

**TO: EMPLOYMENT COMMITTEE
4 DECEMBER 2013**

**UPDATED WHISTLE BLOWING POLICY
Director of Corporate Services - Legal**

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek approval for the updated whistle blowing policy in light of changes to the current whistle blowing legislation set out in the Enterprise and Regulatory Reform Act 2013 (ERRA). The new whistle blowing provisions under the ERRA came into force on the 25 June 2013.

2 RECOMMENDATION

- 2.1 **That the Committee approve the updated whistle blowing policy contained in Annex A to this report.**

3 REASONS FOR RECOMMENDATION

- 3.1 To ensure that the Council's whistle blowing policy is up to date in light of statutory changes that are being brought about under the ERRA.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 To leave the current whistle blowing policy as it is. The current policy will not be compatible with the legislation relating to whistle blowing following the coming into force of the relevant provisions of the ERRA.

5 SUPPORTING INFORMATION

- 5.1 The whistle blowing legislation under the Public Interest Disclosure Act 1998 requires employers to refrain from dismissing workers and employees, or subjecting them to any other detriment because they have made a protected disclosure ("whistle blowing"). Whistle blowing occurs when an employee or worker draws attention to a concern or concerns of wrongdoing in their organisation. In the context of the Council the types of concerns a worker or an employee may wish to raise are set out in paragraph 2.2 of the policy in Annex A.
- 5.2.1 Whistle blowing policies are aimed at fostering a climate of openness and transparency in which individuals in the workplace do not feel that they will be victimised if they raise concerns about wrongdoing in their organisation to an appropriate officer within the organisation. As part of best practice, the government expects all public bodies to have written whistle blowing policies. It is therefore necessary that the Council's whistle blowing policy is up to date and fit for purpose.

6 KEY LEGISLATIVE CHANGES

- 6.1 The key changes which is been brought about by the ERRA 2013 are as follows:
- 6.2 Firstly, there is now an express requirement that whistle blowing by employees or workers is made in the public interest (section 17 of the ERRA 2013). Although the ERRA does not define the meaning of public interest however it is implicit that disclosure of any wrongdoing by an employee must exclude those which can be characterised as being purely of a personal nature. For example a grievance by an employee concerning their terms and conditions of employment will not be considered to be in the public interest.
- 6.3 Secondly, under section 19 of the ERRA an employer can be held liable (vicarious liability) for any detriment inflicted on the whistle blowing employee or worker by his or her colleagues. The employer would have a defence if it can demonstrate that it took all reasonable steps such as compliance with its whistle blowing policy to prevent such detriment being inflicted on the whistle blower. Compensation for a successful whistle blowing claim against an employee is unlimited and could therefore in some instances be quiet substantial.
- 6.4 The whistle blowing policy in Annex A has been amended to reflect the change set out in 6.2; no amendment to the policy is required in consequence of the legislative amendment referred to in 6.3.

7 ADVISED RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 7.1 The Borough Solicitor is the author of this report

Borough Treasurer

- 7.2 There are no financial implications directly arising.

Equalities Impact Assessment

- 7.3 Not required.

Strategic Risk Management Issues

- 7.4 As set out in Section 6 of the report.

Other Officers

- 7.5 None.

Principal Groups Consulted

- 8.1 Members of the Standards Committee.

Method of Consultation

- 8.2 Meeting held on 24 June 2013.

Representations Received

- 8.3 The Standards Committee recommended the proposed revised Whistle Blowing Policy for approval.

Background Papers

None.

Contact for further information

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Doc Ref

AI/f/agreements/Report to Standards Committee – Updated Whistleblowing