policy as the Committee is responsible for the overview of the Confidential Reporting Code.
- 5.2 Audit Committee supported the draft Policy and requested that it is widely promoted and accessible to staff. The Governance, Ethics and Standards Committee considered the draft Policy to be supportive and robust. Recognising the seriousness of criminal activity, the Committee requested that the wording of the Policy be amended to emphasis that there is an expectation potential criminal offences are reported. Some additional wording has therefore been included to reflect this. Governance, Ethics and Standards Committee also agreed that, subject to Cabinet approving the Policy, the above Constitutional amendments be referred to Council for approval.

## **6. Alternative Options Considered**

- 6.1 Do nothing - Cabinet could choose to retain the current Whistleblowing Confidential Reporting Code and not to approve the Whistleblowing Policy. However it is recommended that this option is not pursued to ensure that the Council has an up to date policy in place that is clear and easily understood.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 Department for Business, Innovation & Skills Whistleblowing Guidance for Employers and Code of Practice

## **9. Appendices**

- 9.1 Appendix 1- Implications
- 9.2 Appendix 2 – Current Whistleblowing Confidential Reporting Code

### 9.3 Appendix 3 – Whistleblowing Policy

## 10. Recommendations

That Cabinet:

- a) approves the Whistleblowing Policy at Appendix 3 to the report;
- b) notes that once the Policy is approved it will be promoted both internally and externally; and
- c) recommends to Council that references to the Confidential Reporting Code be replaced with Whistleblowing Policy in the Constitution, specifically the Code of Conduct for Officer, Financial Regulations and role and function of the Governance, Ethics and Standards Committee.

## 11. Reasons for Recommendations

- 11.1 To ensure the Council has a Whistleblowing Policy in place that clearly sets out how the Council will handle and respond to any whistleblowing allegations.
- 11.2 To demonstrate the Council's commitment to listen to concerns raised and give a clear message that allegations of serious wrongdoing or impropriety are taken seriously.
- 11.3 To raise awareness of the Policy so that individuals know how to make a disclosure and understand how the Council will respond.
- 11.4 To ensure that the Constitution remains accurate and is kept up to date.

## 12. Is it necessary to waive the call in period?

- 12.1 No.

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**Implications**

**Financial**

1.1 None directly arising from this report.

**Legal**

2.1 The law relating to whistleblowing is set out 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'.

2.2 The legislation does not require the Council to have a whistleblowing policy in place, however the existence of a whistleblowing policy shows the Council's commitment to listen to the concerns of employees and how it will respond to those concerns.

2.3 The Whistleblowing Policy complies with and must be applied in accordance with data protection legislation.

**Human Resources**

3.1 As set out in the legal implications section.

**Information Technology**

4.1 None directly arising from this report

**Equalities Impact**

5.1 The Whistleblowing Policy is aimed at ensuring the highest standard of ethical and honest behaviour. It is intended to give confidence to those who wish to raise an allegation of wrongdoing and should not disadvantage any individual that has one or more protected characteristic. An Equality Impact Assessment will be prepared for consideration by Cabinet in due course.

**Corporate objectives and priorities for change**

6.1 None directly arising from this report.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 Having a robust Whistleblowing Policy in place that encourages employees to report wrongdoing is an important way to manage risks to the Council.