



Leicester
City Council

WARDS AFFECTED – ALL

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Strategic Management Board
Audit & Risk Committee
Standards Committee

21st August 2012
27th September 2012
14th November 2012

DISCLOSURE STRATEGY FOR LEICESTER CITY COUNCIL

REPORT OF THE CITY BARRISTER AND HEAD OF STANDARDS

1. PURPOSE OF REPORT

- 1.1 This report sets out the Council's strategy in respect of disclosures that may be made by a range of people about the conduct of Local Authority staff.

2. RECOMMENDATIONS

- 2.1 That the Committee notes the approach proposed within this report for dealing with the Conduct of Local Authority staff, both in terms of the standard set through the Code of Conduct as expressed at Appendix A, and the mechanisms identified through a "suite" of policies as per Appendices B to D and comments as appropriate.

3. SUMMARY

- 3.1 The impetus for this disclosure strategy has come from a number of sources. Elected members, both within and outside of the Audit and Risk Committee, have been keen to see this strategy developed, as have the Executive members. Senior officers have also been behind the drive to co-ordinate a disclosure strategy and in separate dealings with external partners such as the District Auditor, the Monitoring Officer and the Chief Finance Officer have had discussions about our approaches to investigating officer conduct in various scenarios.
- 3.2 Whilst the temptation may be to create a one-size-fits-all single disclosure policy, it is suggested that a multi-stranded disclosure strategy is the best way to address the different concerns and the different responses that are required for different types of disclosures. The danger in not doing so is that the Council ends up having to implement one policy which is compromised

because of its attempt to reach different audiences with different needs. We can either erroneously grant quasi-legal protection to the wrong categories of people, or we can grant the wrong protection to the right groups of people because of the way we have defined qualifying disclosures.

- 3.3 It is also important to bear in mind that the whistleblowing policy itself is merely a gateway to the instigation of other established policies where appropriate and is not an investigatory route-map of itself.
- 3.4 The suite of policies attached combine together to create a robust package/strategy for disclosures being made about Council staff. In a year when the elected members' 'Code of Conduct' and new 'Arrangements' have been revised it is apt to re-launch our Employee Code of Conduct and established policies such as the Grievance and Disciplinary policies.
- 3.5 It is important to bear in mind that the "suite" of policies appended does not purport to be exhaustive of the many policies and procedures which exist for raising concerns and investigating conduct.
- 3.6 City Learning has agreed to be responsible for co-ordinating a campaign of dedicated training on this strategy to relevant tiers of staff over the coming months. This should also be embedded into induction training for all staff.

4. REPORT

- 4.1 The City Council expects high standards of behaviour from all of its staff and recognises that there need to be appropriate routes by which people can make disclosures when it is suspected that standards have been breached. A disclosure strategy needs to address a number of different audiences and questions:
 - What are the expected standards of behaviour of staff? Do they only cover fraudulent type financial activities, or can they be broader?
 - Can members of staff make disclosures against other members of staff? If they do so, will they expose themselves to risk?
 - Can members of the public make disclosures about the suspected conduct of staff? If so, how do they do so?
 - Can elected members raise concerns about the conduct of staff? If so, how do they do so?
 - Are there mechanisms for disclosures to be made only to line management or are there other gateways for the receipt of disclosures, both within and outwith the Council?
 - What is the relevance of existing procedures held in the Council when it comes to dealing with staff who are alleged to have broken the rules or standards of behaviour?

4.2 The above questions raise related but diverse issues. As a result of this no one policy of the Council can sensibly address all of those questions in one place and, therefore, this disclosure strategy sets out the route-map through which different types of disclosures can be channelled.

4.3 The Employee Code of Conduct

4.3.1 Just as the Council defines the standards it expects of its elected and co-opted members, and the arrangements for dealing with alleged breaches thereof, we also set standards for the behaviour of our staff. The employee Code of Conduct has recently been re-launched and is attached hereto as **Appendix 1 (Please note this is a draft document)**

4.3.2 This is the sensible starting point for assessing what standards are expected of our staff and what threshold to apply when those standards are alleged to have been breached.

4.4 The Whistleblowing policy

4.4.1 Whistleblowing is a legal term of art and refers to circumstances in which a member of staff is permitted to raise legitimate allegations about certain types of conduct of other members of staff, and to receive a concomitant level of legal protection against damage or detriment. The purpose of the legal protection is both to:

i. Expressly afford that employee (the whistleblower) a level of protection whilst they remain employees

and also to;

ii. Give that employee a remedy in the Employment Tribunal if they make a claim against their employer as a result of suffering detriment from whistleblowing.

4.4.2 In these respects the term is narrowly defined in law and hence it attaches to a fixed set of 'qualifying disclosures' only. As such, a Whistleblowing policy is not a statement of aspiration as to what conduct the local authority deems to be reprehensible, and neither does a Whistleblowing policy attempt to set out a route for investigating and dealing with such disclosures outside of the established routes.

4.4.3 The Council's proposed whistleblowing policy is attached as **Appendix 2. (Please note this has recently been sent to the Unions, for consultation, so must be treated as a draft document)**

4.5 The City Council's Grievance procedure

4.5.1 The Grievance procedure is an established procedure for dealing with concerns/complaints raised by an employee that relate to their employment.

The grievance procedure is broad in its remit. For example, it is not uncommon for such procedures to encompass, amongst others, complaints relating to all forms of discrimination, bullying and harassment in the workplace. However it is normally good practice for employees to raise issues informally with their line manager in the first instance to see if they can be resolved before resorting to a grievance procedure and many matters are routinely dealt with in this way in the Authority

- 4.5.2 The Council's current Grievance procedure is attached at **Appendix 3**. **(Please note that a new draft of the Grievance Policy is being formulated, and will come to SMB in the near future)**

4.6 The City Council's Corporate Complaints procedure

4.6.1 The Corporate Complaints procedure is the established route for those outside of the Council (i.e. members of the public) raising concerns about any aspect of the Council's business and the services it provides. This includes concerns/complaints raised in relation to the conduct of employees.

4.6.2 Members of the public do not require whistleblowing protection in law because they are not at risk of suffering detriment in the way that an employee is. Any referrals made by members of the public (including elected members) should be dealt with in accordance with the Corporate Complaints procedure.

4.6.3 The Council's Corporate Complaints policy is attached as **Appendix 4** **(Please note that the Policy itself exists as a series of pages on Insite, so the attached is a synopsis of the relevant pages)**

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

i. Financial implications

ii. Legal Implications

The legal implications are addressed throughout the report and detailed legal advice has been obtained in respect of each of the attached policies

iii. Other implications

OTHER IMPLICATIONS	YES/NO	PARAGRAPH / REFERENCE WITHIN THE REPORT
Equal opportunities Policy		
Sustainable Environment and Crime and Disorder		
Human Rights Act		

Elderly / people on low income		
Corporate parenting		
Health inequalities impact		

iv. Climate change implications

6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

7. CONSULTATIONS

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8. REPORT AUTHOR

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