

BROMSGROVE DISTRICT COUNCIL

Audit, Standards and Performance Committee 5th December 2024

Whistleblowing Report

Relevant Portfolio Holder	Councillor Karen May Leader and Cabinet Member for Strategic Partnerships and Enabling
Portfolio Holder Consulted	No – this is an update paper
Relevant Head of Service	Pete Carpenter
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Wards Affected	All
Ward Councillor(s) consulted	No
Relevant Strategic Purpose(s)	All
Key Decision / Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

The Audit, Standards and Governance and Committee note the progress on

- 1) The updated Whistleblowing Policy.**
- 2) Where this Whistleblowing Policy can be accessed.**

2. BACKGROUND

- 2.1 The Chair of the Audit, Standards and Governance Committee requested that Council's Whistleblowing be brought to the Committee for Review. The Chair queried where the present Whistleblowing Policy was located in order for Staff, Members and the Public to access.
- 2.2 Whistleblowing Policies are part of the wider Council Human Resources Policies. Browne Jacobson were commissioned by the Council to review these policies in 2024 and initial drafts of the wider policies have been received by the Council.
- 2.3 Attached at Appendix A is the final version of the Whistleblowing Policy after internal review. This is the updated version following review to the version that came to this Committee in July. This policy:
 - Sets out what Whistleblowing and a Whistleblower is/are.
 - How this links to equalities legislation.
 - How to raise concerns.

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- Protections for Whistleblowers.
- Other Whistleblowing Reporting routes.
- How the overall process works.

2.4 This Policy will be located on the ORB under the “working for us” section (this is a tile at the top of the page and also on the Webpage (still being finalised as the Website has been significantly upgraded over the past month)). The Whistleblowing Policy relates to staffing, Members are covered by the Members Code of Conduct.

2.5 The Policy will be presented to the Unions at the joint meeting in December 2024 for their comment/approval. Once through this meeting it will replace the present version.

3. FINANCIAL IMPLICATIONS

3.1 This paper sets out the financial frameworks within which the Council works. Each case will be specific and will depend on the level of investigation required.

4. LEGAL IMPLICATIONS

4.1 There are no direct legal implications arising as a result of this report, however the frameworks are generally linked to statute or the Council’s Constitution.

5. STRATEGIC PURPOSES - IMPLICATIONS

Relevant Strategic Purpose

5.1 The Strategic purposes are included in the Council’s Corporate Plan and guides the Council’s approach to ensuring we focus on the issues and what are most important for the District, and our communities. Our strategies/policies are integrated within all our Strategic Purposes.

Climate Change Implications

5.2 There are no direct climate change implications arising as a result of this report, however individual whistleblowing cases may have an impact.

6. OTHER IMPLICATIONS

Equalities and Diversity Implications

6.1 There are no direct equalities implications arising as a result of this report, however individual whistleblowing cases may have an impact.

Operational Implications

6.2 This is a Governance Policy and impacts every operational service area.

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7. RISK MANAGEMENT

- 7.1 The Governance of the Council is a core underlying theme of the Council's Risk Management Strategy. Whistleblowing is an important process to ensure that the Council is operating with the correct Governance processes and achieving value for money.

8. BACKGROUND PAPERS

Previous Whistleblowing Policies

9. Appendices

Appendix A – Present Whistleblowing Policy

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Appendix A Whistleblowing Policy

1. Introduction

Employees are often the first to realise that there may be something seriously wrong within the Council, but may not express their concerns because they feel that speaking out would be disloyal to their colleagues or the Council. Employees may also fear harassment or victimisation and may feel that it would be easier to ignore the concern rather than report what may be just a suspicion of malpractice. However this is not a culture that the Council wishes to encourage.

We are committed to the highest possible standards of openness, accountability and probity. In line with that commitment we encourage Employees with serious concerns about the Council's work to come forward and voice those concerns. This Policy document makes it clear that anyone wishing to highlight wrongdoings can do so without fear of reprisals and is intended to encourage and enable employees and other workers to raise concerns within the Council rather than overlooking a problem or blowing the whistle outside.

2. Who does this policy apply to

This Policy applies to all employees of the Council, officers, consultants, self-employed contractors, casual workers, agency workers, volunteers, and interns (collectively referred to as **Employees** in this policy).

3. Aims and Scope of this Policy

The purpose of this policy is: -

- Provide confidential avenues for Employees to raise concerns and receive feedback on any action taken;
- Allow Employees to take the matter further if they are not satisfied with the Council's response; and
- Reassure Employees that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

4. What is whistleblowing

Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work. The Public Interest Disclosure Act 1998 gives legal protection to Employees against being dismissed or penalised by their employers for publicly disclosing serious concerns falling into certain specified categories. This policy is designed to be used to raise serious concerns which are in the public interest. Examples of serious misconduct or malpractice which may prompt such a disclosure are:-

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- Criminal activity
- Failure to comply with a legal obligation
- Miscarriage of justice
- Endangering of health and safety
- Damage to the environment
- Bribery, financial fraud or financial mismanagement
- The deliberate concealment of any of the above matters.

A “**whistleblower**” is a person who raises a genuine concern relating to any of the above. If Employees have any genuine concerns related to suspected wrongdoing or danger affecting any of the Council’s activities (a “**whistleblowing concern**”) they should report it under this Policy.

This Policy should not be used for complaints relating to an employee’s own personal circumstances, such as the way they have been treated at work. In those cases, the employee should use the Grievance Procedure or the Dignity at Work Policy.

If a complaint relates to an employee’s own personal circumstances but they also have wider concerns regarding one of the areas set out above (for example, a breach of our internal policies), the employee should discuss with a member of the Council’s leadership team which route is the most appropriate.

If Employees are uncertain whether something is within the scope of this Policy, they should seek advice from a member of the Council’s leadership team.

This Policy has been implemented following discussion with the recognised trade unions. It has been formally adopted by the Council.

This Policy does not form part of any employee’s contract of employment or other contract to provide services and the Council may amend it at any time with consultation where appropriate.

5. Safeguards

5.1 Protection from Harassment or Victimisation

The Council is determined that the culture and tone of the organisation is one of honesty and opposition to all forms of wrongdoing.

The Council recognises that the decision to report a concern is a difficult one to make, not least because of the fear of reprisal from those committing the wrongdoing. Therefore, the Council will not tolerate harassment or victimisation and will take action to protect Employees when they raise a concern in good faith.

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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. Victimising whistleblowers or deterring them from raising a concern about fraud, corruption or any other matter will not be tolerated and will be considered as a disciplinary offence. If Employees believe that they have suffered any such treatment, or if they are not happy with how their concerns has been handled, they should inform those persons referred to in section 6.2 immediately. If the matter is not remedied Employees should raise it formally using the Council's Grievance Procedure.

Employees must not threaten or retaliate against whistleblowers in any way. If Employees are involved in such conduct then Employees may be subject to disciplinary action.

5.2 Confidentiality and Support

The Council hope that Employees will feel able to voice whistleblowing concerns openly under this Policy. However, if Employees do not want their name to be disclosed, the Council will do its best to protect the identity of Employees who raise a concern. It must be appreciated that the investigation process may reveal the source of the information and a statement by the whistleblower may be required as part of the evidence (albeit that it may be presented anonymously). If it is necessary for anyone investigating a whistleblower's concern to know the whistleblower's identity, the Council will discuss this with the whistleblower.

The Council recognises that the type and level of support offered will depend upon the person concerned. Employees are, therefore, encouraged to talk to the person that they raised the concern with, and/or can contact the confidential Employee Assistant Programme (EAP) found on the Orb.

5.3 Anonymous Disclosures

This Policy encourages Employees to put their name to any allegation they make as concerns expressed anonymously are much less powerful. Employees should be aware that proper investigation may be more difficult or impossible if the Council cannot obtain further information from a whistleblower. It is also more difficult to establish whether any allegations are credible.

Anonymous allegations will be considered at the discretion of the Council depending on the seriousness of the issue, the credibility of the concern and the likelihood of confirming the allegation.

5.4 Untrue Allegations

There is a need to ensure that any investigation process is not misused and therefore any abuse such as raising unfounded, false or malicious allegations will be dealt with as a disciplinary matter.

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5.5 Safeguarding concerns

Allegations of abuse of children and vulnerable adults will always be reported in line with our Safeguarding Policy via a safeguarding lead.

6. How to raise a concern

As a first step Employees should raise concerns with their immediate manager or superior.

Where the matter is more serious or Employees feel that their line manager or superior has not addressed the concern, or if Employees prefer not to raise it with them for any reason, Employees should contact one of the following:-

- Head of Service/ Assistant Director for your team
- Human Resources and Organisations Development Manager
- Monitoring Officer or Deputy Monitoring Officer
- Chief Executive
- Section 151 Officer

Employees may raise concerns in writing, by telephone or through a direct meeting with any of the people set out in section 6.2. If they wish to set out the background to their concern in writing and provide documents in support, this would be helpful. Alternatively, they may choose to explain the reasons for their concern verbally. A note of this conversation will be taken. Employees will be asked to agree to or amend the written note which may be used as evidence in any investigation and a copy of the written record will be provided to the whistleblower. We will also aim to give you an indication of how we propose to deal with the matter.

Although Employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person set out in section 6.2 that there are sufficient grounds for their concern. Employees should remember that the earlier they express their concern, the easier it may be for action to be taken. If in doubt, Employees should contact one of the persons set out in section 6.2 and talk to them about the situation before formally making the allegation.

Whistleblowing concerns may sometimes relate to the actions of a third party such as a customer, supplier or service provider. In some circumstances the law will protect Employees if they raise the matter with the third party directly. However, Employees are encouraged to report such concerns internally first, in line with this Policy and should contact the persons set out in section 6.2 for guidance.

7. Detection and Investigation

Reporting is an essential element of the Whistleblowing Strategy and all allegations of wrongdoing will be forwarded to the Council's Monitoring Officer for investigation. This will ensure that:

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- incidents are correctly collated;
- there is consistent treatment;
- evidence is collected properly and as early as possible; and
- experienced Officers are available to investigate the claim.

Once a concern is raised, initial assessment and enquiries will be made to decide whether an investigation is appropriate (this will depend on nature and scale of alleged wrongdoing and the evidence that is available) and, if so, what form it will take. Some concerns may be resolved by agreed action without the need for investigation.

Within ten (10) working days of a concern being raised (if raised with one of the internal contacts), the Officer contacted will write to the whistleblower:

- acknowledging that the concern has been received;
- indicating how the matter is likely to be dealt with;
- supplying the whistleblower with information on Employees support mechanisms in place; and
- giving an estimate of how long the investigations will take.

The matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to the Council's External Auditor
- form the subject of an independent inquiry;

or any combination of all four of the above avenues.

The amount of contact between the Officers considering the issues and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the whistleblower and the whistleblower will be informed of the progress of the investigation and its likely timescale. Depending on the circumstances, the whistleblower may be asked to maintain confidentiality and should treat any information about the investigation as confidential.

Whistleblowers may be required to attend additional meetings in order to provide further information. When any meeting is arranged with the whistleblower, if they so wish, they may be accompanied by a trade union or a colleague, such a person must respect any confidentiality that applies including the confidentiality of any disclosure and any subsequent investigation.

The Council will take steps to minimise any difficulties which Employees may experience as a result of raising a concern. For instance, if Employees are required to give evidence in criminal or disciplinary proceedings, the Council will advise the whistleblower about the procedure.

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The Council's Disciplinary Procedures will be used where the outcome of the investigation indicates improper behaviour.

The Council will inform the Police to be made aware of and to independently prosecute offenders where financial impropriety is discovered or a criminal offence has been committed.

Arrangements will be put in place to ensure that if requested, and subject to legal constraints, a report back to the whistleblower indicating the outcome of the investigation and any proposed action will be made. However, sometimes the need for confidentiality may prevent information being shared which may include specific details of the investigation, an outcome or any disciplinary action taken as a result.

8. Further Reporting Routes

This Policy is intended to provide Employees with an internal route for reporting their concerns within the Council. In most circumstances, you should not find it necessary to alert anyone externally. However if Employees feel unable to report concerns internally or in circumstances where it may be appropriate for Employees to report concerns to an external body then Employees should contact.

“Protect” / National Whistleblowing Helpline for advice.

- The Green House, 244-254 Cambridge Heath Road, London, E2 9DA
- Telephone: 020 3117 2520
- Website: <https://protect-advice.org.uk/>

However, Employees must remember that if the matter is taken outside the Council they must have reasonable grounds for suspicion and should not disclose confidential information unless it can be shown to be in the public interest.

Therefore, the Council strongly encourages Employees to seek advice before reporting a concern to anyone external and the Council encourages Employees to report such concerns internally first in line with this Policy.

It will very rarely, if ever, be appropriate to alert the media. Employees are strongly advised not to refer any concerns they may have to the media TV, radio, press, websites or social media.

Adverse publicity may damage the reputation of the Council and by going to the media Employees may be in breach of their contract of employment and subject to disciplinary action. Employees may also lose their right to statutory protection against whistleblowing. In addition, it could leave the whistleblower more exposed to publicity and to counter allegations/actions by those accused.

However, disclosures made outside the Council are protected provided they are not made for personal gain and they were not raised internally because there was a

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reasonable belief of victimisation or that there would be a cover up, and the matter was exceptionally serious.

9. What happens when an employee is the subject of a concern in accordance with the Public Interest Disclosure Act?

The Council believes that everyone has the right to be treated fairly and in accordance with the principles of natural justice, and will therefore apply these principles to Employees if they are the subject of someone voicing their concern.

The following steps will be taken by the Council if Employees are the subject of such a concern:

- When appropriate Employees will be informed both verbally and in writing of the concern, and will be advised to seek the advice of their trade union, solicitor or professional association.
- There will be nominated people available for support who will be responsible for advising Employees at regular intervals on how the investigation is proceeding.
- Employees may be suspended from work on full pay during the investigative process but this will not be regarded as a punitive measure. It will be used in circumstances, where for example, public interest is likely to be high or where, it may aid the investigation itself.
- Employees will be advised of the outcome of the investigation and how this may impact their employment with the Council as soon as possible, once the investigation has been concluded.

10. Review

This policy will be reviewed by CMT on a regular basis to ensure that it remains relevant and is kept up to date.

NOTE: *We reserve the right to vary the content of this document where appropriate.*

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Version Control

Title		Whistleblowing Policy RBC		
Description		Corporate HR Policy		
Created by		Juliana Morgan, HR & OD Policy and Project Officer		
Date created		November 2010		
Maintained by		Human Resources		
Last Review Date		[July 2024]		
Next Review Date		[]		
Version number	Modified by	Modifications made	Date modified	Status
2	K Randall		7 th November 2024	