

Slough Borough Council

Report to:	Standards Committee
Date:	19 March 2024
Subject:	Whistleblowing Annual Report
Chief Officer:	Stephen Taylor - Monitoring Officer
Contact Officer:	Sarah Wilson – Assistant Director Legal and Governance
Ward(s):	All
Exempt:	No
Appendices:	None

1. Summary and Recommendations

- 1.1 The purpose of this report is to provide members with an annual update in relation to the Council's whistleblowing arrangements.

Recommendations:

The Committee is recommended to:

1. Note and endorse the contents of this report

Reason:

The Whistleblowing Code provides for the Monitoring Officer to review the Council's whistleblowing arrangements annually. It is considered best practice in many authorities for the relevant member committee to receive an annual report in relation to whistleblowing. The provision of an annual report to the committee increases the profile of whistleblowing across the Council and affords the opportunity to highlight areas of good practice and identify any requirements for improvement. This is particularly important for a council in intervention where there may be issues of trust with both staff and residents.

Commissioners Review

This report has been reviewed by Commissioners and there are no specific comments to add.

2. Report

- 2.1 The Whistleblowing Code was last amended in 2022. It has been reviewed and it is not recommended that any further changes are made to it. The Council's former internal auditors, RSM, conducted a follow up audit in 2022/23, reporting in February 2023. In the previous audit only a partial assurance opinion was provided. The review found that the Council has demonstrated improvements in its whistleblowing

practices. This has included increased communications, the agreement of reporting arrangements and evidence of initial enquiries being completed for concerns raised.

2.2 In terms of internal controls, the audit noted that the following controls were adequately designed and operating effectively:

(a) Guidance for staff – The Code was published on the Council’s website and intranet pages and there had been regular communication to staff on its existence. Whistleblowing guidance was accessible and information outlined how to raise concerns and highlighted prescribed individuals.

(b) Training content – there is a whistleblowing module in the Council’s e-training for staff. This defined whistleblowing, referenced relevant regulations and legislation, outlined the type of concerns to be raised and ended with a ten question assessment. In person training had been delivered to senior managers which also highlighted avenues available to staff to raise concerns.

(c) Culture improvement – the Corporate Plan 2022-25 contained two themes of leadership and culture and governance which linked to whistleblowing. There was evidence of promotion of the Council as a learning organisation in the Chief Executive’s staff roadshows and improvement and recovery plans.

(d) Reporting arrangements – an annual report was to be provided to the Standards Committee to include all reported whistleblowing concerns. A review of the report to Standards Committee in July 2022 demonstrated appropriate reporting and changes to the Code were agreed by Full Council.

(e) Whistleblowing cases – a review of documented concerns showed that initial enquiries were completed where relevant and in line with timescales, with appropriate reporting to stakeholders. Conclusions not to proceed with formal investigations were supported by the outcomes from initial enquiries and agreed through correspondence with those involved.

2.3 The audit resulted in three medium and two low priority actions as set out below:

(a) Confidential Whistleblowing Code – The July 2022 Code to replace the May 2021 version accessible on the Council’s website. This action has been completed.

(b) Whistleblowing training compliance – non-compliance reports will be issued on a monthly basis, for further dissemination within directorates. Line managers will review and follow up upon non-compliance as part of regular one to one meetings. HR have put in place a system for issuing non-compliance reports to managers. The Council is reviewing its onboarding systems and its management development learning and development arrangements. This will include focus on the importance of compliance with mandatory training and ensuring such training is regularly reviewed so it remains fit for purpose.

(c) Temporary / Contractor staff training – staff appointments made via Matrix will be reported to the Workforce Development Team. These staff will have training accounts set up and be assigned mandatory training modules. This action has been completed. It should be noted that there is relatively high turnover of staff and some contractors are utilised for short periods. In addition to mandatory training, it is important to ensure the culture is right and all Council officers are

encouraged to report concerns. The Code of Conduct for Employees has been reviewed and amended to a Code of Conduct for Officers. This Code emphasises officers' personal responsibility for reporting concerns, whether these relate to criminal wrongdoing, health and safety or bullying or harassment. It is proposed that there will be staff and trade union engagement before the new Code is considered by members and adopted by Full Council. Following adoption, the Code will form an important part of the onboarding and staff training programme.

- (d) Staff survey – the staff survey will capture staff views on whistleblowing, including how it can be improved. Feedback will be used to identify specific improvement points to be actioned. A staff survey has been undertaken, including questions on culture, relationships and the ability and confidence to report concerns. The results of the survey are being considered by senior officers with a view to this informing part of the wider culture change programme.
- (e) Whistleblowing cases – the Monitoring Officer will monitor the Monitoring Officer inbox in the absence of the Democratic Services Lead. There is a system in place for democratic services staff to regularly monitor the inbox, including ensuring cover when the assigned officer is on leave.

2.4 The number and nature of whistleblowing concerns raised in 2022/23 and to date in 2023/24 are shown below:

2022/23 – 4 complaints raised. Two were raised anonymously, one by a former agency worker, and one by a member of staff. Two did not raise issues covered by the whistleblowing code and one was subject to initial enquiries to determine whether to conduct investigation. No evidence was found in that instance to substantiate the allegations of corruption in relation to contracting arrangements. An investigation was carried out by the Council's Corporate Fraud unit and the complaint was not upheld. Concerns not covered by the whistleblowing code were referred to relevant Executive Directors for action.

2023/24 – No complaints have been received, to date.

Background

2.5 Whistleblowing is the term used when an employee passes on information concerning wrongdoing. An employee is protected in law from being subjected to detriment or dismissed on the basis of whistleblowing if they reasonably believe that they are acting in the public interest and they reasonably believe that the disclosure tends to show past, present or likely future wrongdoing falling into prescribed categories.

2.6 The Department for Business, Energy and Industrial Strategy (BEIS) guidance recommends that employers should have clear policies and procedures for dealing with whistleblowing, which will help demonstrate that the organisation welcomes information being brought to the attention of management. This is demonstrated by the following:

- Recognising workers are valuable ears and eyes – getting information can prevent wrongdoing, which can negatively impact on performance and in extreme cases prevent people from harm and death

- Getting the right culture – the lack of a supportive culture will be a barrier to disclosures, firstly because workers may fear reprisals and secondly that no action will be taken in response to the disclosure
- Training and support – training, mentoring, advice and support systems should be in place to ensure workers can approach a range of people within the organisation
- Being able to respond – prompt investigation and where appropriate feedback is in the interests of the organisation
- Better control – embracing whistleblowing will ensure that managers have better information to make decisions and control risk
- Resolving the wrongdoing quickly – the benefits of internal disclosures are that there is an opportunity to act promptly and put right any wrongdoing.

Review of current practice

2.7 The Whistleblowing Code and procedures have been reviewed against the requirements of the DBEIS guidance and code of practice.

2.8 The review has considered the best practice set out in the guidance regarding the need for a whistleblowing code of practice. The results of this are set out below:

- **Have a whistleblowing policy or appropriate written procedures in place**

The Council has a Whistleblowing Code, which is in its constitution and published on its website. In addition, it has codes of conduct for members and employees which provide guidance and create obligations in relation to the need to act in the public interest, a member officer relations protocol which sets out the different roles of elected members and officers and provides obligations on officers to raise concerns if they are subjected to improper pressure and an anti-fraud corruption strategy and policy which again provides an obligation on officers to report any suspicious activity. These documents collectively provide a strong ethical framework in which all elected members and officers should act. The member officer relations protocol was reviewed in 2023 and the Council is in the process of reviewing its code of conduct for employees.

- **Ensure the whistleblowing policy or procedures are easily accessible to all workers**

The Whistleblowing Code is part of the Council's Constitution, which is published online and has a separate part listing the documents that collectively provide the ethical framework. In addition the Council's intranet contains guidance for staff.

All staff are expected to complete mandatory training, which further raises the procedures in place for whistleblowing.

- **Raise awareness of the policy or procedures through all available means such as staff engagement, intranet sites, and other marketing communications.**

On a monthly basis, the Workforce Development team issue mandatory training compliance reports to all Directors to highlight both compliance and non-compliance

in their directorates, requesting their support to cascade to the managers and drive up compliance. All line managers have also been given training reporting functionality to monitor their teams progress themselves. The importance of whistleblowing and raising concerns in general is regularly highlighted in staff communication. The Council is currently reviewing its onboarding processes and its manager development arrangements and will consider whether there is more that can be undertaken to show the key role staff play in being the “eyes and ears” of the organisation.

- **Provide training to all workers on how disclosures should be raised and how they will be acted upon**

There is a mandatory training module on whistleblowing. The mandatory training has been extended to agency workers. The Council has also introduced a governance learning training programme for managers which covers a range of governance topics highlighting the roles and responsibilities of public sector employees. Disclosures can be raised directly to the Monitoring Officer or via another senior officer. In addition details are given of prescribed persons and organisations who can assist any individual concerned as to how to raise an issue.

- **Provide training to managers on how to deal with disclosures**

The governance learning programme covers various topics relating to governance, including the constitutional rules and ethical framework. Managers’ responsibilities are also highlighted in the mandatory training and in the Code and guidance notes.

- **Create an understanding that all staff at all levels of the organisation should demonstrate that they support and encourage whistleblowing**

This is part of a wider piece of work on the Council’s values and behaviours. The review of the Code of Conduct for Employees provides a good opportunity to engage with staff about their role as public servants, including their responsibility to report concerns about others and to report “near misses” and take responsibility for their own health and safety. This will support wider work on culture change.

- **Confirm that any clauses in settlement agreements do not prevent workers from making disclosures in the public interest**

All settlement agreements are approved by the Council’s HR department and HB Public Law, as the Council’s shared legal practice. The template agreement specifically states that the confidentiality obligations in the agreement do not prevent the employee from making a protected disclosure, making a disclosure to a regulator, reporting a criminal offence to any law enforcement agency or assisting with a criminal investigation or prosecution.

- **Ensure the organisation’s whistleblowing policy or procedures clearly identify who can be approached by workers that want to raise a disclosure. Organisations should ensure a range of alternative persons who a whistleblower can approach in the event a worker feels unable to approach their manager. If your organisation works with a recognised**

union, a representative from that union could be an appropriate contact for a worker to approach.

The Code provides clear guidance on how to deal with a range of concerns. For instance:

(a) Councillors and officers are informed that a breach of either the councillor code of conduct or the local code of conduct for employees should be raised with the Council's Monitoring Officer. There is a generic monitoring officer email account for those councillors or staff who may be unaware of who the monitoring officer is or who prefer to use this official email account.

(b) Existing HR policies and procedures are referred to for resolving HR related concerns – the procedures are listed.

(c) A schedule is provided of the type of concern that should be raised under the whistleblowing code.

The Code advises individuals to raise concerns with colleagues, a line manager or their superior and if they feel unable to do so, to raise it with a chief officer. If the above has been exhausted or is not appropriate, the concern should be raised with the Monitoring Officer or if it relates to the Monitoring Officer or s.151 Officer, with the Chief Executive.

- **Create an organisational culture where workers feel safe to raise a disclosure in the knowledge that they will not face any detriment from the organisation as a result of speaking up.**

The Council conducted a staff survey, which included questions relating to culture. Senior officers are in the process of reviewing the results to inform an action plan.

- **Undertake that any detriment towards an individual who raises a disclosure is not acceptable**

The Code contains a section on support that is available for employees raising a concern and others affected. This includes reference to the Employee Assistance Programme, the use of trade unions or regulatory bodies, reference to the Employee Support Group and support that is available if the employee has to give evidence in subsequent proceedings.

- **Make a commitment that all disclosures raised will be dealt with appropriately, consistently, fairly and professionally**

The Code makes clear that managers are responsible for making their staff aware of the policy and procedures, should encourage a positive open working culture for staff and others working at the Council to express their concerns, to take concerns seriously and to guide staff to the most appropriate route.

3. Implications of the Recommendation

3.1 Financial implications

- 3.1.1 Encouraging staff to raise concerns will help ensure the Council meets its best value duties and delivers safe, lawful and value for money services.

3.2 Legal implications

- 3.2.1 Employees and other certain types of workers are provided with protection when whistleblowing under the Employment Rights Act 1996. The protection is from being dismissed or subjected to a detriment because they have made a protected disclosure (blown the whistle). There are a number of conditions which an individual must fulfil in order to qualify for the protection. There must be a disclosure of information which the individual reasonably believes tends to show that one or more of six specified types of malpractice or failure has taken place. The individual must also have a reasonable belief that the disclosure is in the public interest. Further, the disclosure must be made to one of the categories of people listed in the Act, one of which is their employer.

3.3 Risk management implications

- 3.3.1 Having effective systems in place to allow councillors and officers to raise whistleblowing concerns is a critical part of the Council's risk management systems. By improving the policy, procedures and culture to allow for concerns to be raised and acted upon, the Council will reduce its risks of fraud, being the victim of criminal offending, permitting or allowing a criminal offence to be committed, failing to comply with the law, endangering someone's health and safety, damaging the environment and individuals or organisations deliberately concealing any wrongdoing.

3.4 Environmental implications

- 3.4.1 None, although damage to the environment is listed as a category of wrongdoing.

3.5 Equality implications

- 3.5.1 Section 149 of the Equality Act 2010 requires public bodies to pay due regard to the need to
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
 - advance equality of opportunity between people who share a protected characteristic and those who do not;
 - foster good relations between people who share a protected characteristic and those who do not.
- 3.5.2 Failing to comply with an obligation set out in law is covered as a category of wrongdoing. By having in place an effective system for whistleblowing, individuals can raise concern that the Council is not properly complying with its equality duties. In addition, by undertaking a staff survey including questions on whistleblowing, the Council will be able to analysis the monitoring data to see if certain groups of staff feel less able to raise concerns than others and put in place an action plan to address this.

4. Background Papers

None.