



<u>Committee and Date</u>	<u>Item</u>
Audit Committee  31 <sup>st</sup> July 2020	6

## **2019/2020 Review of Whistleblowing - ‘Speaking Up About Wrongdoing’**

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### **1. Summary**

The Whistleblowing process provides arrangements to enable employees, elected members, contractors and others to raise concerns about fraud, corruption, adult/child protection or harassment and bullying allegations.

This report provides an update to the Shropshire Council Audit Committee on the number of cases raised regarding Council employees over the last year (excluding school-based employees).

### **2. Recommendations**

The Audit Committee is asked to:

- a. Consider and approve, with appropriate comments on the contents of the report.

## **REPORT**

### **3. Risk Assessment and Opportunities Appraisal**

- 3.1 The Council has in place an effective Counter Fraud, Bribery and Anti-Corruption Strategy. The Council proactively encourages the detection of fraud and irregularities and the appropriate management of them. The Whistleblowing policies contribute to our zero tolerance of fraud, bribery and corruption.
- 3.2 The recommendations contained in this report are compatible with the provisions of the Human Rights Act 1998. There are no direct environmental, equalities, consultation or climate change consequences of this proposal.

## 4. Financial Implications

- 4.1 The management and investigation of issues raised in response to this policy are met from approved budgets.

## 5. Background

- 5.1 This is an annual report to Audit Committee on whistleblowing arrangements.
- 5.2 The Whistleblowing Policy is available to all staff via the Intranet pages and is also available to them, along with members, contractors, partners and the public, via the [website](#); allowing it to be accessed from any computer. This is particularly important as it allows staff to access the policy outside of a work environment, where they may be reluctant to be seen accessing the Whistleblowing policy.
- 5.3 Whistleblowing is when a worker reports suspected wrongdoing at work. Officially this is called ‘making a disclosure in the public interest’. A worker can report things that aren’t right, are illegal or if anyone at work is neglecting their duties, including:
- someone’s health and safety is in danger
  - damage to the environment
  - a criminal offence
  - the company isn’t obeying the law (like not having the right insurance)
  - covering up wrongdoing.
- 5.4 The way a worker can ‘blow the whistle’ on wrongdoing depends on whether they feel they can tell their employer.
1. The worker should check their employment contract or ask Human Resources if their company has a whistleblowing procedure.
  2. If they feel they can, they should contact their employer about the issue they want to report.
  3. If they can’t tell their employer, they should contact a prescribed person or body.
- 5.5 A worker can only tell the prescribed person or body if they think their employer:
- will cover it up
  - would treat them unfairly if they complained
  - hasn’t sorted it out and they’ve already told them
- 5.6 Dismissals and whistleblowing
- A worker can’t be dismissed because of whistleblowing. If they are, they can claim unfair dismissal. They’ll be protected by law as long as certain criteria are met.
- 5.7 Types of whistleblowing eligible for protection

These are called ‘qualifying disclosures’. They include when someone reports:

- that someone’s health and safety is in danger
- damage to the environment
- a criminal offence
- that the company isn’t obeying the law (like not having the right insurance)
- that someone’s covering up wrongdoing
- a miscarriage of justice

#### 5.8 Who is protected?

The following people are protected:

- employees
- agency workers
- people that are training with an employer, but not employed
- self-employed workers, if supervised or working off-site

An individual is also protected if they work in a school or sixth-form college, whether an employee or an agency worker. NHS workers who work under certain contractual arrangements, e.g. certain GPs and dentists, are also protected.

A worker will be eligible for protection if:

- they honestly think what they’re reporting is true
- they think they’re telling the right person
- they believe that their disclosure is in the public interest

#### 5.9 Who isn’t protected?

Workers aren’t protected from dismissal if:

- they break the law when they report something, e.g. they signed the Official Secrets Act
- they found out about the wrongdoing when someone wanted legal advice (‘legal professional privilege’), e.g. if they’re a solicitor

Workers who aren’t employees can’t claim unfair dismissal because of whistleblowing, but they are protected and can claim ‘detrimental treatment’.

#### 5.10 Tribunals

Workers dismissed for whistleblowing can go to an employment tribunal. If the tribunal decides the employee has been unfairly dismissed, it will order that they are:

- reinstated (get their job back)

- paid compensation

A tribunal judge can reduce any compensation awarded by 25% if they find the person has acted dishonestly.

A whistleblower who is bullied at work will also be able to bring a claim to the employment tribunal against their employer or colleagues.

## 6. 2019/20 Whistleblowing Reports

In 2019/20, there were twenty cases reported under the whistleblowing arrangements for Shropshire Council. Eleven cases resulted in ‘No case to answer’ and nine resulted in being referred to another agency or service to look into which resulted in ‘not enough evidence to proceed’ or ‘dealt with under another policy’. Details on the allegations received and outcomes are shown below.

### 2019/20 Whistleblowing Reports

Route in	Allegation	Procedure used	Outcome
Written	Property Issues	No Investigation - Complaint	NCTA1
Verbal	Council House Rental	Management Investigation	NCTA
Verbal	Housing Benefit Fraud	Audit Investigation	Passed to SFIS2
Verbal	Housing Benefit Fraud	Audit Investigation	Housing Benefits reassessed claim
Verbal	Potential Sub-letting – Non-Council Property	No Investigation	Passed to third party
Written	Corruption/Failure of Contract Management	Audit Investigation	Management report issued to address areas of concern. NCTA.
Verbal	Phonics screening Test Malpractice	Management Investigation	Referred to STA3 Disciplinary action to be considered when report received
Written	Inappropriate Behaviour	Management Investigation	Passed to Human Resources
Verbal	Safeguarding Allegations – Adult	Safeguarding	Case with Safeguarding
Verbal	Housing Benefit Fraud	Audit Investigation	Passed to SFIS
Verbal	Theft	No Investigation	Reported to the Police
Verbal	Housing Benefit Fraud	Audit Investigation	Passed to SFIS - NCTA
Verbal	Housing Benefit Fraud	Audit Investigation	NCTA
Written	Council Tax Fraud	Management Investigation	NCTA
Written	Highways Road Markings	Management Investigation	NCTA
Written	Inappropriate Behaviour	Management Investigation	NCTA

<sup>1</sup> NCTA – No Case to Answer

<sup>2</sup> SFIS – Single Fraud Investigation Service (Part of Department of Work and Pensions (DWP))

<sup>3</sup> STA – Standards and Testing Agency (Part of Department for Education)

Route in	Allegation	Procedure used	Outcome
Verbal	Council Tax Fraud	Management Investigation	NCTA
Verbal	Housing Benefit Fraud	Management Investigation	NCTA
Verbal	Property Issues	Audit Investigation	NCTA
Verbal	Harassment	Safeguarding	Case with Safeguarding

<sup>1</sup> NCTA – No Case to Answer

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## 7. Comparison to previous years

7.1 There has been a 39% decrease in number of incidents reported than in the preceding years, with the preferred route of “blowing the whistle” being verbal compared to written. This is a common theme we have witnessed over the last two years. In 2018/19 there were 33 cases reported and most of those allegations were relating to finance abuse, planning, housing and fraud. In 2017/18 there were 16 allegations mainly relating fraud and theft and the preferred route of “blowing the whistle” again being verbal.

## 7. Conclusion

7.1 The ‘Speaking up about Wrongdoing’ process forms a key element of the Council’s Corporate Governance arrangements and is continuing to be a route employees use to raise concerns, as well as a route which is also open to elected members, contractors, partners and others.

**List of background papers (This MUST be completed for all reports but does not include items containing exempt or confidential information) – None**

**Cabinet Member (Portfolio Holder)** Peter Nutting (Leader of the Council) and Peter Adams (Chair of Audit Committee)

**Local Member-** N/A