

<b>AUDIT COMMITTEE</b> 16 April 2006	<b>AGENDA ITEM</b>
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**WHISTLEBLOWING POLICY**

**Summary of Report**

This report presents for information the current Whistleblowing policy as well as details of usage of the policy internally.

**Background Papers**

Whistleblowing Policy & Employee Code of Conduct  
Public Interest Disclosure Act 1998  
Public Interest Disclosure Amendment (Prescribed Persons) Amendment Order 2003

**Reason for Scrutiny**

The Audit Committee's activities include ensuring an effective internal control environment is maintained and regular ongoing scrutiny of internal audit work. This includes ensuring that appropriate arrangements are in place to respond to concerns raised by employees reported to internal audit.

**Recommendation**

The Committee is asked to note the contents of the report.



Signed.....  
**Executive Director: Carole Evans - 3 April 2007**

**Current Position**

The Public Interest Disclosure Act 1998 requires public bodies to have in place a whistleblowing policy. The legislation provides statutory protection for employees from dismissal or action short of dismissal (including victimisation) by their employer for making a disclosure in good faith. The legislation also ensures confidentiality for whistleblowers.

**Issues Covered by the Policy**

The Council's whistleblowing policy which meets all legislative requirements covers reporting of:

- A criminal offence
- Failure to comply with a legal obligation
- Miscarriage of justice
- Endangering Health & Safety
- Deliberate concealment of information which would constitute any of the above.

The policy does not and cannot by law cover:

- Matters relating to employee terms and conditions of employment
- Bullying or harassment at work (unless that action is as a result of making a protected disclosure)
- Customer complaints about service delivery.

## **Summary of the Council's Policy**

The policy (**Appendix A**) provides for the employee to be able to raise concerns through the following channels:

- The employee's line manager
- The employee's Executive Director
- The Chief Executive, Chief Internal Auditor, or Head of Human Resources & Development
- External Agencies (as covered later in this report).

The policy also gives details of organisations who may be able to provide external help and advice including Public Concern at Work.

There are also specific provisions for social services workers where separate statutory complaints procedures are in place as well.

## **External Agencies**

Under the Public Interest Disclosure Amendment (Prescribed Persons) Amendment 2003, there is a prescribed list of agencies to whom protected disclosures can be made.

These are as follows:

- Audit Commission
- Certification Officer
- Charity Commission
- Commissioners of Customs & Excise
- Commissioners of the Inland Revenue
- Director of the Serious Fraud Office
- Environment Agency
- General Social Care Council
- Health & Safety Executive
- Housing Corporation
- Information Commissioner
- National Care Standards Commission.

## **Use of the Policy**

By its nature, a whistleblowing policy assures confidentiality. Also the Council is not party to details of specific issues raised with external agencies unless of course the agency requires the Council to respond. However, with regards to whistleblowing complaints raised internally to the Council, 6 complaints were received in 2005/06 and 2 complaints were received in 2006/07.

## **Review of the Policy**

In 2004 the Council introduced a new employee code of conduct which included a revised whistleblowing policy. In 2006, the policy was updated to reflect changes in terminology (for example job titles of specified persons).

In his investigation into an employment tribunal case which took place last year, the District Auditor is expected to comment on the effectiveness of the Council's policy and arrangements. Any recommendations made by the District Auditor on this matter will be implemented.

The Government White Paper "Strong & Prosperous Communities" makes reference to revising codes of conduct and also makes provisions for Elected Members to speak out on planning issues. We are awaiting full details of proposed legislation on these issues which may impact upon the employee code of conduct or whistleblowing policy.

#### **Resource and legal considerations**

The Council is required to have in place a whistleblowing policy under the provisions of the Public Interest Disclosure Act 1998.

#### **Citizen Impact**

Having in place an effective whistleblowing policy will ensure that services to citizens are delivered to a high standard.

#### **Performance and Risk Management Issues**

None directly.

#### **Equality Implications**

The policy applies to all staff.

#### **Consultation**

Trades unions were consulted during the formulation of this policy and the associated employee code of conduct.

#### **Vision 2008**

No direct implications.

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**CONFIDENTIAL REPORTING POLICY  
(WHISTLEBLOWING)****1. Introduction**

All of us, at one time or another have concerns about what is happening at work. More often than not, these concerns are relatively minor and can be easily resolved. However, when those concerns are about unlawful conduct, financial malpractice or dangers to the public or environment, it can be difficult to know what to do. Confidential reporting or 'whistle blowing' is about helping people have a voice to raise legitimate concerns or worries about the council's activities and practices. Walsall MBC has adopted this policy to make it possible for anyone who has serious concerns to come forward and voice those concerns. These issues will be taken seriously and treated on a confidential basis.

**2. What is the policy for?**

The Council has introduced this policy to:

- Encourage employees to feel confident in raising serious concerns regarding malpractice
- Provide avenues for employees to raise those concerns and receive feedback on any action taken
- Ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied.
- Reassure employees that they will be protected from possible reprisals or victimisation if they have reasonable belief that they have made any disclosure in good faith.

**3. Who does the policy apply to?**

The policy applies to all employees and those contractors working for the council on council premises; it also covers suppliers and those providing services under a contract with the council in their own premises.

**4. What kind of areas are covered?**

The policy is intended to cover the following areas of concern:

- Conduct which is an offence or a breach of the law
- Disclosures related to miscarriages of justice
- Health and safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and corruption
- Sexual, physical or verbal abuse of clients
- Any other unethical conduct or improper conduct.

Or it may be something that:

- Makes an employee feel uncomfortable in terms of known standards
- Is against the Council's Contract and Procedure Rules.

This policy is not intended to replace the customer corporate complaints, employee grievance or other established council procedures.

## **5. When to raise a concern**

Employees may be worried about raising such issues or may want to keep the concerns to themselves, perhaps feeling that it is none of their business or that it is only a suspicion. Additionally there might be a feeling that raising the matter would be disloyal to colleagues, managers or the organisation. There is also the danger of saying something but finding out the wrong person has been notified or that the issue has been raised in the wrong way. Walsall MBC has introduced this policy to enable employees to raise their concerns about such malpractice at an early stage and in the right way. We would rather that the matter was raised when it was a concern rather than wait for proof.

Employees are encouraged to use this policy if ever there is an occasion when an issue is troubling or is of concern. The whistleblowing policy is primarily for concerns where the interests of others or the council itself are at risk.

## **6. Our assurances to you**

### **Safety**

The Strategic Leadership Team are committed to this policy. Any employee raising a genuine concern under this policy will not be at risk of losing their job or suffering any form of retribution as a result. Provided it is an act of good faith it does not matter if an employee is mistaken. Of course this assurance is not extended to anyone who maliciously raises a matter they know is not true.

### **Confidentiality**

We will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that someone might want to raise a concern in confidence under this policy. If an employee asks to have their identity protected by keeping their confidence, it will not be disclosed without their consent. If the situation arises where we are not able to resolve the concern without revealing an employee's identity (for instance because their evidence is needed in court) this will be discussed fully with them as to whether and how we can proceed.

Remember that if an employee does not disclose who they are, it will be much more difficult for us to look into the matter or to protect their position or to give them feedback. Accordingly while we consider anonymous reports, this policy is not well suited to concerns raised anonymously.

## **7. How we will handle this matter**

Once an employee has told us of their concern, we will look into it to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation. In any case within ten days, the employee will be written to with:

- an acknowledgement that the concern has been received
- an indication of how long it will take to provide a final response
- an estimate of how long it will take to provide a final response

- an indication of any initial enquires that have been made
- information on staff support mechanisms
- notification of any further investigations that will take place and if not, why not.

Where appropriate the matters raised may:

- be investigated by management, Internal Audit, or disciplinary process
- be referred to the external auditor
- form the subject of an independent enquiry
- be referred to the police

The amount of contact between the officers considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from the employee. Where any meeting is arranged, off-site if an employee wishes, they can be accompanied by a union or professional representative or a friend.

When someone raises a concern they might be asked to consider how the matter might best be resolved. If someone has a personal interest in the matter we ask that they tell us of this concern at the outset. While the purpose of this policy is to enable us to investigate malpractice and take appropriate steps to deal with it, we will give anyone raising a concern as much feedback as we possible can. If requested we will confirm our response in writing. Please note, however, that we will not be able to divulge the precise action we take if this infringes a duty of confidence owned by us to someone else.

## **8. How to raise a concern internally**

### **Step 1**

Employees with a concern about malpractice should hopefully feel able to raise it with their manager. This can be done orally or in writing. The more information that can be supplied, including dates, times, details and names, the greater the opportunity to establish the facts. Although employees are not expected to prove beyond doubt the truth of the allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

### **Step 2**

In instances where anyone feels unable to raise the matter with their manager for whatever reason, please raise the matter with:

- Chief Internal Auditor
- Executive Directors
- Head of Human Resources.

### **Step 3**

In instances where someone has followed these channels and they still have concerns, or if they feel that they cannot discuss it with any of the above, please contact:

Chief Executive  
Walsall MBC  
The Civic Centre  
Darwall Street  
Walsall WS1 1TP

In writing marking your letter private and confidential.

## **Social Services Employees**

Social Services has built on the corporate policy in respect of its need to be especially vigilant in protecting the interests of vulnerable clients and operated a statutory complaints procedure for all complaints relating to service users receiving a service from service users. In the first instance, such complaints should be directed to the Consumer Relations Officer, Social Services, Baytree House, Erdington Road, Aldridge.

### **9. Independent Advice**

Employees can also seek external advice from the following: the external auditor; their trade union; the Citizens Advice Bureau; the relevant professional body or regulatory organisation; the police or “Public Concern at Work” (0207 404 6609). Employees should specify that they want to raise this matter in confidence so that the appropriate arrangements can be made.

### **10. External Contacts**

While we hope this policy gives employees the reassurances they need to raise such matters internally, the Council would prefer employees to raise an item of concern with an appropriate external regulator than not at all.

Remember, malpractice affects everyone and is unacceptable.  
Blowing the whistle on it is one way of stamping it out – for good.

Approved by Council 24 April 2006  
Implemented 30 August 2006