

Agenda Item 8.

TITLE	Whistleblowing and Confidentiality
FOR CONSIDERATION BY	Standards Committee on 5 th July 2017
WARD	None Specific
LEAD OFFICER	Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer

OUTCOME / BENEFITS TO THE COMMUNITY

To inform Members on differences between the Whistleblowing Policy, and the Code of Conduct rule about breach of Confidentiality.

RECOMMENDATION

The Committee is requested to note the report and consider any issues arising.

SUMMARY OF REPORT

At its meeting on 14th March 2017 the Committee considered a report giving an Update on Complaints, as well as providing feedback. A Member stated that sometimes it was difficult to differentiate between whistleblowing and confidentiality. It was resolved therefore to bring to the next meeting a confidentiality and whistleblowing report.

Background

Whistleblowing Policy (Chapter 9.2 of the Constitution) and Confidentiality in the Code of Conduct (Paragraph 9.2.8.5 of the Constitution).

Confidential Information

As Members will be aware, the Code of Conduct states that Councillors must not knowingly disclose information which they believe, or ought reasonably be aware, is confidential, or where the information is prohibited by law (such as personal information under the Data Protection Act 1998), unless it is with good cause or they have the consent of the person authorised to give it, or they are required to disclose it by law.

If a Councillor believes that confidential information should be released because he or she has good cause to do so, then that 'good cause' should be reasonable and proportional. This means that it shouldn't be released solely for the Councillors benefit or for political reasons only. A balancing exercise needs to be made in terms of the harm caused by the release of the confidential information, versus the harm caused by keeping it confidential.

Whistleblowing

The Whistleblowing Policy and Guidance in Chapter 9.5 of the Constitution is designed to allow Council staff and it's contractors to make a 'protected' disclosure in respect of specific types of malpractice being carried out within the Council without fear of being victimised or dismissed. These are listed, as follows:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health or safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged; or
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

The Policy also explains that whistleblowing occurs when a concern is raised about danger or illegality that affects, for example, clients, members of the public or the Council itself. Examples of whistleblowing concerns are listed in Para. 9.5.2 of the Policy, as follows:

- fraud in, on or by the Council;
- offering, taking or soliciting bribes;
- unauthorised use of public funds;
- financial maladministration;
- the physical, emotional or sexual abuse of clients;
- failure to comply with legal obligations;
- endangering of an individual's health and safety;
- damage to the environment;

- a criminal offence;
- failure to follow financial and contract procedure rules;
- showing undue favour to a contractor or a job applicant;
- misreporting performance data; or
- neglect of people in care.

The Whistleblowing Policy is designed for staff and contractors, past and present, only. However, the Policy is useful for Members in that, if they are concerned about any aspect of malpractice within the Council, they can contact the same dedicated Whistleblowing hotline number or e-mail address, or the Monitoring officer or one of the Investigation Team.

If a Member makes the disclosure in good faith, it's unlikely to be viewed as a disclosure of confidentiality which would put them at risk of breaching the Code of Conduct. If Members are unsure about their position, they may wish to seek advice from the Monitoring Officer, or from the Borough Solicitor.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	N/A	N/A	N/A
Next Financial Year (Year 2)	N/A	N/A	N/A
Following Financial Year (Year 3)	N/A	N/A	N/A

Other financial information relevant to the Recommendation/Decision
None

Cross-Council Implications
Promoting high standards of conduct for elected Members across the Borough.

List of Background Papers
None

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