

Agenda Item No: 7 **Report No:** 107/15

Report Title: Revised HR Policies

Report To: Employment Committee **Date:** 14 September 2015

Cabinet Member: Councillor Elayne Merry

Ward(s) Affected: All

Report By: Helen Knight

Contact Officer(s)- Helen Knight

Name(s): Helen Knight
Post Title(s): HR Manager, Shared Service
E-mail(s): Helen.knight@lewes.gov.uk
Tel No(s): 01273 661365

Purpose of Report:

To update the Councils' HR policies – specifically:

- Whistleblowing
- Anti-Fraud and Corruption

Officers Recommendation(s):

- 1 To note the report and agree the implementation of these revised policies within the organisation.

Reasons for Recommendations

- 2 The Council seeks to review its existing HR policies regularly to ensure they are up to date, in line with Employment Law and fit for purpose. These revisions have been undertaken in consultation with the Council's Head of Audit, Fraud and Procurement and with consideration to ACAS Best practice guidance and the needs of the business.

Information

- 3 Some legislative changes have occurred which have been incorporated into these revised policies under the guidance of the Council's Head of Audit, Fraud and Procurement.

Unison were approached for their comments on these revised policies on 2 July 2015 and as of the date that this report was submitted for Employment Committee (14 August 2015) none had been received.

Financial Appraisal

4 There are no financial implications of this report.

Legal Implications

5 The Legal Services Department have been asked for comments but none had been received at the date this report was submitted.

Sustainability Implications

6 I have not completed the Sustainability Implications Questionnaire as this Report is exempt from the requirement because it is a progress report/budget monitoring report/development control report

Equality Screening

7 This policy has been subject to an Equality Impact Initial Assessment undertaken by one of the HR Officers.

Background Papers

Whistleblowing Policy

Anti Fraud and Corruption Policy

Anti-Fraud and Corruption

1. Introduction

- 1.1 Lewes District Council is committed to the highest standards of corporate governance including honesty, openness, and accountability in the delivery of services to the people who live and work in the District. It is also committed to the prevention, detection and investigation of all forms of fraud, corruption and malpractice.
- 1.2 The Council must remain alert to the risk of fraud and corruption, and to ensure that there are adequate means to prevent, detect and investigate irregularity of this kind. This strategy sets out the ways in which the Council will act against fraud and corruption to protect public funds.

2. What are fraud and corruption?

- 2.1 In simple terms, fraud is obtaining a financial or other gain by means of deception, dishonesty, or theft.
- 2.2 Similarly, corruption is the dishonest exercise of official duties or position in order to achieve financial or other gain, for example receiving gifts, rewards or favours, from the misuse of information or influence, or abuse of office.

3. What are the Council's expectations?

- 3.1 The Council takes these issues seriously and has a zero tolerance of fraud and corruption. Accordingly, the Council expects that Councillors and staff will act with honesty and integrity in all aspects of their official duties, and will lead by example in ensuring observance of legal requirements, rules, regulations and procedures.
- 3.2 The Council expects that individuals and organisations with which it comes into contact will act with the same honesty and integrity when dealing with the Council. The Council expects that Councillors and staff will raise any concerns they have on these issues, and that these concerns will be treated in confidence, investigated properly and dealt with fairly.

4. How does this affect staff?

- 4.1 Recruitment policy is a key component in the Anti-Fraud and Corruption Strategy, and it is Council policy to establish the previous record of staff in terms of their character and integrity by taking up references from previous employers.
- 4.2 Council staff are expected to follow the **Council's Code of Conduct** for employees. The Council's code covers issues such as Hospitality, Gifts, Other Work and Conflicts of Interest. The Council also has an **Anti Bribery Policy**.
- 4.3 Staff are reminded that they must:

- Operate within Section 117 of the Local Government Act 1972 regarding the disclosure of pecuniary interests in contracts relating to the Council, and
- Disclose the non-acceptance of any fees or rewards whatsoever other than their proper remuneration.

4.4 The Council believes that fraud and corruption represent an abuse of trust. The Council has in place a Disciplinary Procedure for tackling cases of misconduct.

5. How does this affect Councillors?

5.1 Section 51 of the Local Government Act 2000 requires the Council to adopt a code as regards the conduct that is expected of Councillors and co-opted Councillors. Lewes District Council adopted a revised Code of Conduct in July 2012 and every Councillor and co-opted Councillor has given an undertaking that in performing their functions they will observe that Code of Conduct. The details of the Code of Conduct and further guidance on the code and its interpretation are set out in the **Constitution** of Lewes District Council.

6. How does this affect residents and customers?

6.1 All people that use Council services are expected to act honestly in their dealings with the Council and its staff – for example, when making applications, signing agreements, using services and making payments. In practice, that is not always what happens. As a result the Council has put in place measures to protect public money. These include an Investigations Team that has a planned programme of work to prevent, detect and investigate fraud across a range of Council services.

7. What control systems exist to help staff?

7.1 The Council's Constitution contains the Rules of Procedure that give guidance in dealing with the Council's affairs, including the key areas of Financial Administration, Contracts and Officer Employment. In addition the Director of Finance has a duty under Section 151 of the Local Government Act 1972 to ensure that proper arrangements exist to manage and safeguard the Council's finances.

7.2 The Council is committed to operating systems and procedures that incorporate effective internal controls. Internal controls are the means by which managers ensure that systems and procedures work properly. Controls can include policies, plans, instructions, supervision, checking, review, reconciliations, performance monitoring, budgets and a sound organisational structure in which systems can operate as they should.

7.3 The effectiveness of these controls is independently monitored by Internal Audit on continual basis.

8. How does the Council detect irregularities?

8.1 Many of the controls are in place specifically to prevent loss or fraud. They have been designed to give warning of possible fraudulent activity and may be sufficient in themselves to deter fraud. However, the duty remains for Council staff to remain alert to the risk of fraud, and it is often this alertness that enables detection. That said, frauds are often discovered by chance or as a result of a 'tip off.'

9. How should concerns about possible irregularities be reported to the Council?

9.1 Experience shows that staff or others who work on behalf of an organisation are often the first to have worries or concerns that there may be something wrong. By reporting these concerns at an early stage you can help put things right or help stop wrongdoing. Staff with concerns about possible frauds or irregularities within the Council should report them to their line manager, who should pass the concern to the Head of Service or Departmental Director.

9.2 If you believe that fraud and corruption is taking place within the Council we want you to feel that it is safe and acceptable to tell us about your concerns so that we can take the necessary action as soon as possible. If you feel that would be inappropriate to raise the concern with your line manager or Head of Service, we suggest that you contact the Departmental Director or one of the other designated officers. The designated officers are:

- Director of Service Delivery
- Director of Business Strategy and Development
- Director of Corporate Services
- Assistant Director of Corporate Services (Monitoring Officer)
- Head of Audit, Fraud and Procurement

9.3 Councillors with concerns about any suspected irregularity should contact the appropriate Departmental Director or the Chief Executive.

9.4 The Investigations Team (who are part of the Audit Team) operate a 24 hour dedicated confidential hot line number on 01273 484067. If you call this number you can leave a message on the answer phone, and a member of the Team will make contact.

9.5 Concerns are better submitted in writing, so that the full facts are set out as you want, and you can include any supporting evidence that you think is appropriate. We need the background and history of your concern, the names of individuals involved, dates and places (where possible). We would like you to explain why you are concerned about the issue being raised – we do not

expect you to prove the truth of the allegation but you will need to show that there are reasonable grounds for your concern.

- 9.6 You can write directly to your line manager or Director. Alternatively you can send letters to the confidential mail address or email address shown below, and anything sent to these addresses goes directly to the Investigations Team. Concerns raised in writing should be contained in an envelope addressed to one of the officers named above or the Investigations Team, and marked PERSONAL, PRIVATE AND CONFIDENTIAL. If a concern is a serious nature, the envelope should be hand delivered to the person to whom the matter is being reported.

Internal Audit
Southover House
Lewes
BN7 1AB
Email address: fraud.section@lewes.gov.uk

- 9.7 All concerns received by the Investigations Team via telephone or post will be referred to an appropriate Departmental Director or one of the other designated offices for action, depending on the nature of the concern.

10. How do these arrangements fit with the Council's policy on Whistleblowing?

- 10.1 The Council is keen to ensure that staff can raise concerns about their work or the activities of the Council generally. The Council has a **Whistleblowing Policy** that is set out elsewhere in the Staff Guide. The policy allows staff to raise serious concerns within the Council instead of overlooking them or raising them outside.
- 10.2 The Whistleblowing policy covers far more than simply fraud and corruption, but the Council will investigate all reported concerns in the same way and with the same thoroughness. The Council encourages individuals with concerns about a fraud and corruption at the Council to voice those concerns. We want to assure you that there is no reason to remain silent. Your decision to talk to us may be difficult but, if you believe that what you are saying is true, you have no nothing to fear.
- 10.3 We want you raise your concerns about fraud and corruption without fear of victimization or discrimination. If you are in any way worried about what will happen if you raise these concerns we advise that you make it clear that you are raising your concerns under the Council's Whistleblowing Policy – this will help managers respond in line with the policy.

11. Can the public report concerns about fraud and corruption?

- 11.1 The public is also encouraged to report concerns through the Council's Complaints Procedure to the appropriate Head of Service. The Complaints

Procedure outlines the ways in which the majority of complaints can be handled, but Heads of Service should follow the guidance in this strategy if there is any indication that the complaint involves allegations of fraud or corruption. It is not appropriate for operational staff and managers to carry out interviews or investigations in such cases.

12. What are the responsibilities of Managers or Directors in dealing with reported concerns about fraud and corruption?

12.1 Managers or Directors are responsible for ensuring that concerns are reported correctly to enable appropriate action to be taken. Managers or Directors will:

- Notify the Assistant Director of Corporate Services (Monitoring Officer) of any allegation or complaint against a Councillor.
- Notify the Director of Corporate Services of any irregularity concerning the financial functions of the Council.
- Record the detail and origins of the concern, allegation or complaint.
- Retain and safeguard all evidence received.
- Deal with the matter promptly - – specifically, within 10 working days we will acknowledge your contact, you will be told if initial enquiries have been made, if further investigation is required and, if not, why not.

13. How will the Council investigate reported concerns?

13.1 The Director of Corporate Services will take any necessary steps to investigate the concern, and normally the first step in the investigation will be handing the matter to Internal Audit. Internal Audit will examine the existing evidence, and may search for additional evidence and information. This search may involve fact finding interviews with staff and a meeting with the person raising the concern. The investigation is carried out in accordance with a standard approach that provides appropriate safeguards for staff and the Council, and compliance with legislation.

13.2 This method of investigation ensures:

- Consistent approach and treatment of information.
- Proper investigation by an independent audit team.
- Proper liaison with HR on any issue related to staffing matters
- Protection of the Council's assets and interests.

13.3 The Assistant Director of Corporate Services, in her capacity as Monitoring Officer, will handle any allegation or complaint against a Councillor. Complaints against Councillors will be referred to the Audit and Standards Committee for initial assessment. Any necessary investigation may be undertaken in house either by the Monitoring Officer or some other officer at her direction or the investigation may be outsourced.

14. What happens next?

14.1 In keeping with the Council's general approach to investigating concerns, the person reporting the concern or irregularity will be told the outcome, or advised of progress, in writing within ten working days.

15. What will be the outcome of any investigation?

15.1 Internal Audit will work with managers and others to ensure that allegations are investigated properly. The Council's Disciplinary Procedure will be used if the outcome of the investigation indicates impropriety. In such circumstances, it must be presumed that Sussex Police will be notified although referral is a matter for the Chief Executive, appropriate Department Director, and the Head of Audit, Fraud and Procurement. Referral will not bar action under the Council's Disciplinary Procedure.

15.2 The Council will deal swiftly and firmly with those who defraud the Council or who are corrupt. Whilst a robust approach must be taken, there is the need to ensure that any investigation process is not misused and any willful and malicious allegation will be dealt with as a disciplinary matter. However, concerns or allegations raised in good faith, even if later found to be unfounded, will be treated with respect and no action will be taken against the person reporting the concern.

16. Which other bodies may be involved?

16.1 When investigating frauds against the Council there is often a need to liaise with:

- Different Police forces.
- The Council's external auditors, BDO.
- Government agencies.
- Other Local Authorities.

16.2 External auditors have powers to investigate fraud and corruption, and the Council can refer such matters to them at its discretion.

17. How are staff kept informed of matters involving the Anti-Fraud and Corruption Strategy?

17.1 The Council recognises that the success of the strategy will depend largely on the involvement and vigilance of the staff throughout the organisation. The Council therefore supports adequate training, particularly for those staff involved in internal control systems to ensure that their responsibilities in this respect are understood and acted upon.

18. And finally.....

18.1 The Council has in place a network of systems and procedures to protect its assets and services against fraud and corruption. The Council will maintain a regular review of these arrangements to ensure their continued effectiveness, in particular the Rules of Procedure, Codes of Conduct, Accounting Instructions and Internal Audit practices.

Whistleblowing Policy - Raising concerns about issues at work

1. Introduction

- 1.1 Lewes District Council is committed to the highest standards of corporate governance including honesty, openness, and accountability in the delivery of services to the people who live and work in the District. It is also committed to the prevention, detection and investigation of all forms of abuse, fraud, corruption and malpractice.
- 1.2 Our staff, Councillors, partners and contractors have an important role to play in achieving these aims, and we expect everyone who is associated in whatever way with the Council will act with integrity at all times.
- 1.3 We know that we face the risk that something may go wrong or that someone may not meet the Council's standards of conduct. Experience shows that staff or others who work on behalf of an organisation are often the first to have worries or concerns that there may be something wrong. By reporting these concerns at an early stage you can help put things right or help stop wrongdoing.
- 1.4 We want you to feel that it is safe and acceptable to tell us about your concerns so that we can take the necessary action as soon as possible. This policy is in place to enable you to raise your concerns without fear of victimisation or discrimination. We welcome all genuine concerns and will treat your issues seriously. This policy explains how to raise a concern, the types of activity that you should report, the protection we can provide and how you can take matters further if necessary.
- 1.5 The Council encourages individuals with concerns about an activity in the Council to voice those concerns. We want to assure you that there is no reason to remain silent. Your decision to talk to us may be difficult but, if you believe that what you are saying is true, you have nothing to fear. You will be helping to protect the service users and residents of Lewes District.

2. Scope

- 2.1 The Public Interest Disclosure Act 1998 places a legal responsibility on employers to ensure that matters of serious public concern can be addressed. This law protects employees from dismissal, harassment or victimisation as a result of their raising concerns that they believe to be in the public interest.
- 2.2 This Policy applies to all employees, elected Councillors, agency workers, consultants, partners, contractors, and volunteers. Typical concerns could include the following, but this list is not exhaustive:
 - Any unlawful act, whether criminal (e.g. theft, fraud or bribery) or a breach of civil law (e.g. breach of contract).
 - Breach of the Member Code of Conduct or Conditions of Service/Conduct.

- Health and safety risks, including risks to the public as well as other employees.
 - Damage to the environment (e.g. pollution).
 - Maladministration (e.g. unjustified delay, incompetence, neglectful advice).
 - The unauthorised use of public funds (e.g. expenditure for an improper purpose).
 - Abuse of power (e.g. instructing another to commit malpractice).
 - Improper or unethical conduct.
- 2.3 This policy does not cover employees wishing to raise grievances about their employment. There are separate Council procedures in place for dealing with such situations, for example the Grievance Policy, Dignity at Work Policy and the Disciplinary Procedure. There is also a separate Safeguarding Policy that deals with how to report concerns about the treatment of children and vulnerable adults.
- 2.4 This Whistleblowing Policy does not cover members of the public complaining about the services that they have received or other concerns that they may have - these matters should be raised via the Council's Complaints Procedures.
- 2.5 The Council also has an Anti – Fraud and Corruption Strategy that gives more detail on the measures that are in place to counter fraud and corruption, and how you can report concerns of this nature. The Strategy and the Whistleblowing Policy are linked because you may wish to raise a concern about fraud and corruption within the Council, and feel that you need the protection of the Whistleblowing policy to do so safely.
- 2.6 This Whistleblowing policy is designed to allow you to raise serious concerns within the Council instead of overlooking them or feeling that you have to raise them outside.

3. Confidentiality and Assurance

- 3.1 The Council recognises that the decision to report a concern is difficult to make. If you raise a genuine concern under this Policy you will not be at risk of losing your job or suffering any form of retribution as a result.
- 3.2 We will not tolerate any harassment or victimisation (including informal pressure) and will take action to protect you when you raise a concern. We will take corrective or disciplinary action should anyone attempt to victimise you or prevent your concerns being raised.
- 3.3 You may feel that the only way you can raise your concerns is if we protect your identity. We will respect your confidentiality as far as we reasonably can but there are times that we cannot guarantee this, for example where the concern involves a criminal offence that requires action by the police, who may require a statement from you.
- 3.4 If we proceed to a formal investigation we may require you to give evidence along with other employees and witnesses. In some circumstances this can

be done without disclosing your identity, but we may ask you for a witness statement if the investigation results in disciplinary proceedings against another employee.

- 3.5 An employee subject to the disciplinary process can ask to see personal information held about them under the subject access provisions of the Data Protection Act – this may include information within your statement. If it is appropriate to provide access to the personal information without revealing the identity of the provider we will do so.
- 3.6 If you find yourself the subject of a whistleblowing disclosure made by someone else and a decision is made to investigate, the Council will follow the appropriate employment procedure. This means that you will have all the rights contained in that procedure (e.g. the Grievance Policy, Dignity at Work Policy or the Disciplinary Procedure) such as the opportunity to respond to the allegation and be represented by a colleague or recognised trade union official at the investigatory interview.

4. Anonymous or untrue allegations

- 4.1 We do not encourage anonymous reporting of concerns as the concerns are more difficult to investigate and are generally less powerful. We would like you to put your name to the allegation whenever possible.
- 4.2 Anonymous referrals of concerns will be considered at the discretion of the officers handling your concern. The discretion will be based on the seriousness of the issue raised, the credibility of the concern, and the available evidence. Anonymous disclosures are preferable to you remaining silent about serious wrongdoing.
- 4.3 It may be that our investigations do not confirm your concern. We can assure you that all concerns or allegations raised in good faith, even if later shown to be unfounded, will be treated with respect and no action will be taken against you.
- 4.4 However, the Council will not tolerate wilful and malicious allegations. If you make allegations or provide information that you know to be untrue the Council will consider that to be serious misconduct. You may be subject to disciplinary proceedings if that is felt to be the case.

5. How to raise a concern

- 5.1 The earlier concerns are expressed by individuals, the easier it is to take action.
- 5.2 If you are a member of staff, agency worker, self-employed worker or contractor we encourage you to report any concern initially to your line manager. We recognise that your first actions will depend on the seriousness and sensitivity of the issues and who you believe to be involved. We advise that you make it clear that you are raising your concerns under

the Council's Whistleblowing Policy – this will help managers respond in line with this policy.

5.3 If you feel that it would be inappropriate to raise the concern with your line manager, we suggest that you contact the Departmental Director or one of the other designated officers. If you are a Councillor we suggest that your first contact be with the Departmental Director or other designated officers.

The designated officers are:

- Director of Service Delivery
- Director of Business Strategy and Development
- Director of Corporate Services
- Assistant Director of Corporate Services (Monitoring Officer)
- Head of Audit, Fraud and Procurement

5.4 The Chief Executive is not included in the list of officers above as s/he may be required to deal with any further escalation or complaint about the conduct of an investigation.

5.5 The Investigations Team (who work as part of the Audit Team) operate a 24 hour dedicated confidential hot line number on 01273 484067. If you call this number you can leave a message on the answer phone, and a member of the Investigations Team will make contact.

5.6 Concerns are better submitted in writing, so that the full facts are set out as you want, and you can include any supporting evidence that you think is appropriate. We need the background and history of your concern, the names of individuals involved, dates and places (where possible). We would like you to explain why you are concerned about the issue being raised – we do not expect you to prove the truth of the allegation but you will need to show that there are reasonable grounds for your concern.

5.7 You can write directly to your line manager or Director. Alternatively you can send letters to the confidential mail address or email address shown below, and anything sent to these addresses goes directly to the Investigations Team. Concerns raised in writing should be contained in an envelope addressed to either your line manager, Director or the Audit Team marked PERSONAL, PRIVATE AND CONFIDENTIAL. If a concern is of a serious nature, the envelope should be hand delivered to the person to whom the matter is being reported.

Internal Audit/Investigations Team
Southover House
Lewes
BN7 1AB

Email address: fraud.section@lewes.gov.uk

- 5.8 All concerns received by the Investigations Team via telephone or post will be referred to an appropriate Departmental Director or one of the other designated offices for action, depending on the nature of the concern.
- 5.9 If you feel unable to raise the matter yourself you can ask your trade union representative or work colleague to raise it on your behalf.

6. How we will respond

- 6.1 Our response will depend on the nature of the concern and may be:
- Advice only.
 - Resolved without the need for investigation.
 - Investigated internally by management, the Investigations Team, or Internal Audit.
 - Referred to the Council's external auditor.
 - Referred to the Police.
- 6.2 We may carry out initial enquiries to decide whether an investigation is needed and, if so, what form it may take. If urgent action to protect the Council or an individual is required, this will be taken before we start any investigation.
- 6.3 Departmental Directors and the other designated officers who may receive whistleblowing allegations will:
- Record the detail and origins of the concern, allegation or complaint.
 - Retain and safeguard all evidence received.
 - Deal with the matter promptly – specifically, within 10 working days we will acknowledge your contact, you will be told if initial enquiries have been made, if further investigation is required and, if not, why not.
 - Notify the Assistant Director Corporate Services of any allegation or complaint against a Councillor.
 - Notify the Director of Corporate Services of any irregularity concerning the financial functions of the Council.
 - Investigate as appropriate all other concerns. The investigation may be referred to the Head of Audit, Fraud and Procurement or may be handled by another senior officer depending on the issue involved.
 - Liaise fully with Human Resources on any issue related to staffing matters.
- 6.4 The extent of the contact between you and the officer considering your allegation will depend on the nature of the concerns raised. For example, if an investigation is required, it may be necessary to seek additional information from you. If a meeting is necessary, this can be held off site if you prefer, and you have a right to be accompanied – by a union representative or a work colleague.
- 6.5 We will retain records of all work carried out and actions taken to address the concerns raised, including the investigation case file, where relevant. At the end of the investigation we will provide feedback to the person raising the concerns (where known) on the actions taken and limited detail on the outcome of the investigations. Feedback will be subject to legal constraints

but we recognise the importance of your knowing that the matter has been dealt with properly.

7. Taking the matter further

7.1 This policy is intended to provide you with a means to raise concerns within the authority. If you are not satisfied with the outcome of an investigation you can raise this with the investigating officer and/or the Monitoring Officer. We hope that you reach a suitable conclusion to the matter but if you remain dissatisfied you should raise it with your Departmental Director or the Chief Executive as appropriate. That is the last stage in the Council's internal procedure.

7.2 If, when told the outcome, you are not satisfied with our conclusion or action you can contact prescribed organisations as determined by the government. These include the Council's external auditors BDO, the Health and Safety Executive, Environment Agency, HM Revenue and Customs, HM Treasury and recognised trade unions.

7.3 You may also refer your concern to the Local Government Ombudsman - who will not generally take action unless it has been dealt with internally first. The Ombudsman can be contacted at:

The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

7.4 If you raise matters outside the Council you must be sure not to disclose confidential information, unless relevant to your concern. We need to remind you that employees are not to report any Council related issues to the media – to do so may be considered a breach of the Council's Disciplinary Procedure and Code of Conduct.

8. Independent advice

8.1 We recognise that employees may wish to seek advice and be represented by their trade union when using this policy. The Council acknowledges and endorses the supporting role of the recognised trade union.

8.2 Other organisations that may be able to provide advice include the Citizens Advice Bureau (CAB) and Public Interest at Work (PCaW). PCaW is an independent charity that was set up in 1993 to offer free advice to people concerned about malpractice at work who wish to raise concerns. The contact details for local CAB offices and PCaW are as follows:

Lewes CAB
The Barn, 3 North Court, Lewes, East Sussex
BN7 2AR
01273 473082
Website: www.lewescab.org.uk

Seaford CAB
37 Church Street, Seaford, East Sussex
BN25 1HD
01323 896209
Website: www.lewescab.org.uk

Public Concern at Work
3rd Floor, Bank Chambers 6 - 10 Borough High Street, London SE1 9QQ
Whistleblowing Advice Line: 0207 4046609
Email: whistle@pcaw.org.uk
Website: www.pcaw.org.uk

9. Training

- 9.1 Managers will be briefed on the contents of this policy and how to handle approaches made to them under it.