

# Report



## Standards Committee

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### Part 1

Date: 15<sup>th</sup> November 2022

**Subject** Whistle-Blowing Policy.

**Purpose** To review the Council's Whistle-Blowing Policy and make any recommendation or comments regarding its effectiveness.

**Author** Head of Law & Standards

**Ward** General

**Summary** As part of the additional, non-statutory functions allocated by the Council, Standards Committee are responsible for reviewing the effectiveness of the Whistle-Blowing Policy and to provide advice or make recommendations.

The Whistle-Blowing Policy has now been updated and it is compulsory for all staff to undertake mandatory e-learning. The training is mandatory order to ensure that all employees understand what whistle-blowing means and how this is vital to maintaining the integrity of the Council's decision-making processes and taking action to address any wrongdoing.

A copy of the Whistle-Blowing Policy is attached to this report, which also sets out numbers of complaints received by Newport City Council in 2021/22, compared with most of the other Welsh authorities

Standards Committee are asked to review the policy and its operation and make any comments or recommendations regarding its effectiveness.

**Proposal** To review Whistle-Blowing policy and its operation and make any comments or recommendations regarding its effectiveness.

**Action by** Head of Law & Standards

**Timetable** Immediate

## Background

1. The Public Interest Disclosure Act 1998 provides statutory protection against victimisation for employees who complain about wrongdoing on the part of their employers. The protection only applies where the person who makes the disclosure reasonably believes that:
  - (a) they are acting in the public interest, which means that protection is not normally given for personal grievances; and
  - (b) The whistle-blowing disclosure is about one of the following:
    - (i) criminal offences (this includes financial improprieties, such as fraud)
    - (ii) failure to comply with duties set out in law
    - (iii) miscarriages of justice
    - (iv) endangering someone's health and safety
    - (v) damage to the environment
    - (vi) covering up wrongdoing in any of the above categories.
2. Every public sector employer is required to have a Whistle-Blowing Policy in place which provides a clear framework to enable employees to raise concerns within the Council without fear of victimisation, discrimination or disadvantage, rather than seeking a resolution to the problem outside the Authority. However, it is acknowledged that some whistleblowing complaints which raise serious allegations about criminal behaviour or a breach of statutory duty may have to be referred to external Regulators for consideration under their statutory enforcement powers.
3. As part of the additional, non-statutory functions allocated by the Council, Standards Committee are responsible for reviewing the effectiveness of the Whistle-Blowing Policy and to provide advice or make recommendations.
4. The Council's Whistle-Blowing Policy has now been updated and published on the Intranet as part of the suite of HR policies and guidance. This updated policy was communicated to all staff through the electronic staff bulletin published on 30<sup>th</sup> September 2022. Staff were also advised that Whistle-Blowing training is now mandatory for all employees and they were provide with a link to the on-line e-learning module on the NHS eLearning website. The training is mandatory order to ensure that all employees understand what whistle-blowing means and how this is vital to maintaining the integrity of the Council's decision-making processes and taking action to address any wrongdoing.
5. A copy of the Whistle-Blowing Policy is attached to this report. The policy applies to all employees, contractors, suppliers, elected members, and agency staff working for the Council on Council premises or carrying out duties for the Council. The policy is also commended to individual School Governing Bodies for adoption.
6. The Whistle-Blowing Policy has to be read in conjunction with the Members and Employee Codes of Conduct, as well as the Council's Disciplinary and Grievance procedures, as the duty to report wrong-doing underpins the standards of behaviour

expected from elected members and Council officers. As a 'prescribed person' under the legislation, the Ombudsman is required to report annually on whistleblowing disclosures made in the context of Code of Conduct complaints.

7. To assist with the policy review, data has been shared with 18 of the 22 unitary authorities in Wales and the Mid Wales Fire & Rescue Service, about the numbers of whistleblowing complaints submitted during 2021/22. The numbers of complaints received by each authority which submitted the data is set out in the Table below:-

**Whistleblowing Notifications for 2021/2022**

<b>Council</b>	<b>Complaints</b>
Blaenau Gwent County Borough Council	2
Bridgend County Borough Council	1
Cardiff County Council	3
Carmarthenshire County Council	5
Caerphilly County Borough Council	0
Ceredigion County Council	0
Flintshire County Council	1
Isle of Anglesey County Council	2
Merthyr Tydfil County Borough Council	0
Mid and West Wales Fire and Rescue Service	0
Monmouthshire County Council	1
Neath Port Talbot County Borough Council	11
Newport City Council	5

Pembrokeshire County Council	2
Rhondda Cynon Taff County Borough Council	18
Swansea Council	0
Torfaen County Council	0
Vale of Glamorgan Council	0
Wrexham County Borough Council	4

8. The highest numbers of complaints were received in Rhondda Cynon Taff County Borough Council (18) and Neath, Port Talbot (11). There were 5 whistleblowing complaints received in Newport, which is average by comparison with other similar authorities.
9. Of the 5 whistleblowing complaints submitted in Newport in 2021/22:-
  - 2 were not upheld
  - 3 members of staff resigned in response to the allegations, but would have been dismissed had they not left
10. There is one outstanding whistleblowing complaint from a former member of staff involving potential fraud in relation to the Covid-19 Test, Trace Protect service, which is still under investigation by the Chief Internal Auditor.
11. The numbers of complaints demonstrate a general awareness of the Whistle-Blowing Policy among staff and their protected rights to make a complaint. However, there is also an assurance that most of the complaints related to internal disciplinary and grievance matters and not serious allegations of illegality or malpractice.

## Financial Summary

There are no financial implications

## Risks

<b>Risk Title / Description</b>	<b>Risk Impact score of Risk if it occurs* (1-5)</b>	<b>Risk Probability of risk occurring (1-5)</b>	<b>Risk Mitigation Action(s)</b> What is the Council doing or what has it done to avoid the risk	<b>Risk Owner</b> Officer(s) responsible for dealing with the risk?

			or reduce its effect?	
Not reviewing the Whistle-Blowing Policy would reduce its effectiveness and expose the Council to risks of unlawful behaviour or malpractice	4	1	Regularly reviewing the policy and making recommendation for improving the content and its communication to staff	Head of Law & Standards and HR/OD Manager

\*Taking account of proposed mitigation measures.

### **Links to Council Policies and Priorities**

The underlying principles of protective public interest disclosure and whistle-blowing are all enshrined in the Council's corporate and well-being objectives.

### **Proposed action**

To review Whistle-Blowing policy and its operation and make any comments or recommendations regarding its effectiveness.

### **Comments of Chief Financial Officer**

There are no financial implications

### **Comments of Monitoring Officer**

Set out in the Report.

### **Comments of Head of People Policy & Transformation**

There are no specific staffing or policy implications

### **Fairness and Equality Impact Assessment:**

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

The principles of fairness and equality are embodied within the Whistle-Blowing Policy. No FEIA is required, as the Committee are just reviewing its operation and making recommendations

- There are no negative impacts in terms of equalities or social disadvantage. The whistle-blowing policy is based on fairness, transparency and equality and prevents any employee from being discriminated against by virtue of a protected disclosure.
- In terms of the sustainable development principle and 5 ways of working

**Long-term** – The Annual Report will assist Standards Committee in taking a long-term view about improving whistle-blowing

**Prevention** – The Annual Report guide will help to prevent future whistleblowing complaints

**Integration** – The Policy has been produced in consultation with the staff and recognised trade unions

**Collaboration** – The Whistle-Blowing Policy will assist staff in making complaints and facilitate the resolution of complaints, in a more collaborative way.

**Involvement** – The Annual Report will encourage greater involvement in reporting and resolving complaints

## **Background Papers**

The Council's Whistle-Blowing policy.

Dated: 28<sup>th</sup> October 2022