

Audit and Standards Committee

1 June 2017

Whistleblowing Policy

Recommendation(s)

1. That the Committee endorses the revised Whistleblowing Policy (Appendix D) and Essentials document (Appendix A) for onward submission to Cabinet.

1.0 Key Issues

- 1.1 The Policy needs to be updated to reflect the changes to the law on protected disclosures and the statutory Duty of Candour which applies to the County Council as a provider of care services.

2.0 Proposal

- 2.1 The County Council's Whistleblowing Policy was last reviewed in October 2014. A revised policy was considered by Audit and Standards Committee on 17 November 2016 when the Committee resolved that officers undertake more work on the proposed revisions to the policy.
- 2.2 As a result a "Whistleblowing Essentials" document has been produced to make it more accessible to readers. The revised policy itself has not been changed because of the need to ensure that it accurately reflects the law, which is complex.
- 2.3 Although the policy extends to third party providers of services, we have taken this opportunity to strengthen this aspect of our existing policy and to include a specific reference to the Duty of Candour, which was introduced in November 2014 by the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. This is a duty placed on registered providers of health care services and from 1 April 2015 it was extended to registered providers of other care services.
- 2.4 The Duty of Candour is intended to ensure that providers are open and transparent with people who use services, in relation to care and treatment. The law sets out specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology. The County Council's Whistleblowing Policy has been revised to take account of this legislative change so that it fulfils the County Council's obligation to encourage candour, openness and honesty in those involved in the provision of care.

- 2.5 The revised Policy continues to encourage the use of internal procedures to make disclosures and identifies a list of Whistleblowing Advisers from each Group of the County Council to whom staff can turn for advice or to make a disclosure if they do not feel able to discuss with their own managers. This list has recently been updated and is attached as Appendix B. The Policy also indicates that advice can be sought from Public Concern at Work.
- 2.6 The law on protected disclosures is governed by the Employment Rights Act 1996 which affords protection to employees from victimisation by their employer or from losing their job where they have “blown the whistle.” The Policy also recognises that the Employment Rights Act 1996 provides an alternative route for disclosures by prescribing certain persons and bodies to whom disclosures may be made in certain circumstances. There have been changes to the list of prescribed persons to whom disclosures can be made. The opportunity has therefore been taken to revise the Policy to make it clearer and to produce an “Essentials” document.
- 2.7 Further, the protection afforded by the law is restricted to disclosures made in a fairly narrow set of circumstances (such as where a criminal offence is likely to occur) and the policy extends the protection to disclosures of other types of wrongdoing such as serious misconduct which is in breach of the Council’s Standing Orders or Financial Regulations, provided that the disclosure is made in the public interest.

3.0 Timescales associated with the decision and next steps

- 3.1 The most efficient way of publicising and promoting the new code would be to maximise usage of existing channels. These will be chosen with advice from HR and may include the intranet, Working for Warwickshire and the Core Brief, as well as raising awareness through Heads of Service meetings.

Background papers

1. CQC Regulation 20: Duty of Candour – guidance dated March 2015
2. Department for Business, Innovation and Skills: Whistleblowing Guidance for Employers and Code of Practice – March 2015

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The report was circulated to the following members prior to publication:

Local Member(s): n/a

Other members: n/a