

Public Document Pack

Penallta House,
Tredomen Park,
Ystrad Mynach,
Hengoed CF82 7PG

Ty Penallta,
Parc Tredomen,
Ystrad Mynach,
Hengoed CF82 7PG



www.caerphilly.gov.uk
www.caerffili.gov.uk

For all enquiries relating to this agenda please contact Helen Morgan
(Tel: 01443 864267 Email: morgah@caerphilly.gov.uk)

Date: 8th February 2016

Dear Sir/Madam,

A meeting of the **Standards Committee** will be held in the **Sirhowy Room, Penallta House, Tredomen, Ystrad Mynach** on **Monday, 15th February, 2016** at **1.30 pm** to consider the matters contained in the following agenda.

Yours faithfully,

A handwritten signature in blue ink that reads 'Chris Burns'.

Chris Burns
INTERIM CHIEF EXECUTIVE

AGENDA

	Pages
1 To receive apologies for absence.	
2 Declarations of interest. Councillors and Officers are reminded of their personal responsibility to declare any personal and/or prejudicial interest(s) in respect of any item of business on this agenda in accordance with the Local Government Act 2000, the Council's Constitution and the Code of Conduct for both Councillors and Officers.	
3 To approve and sign the minutes of the meeting held on 4th November 2015 (minute nos. 1 - 8).	1 - 6
4 Overview of Welsh Government Consultation - Conduct of Local Government Members the Draft Local Government (Wales) Bill.	7 - 12

A greener place Man gwyrddach



Correspondence may be in any language or format | Gallwch ohebu mewn unrhyw iaith neu fformat

5 Annual Whistleblowing Report.

13 - 18

6 Presentation - Whistle Blowing Policy.

Circulation:

Councillors: Mrs P. Cook and C.P. Mann

Mr V. Brickley, Mrs M. Evans, Mrs D. Holdroyd, Mr D. Lewis and Mr M. Stone

Community Councillor Mrs G. Davies

Copy for information only to:

Councillors H. David and Mrs M.E. Sargent, Community Councillor C. Choo Yin

And Appropriate Officers



STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN PARK ON WEDNESDAY 4TH NOVEMBER 2015 AT 1.30PM

PRESENT:

Mrs D. Holdroyd - Chair
Mr V. Brickley - Vice Chair

D. Lewis, Community Councillor Mrs G. Davies, Councillor Mrs P. Cook

Together with:

G. Williams (Interim Head of Legal Services and Monitoring Officer), L. Lane (Solicitor),
H. Morgan (Senior Committee Services Officer)

APOLOGIES

An apology for absence was received from Mrs M. Evans, Councillor C.P. Mann and Councillor Mrs M.E. Sargent.

1. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

2. MINUTES - 21ST SEPTEMBER 2015

RESOLVED that the minutes of the meeting held on 21st September 2015 (minute nos. 1 - 7, on page nos. 1 - 5), be approved as a correct record.

3. MEMBERS' DECLARATIONS OF GIFTS AND HOSPITALITY JANUARY TO SEPTEMBER 2015

Consideration was given to the report, which detailed the gifts and hospitality declared by elected Members for the period January to September 2015.

Members were reminded that following a report to the Standards Committee on 3rd October 2013, and as part of the drive to strengthen governance arrangements across the Authority, the informal arrangements of reporting gifts and hospitality declared by elected Members has been replaced by the presentation of a reports to the Standards Committee.

Members noted the information provided in appendix 1 of the report, which listed the gifts and hospitality as declared by an elected member for the period January to September 2015.

4. ANNUAL LETTER FROM PUBLIC SERVICES OMBUDSMAN FOR WALES 2014-2015

Consideration was given to the Annual Letter received from the Public Services Ombudsman for Wales, which provides a breakdown of all complaints received and investigated by his Office during 2014/15 and the response times to requests for information.

Members were asked to note that in relation to Caerphilly, whilst there has been a noticeable increase in the number of complaints received by the Ombudsman compared with 2013/14 this figure remains below the Local Authority average. The figures show that the largest area of complaints is Planning and Building Control with the number of complaints received at the Ombudsman's office for this year totalling 12, compared with 3 the previous year. This is slightly above the Local Authority average. However, this data has been analysed and of the 12 complainants, 5 were made prematurely (had been referred to the Ombudsman before exhausting the Council's Corporate Complaints Process). Members noted that overall 19 premature complaints were received by the Ombudsman. This is equal to the Local Authority average and is beyond the control of the Authority.

Attention was drawn to the response times of the Authority when replying to requests for information by the Ombudsman and Members were asked to note that the graph on page 8 of the Annual Letter indicates that all responses were received more than four weeks after the request. This data relates to two complaints investigated by the Ombudsman. Following clarification with the Ombudsman's office it was agreed to amend the Letter to clarify that one response was received by the time limit agreed with the Investigator, although that this would not change the graph at Appendix G. The amended Annual Letter has now been received and a copy was provided to Members. This would be appended to the report that it is to be presented to Council.

The Ombudsman has "upheld" one report against the Council issued in October 2014. This matter has been the subject of a report to the Standards Committee on 24th November 2014, Policy and Resources Scrutiny Committee on the 3rd March 2015 and Audit Committee on the 15th June 2015. In addition the Ombudsman has not upheld one report issued in February 2015. Details of both reports are contained in Section I of the Annual Letter.

Details of the Code of Conduct complaints for elected Members were detailed in Section H of the appendix to the letter. The Ombudsman decided not to investigate four matters, and one was discontinued. There were no findings against any elected Members.

After due consideration, Members noted the content of the amended Annual Letter, received from the Public Services Ombudsman for Wales and were advised that it will now be presented to Council for information.

5. PRESENTATION - CONSTITUTION

The Interim Head of Legal Services and Monitoring Officer gave an update on the Constitution and, with the use of a slide presentation, advised that it is the Council's internal rule book and as such is a live document, which is updated and amended on an 'ad hoc' basis, following the approval of full Council.

It was noted that the document is split into three parts - Part 1 sets out a summary and explanation of the Constitution, Part 2 sets out the Articles which are the rules governing the Council business and Part 3 - 7 are the more detailed procedures and codes of practice which

set out the separate rules and protocols. Details of how the Council operates can be found within the Articles and the responsibility for functions, terms of reference, rules of procedure, codes and protocols, members allowance scheme and management structure can be found within parts 2 - 7. There is also a detailed scheme of delegation in operation which includes delegations to senior officers in the Authority to make decisions.

In noting that Council meets on a six weekly cycle (with special meetings arranged as required), the roles and responsibilities of Cabinet and overview and scrutiny committees were outlined. Cabinet consists of ten members (the Leader and nine others appointed by him/her) and the overview and scrutiny committee sixteen members. With regards to the latter, it was noted that they have no formal decision making powers but support the work of the executive as a whole. They can review or scrutinise decisions made or offer comments on reports that are subsequently to be presented to Cabinet/Council. Reference was also made the 'call in' process, which, if a valid request is received, 'freezes' a decision until it has been resolved in accordance with the constitution. This also applies to decisions taken under delegated powers in accordance with the scheme of delegation as detailed within the Rules of Procedure.

There are also a number of statutory and non-statutory committees. The statutory committees being Planning and Licensing Committees, on which Members sit in a quasi-judicial capacity. Other main committees include the Audit Committee and Standards Committee (as set out by legislation). There are also a number of non-statutory meetings which include Community Partnerships and Town Centre Management Groups. Details of meetings are published on the weekly timetable and the agenda/reports for the meeting are available on the website. Meetings are open to the public, unless exempt information is to be considered. At that time, and having considered and approved the public interest test, they would be excluded from the meeting.

Specific reference was then made to the procedure rules, which are found at Part 4 of the Constitution. They set out the rules of debate and procedure for the conduct of meetings of full Council and Committees. Also included in this section are the Financial Regulations and Standing Orders, Rules on Consultation and the Protocol for Disposal of Property. The code and protocols, also in this section, include the Members Code of Conduct, Whistleblowing Policy, Protocol on Members/Officer relations, Monitoring Officer Protocol, Protocol on Elected Members rights of access to information and the Informal Resolution Protocol.

In closing, the Interim Head of Legal Services and Monitoring Officer advised that any changes required to the Constitution must be approved by Council.

Members thanked the Interim Head of Legal Services and Monitoring Officer for her informative presentation and for responding to the queries that were raised during the course of the debate. It was suggested that Members may wish to attend meetings to observe proceedings and see the decision making process.

6. PRESENTATION - RULES OF CONSULTATION

The Interim Head of Legal Services and Monitoring Officer then gave an overview on consultation requirements as set out in the Executive Procedure Rules in Part 4 of the Constitution. This sets out what is expected by way of consultation on any report on an Executive decision and provide that:-

“The level of consultation required will be appropriate to the nature of the matter under consideration. Officers must consult in any event with the appropriate Cabinet member, ward members and appropriate officers and either incorporate their comments into the report or (if not accepted by the author of the report) the comments must be included in the report.”

In accordance with the guidance, Officers are aware of the need for timely and proper consultation with interested parties and they must ensure that the views of those parties are either incorporated into their recommendations, or if not, highlighted in the report so that members taking a decision as the result of a report will do so in the light of all the facts and opinions.

The guidance details a number of groups which should be consulted, and sets out the circumstances in which those consultations should take place - Officers, Cabinet Members, local members, scrutiny committees, community/town councils, community partnerships, voluntary and community sector and younger/older people

Cabinet consult scrutiny committees on all 'key' issues contained in the Cabinet Forward Work Programme. These could include issues of a strategic or controversial nature, which are likely to have a significant effect on the delivery of Council services across the county borough or have a significant element of risk or financial implications.

Whilst it is not possible to provide an all encompassing definition of 'key' issues, Cabinet Members and Officers are asked to consider the merits of consulting scrutiny committees as issues arise. The Forward Work Programme is used to help this process by identifying those matters which need to be considered in advance by a scrutiny committee. The programme, prepared by Corporate Management Team and then approved at Cabinet on a quarterly basis shows all those matters that are significant decisions to be taken by the Cabinet over the next quarter. Not all of these need to be considered in advance by a scrutiny committee and there will inevitably be unexpected urgent matters where although they are 'key' it is not feasible to put them formally to a scrutiny committee in advance of being considered at Cabinet.

With regards to consultation with community/town councils, the Council has agreed a charter with those councils about exchanging information, liaison and consultation on specific subjects. In setting up each Community and Communities First Partnerships the partnership agreement, to which the Council is a signatory, sets out the role of the partnership and partnership principles, which, taken in total involve the Council in consultation with the community through the partnership. The consultation would not apply to operational matters or where the Council is exercising a function under Planning, Licensing or Rights of Way. The Council has signed a compact with various statutory and voluntary and community sector organisations to support the delivery of the Caerphilly County Borough Community Strategy, and consultation is an element of that, in the same way that it is with community partnerships (above).

The Council also supports a Youth Forum and a 50+ Forum to support younger and older people in engaging in discussions. There are contact Officers within the Council who liaise with and support these groups and they can act in a similar capacity to that for the voluntary sector. They can scan forthcoming reports and consult with the Chair and Vice of the Groups where they identify a need to seek views from younger/older people.

With regards to planning applications there is an existing statutory process of consultation and none of the above apply to the development control process. The rules on consultation apply equally to decisions under delegated powers although a large majority of delegated power decisions will be more routine or operational, and so the "strategic" consultation with scrutiny committees and with Groups will not apply.

Members thanked the Interim Head of Legal Services and Monitoring Officer for her informative presentation and for responding to the queries that were raised during the course of the debate.

7. STANDARDS COMMITTEE - APPOINTMENT OF INDEPENDENT MEMBER

Members were advised that following the resignation of one of the lay members, the position

was recently advertised and a Panel established in accordance with the Regulations (comprising of an elected member, a community council member and a "lay panel member) to undertake the interview process. The advertisement attracted seven applications from individuals and five applicants were invited for interview, two withdrew and three were interviewed.

Following interview, the Panel recommended that Mr. Maldwyn Stone be appointment as an independent member of the Standards Committee for a period of four years from 18th November, 2015 and that Mr. David Tolley be invited to sit on that reserve list for a period of six months.

It was noted that the recommendations of the Panel will be presented to Council on 17th November 2015.

8. WHISTLE BLOWING POLICY

It was agreed that a presentation be made on the Whistle Blowing Policy to the next meeting.

The meeting closed at 2.30pm

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the next meeting they were signed by the Chair.

CHAIR

This page is intentionally left blank



STANDARDS COMMITTEE - 15TH FEBRUARY 2016

**SUBJECT: OVERVIEW OF WELSH GOVERNMENT CONSULTATION
(I) CONDUCT OF LOCAL GOVERNMENT MEMBERS AND
(II) THE DRAFT LOCAL GOVERNMENT (WALES) BILL**

REPORT BY: INTERIM HEAD OF LEGAL SERVICES AND MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To provide the Standards Committee with an overview of the proposals set out in the Welsh Government consultation document "Local Government Act 2000 – Part III, Conduct of Local Government Members" on the content of two draft Statutory Instruments:

The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) Regulations 2016; and

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016.

- 1.2 To provide members with an overview/update of draft Local Government (Wales) Bill, with particular reference to the role of the Standards Committee.

2. SUMMARY

- 2.1 To provide an overview on the Welsh Government's "Local Government Act 2000 – Part III, Conduct of Local Government Members" consultation and the provisions of the draft Local Government (Wales) Bill in so far as they relate to the Standards Committee.

3. LINKS TO STRATEGY

- 3.1 The Authority acting through this Committee has an obligation to maintain high standards and probity and conduct throughout the Council and Community Councils within the County Borough area.

4. THE REPORT

- 4.1 Welsh Government has recently issued a consultation document entitled "Local Government Act 2000 – Part III, Conduct of Local Government Members" on the content of two draft Statutory Instruments

4.1.1 The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) Regulations 2016; and

4.1.2 The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016.

- 4.2 A brief summary of the key proposals are set out below, some of which Members will note are pertinent to the work of the Standards Committee.
- 4.3 The amendments proposed under the Draft Local Authorities (Model Code of Conduct) (Wales) (Amendment) order 2016 are as follows
- 4.4 *Register of Members Interests.* Section 81 of the Local Government Act 2000 makes provision requiring the disclosure and registration of members interests and related matters. The proposed changes clarify some of the provisions in respect of the Register of Members Interests so that in relation to a community council, a reference to a monitoring officer is replaced with a reference to the proper officer of the community council as follows
- 11(4) Requirement to give written notice of a personal interest disclosed for the first time
- 15(2) Requirement to give written notification of a new or changed personal interest
- 16(2) Requirement to register information related to a personal interest which is no longer sensitive information
- 17 Requirement to give written notification of any gift, hospitality etc.
- 4.5 *Obligation to report potential breaches.* It is proposed that in order to support the operation of local complaints protocols used for resolving low level member on member complaints, the obligation on a Member to report a potential breach to the Public Service Ombudsman for Wales (the Ombudsman) is removed from the model Code. In part this would remove the opportunity for a member seeking to thwart the operation of the local complaints protocol by citing the statutory obligation to report the matter to the Ombudsman. This does not prevent a Member from reporting a potentially serious breach of the Code to the Ombudsman and the requirement to report a breach to the Monitoring Officer is in any event proposed to be retained.
- 4.6 *Constituency Interests.* It is proposed to omit paragraph 10(2)(b) from the Model Code which provides that a Member has a personal interest in a matter if a member of the public might reasonably perceive a conflict between their role in taking a decision on that matter on behalf of the Authority as a whole and their role in representing the interests of constituents in their ward or electoral division, as appropriate. This will overcome practical difficulties and unintended consequences in the application of this provision as it has been seen as potentially precluding Members from participating in decisions affecting their wards. Furthermore this paragraph is potentially in conflict with Section 25 of the Localism Act 2011 which sought to clarify the law covering predetermination. Notwithstanding the omission of this paragraph Members will be required to keep an open mind until they are in full possession of all relevant facts and to act objectively and in the public interest in accordance with paragraph 8 of the model Code.
- 4.7 *Other amendments.* In addition to the above changes a number of minor textual amendments have been made to reflect changes in other legislation for example removal of references to police authorities.
- 4.8 The amendments proposed under the Draft Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) Regulations 2016 are as follows.
- 4.9 *Joint Standards Committees.* One or more Local Authority may establish a joint standards committee. The draft regulations provide for some consequential amendments as a result. However the proposals are to maintain the maximum limit of 9 members, and to provide that a joint committee may include no more than one Executive Member from each constituent authority. There are also provisions relating to the servicing of Joint Committees which facilitate the establishment and operation of a joint standards committee.

- 4.10 *Local Authority Members of Standards Committees – Terms of Office.* The term of office of a local authority or community council member is currently limited to four years and a member may serve two such terms. In November 2014 the Welsh Ministers made the Local Authority Elections Wales Order 2014 which postponed the next ordinary elections until 2017. An unintended consequence is that appointments would need to be made for one year only to cover May 2016 to May 2017. It is proposed that local authority and community council members in place when the Regulations come into force may continue to serve until the next ordinary elections in 2017. In order to future proof the regulations further amendments are made to remove the four year restriction on a members term of office. In future, the term of office of Local Authority and Community Council members are to be such as the authority determines up to the period ending with the next ordinary elections following the members appointment.
- 4.11 *Publication of Misconduct Reports – Exemption.* It is expected that a Standards Committee would normally hear evidence and submissions in relation to an alleged breach of Code of Conduct in public. However the legislative framework recognises there may be circumstances in which it is appropriate for a Standards Committee to consider matters in private including when deliberating the evidence and submissions it has received prior to making a determination. The current regulations have been interpreted by some Standards Committees as requiring the report of a misconduct investigation to be published in advance of a Standards Committee meeting along with the agenda and other papers for that meeting. This has given rise to both unhelpful advance publicity and the potential for witness evidence to be influenced by prior knowledge of the contents of the report. The proposal provides that a Standards Committee may exempt from publication agendas, records or information connected to the consideration of a misconduct report until such time as the misconduct proceedings are concluding which may be until receipt of notification, the conclusion of an appeal to the Adjudication Panel or a further determination by the standards committee. It is not intended that the period of exemption should extend to any application for judicial review of the appeal tribunal's determination.
- 4.12 *Referral of Misconduct Cases.* The changes make provision for a Standards Committee to refer alleged breaches of the Code of Conduct to a different Standards Committee where the "home Standards Committee" considers it may have a conflict of interest.
- 4.13 *Period of Suspension.* Whilst the Regulations make clear that a period of suspension imposed by an Adjudication Panel does not exceed one year or if shorter, the remainder of the person's term of office, the same limitation is not currently provided for in respect of suspensions imposed by Standards Committee, which provides for a period not exceeding six months. It is proposed to limit the period of suspension a Standards Committee can impose in the same manner.
- 4.14 *Appeals to the Adjudication Panel for Wales.* The proposal is to impose a requirement for a Member wishing to appeal a decision of the Standards Committee to first obtain the permission of the President of the Adjudication Panel. The purpose of this requirement is to ensure that only appeals that have a reasonable prospect of success (in whole or in part) will proceed. A member will have no right to challenge, or indeed seek to delay implementation of a sanction imposed by the Standards Committee on entirely frivolous or spurious grounds.
- 4.15 *Referral of Dispensation Applications.* The draft Order makes provision for a Standards Committee to refer an application for dispensation to another Authority's Standards Committee for consideration. Typically this may arise where the Standards Committee considers it may have a conflict of interest in dealing with that application or where it is impractical for the members home standards committee to meet at short notice.
- 4.16 *Criteria for Granting Dispensations – Disability.* As a general principle, Welsh Ministers consider that a Member with a prejudicial interest in any business being considered by that Member's Authority at a meeting should comply with the Code of Conduct and disclose that interest and withdraw from the meeting. The Welsh Government is aware that requiring a

Member with a disability to withdraw from a meeting could be problematic for that Member. In such circumstances, a local authority would be obliged to consider making reasonable adjustments, e.g. placing the item of business in which the Member has an interest at the end of the agenda. However this may not always be possible, particularly when the interest becomes apparent during the course of the meeting.

The law in England relating to dispensations differs from Wales in that it includes a broad general provision enabling a local authority to grant a dispensation in circumstances where the authority “considers that it is otherwise appropriate to grant a dispensation”. It is proposed that a similar general power be made available in Wales and may apply to the making of a reasonable adjustment for a member with a disability.

It is however recognised that such a general power could have wider application and might potentially be used by a Standards Committee where a Member seeks dispensation in circumstances not covered by the statutory categories. However a Standards Committee would need to weigh carefully whether to grant a dispensation against the potential risk of external challenge to a decision taken by the Authority in which that Member had participated in reliance upon such a dispensation.

- 4.17 *Dispensation in the interests of the Inhabitants of the area.* The regulations allow a Standards Committee to grant a dispensation where it appears to be in the interests of the inhabitants of the area to do so and specifies a requirement to provide written notification to the Welsh Ministers within seven days. Only a handful of such notifications have been received over the past 14 years and as such it is proposed to remove the notification requirement from the regulations.
- 4.18 The Draft Local Government (Wales) Bill is the Minister for Public Services’ vision for Local Government in Wales and is based on activist Councils, engaged in delivering modern, accessible, high quality public services with their local communities. The objective of the Draft Bill is to complete the programme of Local Authority mergers and set out a new and reformed legislative framework for Local Authority democracy, accountability, performance, some elements of finance, and establish a statutory Public Services Staff Commission.
- 4.19 The consultation document sets out the key aspects of the draft Bill under eight parts and the Council’s response to the consultation questions under the various parts was endorsed at the Council meeting on 26th January 2016 (see background paper).
- 4.20 Of particular relevance to the Standards Committee is Chapter 7 of the draft Bill. This gives Standards Committees new functions to handle complaints that Councillors have breached the duties imposed on them by Chapter 2 of this Part; sections 82 to 86. These include a duty to attend meetings, to hold surgeries, to answer correspondence within 14 days of receipt, to undertake training and to make annual reports. Also to monitor compliance of leaders of political groups with the duty imposed on them by Chapter 4.

Given the enhanced role of the Standards Committee, Welsh Government believe there is merit in the Authority being provided with an overview of the work of the Standards Committee during the year, in all its functions, to gain a better understanding of trends in standards of conduct within the Authority. In Chapter 7, therefore, a duty is placed on Standards Committees to publish an annual report and, if appropriate, make recommendations to the Authority.

- 4.21 Members are asked to note the detail set out above.

5. EQUALITIES IMPLICATIONS

- 5.1 There are no equalities implications – this report is for information only.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications – this report is for information only.

7. PERSONNEL IMPLICATIONS

7.1 There are no personnel implications – this report is for information only.

8. CONSULTATIONS

8.1 There has been no formal consultation as this report is for information only.

9. RECOMMENDATIONS

9.1 Members are asked to note the report.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To receive an update on the consultation undertaken by Welsh Government.

11. STATUTORY POWER

11.1 Local Government Act 2000.

Author: Lisa Lane, Corporate Solicitor

Consultees:

For information only Nicole Scammell Acting Director of Corporate Services and Section 151 Officer
Gail Williams Interim Head of Legal Services and Monitoring Officer
Councillor Christine Forehead, Cabinet Member for Human Resources and
Governance/Business Manager
Councillor B Jones, Cabinet Member for Corporate Services

Background Papers:

Report to Council 26th January 2016 – Caerphilly County Borough Council Response to the draft
Local Government (Wales) Bill

This page is intentionally left blank



STANDARDS COMMITTEE –15TH FEBRUARY 2016

SUBJECT: ANNUAL WHISTLEBLOWING REPORT

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES & S151 OFFICER

1. PURPOSE OF REPORT

- 1.1 This report provides a high level review of whistleblowing activity and the development of the Council's approach to whistleblowing during the period 1st January 2014 to 31st December 2015.
- 1.2 It also contains an anonymised summary of a whistleblowing investigation undertaken by the Authority.

2. SUMMARY

- 2.1 To provide an overview of the Council's whistleblowing activities.

3. LINKS TO STRATEGY

- 3.1 The Authority has an obligation to maintain and monitor the standards of conduct throughout the Council's workforce and to maintain appropriate arrangements for good governance. This policy is contained within the Council's Constitution.

4. THE REPORT

- 4.1 The Whistleblowing Policy provides a method for employees to raise concerns about the running of the Council without fear of victimisation. All employees have access to this policy.
- 4.2 The Policy forms part of the Officer's Code of Conduct and is found within the Council's Constitution.
- 4.3 The Policy has been in place since July 2001 and other than a minor review to reflect changes to job titles undertaken in 2012 there had been no significant changes made since that date.
- 4.4 Members may recollect from an earlier training session that a Whistleblowing Commission was set up in February 2013 by the leading Whistleblowing Charity - Public Concern at Work (PCaW). Their remit was to review the effectiveness of whistleblowing in UK workplaces, and to make recommendations for change. The Commission was an independent body made up of industry and academic experts and chaired by the Right Honourable Sir Anthony Hooper (former appeal court judge).
- 4.5 In late November 2013 it published its findings, with the primary recommendation being for the Secretary of State to adopt a Code of Practice that could be taken into account in whistleblowing cases before courts and tribunals. The Commission had published a draft Code which sets out clear standards for organisations across all sectors to enable them to

have clear whistleblowing arrangements. The Code of Practice is designed to help regulators assess and inspect whistleblowing arrangements. The Code of Practice was designed to be adopted by organisations that are looking to achieve the highest standards in ensuring that workers are encouraged to speak up and when they do, that they are listened to.

- 4.6 Officers worked with the Charity Public Concern at Work, who were identified as being able to support best practice in this area. As a consequence the Council has been able to access guidance, resources and support from Public Concern at Work to develop a new Whistleblowing Policy reflective of current guidance and regulations.
- 4.7 Additionally the Council has access to an ongoing facility provided for employees to access the confidential support helpline provided by Public Concern at Work. This enables individuals to make contact in a confidential manner, should they wish to seek independent advice.
- 4.8 In line with the findings of the Commission, the Councils policy was reviewed and an amended policy adopted by the Council in December 2015. The new policy has been written in plain English, to encourage a wide understanding by employees. The policy was heavily based around the model policy provided by Public Concern at Work and was developed by the Council with the support of the Improving Governance Programme Board.
- 4.9 Following the adoption of the revised policy the Council it was uploaded to HR Support Portal and Wellbeing@Work intranet pages and a communication plan undertaken to increase awareness across the wider organisation. This is ongoing.
- 4.10 Members may also recollect that at the meeting on 2nd March 2015, Members of the Committee received a training session on the new policy.
- 4.11 In addition, the recent Standards Conference included a workshop on whistleblowing, details of which have already been shared with Members of the Standards Committee.
- 4.12 Given the role of the Standards Committee to oversee the Whistleblowing Regime, it is proposed that in future annual reports will be presented to the Standards Committee containing information in relation to the numbers of whistleblowing reports issued.
- 4.13 The report contains an anonymous summary of a formal whistleblowing investigation undertaken during the course of the last year, for information.

5. EQUALITIES IMPLICATIONS

- 5.1 There are none arising from the report, it is for information only.

6. FINANCIAL IMPLICATIONS

- 6.1 There are none arising from the report, it is for information only.

7. PERSONNEL IMPLICATIONS

- 7.1 There are none arising from the report, it is for information only.

8. CONSULTATIONS

- 8.1 There has been no formal consultation as this report is for information only.

9. RECOMMENDATIONS

9.1 Members are asked to note the report.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To receive an update on the operation of the Council's Whistleblowing regime.

11. STATUTORY POWER

11.1 Local Government Act 2000.
Public Interest Disclosure Act 1998.
Employment Act 2008.

Authors: Gail Williams, Interim Head of Legal Services and Monitoring Officer and Lynne Donovan Interim Head of Human Resources.

Consultees: Nicole Scammell, Acting Director of Corporate Services & Section 151 Officer
Councillor C Forehead, Cabinet Member for Human Resources &
Governance/Business Manager
Councillor B Jones, Cabinet Members for Corporate Services

Background:
Report to Policy and Resources Scrutiny Committee 11/11/14
Report to Council 18/11/14

Appendices:
Appendix 1 – Anonymised Summary of Whistleblowing Investigation

This page is intentionally left blank

Appendix

Whistleblowing Investigation

Summary

Following the submission of a letter of complaint, the complaint was deemed to fall within the definition of qualifying disclosure under the Council's Whistleblowing Policy. As such, the identity of the complainant was not revealed to those interviewed as part of the investigation.

An investigating officer, one of the Council's Senior Solicitors was appointed to undertake the investigation. She was supported throughout the investigation by one of the Council's HR Managers and the Internal Audit Manager.

The investigation was extensive and involved interviewing eleven individuals (including the complainant) from across the Authority. This included officers from the relevant service area and corporate support services staff. In addition, a very wide range of documentation was thoroughly reviewed and investigated.

In summary, the allegation concerned the transparency, governance, scrutiny and consultation related to a major project being undertaken by the Authority.

Of the allegations investigated, one allegation was substantiated and two were partially substantiated. The remaining allegations were not upheld.

The allegation substantiated was in relation to the execution of confidentiality agreements and the threat of failing to do so resulting in disciplinary action.

The investigation established that signing of confidentiality agreements was on the basis of external legal advice and therefore there is no recommendation to take action in relation to this matter.

The first of the allegations partially substantiated related to the procurement of a data management system. The investigation concluded that whilst there were problems with the system, it was properly procured as there were only limited systems available on the market at that date. The system procured was the best system that was available at that time. Consequently the investigating officers did not conclude that there was an inappropriate commitment of public money and made no recommendation in relation to this allegation.

The second partially upheld allegation related to allegations that costs of works were excessive due to the adoption of a particular schedule of rates. The investigation concluded that certain elements of work undertaken had potentially resulted in an increase in costs for the Council. It was recommended that this matter be reviewed.

In relation to the overall allegation that there was no transparency, governance, scrutiny and consultation in relation to the project, this was not substantiated. In fact, to the contrary the evidence suggested that the whole process was transparent and subject to scrutiny and consultation with appropriate governance process. All decisions to have been consulted upon and scrutinised appropriately and formal decisions taken in accordance with the Council's constitutional requirements. Consequently, this overall allegation was not upheld.

The Investigating Officer concluded that no disciplinary action was required in respect of any of the allegations.

This page is intentionally left blank