



Committee and Date

Audit Committee

20 July 2022

Item

Public

2021/2022 Review of Whistleblowing - 'Speaking Up About Wrongdoing'

**Responsible
Officer**

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1. Synopsis

Whistleblowing provides a process for concerns to be raised in relation to work, such as fraud, adult/child protection or harassment and bullying allegations. This report provides an update to the Shropshire Council Audit Committee on the number of whistleblowing cases raised regarding Council employees over the last year.

2. Executive Summary

- 2.1 The Whistleblowing "Speaking up about Wrongdoing" process forms a key element of the Councils Corporate Governance arrangements. This report provides an update to the Shropshire Council Audit Committee on the number of cases raised regarding Council employees over the last year (excluding school-based employees).
- 2.2 The Whistleblowing Policy is available to all staff via the Intranet pages and is also available to them, along with members, contractors, partners and the public, via the [website](#); allowing it to be accessed from any computer
- 2.3 In 2021/22 there were twenty-five whistleblowing reports, this is a 29% reduction compared to the previous year.
- 2.4 All whistleblowing reports in 2021/2022 have been via email. The most reported theme was financial incident which includes theft, tenancy and tax fraud. Nine cases were referred to an external third party.
- 2.5 The Council Whistleblowing process provides an effective route to enable employees, elected members, contractors and others to raise concerns about fraud, corruption, adult/child protection or harassment and bullying allegations.

3. Recommendations

The Audit Committee is asked to:

- a. Consider and approve, with appropriate comments on the contents of the report

REPORT

4. Risk Assessment and Opportunities Appraisal

- 4.1. The Council has in place an effective Counter Fraud, Bribery and Anti-Corruption Strategy. The Council proactively encourages the detection of fraud and irregularities and the appropriate management of them. The Whistleblowing policies contribute to our zero tolerance of fraud, bribery and corruption.
- 4.2. The recommendations contained in this report are compatible with the provisions of the Human Rights Act 1998. There are no direct environmental, equalities, consultation or climate change consequences of this proposal.

5. Financial Implications

- 5.1. The management and investigation of issues raised in response to this policy are met from approved budgets.

6. Climate Change Appraisal

- 6.1. This report does not directly make decisions on energy and fuel consumption; renewable energy generation; carbon offsetting or mitigation; or on climate change adaptation. Therefore, no effect.

7. Background

- 7.1. This is an annual report to Audit Committee on whistleblowing arrangements.
- 7.2. The Whistleblowing Policy is available to all staff via the Intranet pages and is also available to them, along with members, contractors, partners and the public, via the [website](#); allowing it to be accessed from any computer/mobile device. This is particularly important as it allows staff to access the policy outside of a work environment, where they may be reluctant to be seen accessing the Whistleblowing policy.
- 7.3. Whistleblowing is when a worker reports suspected wrongdoing at work. Officially this is called 'making a disclosure in the public interest'. A worker can report things that aren't right, are illegal or if anyone at work is neglecting their duties, including:
- someone's health and safety is in danger
 - damage to the environment
 - a criminal offence
 - the company isn't obeying the law (like not having the right insurance)
 - covering up wrongdoing.
- 7.4. The way a worker can 'blow the whistle' on wrongdoing depends on whether they feel they can tell their employer.
1. The worker should check their employment contract or ask Human Resources if their company has a whistleblowing procedure.
 2. If they feel they can, they should contact their employer about the issue they want to report.
 3. If they can't tell their employer, they should contact a prescribed person or body.

7.5 A worker can only tell the prescribed person or body if they think their employer:

- will cover it up
- would treat them unfairly if they complained
- hasn't sorted it out and they've already told them

7.6 Dismissals and whistleblowing

A worker can't be dismissed because of whistleblowing. If they are, they can claim unfair dismissal. They'll be protected by law as long as certain criteria are met.

7.7 Types of whistleblowing eligible for protection

These are called 'qualifying disclosures'. They include when someone reports:

- that someone's health and safety is in danger
- damage to the environment
- a criminal offence
- that the company isn't obeying the law (like not having the right insurance)
- that someone's covering up wrongdoing
- a miscarriage of justice

7.8 Who is protected?

The following people are protected:

- employees
- agency workers
- people that are training with an employer, but not employed
- self-employed workers, if supervised or working off-site

An individual is also protected if they work in a school or sixth-form college, whether an employee or an agency worker. NHS workers who work under certain contractual arrangements, e.g., certain GPs and dentists, are also protected.

A worker will be eligible for protection if:

- they honestly think what they're reporting is true
- they think they're telling the right person
- they believe that their disclosure is in the public interest

7.9 Who isn't protected?

Workers aren't protected from dismissal if:

- they break the law when they report something, e.g., they signed the Official Secrets Act
- they found out about the wrongdoing when someone wanted legal advice ('legal professional privilege'), e.g., if they're a solicitor

Workers who aren't employees can't claim unfair dismissal because of whistleblowing, but they are protected and can claim 'detrimental treatment'.

7.10 Tribunals

Workers dismissed for whistleblowing can go to an employment tribunal. If the tribunal decides the employee has been unfairly dismissed, it will order that they are:

- reinstated (get their job back)
- paid compensation

A tribunal judge can reduce any compensation awarded by 25% if they find the person has acted dishonestly.

A whistleblower who is bullied at work will also be able to bring a claim to the employment tribunal against their employer or colleagues.

8. Additional Information

8.1 2021/22 Whistleblowing Reports

8.1.1 In 2021/22, there were twenty-five cases reported under the whistleblowing arrangements for Shropshire Council. All reports have been received via email. The most reported theme was financial incident, which includes theft, tenancy and tax fraud. Nine cases, none of which were employees, were referred to a third party such as Department Work and Pensions (DWP) and Action Fraud.

8.1.2 2021/22 Table of Whistleblowing reports and outcomes

Theme	Number
Grant Fraud	2
Financial incident: Theft, Tenancy and Tax Fraud	8
Benefit Fraud	1
Planning	3
Safeguarding / discrimination	5
Highways	1
Staffing issues	1
Procurement	1
Data Protection	1
Other	2
Outcomes for all themes	Number
No case to answer	13
Referred to third party (DWP/Action Fraud)	9
Managed via another policy/procedure	2
Management action	1

8.2 Comparison to previous years

8.2.1 There has been a 29% decrease in the number of incidents reported than in the preceding year, with the preferred route of “blowing the whistle” being via email. This route of reporting is consistent with the previous year and is likely to be due to more remote working. The number of incidents reported in the last five years are shown in Table 8.2.3. The number of cases reported can fluctuate year on year so a drop of 29% is not unusual. The policy is periodically reflected in email updates and news items on the Intranet throughout the year.

8.2.2 When comparing the route of report to previous years; in 18/19 and 19/20 the preferred route was a verbal report. In 2020/21 there were thirty-five cases reported under whistleblowing arrangements for Shropshire Council, the majority of which were relating to grant fraud. In 2019/20 there were twenty cases reported and most of these were relating to fraud and property issues.

8.2.3 Table of Whistleblowing Reports for last five years

Year	Case	% Change
21-22	25	29% decrease
20-21	35	43% increase
19-20	20	39% decrease
18-19	33	51% increase
17-18	16	Similar previous year (15 reports)

9. Conclusions

9.1. The 'Speaking up about Wrongdoing' process forms a key element of the Council's Corporate Governance arrangements and is continuing to be a route employees use to raise concerns, as well as a route which is also open to elected members, contractors, partners and others.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

None

Cabinet Member Cllr Lezley Picton (Leader of the Council) Cllr Brian Williams (Chair of Audit Committee) Cllr Gwilym Butler (Portfolio Holder Resources)

Local Member N/A

Appendices N/A

