

Audit Committee – 8 December 2009

Confidential Reporting Policy (Whistle blowing)

Summary of report:

This report presents the confidential reporting policy for the committee's consideration as requested by members at their last meeting on the 27 October 2009.

Background papers:

Policy document held on the council's web pages.

Recommendation:

1. To note the contents of the report and policy.

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Rory Borealis – Executive Director (Resources)

27 November 2009

Background:

The confidential reporting policy (whistle blowing) has been in existence for a number of years and until recently was included as an appendix to the 'Code of Conduct for Employees'.

During internal audit's recent review of the council's corporate governance arrangements, one of the agreed actions was to show the policy as a stand alone document. This has now taken place and the policy appears on the human resources and development and internal audit web pages and will shortly be shown on the council's internet page under council and democracy. A copy is attached at **Appendix 1**

As well as being able to telephone or write in with their concerns, it is also possible for individuals to report concerns via an online notification form. This is a secure and confidential site controlled by the internal audit service.

In relation to whistle blowing complaints received in the recent past, 3 were received in 2006/7 and none have been received since. The committee will be aware however, and as mentioned below, the service receives a significant number of allegations regarding suspected irregularities and from a variety of sources. All will be investigated to a conclusion.

Resource and legal considerations:

Each whistle blowing complaint received will be investigated to a conclusion and action taken as necessary. There is provision within the annual audit plan for these investigations to be undertaken. Legal advice and assistance will be sought as and

when necessary to progress an investigation. Where whistle blowing complaints, involving irregularity, are received by executive directors, these will be reported to internal audit to investigate.

Citizen impact:

Providing arrangements, which enable irregularity complaints to be received in a safe and secure manner, demonstrates that the council operates in an open and transparent way. Taking steps to promptly and vigorously investigate the reported potential irregularities demonstrates the seriousness in which the council takes its responsibilities in ensuring effective control arrangements are in place and in dealing with reported irregularities.

Performance and risk management issues:

Many Audit Committee activities are an important and integral part of the Council's performance management and corporate governance frameworks. The internal audit strategic plan is risk assessed to ensure areas most at risk are examined as a priority and includes an allocation of time to undertake unplanned irregularity work.

Unplanned irregularity work is subject to regular review and progress monitoring by both the Chief Internal Auditor and the Section 151 officer. Irregularities are received occasionally via whistle blowing, some may be noted during regularity audit reviews or be reported from a number of sources, including council managers, employees, and externally. Irrespective of how the allegations are reported, however, each will be subject to investigation. Some result in little investigatory time having to be spent, others can take much longer. Relevant action, where found to be appropriate, will always be taken, ie disciplinary, court proceedings, police referral and recovery of losses.

Equality Implications:

None arising from this report

Consultation:

Internal audit will take whatever action is necessary to progress and complete their irregularity investigation and provide a report, where possible, to management. This may mean meeting with a wide variety of individuals including council employees, contractors, external agencies or members of the public. Where appropriate, the matter will also be referred for police action.

While the purpose of this policy is to enable malpractice to be investigated, the council will give anyone raising a concern as much feedback as possible, formally if requested. It would not be possible however, to divulge the precise action to be taken if this could infringe a duty of confidence owed by us to someone else.

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Walsall Council

CONFIDENTIAL REPORTING POLICY (WHISTLE BLOWING)

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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 to raise legitimate concerns or worries about the council's activities and practices. Walsall Council has adopted this policy to make it possible for anyone who works for the council, including temporary and agency staff, and those providing goods and services to the council, who have 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 those working for the council, including temporary and agency staff, 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 kinds of area 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
- 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 policies and practices

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

5. When to raise a concern

Under section 13 of the 'Code of Conduct for Employees', where they become aware of or suspect that unauthorised activity is taking place, there is a duty for employees to report such wrongdoing.

Employees may however, 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 Council has put this policy in place 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 whistle blowing policy is primarily for concerns where the interests of others or the council itself are at risk.

6. Our Assurances to you

Safety

The Corporate Management Team is 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 raise 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, 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 understanding of the concern that has been reported
- An indication of how the matter will be dealt with
- 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 possibly 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 owed 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 verbally 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 01922 652831
- Executive Directors
 - Children's 01922 652756
 - Neighbourhood 01922 653203
 - Regeneration 01922 652004
 - Resources 01922 652910
 - Social Care & Inclusion 01922 652700
- Head of Human Resources & Development 01922 655600

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 Council, The Civic Centre, Darwall Street, Walsall WS1 1TP

Such concerns should be made in writing, marking your letter private and confidential. Alternatively you can telephone on 01922 652000

On line reporting

An [on line notification form](#) is available on the internal audit intranet page to enable concerns to be reported in a secure and confidential manner.

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. In the first instance, such complaints should be directed to the Customer Care Team, Social Care and Inclusion, Tameway Tower, 6th Floor, East Wing, Bridge Street, Walsall WS1 1JZ (tel 01922 650487).

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” (020 7404 6609).

Employees should specify that they want to raise this matter in confidence so that the appropriate arrangements can be made.

10. External Contacts

We hope this policy gives employees the reassurances they need to raise such matters internally. However, if an employee feels unable to raise a concern through internal channels, the council would rather employees raise their concern with an appropriate external regulator than not raise it at all.

Remember, malpractice affects everyone and is unacceptable.

Blowing the whistle on it is one way of stamping it out – for good.