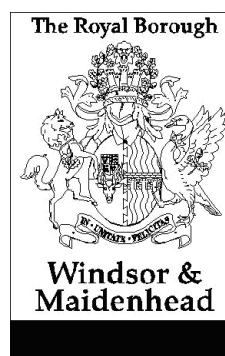


Report for: INFORMATION



Contains Confidential or Exempt Information	NO - Part I
Title	Review of Whistleblowing Procedure
Responsible Officer(s)	Alison Alexander, Managing Director and Strategic Director of Adult, Children and Health Services, Terry Baldwin, Head of Human Resources
Contact officer, job title and phone number	Terry Baldwin, Head of Human Resources
Member reporting	Cllr D Burbage
For Consideration By	Cabinet
Date to be Considered	31 March 2016
Implementation Date if Not Called In	N/A
Affected Wards	All

REPORT SUMMARY

1. At the meeting of Cabinet on 26 March 2015 Members requested that the RBWM Whistleblowing Policy be reviewed to ensure it was fit for purpose to deal with Child Sexual Exploitation (CSE), and then to report back on its effectiveness in March 2016.
2. This report updates Members on the actions taken to review the Council's Whistleblowing procedure for employees and its effectiveness.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
1. Appropriate whistleblowing reporting mechanisms protects the interests of residents through ensuring good professional practice.	Ongoing

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Cabinet:

- i. **Note the actions that have been completed to review the Council's Whistleblowing Policy to ensure it is fit for purpose to deal with Child Sexual Exploitation;**
- ii. **Endorse, in particular, the annual compliance period for staff detailed in point 2.5(c)**

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 The Council's two Whistleblowing Policy and Procedures are owned by Human Resources (HR), one covering RBWM non schools and one for schools. In March 2015 Cabinet requested a review of the RBWM Whistleblowing Policy, following a report on child sexual exploitation, to ensure that it was fit for purpose, to deal with CSE and then report back on its effectiveness in March 2016.
- 2.2 The Council's Whistleblowing Policy and Procedure for non schools covers a wide range of concerns in addition to safeguarding failures. These include acts that are unlawful or involve fraud, represent a risk to health and safety, cause environmental damage, infringe opportunities related to legislation, amount to improper conduct, are a miscarriage of justice or are a criminal offence or breach of law. Separate policies also exist regarding anti fraud and anti corruption and employee grievances.
- 2.3 Both Whistleblowing Policy and Procedures have been reviewed and minor amendments were made to ensure that they are compliant with current legislation and controls in the organisation, see appendix A. The revised Policy and Procedure was launched on Hyperwave with an accompanying item in Borough Bulletin, weekly information email for staff, and First Class, equivalent of Hyperwave for maintained schools, in the last quarter of 2015. In addition it was sent to all schools
- 2.4 A clear whistleblowing policy is vital, however it is dependent on employees being aware of its existence, knowing where to find it and understanding its relevance to their roles. A whistleblowing policy is not effective if the organisation culture does not give employees confidence that issues raised will be dealt with appropriately and in a timely manner. To date no concerns have been raised under the Whistleblowing policy.
- 2.5 A number of measures either have been, or are due to be implemented, to support the effectiveness of the policy both in relation to CSE and more widely. These are summarised below:
 - a) The Whistleblowing policy has been added to the corporate RBWM induction to highlight it to all new starters.
 - b) Maintaining awareness of the council's whistleblowing policy and procedures has been added to the standard job accountabilities template and will therefore

be included in job accountabilities for all new and amended roles from January 2016.

- c) HR are working on the implementation of an annual compliance period for staff during which mandatory checks and training will be completed. The Whistleblowing Policy will be included in the suite of key policies that employees will be required to confirm they have re-familiarised themselves with each year and these will be available from April 2016.
- d) In January 2016, Ofsted published 'Whistleblowing to Ofsted about Children's Social Care Services' – policy and guidance for whistleblowers. This coincides with the launch of the NSPCC's national helpline for employees wishing to raise concerns about a child at risk of abuse which went live in January. Information about both of these reporting mechanisms has been published on Hyperwave and First Class alongside our Whistleblowing policies and will be regularly circulated to employees. Openly publicising these documents will assist in demonstrating our commitment to the safety of children.
- e) Whenever wider national or local events draw attention to whistleblowing, we publish items in the Borough Bulletin to remind employees of our policies and commitment. For example, an item was published at the end of February to link into the high profile media coverage of the convictions in relation to the Rotherham CSE cases and the publication of the report into Jimmy Saville and Stuart Hall at the BBC. We will continue to link into relevant news items as and when appropriate.
- f) Activities to increase the profile of whistleblowing reporting mechanisms will continue to be fully explored and utilised and every opportunity will be taken by the Senior Leadership Team to emphasise the council's commitment to dealing with concerns raised quickly and appropriately.
- g) Random testing of employee's awareness of the Whistleblowing policy to be introduced.

2.6 The Whistleblowing Policy and Procedure will be kept under regular review to ensure that it is fully compliant with legislation and supports effective reporting of concerns.

3 KEY IMPLICATIONS

3.1

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Random testing of employees awareness of the	Less than 60% of those	60% of those tested were	More than 60% of those tested	More than 80% of staff tested were aware of the policy.	31 May 2016

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Whistleblowing policy	tested were aware of the policy	aware of the policy	were aware of the policy		

4. FINANCIAL DETAILS

Financial impact on the budget

4.1 No financial implications

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital £'000	Capital £'000	Capital £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

- 5.1 The Council's Whistleblowing Policy and Procedure is compliant with the Public Interest Disclosure Act 1998. It also recognises the arrival of the Enterprise and Regulatory Reform Act 2013 (ERA) and the protections inserted by the ERA into the Public Interest Disclosure Act 1998. These are designed to protect workers from being unfairly dismissed by their employer or suffering other detriment whenever they report their concerns about matters that affect the public interest to their employer, regulatory authorities or other designated persons.

6. VALUE FOR MONEY

- 6.1 Ensuring the Council's Whistleblowing Policy is fit for purpose to deal with Child Sexual Exploitation, and other arising concerns, mitigates reputational and financial risk to the Council of failing to comply with its statutory responsibilities.

7. SUSTAINABILITY IMPACT APPRAISAL

- 7.1 None

8. RISK MANAGEMENT

8.1

Risks	Uncontrolled Risk	Controls	Controlled Risk
Serious concerns including those involving safeguarding are not reported leading to potential harm or detriment.	Staff are not aware of reporting mechanisms and/or are reluctant to utilise.	Legislatively compliant Whistleblowing Policy and Procedure in place that all staff are aware of and a culture which supports reporting.	Concerns are reported and a clear process is followed ensuring swift action is taken to prevent harm or detriment.

9. LINKS TO STRATEGIC OBJECTIVES

Residents First

- Support Children and Young People
- Work for safer and stronger communities

Delivering Together

- Deliver Effective Services
- Strengthen Partnerships

Equipping Ourselves for the Future

- Developing Our systems and Structures
- Changing Our Culture

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 Not applicable

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 None

12. PROPERTY AND ASSETS

12.1 None

13. ANY OTHER IMPLICATIONS

13.1 None

14. CONSULTATION

14.1 The updates to the Whistleblowing Policy and Procedure were considered by People Forum and DMT and any comments incorporated.

15. TIMETABLE FOR IMPLEMENTATION

15.1 Implementation is ongoing.

16. APPENDICES

16.1 Appendix A: Raising Concerns At Work (Whistleblowing) Policy and Procedure (non schools)

17. BACKGROUND INFORMATION

17.1 None

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Burbage	Leader of the Council	04/03/16	10/3/16	
Alison Alexander	Managing Director/ Strategic Director Adults, Children and Health	29/02/16	04/03/16	
Simon Fletcher	Strategic Director Operations and Customer Services	29/02/16		
Russell O'Keefe	Strategic Director Corporate and Community Services	29/02/16		
Michaela Rizou	Cabinet Policy Assistant	29/02/16	03/03/16	
External				

REPORT HISTORY

Decision type:	Urgency item?
For information	No

Full name of report author	Job title	Full contact no:
Terry Baldwin	Head of Human Resources	01628 796992

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

RAISING CONCERNS AT WORK (WHISTLEBLOWING) POLICY AND PROCEDURE (NON SCHOOLS)

Covers:

- Purpose and aims
- Scope
- How to raise a concern
- Practice and procedure
- How the Council will respond
- Safeguards
- How the matter can be taken further
- Responsibility of Officers / Monitoring officer
- Contacts

1. PURPOSE AND AIMS

- 1.1 The Royal Borough of Windsor and Maidenhead (RBWM) (the Council) must aspire to the highest standards of quality, probity, openness and accountability in all its activities. In line with the Public Interest Disclosure Act 1998, this Policy and Procedure aims to create an environment in which employees and others working with RBWM, who have concerns about any aspect of the Council's work, feel encouraged to disclose information to an appropriate person within the Council. Raising concerns at work also applies to Members, contractors, consultants and agency staff working on Council premises.
- 1.2 The Council's Whistleblowing Policy and Procedure is compliant with the Public Interest Disclosure Act 1998. It also recognises the arrival of the Enterprise and Regulatory Reform Act 2013 (ERA) and the protections inserted by the ERA into the Public Interest Disclosure Act 1998. These are designed to protect workers from being unfairly dismissed by their employer or suffering other detriment whenever they report their concerns about matters that affect the public interest to their employer, regulatory authorities or other designated persons.
- 1.3 Whistleblowing claims will only now be valid when an employee blows the whistle in relation to a matter for which the disclosure is genuinely in the public interest. This will exclude breaches of individuals' contracts of employment and breaches of other legal obligations which do not involve issues of a wider public interest.
- 1.4 The good faith test is a test which needs to be satisfied by claimants bringing a whistleblowing claim. With the introduction of the public interest test, it was considered that the existence of two tests would have a deterrent effect and reduce the number of disclosures. This Act changes the application of the good faith test, so it will now be considered by the tribunal when deciding on remedy, rather than liability. The tribunal will have the power to reduce any compensation award by up to 25% where a disclosure has been made in predominantly bad faith.
- 1.5 Employees, because of their close proximity to Council practices, are often the first to identify areas or issues that may be of concern. However, they may be reluctant to express these concerns because they feel that speaking up would be disloyal to their colleagues or to the Council – and they may also be worried that they will be victimised or harassed as a result of their actions.
- 1.6 This Policy is designed to help create an environment in which employees and others feel they are able to raise concerns without fear of reprisal. By responding to and addressing concerns in the quickest possible time, RBWM aims to contain such matters within the Council.

However, employees or others must be able to take matters further if they are dissatisfied with the Council's response.

2. SCOPE

- 2.1 The Council has an Anti Fraud and Anti Corruption Statement (available on Hyperwave and the RBWM website) which employees are encouraged to continue to use to identify and report problems or concerns, particularly in relation to financial or contractual irregularities.
- 2.2 This document is designed to sit alongside the Statement, together with the Council's Grievance Procedure (which enables employees to lodge a grievance relating to their employment) and the Dignity at Work Policy, which includes a procedure for dealing with claims of harassment (both available on Hyperwave).
- 2.3 Raising Concerns at Work is intended to cover concerns that fall outside the scope of these three procedures and extends the range of issues that employees are encouraged to report.
- 2.4 These concerns may be about acts that:
 - a) are unlawful or involve fraud, deceit and/or bribery
 - b) represent a risk to health and safety
 - c) cause environmental damage
 - d) infringe equal opportunities related legislation and / or Council policies, e.g. discriminatory behaviour
 - e) amount to improper or unethical conduct, e.g. breach of a statutory code of conduct, or are an abuse of position
 - f) are a miscarriage of justice
 - g) are a criminal offence or breach of law
 - h) are safeguarding failures

3. HOW TO RAISE A CONCERN

- 3.1 Concerns can be discussed with a colleague first and it may be easier to raise the matter if more than one of you has had the same experience or concern.
- 3.2 A friend, colleague, or a representative of your Trade Union or professional association may assist in raising a concern and may be in attendance at any related meetings.
- 3.3 Employees should, if possible, raise a concern in the first instance with their immediate manager.
- 3.4 Members should raise any concerns with their Group Leader.

- 3.5 Non-employees, e.g. agency workers, contractors, partners, volunteers, should raise a concern in the first instance with the person to whom they directly report / have contact within the Council.
- 3.6 In some cases, the nature or sensitivity of the concern means that this may not always be appropriate. If a person feels they cannot raise their concern with their immediate manager/contact, they are able to go directly to either the Head of Human Resources, the Monitoring Officer (Head Governance, Partnerships, Policy and Performance), Head of Finance or the Service Manager, Shared Audit and Investigation Service. They may also do so if, having raised the concern with the immediate manager/contact, they feel there has not been an appropriate response.
- 3.7 In the event of a concern being of an extreme and potentially serious nature, employees and others may raise it directly with the Managing Director or the Leader of the Council.
- 3.8 For all concerns in respect of any suspected financial irregularity, officers must notify the Head of Finance and the Service Manager, Shared Audit and Investigation Service immediately.
- 3.9 In circumstances where an individual feels that it is necessary to raise a concern with an independent body rather than raise it internally within the Council, they may obtain guidance from the Public Concern at Work charity who can be contacted on 020 7404 6609.

4. PRACTICE AND PROCEDURE

- 4.1 Concerns are better raised in writing but can be made orally; in either case it is essential to give as much information as possible so that reasonable grounds for the concern can be demonstrated.
- 4.2 The earlier the concern is raised, the greater the opportunity for the Council to take remedial action.
- 4.3 Advice and guidance on how matters of concern may be raised and pursued can be obtained from the Head of Human Resources, the Service Manager, Shared Audit and Investigation Service or the Monitoring Officer.

5. HOW THE COUNCIL WILL RESPOND

- 5.1 Once a concern is raised, an appropriate Council officer will make initial enquiries, taking advice from the Head of Human Resources, Monitoring Officer, Head of Finance and the Service Manager, Shared Audit and Investigation Service, to help decide if an investigation is appropriate and if so, what form it should take. As soon as possible

and in any case within 10 working days of a concern being raised, the person handling the matter will write to the individual raising the concern acknowledging that it has been raised and indicating how, as far as possible, it will be dealt with. The individual will be kept informed of progress and will receive a full and final response, subject to any legal restraints.

- 5.2 An Investigation Officer will be appointed by the relevant Director.
- 5.3 In relation to allegations of fraud and corruption (including bribery) in respect of Members and Directors, the Managing Director will lead the process and will appoint an appropriate Investigating Officer, in liaison with the Monitoring Officer, Head of Human Resources, Head of Finance and the Service Manager, Shared Audit and Investigation Service. For cases involving the Managing Director, the Leader of the Council will direct the process.
- 5.4 Any decision to refer a matter to the Police will be taken by the Monitoring Officer, in consultation with the relevant Director, the Service Manager, Shared Audit and Investigation Service and the Head of Human Resources, as appropriate. The Council will normally wish the Police to be made aware of, and investigate independently, those offenders where financial impropriety is discovered.
- 5.5 Depending on the nature of the allegation, the Investigating Officer will normally work closely with the Director appointing them, to ensure that all allegations are thoroughly investigated and reported upon.
- 5.6 The Investigating Officer will:
 - deal promptly with the matter
 - record all evidence received
 - ensure that all evidence is sound and adequately supported
 - ensure security of all evidence collected
 - contact other agencies such as Police
 - notify the Council's Insurance and Risk Manager, if applicable, who in turn will notify the RBWM insurers
 - assist management to implement Council disciplinary procedures, where appropriate.

The processes outlined above will also apply to Members.

- 5.7 The Council's disciplinary procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees.

6. SAFEGUARDS

Harassment or Victimisation

- 6.1 The Council recognises that it can be difficult to report a concern, not least because of the fear of reprisal from those responsible for the potential malpractice. The Council will not tolerate harassment or victimisation of the person who has raised the issue and will take appropriate action against individuals who perpetrate such harassment.

Confidentiality

- 6.2 Wherever practical and possible, the council will protect the identity of those raising a concern if they do not wish their name to be disclosed. It must be appreciated, however, that the process of investigation may reveal the source of information and a statement may also be required as part of the evidence. Advice and support will be provided where this is the case and disclosure of your identity will not be done without your consent unless legally required to do so.
- 6.3 Anyone may approach the Council confidentially if they so wish and as long as their allegation appears to have been raised honestly and in good faith, their wish for confidentiality will be supported.
- 6.4 This approach is further supported by decisions of the courts, who have recognised in certain circumstances the identity of persons who have made allegations or given information to the public and other bodies should not be revealed (in the course of legal proceedings, for example). They recognise that disclosure could discourage others from making allegations or giving information to the proper authorities.

Support for Those Raising Concerns

Trade Unions

- 6.5 If you are a Trade Union member, you are encouraged to raise and discuss matters with your union representatives before seeking to invoke the Whistleblowing Procedure. Trade Unions can advise you whether or not to proceed and the best way to present your disclosure.

Human Resources (HR) Service

- 6.6 The Council's HR Service can be a place where you can discuss how to make a disclosure and lodge a matter of concern. Staff and non-employees will often discuss the issues that worry them with members of the HR Business Partner team in the first instance. Such discussions will be in confidence if that is what you prefer, but there may be some disclosures (for instance criminal acts) that cannot remain confidential.

Employee Assistance Programme (EAP)

- 6.7 Employees of the Council can contact the EAP which is a completely independent workplace support service, accessible on line and via a freephone number, 24 hrs a day, 365 days of the year.
- 6.8 The service offers free and completely confidential advice and help in relation to personal or work related issues.

Anonymous Allegations

- 6.9 Individuals raising concerns are strongly encouraged to put their name to any allegation. Concerns expressed anonymously are much less powerful, and will only be considered if the Monitoring Officer advises that the allegation demonstrates sufficient cause to take the matter further.

Untrue Allegations

- 6.10 If someone makes an allegation in good faith and it is not confirmed by an investigation, no action will be taken against the person who has made the report. If, however, an individual makes an allegation, which is subsequently shown to be malicious or vexatious, disciplinary action is likely to be taken against them.

7. HOW THE MATTER CAN BE TAKEN FURTHER

- 7.1 This Policy is intended to provide employees and others with an effective process for raising concerns within RBWM. The Council hopes that those using this process will be satisfied with the way their concerns are treated and any investigations that may be carried out. However, if they are not satisfied and feel it is right to take the matter outside the Council, then either the Head of Human Resources or the Monitoring Officer will provide advice as to other options.

8. RESPONSIBILITY OF OFFICERS / MONITORING OFFICER

- 8.1 The Head of Human Resources and the Monitoring Officer have overall responsibility for the maintenance and operation of this Policy.
- 8.2 The Service Manager, Shared Audit and Investigation Service should be notified of all concerns raised through this Policy. All concerns raised and the outcomes (in a form which respects the individual's confidentiality) will be maintained by the Head of Human Resources.

9. CONTACTS

Internal

Strategic Director of Adult, Children and Health Services, and Managing Director 01628 796367

Monitoring Officer and Head of Governance, Partnerships, Performance and Policy 01628 796748

Service Manager, Shared Audit and Investigation Service 07917 265742

Head of Finance (Financial Issues) 01628 796341

Head of Human Resources 01628 796992

Political Assistant to Leader of the Council 01628 796352

External

External Audit (KPMG)
Audit Commission (Whistleblowing Line) 0845 052 2646

Your Local Union Representative
Public Concern at Work (www.pcaw.co.uk) 020 7404 6609

10 PUBLICITY

- 10.1 This Policy should be publicised to the widest possible audience so that all internal and external parties related to the Council are aware of its existence in the event they have a legitimate concern or complaint.