



# AGENDA

**NOTE: In the case of non-members, this agenda is for information only**

- Committee** - **GENERAL PURPOSES COMMITTEE**
- Date & Time** - WEDNESDAY, 16 FEBRUARY, 2011 AT 10.00 AM
- Venue** - NORFOLK ROOM, THE CONFERENCE SUITE, ELIZABETH HOUSE, DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Persons attending the meeting are requested to turn off mobile phones

**Members:**

Mr R.W. Duffield (Chairman)  
Mr P.J. Duigan (Vice-Chairman)  
Mr G.P. Balaam  
Mrs J. Ball  
Mrs M.P. Chapman-Allen  
Mrs S.M. Matthews

Mrs K. Millbank  
Mr I. Sherwood  
Mrs L.S. Turner  
Mr D.R. Williams JP  
Mr S.G. Bambridge  
Mr S. J. F. Rogers

Member Services  
Elizabeth House, Walpole Loke,  
Dereham Norfolk, NR19 1EE  
Date: Wednesday, 9 February 2011

**PART A - ITEMS OPEN TO THE PUBLIC**

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herewith

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**1. MINUTES**

To confirm the minutes of the meeting held on 12 January 2011.

**2. APOLOGIES**

To receive apologies for absence.

**3. DECLARATION OF INTEREST**

Members are asked at this stage to declare any interests they may have in any of the following items on the agenda.

The Members' Code of Conduct requires that declarations include the nature of the interest and whether it is a personal or prejudicial interest.

**4. URGENT BUSINESS**

To note whether the Chairman proposes to accept any item as urgent business, pursuant to Section 100(B)(4)(b) of the Local Government Act 1972.

**5. GUIDANCE ON POLICIES THAT AFFECT GENERAL PURPOSES COMMITTEE**

The Solicitor & Standards Consultant was requested at the meeting of the Committee on 12 January to give guidance on how new emerging policies affecting the Committee should be dealt with.

How any new policy is processed will depend on whether it affects only the business of one Committee or the Cabinet, whether it relates to a number of Committees and also if it forms part of the formal "Policy Framework" which can only be agreed by full Council. Sometimes it is difficult to say definitely which categories a policy falls into, and this leaves room for different interpretations.

However, the role of the LJCC is restricted, under the Constitution and the amount of business has varied over the years. LJCC cannot make decisions or determine policy – indeed, the Constitution makes it clear that "matters which are to be considered by General Purposes Committee shall not fall within the powers of (LJCC) if agreement has been reached with the staffing organisations".

The Whistleblowing Policy is an example of a policy which by its nature affects more than one Committee : Audit Committee, Standards Committee and General Purposes.

The Principal Accountant states that this policy is still in draft, and will be put for comment to all three Committees, with the result being put to Council for approval. By contrast, other policies such as Fraud and Corruption and Money Laundering all within the delegated powers of Audit Committee, and can quite properly be resolved by that Committee.

	<u>Page(s)</u> <u>herewith</u>
<p>From the point of view of the joint management of Breckland and South Holland, each Council is able to make its own policies. However, the Corporate Management Team will keep emerging policies under review and will seek wherever possible to harmonise policies between the two authorities.</p>	
<p><b>6. <u>LOCAL JOINT CONSULTATIVE COMMITTEE : 3 FEBRUARY 2011</u></b></p> <p>To adopt the unconfirmed minutes of the Local Joint Consultative Committee held on 3 February 2011.</p>	5 - 11
<p><b>7. <u>WHISTLEBLOWING POLICY</u></b></p> <p>Report of the Head of Internal Audit.</p> <p>Members are asked to note the comments made by the Local Joint Consultative Committee at its meeting on 3 February 2011</p>	12 - 48
<p><b>8. <u>BASIC PERFORMANCE INCREASE</u></b></p> <p>Report of the Chief Executive.</p> <p>Members are asked to note the comments made by the Local Joint Consultative Committee at its meeting on 3 February 2011.</p>	49 - 52
<p><b>9. <u>ANGLIA REVENUES PARTNERSHIP - REDUCTION IN FULL TIME EQUIVALENT POSTS</u></b></p> <p>Report of the Director of Corporate Resources.</p> <p>Members are asked to note the comments made by the Local Joint Consultative Committee at its meeting on 3 February 2011.</p>	53 - 55
<p><b>10. <u>NEXT MEETING</u></b></p> <p>To note that the next meeting will be held on 30 March 2011 at 10.00 a.m in the Norfolk Room.</p>	

**BRECKLAND COUNCIL**

**At a Meeting of the**

**GENERAL PURPOSES COMMITTEE**

**Held on Wednesday, 12 January 2011 at 10.00 am in  
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

**PRESENT**

Mr P.J. Duigan (Vice-Chair, in the Chair)	Mrs L.S. Turner
Mr G.P. Balaam	Mr S.G. Bambridge
Mrs K. Millbank	Mr S. J. F. Rogers
Mr I. Sherwood	

**In Attendance**

Stephanie Butcher	- Principal Officer Licensing and Business Support
Jane Osborne	- Committee Officer

**Action By**

**1/11 MINUTES**

1 .1 29 September 2010

The Minutes of the meeting held on 29 September 2010 were confirmed as a correct record and signed by the Chairman.

1 .2 6 December 2010

The Minutes of the meeting held on 6 December 2010 were confirmed as a correct record and signed by the Chairman.

**2/11 APOLOGIES**

Apologies for absence had been received from Mr R W Duffield, Mrs J Ball, Mrs M P Chapman-Allen, Mrs S M Matthews, Mr R Goreham and Mr D Myers.

**3/11 DECLARATION OF INTEREST**

There were none.

**4/11 URGENT BUSINESS**

There were none.

**5/11 LOCAL JOINT CONSULTATIVE COMMITTEE : 28 OCTOBER 2010**

(a) Breckland HR Policy Review - Timetable

- (1) the review date of the Smoking Policy be changed to March 2011

**Action By**

- (2) the review date of the Staff Forum be changed to September 2011
- (3) HR to investigate why the Whistle Blowing Policy was being considered by the Audit Committee before the LJCC and to report the findings to the Chairman before the next meeting of the Audit Committee on 5 November 2010
- (4) LJCC to be notified of any policies going to any other Committee that affect staff
- (5) Subject to any influence made by the transformation, the Shared Services Transition Team be notified that all policies should be reviewed by both Breckland and South Holland District Council

The Chairman advised that he had spoken to HR and was told that item (3) had occurred and the other items had been actioned or were being done. This concerned the Committee as they felt they could not adopt the Minutes when the actions had been done.

Councillors requested procedural clarification over why, when General Purposes were the Committee to go through with regard to recommendations put forward for approval, had they been adopted, when it was their understanding that they should not have been.

A Councillor advised that the situation had arisen in the past and the Chairman had the delegated authority to approve subject to being appropriate to the Committee, and asked why it had not happened in this instance.

The Chairman said that no one Officer owned the General Purposes Committee.

**RESOLVED** :

that the Solicitor & Standards Consultant be invited to attend the next General Purposes Committee to provide clarification

(b) Adoption

The Minutes of the Local Joint Consultative Committee meeting on 28 October were noted but not approved, due to the fact that actions had already been adopted.

**6/11 SPECIAL LOCAL JOINT CONSULTATIVE COMMITTEE : 6 DECEMBER 2010**

The unconfirmed Minutes of the Special Local Joint Consultative Committee on 6 December 2010 were adopted.

**7/11 PROPOSED DIVERSION : CRF 21 KENNINGHALL**

The Chairman went through the report as Mr G Parfitt, the Legal Executive

Jane  
Osborne

**Action By**

was unable to attend the Committee.

The report sought authority to make an Order under Section 257 of the Town and Country Planning Act 1990 in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 to the applicant Kenninghall Parish Council who were the landowners.

Norfolk County Council had raised no objections and the local Member was supportive.

**RESOLVED** that the Order be made as per recommended in the report.

**8/11 TAXI LICENSING FEE INCREASE**

The Principal Licensing Officer presented the report which asked Members to consider and determine a proposed level of taxi licence fees for 2010/2011.

Following consultation, responses had been received and were shown in Appendix C. However after the consultation period had closed on 28 November 2010 a petition was received on 7 January 2011 which the Principal Licensing Officer believed would be advisable for Members to see. It was a formal petition in the form of a letter from a licensed driver with the addition of signatures on it.

The petition was noted.

A Councillor felt that some of the comments made within the petition letter were not for the Committee to deal with, and that the petitioner/s should be directed to the correct place instead.

Committee Members felt that it would be in tax payers' interest to approve the recommendation following the full review carried out by the Licensing Team.

**RESOLVED** that the Committee approve the increases in the licence fee levels to bring them to the actual cost levels shown in Appendix A of the Report, but if any further representations are received after the Public Notice, the matter be referred back to the Committee.

It was felt by a Councillor that it would be beneficial for the Licensing Team to return to the General Purposes Committee some time in the future for the presentation on the transformation project to be shown again to the Committee.

**Stephanie  
Butcher**

**Stephanie  
Butcher**

**9/11 ADOPTION OF SCHEDULE 3 TO THE LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) ACT 1982 AND SECTION 27 OF THE  
POLICING AND CRIME ACT 2009**

The Principal Licensing Officer presented the report which asked members to consider the approval of a recommendation to Full Council to adopt the provisions of section 27 of the Policing and Crime Act 2009, which provided

**Action By**

for the regulation of sexual entertainment venues.

There were currently no premises exclusively use as a sex entertainment venue within the Breckland District. The Officer explained the procedure that would be followed if the proposal to adopt the legislation went through.

She recommended that a policy regarding sexual entertainment venues was drafted and that the policy be brought back to the Committee.

**RESOLVED** that

- (1) The General Purposes Committee recommends that Full Council resolves to adopt Schedule 3 of the Local Government Miscellaneous Provisions Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 which will apply to the Breckland District Council area and that these provisions come into force on 1 April 2011 as 'the first appointed day'
- (2) That Breckland Council set a fee for applications for Sexual Entertainment Venues, the amount of that fee to be calculated by the Principal Officer and set by the General Purposes Committee
- (3) That Breckland Council should draw up a policy on sexual entertainment venues, this policy to be drafted by the Principal Licensing Officer and subject to public consultation and General Purposes Committee approval.

**10/11 NEXT MEETING**

The arrangements for the next meeting on 16 February 2011 at 10.00 a.m in the Norfolk Room were noted.

The meeting closed at 10.30 am

CHAIRMAN

**BRECKLAND COUNCIL**

**At a Meeting of the**

**LOCAL JOINT CONSULTATIVE COMMITTEE**

**Held on Thursday, 3 February 2011 at 10.00 am in  
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

**PRESENT**

**Employers' Side**

Mr D.R. Williams JP (Chairman)  
Mr K. Martin  
Mrs S.M. Matthews

**Staff Side**

Dr Z. Waterford  
Mrs. R. Farman  
Mr D. Wilder

**In Attendance**

Kathryn Ralphs  
Stephen McGrath  
Fay Tooke  
Sandra C. King  
Jane Osborne

- Human Resources Adviser
- Member Services Manager
- HR Advisor (Recruitment)
- Head of Internal Audit
- Committee Officer

**1/11 MINUTES**

The Minutes of the meeting held on 28 October 2010 were confirmed as a correct record and signed by the Chairman.

The Minutes of the Special Meeting of the Local Joint Consultative Committee held on 6 December 2010 had been omitted from the Agenda, so were tabled at the meeting.

The Vice-Chairman raised concern over minute 42/10 Shared Management Project (Agenda Item 4) with regard to page 3, the last sentence of paragraph 5 "There would be no protected salary if this was the case" and on page 5, the last sentence of the first paragraph "however their current pay would not be protected and if people decided to leave outplacement support would be provided". She advised that at full Council it had been agreed that pay would be protected.

The Minute Books of both the meetings would be checked and due to this, the Minutes of the Special Local Joint Consultative Committee held on 6 December remained unconfirmed.

**2/11 APOLOGIES**

Apologies for absence were received from Mr R Kybird and Ms S Smith.

**3/11 DECLARATION OF INTEREST**

There were none.

**Action By**

**Committee  
Officer**

**4/11 CORPORATE HEALTH & SAFETY JOINT CONSULTATIVE GROUP : 22 OCTOBER 2010**

**RESOLVED** that :

- (1) The Minutes are brought to the Local Joint Consultative Committee on a regular basis.
- (2) The Minutes of the Corporate Health & Safety Joint Consultative Group meeting held on 17 December 2010 be adopted.

**5/11 CORPORATE HEALTH & SAFETY JOINT CONSULTATIVE GROUP : 17 DECEMBER 2010**

With regard to Agenda Item 32/09 (b) Asbestos Survey first sentence of the second paragraph 'it was believed there had been discussions and that the Dereham ones were ok, but the old builds needed to be checked'. The Chairman asked that where necessary more detail was given in future Minutes.

**RESOLVED** that :

The Minutes of the Health & Safety Joint Consultative Group meeting held on 17 December 2010 be adopted.

**6/11 FLEXTIME POLICY**

The Vice-Chairman advised that the Union and HR had met and clarified all issues raised.

It was felt that the Policy benefitted the Council greatly and worked well.

**RECOMMEND** that the General Purposes Committee adopt Breckland Council's updated Flexitime Policy

**7/11 HARASSMENT & BULLYING PREVENTION POLICY**

The Vice-Chairman said that it had been agreed with HR that the Policy would be gone through in more depth as she felt Breckland could make some improvements to it. She therefore asked that the policy be suspended and be brought back to the Committee at another time.

The Human Resources Advisor advised that the Policy currently in force was not too dissimilar to that proposed.

**RESOLVED** that :

- (a) consideration of the updated Breckland Harassment & Bullying Prevention Policy be deferred for further discussion
- (b) the current Policy continue to be used in the meantime

**Action By**

**Committee Officer**

**Kathryn Ralphs**

	<u>Action By</u>
<p><b>8/11 <u>ADVERSE WEATHER POLICY</u></b></p> <p><b><u>RECOMMEND</u></b> that the General Purposes Committee adopt Breckland Council's reviewed Adverse Weather Policy.</p>	
<p><b>9/11 <u>TRAINING / STUDY / SUPPORT &amp; LEAVE POLICY</u></b></p> <p>The Vice-Chairman stated that a number of changes had been agreed with HR since the report was published, and the Human Resources Advisor confirmed they had been made.</p> <p>The Chairman felt that no decision could be made until the final version was available for the Committee to review at the next meeting, to be held on 17 March 2011.</p>	<p><b>Kathryn Ralphs</b></p>
<p><b>10/11 <u>BASIC PERFORMANCE INCREASE (BPI) PAY AWARD</u></b></p> <p>The Human Resources Advisor presented the report which outlined proposals for the pay award for Breckland staff in 2010/2011.</p> <p>The Vice-Chairman had a number of concerns with regard to the report as follows :-</p> <p>(a) objected to the title of, 'Basic Performance Increase (BPI) Pay Award as some staff would not receive a pay award as documented at 2.1 and 2.2 of the Recommendations within the report. At the Unison Pay meeting union members had asked that the budget be distributed amongst all performing staff and thinks the Recommendations were not supported by Unison members.</p> <p>The Chairman believed that the document reflected a structured process for the future which required discussion, and not the amounts within, and therefore suggested that it might be better to not include percentage figures within the recommendations.</p> <p>The Human Resources Advisor stated that there had been discussions with regard to the title but thought these had been agreed. She added that the proposals needed to be implemented by the end of March 2011.</p> <p><b><u>RESOLVED</u></b> that the document title be changed to Basic Performance Increase.</p> <p>(b) The Vice-Chairman made reference to paragraph 3.1.2 and stated that if the basic amount did not increase, it would mean no one could move up the grade. It seemed a messy system and Unison believed it to be a 'pay freeze' for performing staff. She advised that at one of the monthly HR meetings, it had been agreed that the pay system would be overhauled and a new policy implemented. She felt it should be made clear that the bonus was not consolidated above the top of the scale and that it was still</p>	<p><b>Kathryn Ralphs</b></p>

	<u>Action By</u>
<p>pensionable.</p> <p><b>RESOLVED</b> to make it clear in the report that the pay awards would only be consolidated to the top of the scale</p>	<p><b>Kathryn Ralphs</b></p>
<p>(c) The Vice-Chairman believed the whole scheme was not fit for purpose and wanted to review it all. The Chairman stated that it was not for the Committee to do at this time.</p> <p><b>RECOMMEND</b> to the General Purposes Committee that the CMT and Executive review the scheme in total.</p>	<p><b>Kathryn Ralphs</b></p>
<p>(d) The Vice-Chairman stated that Unison did not agree with the proposals put forward under paragraph 3.1.3, however they were happy that a review and renegotiation would take place on the Basic Performance Increase (BPI) in a years time with renegotiated terms to be implemented in April 2012. Whilst some form of consultation had taken place, it was felt that the word 'negotiation' within the document be changed to consultation.</p>	<p><b>Kathryn Ralphs</b></p>
<p>(e) With regard to paragraph 3.2.1, the Vice-Chairman said that Unison members preferred that any available budget was applied evenly across all performing staff.</p>	<p><b>Kathryn Ralphs</b></p>
<p>(f) With regard to paragraph 3.5.2, Unison did not think that proposals were fair and equitable in the current climate and wanted the final sentence removed from the reasons for Recommendations. Likewise, they wished for the word negotiation to be changed to consultation as previously agreed.</p>	<p><b>Kathryn Ralphs</b></p>
<p>The Vice-Chairman queried why there were no figures shown in the Proforma B at Appendix 1. The Human Resources Advisor stated that Finance had informed her that due to the award being within the established budget, there would be no figures shown. The Vice-Chairman suggested that zeros should be shown.</p>	<p><b>Kathryn Ralphs</b></p>
<p><b>11/11 <u>ANGLIA REVENUES PARTNERSHIP - REDUCTION IN FULL TIME EQUIVALENT POSTS</u></b></p> <p>The Human Resources Advisor presented the report which gave background information, reported on on-going consultations and sought approval for the proposed possible redundancies of up to three posts in the Anglia Revenues Partnership.</p> <p>The Chairman asked that if staff had been identified as being at risk of redundancy, letters were sent out to them quickly, and that HR ensured that if alternative posts were offered, they would need to have some sustainability. He stated that if posts were definitely to be made redundant, that the appropriate Service Manager be present at future meetings before going forward to the General Purposes Committee.</p> <p>Dale Wilder, Member of the Staff Side, advised that there might be an opportunity for employment with regard to temporary maternity</p>	<p><b>Head of HR</b></p>

cover. The Human Resources Advisor stated that one of the members of staff at possible risk of redundancy would be interested in undertaking the temporary maternity cover post.

The Chairman reminded the Committee that at a previous meeting, money for training for staff at risk of redundancy had been ring fenced.

With regard to the wider management restructure, he asked HR to look at whether a better service could be provided to staff at risk of possible redundancy across both authorities (Breckland & South Holland) with more "cross-help" available.

The Vice-Chairman said that all redundancies seemed to be from Breckland, although she had been told that two posts were to go from Bury St. Edmunds.

**RECOMMEND** that the General Purposes agree to the proposed possible redundancies and give approval for the HR team to proceed with issuing notice to staff of termination of employment on the grounds of redundancy.

**Action By**

**Kathryn  
Ralphs**

**Kathryn  
Ralphs**

**12/11 NEXT MEETING**

It was noted that the next meeting would be held on Thursday 17 March 2011 at 10.00 a.m in the Norfolk Room.

The Vice-Chairman advised she would not be present due to holiday commitments.

**13/11 ANY OTHER BUSINESS**

**(a) Counter Fraud and Corruption Strategy**

Sandra King, Head of Internal Audit presented the report and Appendices which recommended that the Committee reviewed the content of the Counter Fraud and Corruption Strategy, put forward enhancements where appropriate, in advance of the documentation's presentation to the Audit Committee for formal approval and adoption.

The Strategy would provide greater transparency and clarity. It would need to go to the General Purposes, Standards and Audit Committees. The Chairman thought it had gone to the Audit Committee, but the Member Services Manager stated it was on the Agenda for 23 March.

The Vice-Chairman was unclear if the Committee was expected to review the document at the meeting inline with the recommendation, but confirmed that she had not spoken to the Head of Finance or had enough time to go through the documents and therefore required further explanation.

The Chairman explained that due to the significant management restructure being undertaken, it was essential that policies and

Officer structures to deliver them were in place. This would allow the training, as identified in Appendix 3, to be commenced. He asked the Committee if they agreed in principle with the new policy, which they did.

The Staff Side felt that six months was too long before the Strategy was reviewed. The Member Services Manager stated that the Staff Side would be able to 'call it in' if there was an issue in the interim period.

The Member Services Manager advised that with regard to The Monitoring Officer on page 64 of Appendix 1, this role was no longer filled by the Deputy Chief Executive, but rather the Director of Corporate Resources instead. In the new structure, the Monitoring Officer would be the Assistant Director (Democracy).

The Head of Internal Audit said she would provide the Committee with a progress report in September 2011 as requested.

**RECOMMEND** that the General Purposes Committee adopt Breckland Council's Counter Fraud and Corruption Strategy, subject to

- (1) a review by the Local Joint Consultative Committee in six months

**(b) Anti-Money Laundering Policy**

The Chairman asked if the Committee was happy that the Policy be dealt with in the same way as the Counter Fraud and Corruption Strategy, which they were happy to.

The Head of Internal Audit said she would provide the Committee with a progress report in September 2011 as requested.

**RECOMMEND** that the General Purposes Committee adopt Breckland Council's Anti-Money Laundering Policy, subject to

- (1) a review by the Local Joint Consultative Committee in six months

**(c) Whistleblowing Policy**

The Chairman asked if the Committee was happy that the Policy be dealt with in the same way as the Counter Fraud and Corruption Strategy, and Anti-Money Laundering Policy, which they were happy to.

The Head of Internal Audit said she would provide the Committee with a progress report in September 2011.

**RECOMMEND** that the General Purposes Committee adopt Breckland Council's Whistleblowing Policy, subject to

**Action By**

**Sandra C King**

**Sandra C King**

**Sandra C King**

- (1) a review by the Local Joint Consultative Committee in six months

**Action By**

The meeting closed at 11.23 am

CHAIRMAN

VICE-CHAIRMAN

**BRECKLAND COUNCIL**

**Report of the Head of Internal Audit to the  
JOINT CONSULTATIVE COMMITTEE – 3 February 2011  
STANDARDS COMMITTEE – 15 February 2011  
GENERAL PURPOSES COMMITTEE – 16 February 2011  
AUDIT COMMITTEE – 25 March 2011**

**Whistleblowing Policy****1 Purpose of Report**

- 1.1 The Whistleblowing Policy was last reviewed and approved by the Council in 2008. It has subsequently proved timely to revisit the arrangements in place, in conjunction with a review of the Counter Fraud Strategy and the formulation of a new Anti Money Laundering Policy to ensure that existing and new Policies/Strategies are fully aligned and appropriately support the ongoing development of the Council's anti fraud and corruption culture.
- 1.2 To aid the Committee's review of the attached policy, we have provided the Institute of Chartered Accountants' guidance to private sector Audit Committees on whistleblowing arrangements by way of a background paper. At **Appendix 1** to the report, we have also included additional information designed to give further clarity and guidance in a public sector context.
- 1.3 It has been determined that this policy should be reviewed by the Joint Consultative Committee, the Standards Committee and the General Purposes Committee prior to its submission to the Audit Committee for its approval. This is a similar route to the protocol followed when the previous Whistleblowing Policy was taken forward, albeit that since then, the Audit Committee has been formed, and charged with oversight of the Council's arrangements for Fraud and Corruption, of which this policy forms a core element.

**2 Recommendations**

- It is recommended that the Joint Consultative Committee, Standards Committee and General Purposes Committee:
- 2.1 Review the Content of the Whistleblowing Policy, putting forward any enhancements where appropriate, ahead of presentation of this policy to the Audit Committee for formal approval.

**Note:** In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

**3 Information, Issues and Options**

- 3.1 Background
- 3.1.1 Following the Public Interest Disclosure Act, 1998 (PIDA), organisations were required to put in place appropriate arrangements to ensure that those who had concerns about matters that were in the public interest had safe avenues with which to raise these concerns. Although it is not compulsory, most organisations have elected to fulfil these obligations through introducing a Whistleblowing Policy.
- 3.1.2 Breckland Council has had a Whistleblowing Policy for a number of years; this policy was last rewritten in 2007/08 and approved by Full Council in 2008. The policy sets out that the Council is keen to encourage staff, councillors, partner bodies and members of the public to raise concerns that they have, in the knowledge that the Council will aim to ensure they face no reprisal or victimisation as a result of taking such action.
- 3.1.3 Subsequent to the last review of the Whistleblowing Policy, there have been a

number of developments in this area which have fed into the current Policy review. In particular, the British Standards Institute issued a “Whistleblowing Arrangements Code of Practice” in late 2008, which sets out practical guidance for organisations on how to manage whistleblowing arrangements in practice. In addition, the Deputy Audit Manager attended a workshop run by Public Concern at Work (a charity providing free and impartial advice on whistleblowing to those who have concerns), which provided some focus on a “model” whistleblowing policy and gave the opportunity to scrutinise Breckland Council’s existing arrangements in relation to whistleblowing. We have also made changes to the policy following research of other Councils’ arrangements, and in light of experience of other Councils in using their policies and processing whistleblowing concerns raised.

3.1.4 Historically, the Council has had few whistleblowing cases reported under the Whistleblowing Policy. However, the consequences of the failure to act should issues be reported can be very significant; the Council has a duty both to respond to matters that are in the public interest and to protect its employees.

3.1.5 To support the Committee in the review of the revised policy, we have provided a background paper produced by the Institute of Chartered Accountants on the Role of the Audit Committee in Whistleblowing Arrangements. As this is tailored to the private sector, we also provided further guidance and a public sector context in **Appendix 1**. Although it is recognised that the papers are orientated towards Audit Committees, this information is also included here as it serves as useful background and context to assist all relevant committees with their own review of the policy.

### 3.2 Issues

3.2.1 The revised policy is attached at **Appendix 2**. The policy overall has remained fairly similar in terms of scope, coverage and layout. However, the changes that have been made have been subject to careful consideration, and as such the supporting rationales for the significant changes are outlined below; these changes support the proposal raised to approve the policy.

- Previously, the policy highlighted 4 areas where concerns could be raised that were outside of the scope of the legal framework (i.e. abuse of position, unauthorised use of Council money, failing to meet professional standards and deliberately not keeping to a Council policy). The policy now only formally identifies those cases that are set out in the Public Interest Disclosure Act, but does include a paragraph which encourages people to raise any concerns they may have as soon as they are reasonably aware. Other aspects previously identified generally either fall within the scope of a different Council policy, or because they are outside of the scope of the PIDA legislation we are not bound to respond or react in the same manner.
- There is greater clarity on what is not covered by the policy, and in particular we identify that bullying and harassment is dealt with by the Harassment and Bullying Prevention Policy.
- The wording with regards malicious complainants has been altered, partly in regard to the fact that this is one of the most difficult elements of the law to interpret in practice. Previously, the policy included a paragraph that where an employee acts in a malicious way, the protection outlined above will not apply and the employee may be subject to disciplinary action. However, subsequent guidance by the British Standards Institute indicates that although an employee may be acting maliciously, it is not necessarily an untrue allegation, and as such a policy should restrict the scope of action to where a concern is found to be false and raised in bad faith. Further, in the examples previously cited in the policy, someone may leak information to the press because they feel the Council would not act appropriately to the incident – not out of maliciousness. As a result, paragraph 5.1 now defers to the wording used by Public Concern at Work in their model policy that we do not extend assurances to those who maliciously raise a matter they know is untrue, which is again consistent with paragraph 8.2 with regards “untrue allegations”.
- The assurances we provide to third parties has been clarified. We would want contractors and other stakeholders to raise issues they experience; however, we

cannot provide assurances that they would not be victimised by third parties as a result.

- We have now created clear and separate guidance to members of the public, contractors and councillors and partner organisations who have a concern.
- One of the major changes has been the removal of the section on how the Council will respond. This is being replaced with a formal procedure which will outline the Council's response in more detail than was previously feasible within the policy. Staff and members will be able to access the procedure via the intranet upon formal approval of the updated policy.
- The information on raising issues with third parties has been expanded to give more guidance to those who choose to undertake this route, and places more emphasis on using the internal avenues in the first instance.
- The responsibility of the policy has been changed in light of the recent corporate restructures and following research of other Council policies and best practice guidance; as such, the Deputy Chief Executive, as the Council's Monitoring Officer, has been identified as the Council's Whistleblowing Officer.
- A annual and triennial review structure for the policy has been formally established; this revisiting of the policy is in line with both the previous, and current routes utilised for policy development and approval.
- Finally, the contact details for all internal and external parties has been separately produced as an Appendix to the policy. This enables a more ready review and update of such details to ensure they remain current. Due to the ongoing changes in the Council's management structure at the time of presentation of this policy to this Committee, final details confirming all responsible officers will be updated when the policy is formally adopted.

### 3.3 Options

- 3.3.1 None presented, although the Committee may wish to suggest any changes ahead of Council adoption.

### 3.4 Reasons for Recommendation(s)

- 3.4.1 It is important to ensure that appropriate arrangements are in place to encourage those who have concerns to raise them in a confidential and safe manner. This policy fulfils that requirements, and ensures the Council is complying with good practice in line with the Public Interest Disclosure Act.

## 4. Risk and Financial Implications

### 4.1 Risk

- 4.1.1 There are significant risks posed to the Council if people cannot safely raise concerns, and if the Council fails to respond to those concerns in an appropriate manner.

### 4.2 Financial

- 4.2.1 None

## 5. Legal Implications

- 5.1 The Public Interest Disclosure Act 1998 does not require authorities to have a whistleblowing policy, however in doing so the Council is ensuring that it is discharging its duties under the legal framework.

## 6. Other Implications

- a) Equalities: The Council's whistleblowing policy ensures that it does not victimise

or discriminate against any employee who raises a public interest concern within the organisation.

- b) Section 17, Crime & Disorder Act 1998: Having a whistleblowing policy encourages people to raise concerns that may be of a criminal nature. As such, by approving the policy, the Committee is supporting the Council in complying with the provisions of the Act in preventing crime in its area.
- c) Section 40, Natural Environment & Rural Communities Act 2006: Although the policy does not directly impact upon diversity, the Public Interest Disclosure Act 1998 includes a provision for people to raise protected disclosures in respect of unnecessary damage to the environment.
- d) Human Resources: Raising concerns can have several HR implications, including disciplinary procedures being required against wrongdoers, and providing support networks for those raising concerns.
- e) Human Rights: The Human Rights Act 1998 is inevitably considered whenever an investigation is undertaken into a whistleblowing concern, and in respect of the person raising the concern.
- f) Other: None.

## **7. Alignment to Council Priorities**

- 7.1 Encouraging people to raise concerns of potential wrongdoing in a safe manner helps to support the Council create a culture that supports the achievement of corporate aims and objectives.

## **8. Ward/Community Affected**

- 8.1 All

### Background Papers

*ICAEW: Guidance for Audit Committee members – Whistleblowing Arrangements*

### Lead Contact Officer:

*Name/Post: Sandra King, Head of Internal Audit*

*Telephone: 01508 533863*

*Email: scking@s-norfolk.gov.uk*

### Key Decision Status (Executive Decisions only):

*Non-Key Decision*

### Appendices attached to this report:

*Appendix 1: Guidance for the Committee on reviewing whistleblowing arrangements*

*Appendix 2: Whistleblowing Policy*

## Guidance to the Audit Committee on Whistleblowing

### Introduction

1. In 2004, the Institute of Chartered Accountants (ICAEW) produced a paper titled "Guidance to Audit Committees: Whistleblowing Arrangements". This paper is very much orientated towards Committees of commercial organisations and provides helpful background and guidance that public sector committees may equally find useful. We have therefore included the ICAEW paper as a background paper to this Committee report.
2. The CIPFA / SOLACE framework for governance in local government refers to the need for authorities to have suitable whistleblowing arrangements in place. "Arrangements" goes beyond having a policy; it entails the Council having suitable practices for the reporting of concerns and to investigate matters raised, as well as ensuring that those charged with Governance have a suitable awareness of the Council's provisions for whistleblowing.
3. The Combined Code of Corporate Governance (used to guide private sector governance arrangements) succinctly outlines what the Audit Committee should contribute to the whistleblowing process:

*"The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action"*

### Background to Whistleblowing

4. The legislative framework for Whistleblowing in England is the Public Interest Disclosure Act (1998). In effect, this is an extension of the Employment Rights Act. The purpose behind the act is to provide protection to those employees who raise concern, and ensures that they are not unfairly treated as a result of raising their concern.
5. This places a duty on the Council to ensure appropriate procedures are in place to allow people to raise concerns and appropriately handle these concerns. The Council therefore has to consider who should receive concerns raised, how it can maintain the confidentiality of a whistleblower, and how investigations can be effectively managed.
6. Whistleblowing can be a very traumatic process for all involved. In general, the raising of such concerns is only done by those who have a

genuine belief that there is untoward behaviour occurring – something that can be very difficult to do, particularly where it involves workplace colleagues or friends, or line management. There can also be the case where a malicious allegation has been raised, which can then place the accused under scrutiny and stress.

### **The Council's response**

7. The duty to protect whistleblowers extends to the whole Council, including Members who may receive concerns raised by staff or members of public and need to ensure they know how to proceed with these. Further, inappropriately reacting to whistleblowing concerns raised can lead to significant risks to the Council, for example:
  - Nothing is done about the concern – the Council could be exposed to fraud or inappropriate / untoward / corrupt behaviour etc
  - The whistleblower raises their concern with an outside party (e.g. Inspectorate or media) – this could lead to damage to the Council's reputation, fines being awarded etc
  - The whistleblower seeks damages as a result of unfair treatment / failure to investigate – the Public Interest Disclosure Act places no restriction on the level of damages that can be awarded to employees unfairly treating employees who raise concerns. An employee at Redcar and Cleveland Council was recently awarded £442,466 as a result of being sacked for expressing a concern that an internal appointment had not been properly advertised. Walsall Council have also paid a sum to a former employee of nearly £600,000.
8. The ICAEW believes that whistleblowing is an important part of the control environment, and can only be effective where two cultural obstacles can be overcome – where employees see the policy as a valuable contribution to the efficiency and success of the Council, as well as their own future; and secondly, where they believe their concerns will be fairly treated.
9. The Council has sought to overcome these obstacles in a number of ways. Staff are provided guidance in their induction on what to do if they have a concern; the Council has a long-established whistleblowing policy; ongoing training is provided to staff on corporate fraud and whistleblowing, and the Council is a subscriber to Public Concern at Work, who provide free and impartial advice to those who have concerns.

### **The Audit Committee's role**

10. Fundamentally, the Audit Committee should seek to gain assurance that proper arrangements are in place. The main function is high-level, however if you believe that there are inadequate / inappropriate arrangements in place more detailed review may be required (you may wish to refer to the checklist below to identify areas where you feel there

are inappropriate arrangements at present). As the ICAEW states, “it is not the duty of the Committee to be responsible for arrangements or their operation” – to do so would be to remove the independent oversight role that the Audit Committee so essentially provides.

11. The ICAEW have also set out a number of “key elements” to effective whistleblowing arrangements, along with a set of questions the Committee should be considering to ensure it has assurance over the Council’s arrangements. Management have sought to answer these questions, and thus provide assurances to the Committee that arrangements are effective, see below for more information.

**Key Questions for the Audit Committee to consider on effective whistleblowing arrangements**

<b>Question</b>	<b>Management Response</b>
<i>Does the board and senior management set the right tone through its policy statements, communications and general actions?</i>	The Whistleblowing Policy encourages people to raise concerns without fear of reprisal. Through providing training at the induction stage, and ongoing training, the Council aims to make it clear to employees that it welcomes and supports concerns being raised.
<i>Have particularly serious allegations been brought to the attention of the entire Council?</i>	No serious allegations have been raised, and thus these have not been raised to the Council.
<i>Is there a mechanism to identify changes in legal and regulatory requirements?</i>	The Council has professionally qualified legal staff, and a number of staff receive key public sector documents that would highlight changes in legislation. Further, the Council would be made aware through its subscription to Public Concern at Work.
<i>Do there appear to be sensible written policies and procedures that are appropriate to the Council?</i>	The Whistleblowing Policy has been prepared with due regard to the legislative framework, British Standards Institute Guidance, the Public Concern at Work model policy, and also benchmarked against good practice identified at other Councils.
<i>Is there evidence that these policies have been communicated to new and existing employees, consultants and temporary staff?</i>	The Policy is published on the website and the intranet. Staff are made aware at induction, and ongoing training is provided.
<i>Is there evidence that these policies have been communicated to staff of all levels?</i>	See above.
<i>Do the arrangements include the provision of timely and constructive feedback?</i>	The Policy includes a requirement to provide feedback to whistleblowers on a timely and ongoing basis throughout the whistleblowing process.
<i>Are staff aware of the availability of confidential advice either through a confidential internal adviser or an outside body such as Public Concern at Work?</i>	The Policy includes contact details for Public Concern at Work. Staff are also provided with these details in training, and in the past staff have been provided with whistleblowing

	guidance cards which include sources of assistance and support.
<i>Have wrongdoers been dealt with in an appropriate manner, in accordance with employment law and contracts of employment?</i>	There have not been any whistleblowing concerns that have resulted in the wrongdoer requiring treatment. One fraud issue, recently identified outside of the whistleblowing framework, and proven after investigatory work, resulted in a staff member being dismissed.
<i>Is there evidence that the Council regularly considers whistleblowing procedures as part of its review of the system of internal control?</i>	The Whistleblowing arrangements were last scrutinised in 2008, and are being scrutinised again at present. The arrangements are viewed as sufficient, and therefore have not been raised as an issue within the Annual Governance Statement.
<i>Are there issues or incidents which have otherwise come to attention which the Council would have expected to have been raised earlier under the company's whistleblowing procedures?</i>	We would not have expected the other fraud issue raised to have ordinarily been identified through the whistleblowing process.
<i>Where appropriate, has the internal audit function performed any work that provides additional assurance on the effectiveness of the whistleblowing procedures?</i>	The Audit Management Team have received additional training in whistleblowing procedures. However, reviewing the effectiveness of these procedures is inherently limited by the fact that the Council has not had whistleblowing concerns raised; Internal Audit have thus reviewed the procedures now being drafted and are satisfied these are sufficiently robust.
<i>Are there adequate procedures to track the actions taken in relation to concerns made and to ensure appropriate follow-up action has been taken to investigate and, if necessary, resolve problems indicated by whistleblowing?</i>	The procedures now developed for whistleblowing should ensure that outcomes are appropriately followed-up and resolved.
<i>Are there adequate procedures for retaining evidence in relation to each concern?</i>	The Whistleblowing policy identifies the requirements for retaining such documentation.

<i>Have confidentiality issues been handled effectively?</i>	This is a core consideration within the Whistleblowing policy.
<i>Is there evidence of timely and constructive feedback?</i>	There is an expectation this will be given as part of the Whistleblowing Policy.
<i>Have any events come to the committee's or Management's attention that might indicate that a staff member has not been fairly treated as a result of their raising concerns?</i>	Management are not aware of any such concerns being raised.
<i>Is a review of staff awareness of the procedures needed?</i>	Staff have recently been provided with training in arrangements. Consideration could be given to this (e.g. through surveying staff) however it would be of greater use to undertake this when training has not recently been provided.

**BRECKLAND COUNCIL**

**WHISTLEBLOWING POLICY**

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## The Whistleblowing Policy

**THIS POLICY SHOULD BE READ IN CONJUNCTION WITH THE COUNCIL'S DISCIPLINARY POLICY AND PROCEDURES, STAFF AND MEMBER CODES OF CONDUCT.**

### INTRODUCTION TO THE POLICY

#### 1. What is Whistleblowing?

1.1 Whistleblowing is the raising of a significant concern. These concerns may cover issues of fraud, misconduct, or illegality, and this policy is designed to ensure that people know how to raise a genuine concern, and can do so in the knowledge that they will not face reprisal for their action.

1.2 Public Concern at Work (a charity which provides independent advice and information on whistleblowing) draws the following distinction between whistleblowing and pursuing a complaint:

*“When someone blows the whistle they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern - they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.”*

#### 2. What is the purpose of the Whistleblowing Policy

2.1 Employees, councillors and others who deal with the Council may be the first to spot things that may be wrong or inappropriate within the Council. However, they might not say anything because they think this would be disloyal, or they might be concerned that their suspicions are unjustified or might turn out to be so after enquiry. They may also be worried that they or someone else might be victimised, or are unclear with whom to raise their concern.

2.2 Members of the public may also have concerns, but be unsure how and when to express them.

2.3 Breckland Council has produced this Whistleblowing Policy to help:

- councillors
- employees (including temporary and agency staff)
- others with whom the Council has dealings (e.g. contractors, partners, suppliers and voluntary organisations), and
- members of the public

to understand how and when to contact the Council with their concerns.

- 2.4 The Council is committed to maintaining an open culture with the highest standards of honesty and accountability. It takes all inappropriate behaviour very seriously and is committed to investigating any genuine concerns raised.
- 2.5 This policy aims to ensure that any concerns can be raised with confidence and without any worry on the part of the whistleblower about being victimised, discriminated against or disadvantaged in any way as a result.

## **AIMS AND SCOPE OF THE POLICY**

### **3. What types of concern are covered by the policy?**

- 3.1 This policy is intended to deal with serious or sensitive concerns about inappropriate behaviour. The Public Interest Disclosure Act 1998 outlines that a “protected” disclosure of a concern is one which demonstrates one or more of the following:
- A criminal offence has been committed, or is likely to be committed
  - Disclosures related to a miscarriage of justice
  - A failure to comply with a legal obligation
  - The endangering of an individual’s health and safety
  - Unnecessary damage to the environment (for example, by pollution)
  - Deliberate concealment of information relating to any of the above.
- 3.2 Beyond the legal context above, the Council would encourage employees, members of the public, and any other interested parties to raise any significant concerns that they may have, as soon as they are reasonably aware of them. These concerns could be about any aspects of the Council’s activities, e.g. with reference to Council employees, Members, or suppliers acting on behalf of the Council, and relate to issues that are either occurring now or likely to happen in the future.

### **4. What is not covered by the Policy?**

- 4.1 The Council has a number of policies and procedures to address other matters, for example:
- Employees’ complaints about their terms and conditions of employment. These matters are dealt with through the Grievance Procedure.
  - Instances of bullying and harassment of Council’s employees are dealt with through the Harassment and Bullying Prevention Policy.
  - Complaints from members of the public about the Council’s services. These are dealt with through the Council’s Complaints Procedure.
  - Concerns with reference to members should be referred to the Monitoring Officer and / or the Standards Committee

## **SAFEGUARDS**

### **5. Protecting the Whistleblower**

- 5.1 In accordance with the Public Interest Disclosure Act 1998, Breckland Council undertakes to protect, as best it can, an employee who blows the whistle from personal claims, victimisation, harassment or bullying as a result of his or her disclosure. This assurance is not extended to someone who maliciously raises a matter they know is untrue; such instances may be subject to the Council's disciplinary procedures.
- 5.2 Any employee or councillor taking any reprisal or similar action against a whistleblower because he or she has made a protected disclosure under this policy will be subject to disciplinary action by the Council.
- 5.3 The Council will, at the request of the whistleblower, keep the nature of concerns confidential. It will not reveal names or positions without permission, unless it has to by law, or an enquiry results in a criminal investigation in which the whistleblower might be required as a witness. Whistleblowers should be aware, however, that the fact that enquiries are being made might, of itself, result in their identity becoming known. Where possible, the Council will make you aware if your identify is likely to be compromised through investigation.
- 5.4 All these matters will be explained at the time a concern is raised so the whistleblower can decide whether or not to proceed. The Council will also keep the whistleblower informed if the situation significantly changes.

### **6. Anonymous Allegations**

- 6.1 The Council encourages whistleblowers to give their name when making an allegation. It will do all it can to protect the whistleblower. Concerns raised anonymously tend to be far less effective and if, for example, the Council does not have enough information, it may not be able to investigate the matter at all.
- 6.2 Also, from a practical point of view, it is impossible to provide protection to a person whose identity is unknown and more difficult to judge whether the concern is made in good faith or maliciously.
- 6.3 If whistleblowers feel that they cannot give their name, the Council will make a judgement on whether or not to consider the matter depending upon such things as:
  - the seriousness of the issue
  - whether the concern is believable; and
  - whether it can carry out a sufficient investigation based on the information provided

### **7. Assurances to third parties**

- 7.1 The assurances provided to employees raising concerns set out in section 5 above cannot be given in the same way to third parties. For example, the Council cannot guarantee protection to employees of third party (contractor) organisations. However,

we expect that all contractors are aware of the Council's whistleblowing procedures, and act in accordance with these.

- 7.2 Further, with regard to members of the Public, whilst they are not afforded statutory protection in the same way as employees, the Council is committed to treating all citizens fairly. Raising a concern under this policy will not affect the rights of any council citizens as set out within the Council's Constitution.

## **8. Untrue Allegations**

- 8.1 If a whistleblower makes an allegation which they believe is true, but it is not confirmed by an investigation, the Council will not take any action against them.
- 8.2 However, if a whistleblower makes a deliberately false or malicious allegation which they know is untrue, the Council will take appropriate disciplinary or legal action against them. Allegations of this nature are not protected by the Public Interest Disclosure Act 1998.

## **HOW TO RAISE A CONCERN**

### **9. Guidance for Members of the Public, Contractors, Councillors and Partners**

- 9.1 Members of the Public, Contractors and Councillors and those involved with partner organisations who suspect a Council Employee, another Councillor, Organisational Partners or other Contractors (in their dealings with the Council) of impropriety or illegality should contact one of the following:
- The Chief Executive
  - The Deputy Chief Executive (who acts as the Monitoring Officer)
  - Any other Council Director
  - Head of Internal Audit
  - If your concern relates to one of the above officers, you should contact the Audit Commission, as the Council's External Auditor.

All contact details are included within **Appendix 1** of this policy.

### **10. Guidance for Employees**

- 10.1 Whistleblowers should not attempt to investigate any concern themselves, but raise their concern using one of the avenues shown below.
- 10.2 A Council employee should first raise a concern with their manager or Head of Service. Guidance to employees on how to proceed is contained in the document "**Guidance for employees - How to react to concerns of inappropriate behaviour**" – see **Appendix 2**.
- 10.3 Guidance to managers on how to deal with a concern is contained in the document "**Guidance for Managers – How to react to concerns of inappropriate behaviour**" – see **Appendix 3**.

- 10.4 If the employee feels that it is inappropriate to raise a concern with their manager given the person involved and/or the seriousness or sensitivity of the matter, contact should be made with one of the following officers
- The Chief Executive
  - Deputy Chief Executive
  - Officers in the Council's Management Team
  - Assistant Director, Finance
  - HR Manager
  - Legal Manager
  - Head of Internal Audit
- 10.5 If your concern relates to any of the Officers above, this should be referred to the Chief Executive. If your concern relates to the Chief Executive, then this matter can be raised with the Leader of the Council (or the Deputy Leader of the Council if the Leader is unavailable) or the Audit Commission, as the Council's External Auditors.
- 10.6 Whistleblowers are encouraged to raise concerns promptly and where possible in writing, giving as much information as possible, such as relevant background, names, dates, places and the reason for their concern. However, concerns can be raised by telephone or by meeting the appropriate officer. The earlier a concern is raised, the easier it will be to take effective action.
- 10.7 Although it will not be necessary to prove beyond doubt that an allegation is true, a whistleblower will be expected to demonstrate that there are reasonable grounds for voicing their concern.
- 10.8 Any whistleblower will be asked to declare any personal interest they may have in the concern being raised.
- 10.9 The Council has developed procedures as to how whistleblowing concerns should be reviewed and investigated. It is recommended that anyone who raises a concern refers to these to identify the next course of action that will be taken in response to the issue raised.
- 10.10 In matters concerning the health, safety and welfare of those on our premises (whether members of staff, contractors or visitors) anyone, including an elected safety representative, who becomes aware of a hazard (actual or potential) or dangerous occurrence should immediately notify the Health and Safety Advisor, before contacting any outside body, to ensure that immediate action can be taken if necessary to deal with the hazard. Contact can be made by telephone, email or the sending of a written report as appropriate to the situation.

## **11. Sources of support for the whistleblower**

- 11.1 People who do not work for the Council might want to discuss their concern with a friend or colleague first. They may then find it easier to raise a concern if others share the same experiences or concerns.

- 11.2 For employees who are members of a union, trade union representatives can give general support and advice, or act on their behalf if this would help. This could be useful, particularly if the employee wishes to remain anonymous, to the extent that is possible.
- 11.3 The Council will encourage the trade unions to support any member of staff who raises a concern with them.
- 11.4 The Council further welcomes any member of staff to consult with Public Concern at Work if they are not sure about whistleblowing. Public Concern at Work are an independent charity who provide confidential support and advice to whistleblowers through a telephone helpline and the internet. Further details for Public Concern at Work are included in **Appendix 1**.

## **12. Raising issues with an external party**

- 12.1 Concerns are most readily addressed where they are raised internally in the first instance. However, there may be situations where you feel it is inappropriate to raise the concern internally, or unable to do so. Alternatively, you may have already raised a concern and are dissatisfied with the outcome. In these situations, there are a number of other parties to whom you may turn:
- The Audit Commission’s dedicated telephone hotline for receiving disclosures
  - Relevant Regulatory Organisations (e.g. the Environment Agency, Health and Safety Executive or Local Government Ombudsman)
  - The Police (where a criminal matter is involved)
  - Public Concern at Work
- Contact details for all parties are included within **Appendix 1**.
- 12.2 Before consulting an external party, the Council recommends that the whistleblower seeks independent legal advice (disclosure to a legal advisor is protected by law). The law most readily protects disclosures that are seen to be “reasonable”, i.e. disclosures that are made within the Council, or to an appropriate regulator at an early stage. If the matter is taken outside of the Council, the whistleblower should ensure they do not disclose information about a third party that may be covered by a duty of confidentiality (e.g. commercially sensitive information or personal, private data).

## **RESPONSIBILITY FOR WHISTLEBLOWING**

### **13. Responsible Officer for Whistleblowing**

- 14.1 The Council’s Deputy Chief Executive (as Monitoring Officer) is the Senior Officer in the Council who can take an independent view of any concerns raised.
- 14.2 All concerns raised will be handled in line with the Whistleblowing Procedural Guidance.

#### **14. Responsibility for the Whistleblowing Policy**

- 14.1 All concerns raised and the outcomes will be reported to the Accounts and Audit Committee and the Standards Committee annually in a form that does not endanger confidentiality.
- 14.2 This policy is to be reviewed at least every 3 years (or more frequently if required by changes to statutory legislation) and approved by the Audit Committee. Subsequent to any approval, the following parties shall be consulted:
- Senior Council Officers responsible for receiving whistleblowing concerns
  - Joint Consultative Committee
  - General Purposes Committee
  - Standards Committee
  - Audit Committee
- 14.3 On an annual basis, **Appendix 1** of the policy, which provides details of the key parties responsible for whistleblowing, shall be reviewed by the Deputy Chief Executive and Head of Internal Audit to ensure that details remain relevant and up-to-date. This review will not require re-endorsement of the policy.

**Contacts for Whistleblowing****Raising concerns internally**

<u>Chief Executive</u>	<u>Terry Huggins</u> <a href="mailto:chief.executive@breckland.gov.uk">chief.executive@breckland.gov.uk</a>
<u>Deputy Chief Executive</u>	<u>TBC</u>
<u>Business Development Manager</u>	<u>TBC</u>
<u>Commissioning Director</u>	<u>TBC</u>
<u>Monitoring Officer</u>	<u>TBC</u>
<u>Head of Internal Audit</u>	<u>Sandra King</u> <a href="mailto:scking@s-norfolk.gov.uk">scking@s-norfolk.gov.uk</a> <u>01508 533863</u>
<u>Assistant Director, Finance</u>	<u>TBC</u>
<u>Legal Manager</u>	<u>TBC</u>
<u>Human Resources Manager</u>	<u>TBC</u>

## **Raising Concerns Externally**

<p><b><u>Public Concern at Work</u></b> - <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a></p> <p>For support with how to raise concerns, and action to take</p>	<p>Public Concern at Work 3<sup>rd</sup> Floor Bank Chambers 6-10 Borough High Street London SE1 9QQ</p> <p><u>020 7404 6609</u> <a href="mailto:helpline@pcaw.co.uk">helpline@pcaw.co.uk</a></p>
<p><b><u>Audit Commission Complaints Investigation Officer</u></b> - <a href="http://www.audit-commission.gov.uk">www.audit-commission.gov.uk</a></p> <p>For issues relating to financial probity and governance</p>	<p>1<sup>st</sup> Floor, Millbank Tower Millbank London SW1P 4HQ</p> <p><u>0845 0522646</u></p>
<p><b><u>The Local Government Ombudsman</u></b></p> <p>The Commission for Local Administration in England</p> <p>For Complaints against Councils – will cover all complaints</p>	<p>The Oaks No 2. Westwood Way Westwood Business Park Coventry CV4 8JB</p> <p><u>0845 6021983</u></p>
<p><b><u>Norfolk Constabulary</u></b></p> <p>For all breaches of the law (except as noted below)</p>	<p>Operations and Communications Centre Jubilee House Falconers Chase Wymondham Norfolk NR18 OWW</p> <p><u>0845 456 4567</u></p>

<p><b><u>Serious Fraud Office – <a href="http://www.sfo.gov.uk">www.sfo.gov.uk</a></u></b></p> <p>Fraud and Corruption issues</p>	<p>Elm House 10-16 Elm Street London WC1X 0BJ</p> <p><u>0207 239 7388</u></p>
<p><b><u>Serious Organised Crime Agency – <a href="http://www.soca.gov.uk">www.soca.gov.uk</a></u></b></p> <p>For Money Laundering Issues</p>	<p>PO Box 8000 London SE11 5EN</p> <p><u>0370 496 7622</u></p>
<p><b><u>The Health and Safety Executive – <a href="http://www.hse.gov.uk">www.hse.gov.uk</a></u></b></p>	<p>Lakeside 500 Old Chapel Way Broadland Business Park Norwich Norfolk NR7 0WQ</p> <p><u>0845 345 0055</u></p>
<p><b><u>The Environment Agency – <a href="http://www.environment-agency.gov.uk">www.environment-agency.gov.uk</a></u></b></p> <p>For environmental crimes</p>	<p>National Customer Contact Centre PO Box 544 Rotherham S60 1BY</p> <p><u>0800 80 70 60</u></p>

## GUIDANCE FOR EMPLOYEES

## HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action you take when you suspect inappropriate behaviour may have happened, or be about to happen, can be crucial. Inappropriate behaviour is described in the Council's Whistleblowing Policy as:

- Any criminal offence, particularly fraud or corruption
- Unauthorised use of Council money
- A failure to comply with a legal obligation
- The endangering of an individual's health and safety
- Unnecessary damage to the environment (for example, by pollution)
- A person abusing their position for any unauthorised use or for personal gain
- A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Counter Fraud Strategy, the Employees' or Members' Code of Conduct)
- A person failing to meet appropriate professional standards
- Deliberate concealment of information relating to any of the above.

Following these simple rules should help the Council in carrying out enquiries into any concerns you have.

**DO**

- ✓ **Make an immediate note of your concerns.**

Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

- ✓ **Convey your suspicions to someone with the appropriate authority and experience in accordance with the Council's Whistleblowing Policy.**
- ✓ **Deal with the matter promptly if you feel your concerns are warranted.**

Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

**DON'T**

- ✗ **Do nothing.**
- ✗ **Be afraid of raising your concerns.**

You will not suffer any recrimination from the Council as a result of voicing a reasonably held suspicion. The Council will treat the matter sensitively and

confidentially, and will take reasonable steps to protect anyone who raises a well intentioned concern.

**✘ Approach or accuse any individuals directly.**

**✘ Try to investigate the matter yourself.**

There are special rules surrounding the gathering of evidence. Any attempt to gather evidence by people who are unfamiliar with these rules may weaken or destroy any future prosecution should that be thought appropriate.

**✘ Convey your suspicions to anyone other than those indicated in the Council's Whistleblowing Policy.**

The Public Interest Disclosure Act 1998 - will protect you from any reprisals as long as you meet the rules set out in the Act. The rules are:

- **You must disclose the information in good faith**
- **You must reasonably believe it to be substantially true**
- **You must not seek any personal gain**

## GUIDANCE FOR MANAGERS

### HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

**The action you take when you identify, or are made aware of, suspected inappropriate behaviour can be crucial in determining the success of any subsequent enquiries. Inappropriate behaviour is described in the Council's Whistleblowing Policy as:**

- Any criminal offence, particularly fraud or corruption
- Unauthorised use of Council money
- A failure to comply with a legal obligation
- The endangering of an individual's health and safety
- Unnecessary damage to the environment (for example, by pollution)
- A person abusing their position for any unauthorised use or for personal gain
- A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Counter Fraud Strategy, the Employees' or Members' Code of Conduct)
- A person failing to meet appropriate professional standards
- Deliberate concealment of information relating to any of the above.

**Following these simple rules will help to ensure that matters are properly handled.**

**As a manager you should familiarise yourself with both the Council's Strategy to help fight Fraud and Corruption and its Whistleblowing Policy**

#### **DO**

- ✓ **Be responsive to employees' concerns.**

As part of the Council's anti-fraud and corruption culture, you should encourage employees to voice any reasonably held suspicion. As a manager you should treat all employees' concerns seriously and sensitively.

- ✓ **Note details.**

Get as much information as possible from the employee reporting the suspicion and encourage them to record this in writing. If the employee has made any notes, request access to these

Note any documentary evidence which may exist to support the allegations made, but do not interfere with this evidence in any way.

- ✓ **Evaluate the allegation objectively**

Before you take the matter further determine whether any suspicions appear to be justified.

Be objective when evaluating the issue. Consider the facts as they appear based on information you have to hand.

**If in doubt, report your suspicions anyway.**

If you consider that no further action is necessary, you should still record your decision and also inform the Monitoring Officer of the original notification details.

✓ **Advise the appropriate person**

If you feel that a suspicion is justified advise an appropriate officer in accordance with the Council's Whistleblowing Policy

✓ **Deal with the matter promptly if you feel your concerns are warranted.**

Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

**DON'T**

✗ **Ridicule suspicions raised by employees**

The Council cannot operate an effective anti-fraud and corruption culture or Whistleblowing Policy if employees are reluctant to pass on their concerns to management due to fear of ridicule or recrimination.

You need to ensure that all employee concerns are given a fair hearing. You should reassure employees that they will not suffer recrimination by raising any reasonably held suspicion.

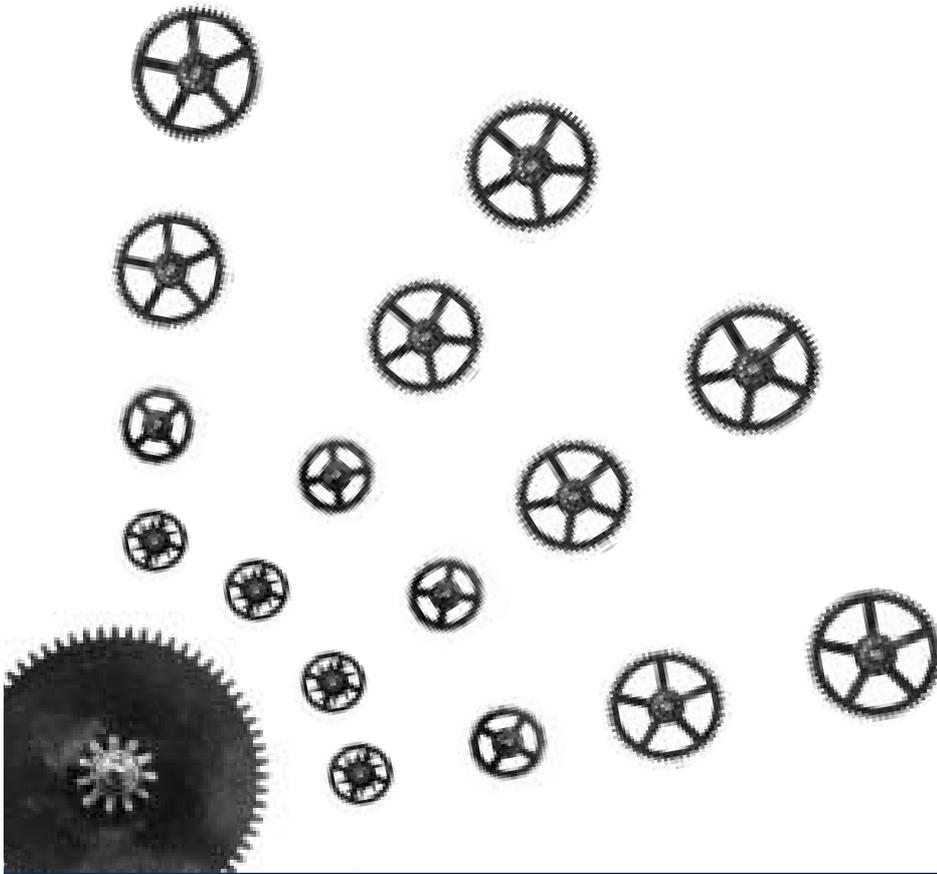
✗ **Approach or accuse any individuals directly**

✗ **Convey your suspicions to anyone other than those indicated in the Council's Whistleblowing Policy**

✗ **Try to investigate the matter yourself**

Investigations by employees who are unfamiliar with the requirements of evidence are highly likely to jeopardise a successful outcome. They may also alert the suspect and result in the destruction of evidence.

**Your primary responsibility is to report the issue and all associated facts to the appropriate officer, wherever possible.**



Guidance for audit committees

# Whistleblowing arrangements



March 2004



# The Combined Code on Corporate Governance – July 2003

## C.3 Audit Committee and Auditors

**Main Principle:** The board should establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company's auditors.

### Code provisions

**C.3.1** The board should establish an audit committee of at least three, or in the case of smaller companies two, members, who should all be independent non-executive directors. The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience.

**C.3.2** The main role and responsibilities of the audit committee should be set out in written terms of reference and should include:

- to monitor the integrity of the financial statements of the company, and any formal announcements relating to the company's financial performance, reviewing significant financial reporting judgements contained in them;
- to review the company's internal financial controls and, unless expressly addressed by a separate board risk committee composed of independent directors, or by the board itself, to review the company's internal control and risk management systems;
- to monitor and review the effectiveness of the company's internal audit function;
- to make recommendations to the board, for it to put to the shareholders for their approval in general meeting, in relation to the appointment, re-appointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor;
- to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements;
- to develop and implement policy on the engagement of the external auditor to supply non-audit services, taking into account relevant ethical guidance regarding the provision of non-audit services by the external audit firm;

and to report to the board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken.

**C.3.3** The terms of reference of the audit committee, including its role and the authority delegated to it by the board, should be made available. A separate section of the annual report should describe the work of the committee in discharging those responsibilities.

**C.3.4** The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.

**C.3.5** The audit committee should monitor and review the effectiveness of the internal audit activities. Where there is no internal audit function, the audit committee should consider annually whether there is a need for an internal audit function and make a recommendation to the board, and the reasons for the absence of such a function should be explained in the relevant section of the annual report.

**C.3.6** The audit committee should have primary responsibility for making a recommendation on the appointment, reappointment and removal of the external auditors. If the board does not accept the audit committee's recommendation, it should include in the annual report, and in any papers recommending appointment or re-appointment, a statement from the audit committee explaining the recommendation and should set out reasons why the board has taken a different position.

**C.3.7** The annual report should explain to shareholders how, if the auditor provides non-audit services, auditor objectivity and independence is safeguarded.

# Introduction

This publication is part of a series which has been prepared by the Institute of Chartered Accountants in England & Wales to assist non-executive directors on audit committees to gain an understanding of the provisions of the Combined Code on Corporate Governance – July 2003 (The Combined Code) relating to Audit Committees and Auditors and the guidance set out in Guidance on Audit Committees (The Smith Guidance). The Guidance is based on the proposals set out in the report of the FRC-appointed group chaired by Sir Robert Smith.

## Whistleblowing arrangements

The revised Combined Code issued in July 2003 includes a provision (C.3.4) that:

*'The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.'*

These arrangements are commonly referred to as 'whistleblowing' procedures. This publication has been prepared to assist non-executive directors in reviewing and assessing a company's internal whistleblowing procedures by providing background information on whistleblowing, key aspects of whistleblowing procedures, and examples of activities which may be undertaken by audit committees to fulfil the review requirement in the revised Combined Code.

Each company is unique and audit committees will need to apply the Code proposals and guidance in a manner that is appropriate to them. This publication does not provide guidance on how to deal with individual situations, nor does it provide a complete description of relevant legislation. Reference may need to be made to the legislation and other pronouncements mentioned in the text and to the company's professional advisers for detailed information.

## Rationale for whistleblowing arrangements

In March 2003, the formal report of the Special Investigative Committee of the Board of Directors of WorldCom, Inc., issued after the reorganisation of the company, stated:

*'That the fraud continued as long as it did was due to a lack of courage to blow the whistle on the part of others in WorldCom's financial and accounting departments...'*

This lack of courage typically arises from employers not promoting the benefit of whistleblowing, and employees believing that they will be disadvantaged if they raise concerns. Therefore the option to remain silent is often perceived as the option of least risk by the individual and the malpractice continues undetected. As evidenced in WorldCom's case, and numerous other cases, this can have catastrophic consequences.

A company's workforce represents a valuable source of information that can be utilised to identify a potential problem, and deal with it, before it causes significant damage to the company's reputation or its stakeholders.

The audit committee should be aware that, in addition to the voluntary process referred to in the Smith Guidance, employees have significant legal protection under the Public Interest Disclosure Act 1998 where they blow the whistle internally and, in certain circumstances, outside the company. They may also have a legal duty to report suspicions of criminal or regulatory misbehaviour. In particular, individual employees as well as their employers may need to report suspected laundering of criminal proceeds or terrorist funds, usually internally to the company's Money Laundering Reporting Officer or otherwise externally. Senior employees in the regulated financial services may need to report regulatory defaults internally or direct to the Financial Services Authority (FSA). The guidance in this publication refers to systems for and the encouragement of voluntary reporting, though consideration could be given to merging these with systems for money laundering or other compulsory reporting. An outline of relevant legislation is provided in the appendix.

Effective whistleblowing arrangements should act as a deterrent to malpractice, encourage openness, promote transparency, underpin the risk management systems of the company and help protect the reputation of the company and senior management. Also an appropriate and effective whistleblowing mechanism should provide some support to the audit committee's other review and monitoring work, for example in relation to the integrity of the financial statements.

Whistleblowing should be considered an essential safety valve within the internal control environment. In most situations the traditional

internal reporting lines will be sufficient to prevent malpractice. However where fraud, corruption or other malpractice has served to undermine the company's internal controls and lines of reporting, whistleblowing can be an effective safeguard.

A culture which encourages employees to raise concerns will only be successful where two difficult challenges are overcome:

- whistleblowing procedures may be viewed as a 'sneak's charter'. Employees need to view it as a valuable contribution to the company's efficiency and long-term success and to their own future; and
- employees may believe they will be disadvantaged or victimised when they raise concerns. Employees need to be assured that they will be treated fairly and that concerns will be properly considered.

Successful whistleblowing procedures require strong leadership from the board and senior levels of management to develop a culture in which staff are encouraged to raise their concerns, both internally and through the firm's whistleblowing procedures. The whistleblower should be seen essentially as a witness, not as a complainant.

There are a number of key elements that should be covered in all whistleblowing procedures and formalising them may help to ensure that a company obtains maximum benefit from its whistleblowing arrangements.

## **Role of the audit committee**

The audit committee has an important role in the management of risks to the company's reputation. This includes ensuring that the culture is appropriate so that whistleblowing procedures are successful.

As with other aspects of its review functions, the audit committee should seek to satisfy itself that there are proper arrangements in place. The committee's function is a high-level one but the committee needs to be aware that there may be circumstances in which more detailed work is required, e.g. if there are signs that the arrangements are inadequate or ineffective. It is not the duty of the committee to be responsible for the arrangements or their operation although audit committees may wish to allow whistleblowers to contact the audit committee chairman directly as an effective method of demonstrating the board's commitment to the success of the process and its independence.

The committee's review comprises two types of activity, which can be described as direct and indirect. The direct aspect could include questions to senior management, directors and the relevant employees about the arrangements and issues that have come to

light. The indirect aspect can be described as the committee becoming aware from its other functions of matters that indicate that the arrangements may not be effective.

## The key elements of effective whistleblowing arrangements

### Culture

The board and senior management should set the tone by clearly stating that the company undertakes to take seriously any matters raised in good faith by individual employees, to deal with them, where requested, in confidence (as far as practicable) and to protect their interests. Management should state that they:

- are against any form of impropriety; and
- encourage employees to draw attention to breaches of company policy and procedures.

The audit committee might wish to consider:

- *does the board and senior management set the right tone through its policy statements, communications and general actions?*
- *have particularly serious allegations been brought to the attention of the entire Board of Directors?*

### Awareness of external regulations and requirements

The board and senior management should ensure that they are aware of the whistleblowing requirements in legislation and in regulations that apply to the company, if applicable, so that these can be communicated to employees. An outline of relevant legislation is provided in the appendix.

Applicable regulations will depend on the business itself, but could include health and safety, hygiene, FSA requirements are tax or licensing regulations.

The audit committee might wish to consider:

- *is there a mechanism to identify changes in legal and regulatory requirements?*

### Policy awareness

A clear system of reporting is required so employees know what to raise and when, and the people in the company with whom they may safely raise the matter. There are good reasons why employees should

also know of external bodies such as the external auditors, professional bodies or relevant regulators with whom they can properly raise the matter. Employees may also need reassurance about confidentiality and protection from adverse consequences.

The audit committee might wish to consider:

- *do there appear to be sensible written policies and procedures that are appropriate to the company's size, organisation and the industry(ies) in which it operates?*
- *is there evidence that these policies have been communicated to new and existing employees, consultants and temporary staff?*
- *is there evidence that these policies have been communicated to staff of all levels?*

## **Feedback**

In order to encourage employee support, there should be a procedure for reporting back the outcome of any subsequent enquiry and as far as possible any remedial action taken or to be taken. Failing to give feedback may be interpreted as failing to act, which could undermine the company's culture and discourage employees from raising concerns in future.

The audit committee might wish to consider:

- *do the arrangements include the provision of timely and constructive feedback?*

## **Access to confidential advice and procedures**

The company may want to designate a senior individual whom employees can approach on a confidential basis. Employees should also be made aware of the independent charity Public Concern at Work (PCaW) which can provide advice to individuals on whistleblowing in the public interest on a strictly confidential basis. PCaW can also advise organisations on their procedures and can supply checklists/toolkits for both small and large companies. A similar service may be available through the company's professional advisers or through other organisations.

The audit committee might wish to consider:

- *are staff aware of the availability of confidential advice either through a confidential internal adviser or an outside body such as PCaW?*

## **Procedures for effective dealing with wrongdoers**

As with any case where an employee is found to be involved in wrongdoing, they will need to be dealt with effectively in accordance with employment law and contracts of employment.

The audit committee might wish to consider:

- *have wrongdoers been dealt with in an appropriate manner, in accordance with employment law and contracts of employment?*

## **Reported concerns not upheld**

If the policy is to succeed, whistleblowing that is not upheld but was in good faith must not be a cause for action against the whistleblower, although management should recognise that it may have consequences for relations between employees.

## **Review of effectiveness**

The board ought to consider the effectiveness of whistleblowing policies and procedures on a regular basis. It should provide input to the board's review of the system of internal control. The review arrangements should be appropriate to the size of the company, the industry(ies) in which it operates, the nature of its activities, organisational structure and internal control and risk management systems. For some companies, the internal audit function may provide relevant assurance.

The audit committee might wish to consider:

- *is there evidence that the board regularly considers whistleblowing procedures as part of its review of the system of internal control?*
- *are there issues or incidents which have otherwise come to the board's attention which they would have expected to have been raised earlier under the company's whistleblowing procedures?*
- *where appropriate, has the internal audit function performed any work that provides additional assurance on the effectiveness of the whistleblowing procedures?*
- *are there adequate procedures to track the actions taken in relation to concerns made and to ensure appropriate follow-up action has been taken to investigate and, if necessary, resolve problems indicated by whistleblowing?*
- *are there adequate procedures for retaining evidence in relation to each concern?*
- *have confidentiality issues been handled effectively?*
- *is there evidence of timely and constructive feedback?*
- *have any events come to the committee's or the board's attention that might indicate that a staff member has not been fairly treated as a result of their raising concerns?*
- *is a review of staff awareness of the procedures needed?*

## Appendix – Relevant legislation and other guidance

### Legal requirements

#### Proceeds of Crime Act 2002 and Money Laundering Regulations 2003

The Proceeds of Crime Act 2002 requires employees of firms operating in the regulated sector<sup>(1)</sup> to disclose suspicions of money laundering to a designated employee of that firm (the Money Laundering Reporting Officer) or to the National Criminal Intelligence Service (NCIS).

The extended definition of money laundering to include the possession of the proceeds of any crime makes this a significant whistleblowing requirement.

There are a number of money laundering offences under the Proceeds of Crime Act 2002, including that of assisting a money launderer. However, a valid defence is to report the matter either to the designated Money Laundering Reporting Officer, or directly to NCIS.

#### Terrorism Act 2000

The Terrorism Act 2000 requires individuals to report knowledge of the possession of, and other activities relating to, terrorist funds. Terrorist funds include funds which are likely to be used for terrorist purposes as well as the proceeds of terrorism. This requirement applies to all individuals and not just those working in the regulated sector. An internal report to the designated Money Laundering Reporting Officer is also sufficient to comply with this requirement.

### Legal rights

#### Public Interest Disclosure Act 1998

The Public Interest Disclosure Act 1998 was introduced to protect individuals making disclosures in the public interest and to allow such individuals to claim compensation for any victimisation following such disclosure. It provides a framework for the identification of cases in which it is appropriate for employees to make disclosures internally, to an appropriate regulator, or otherwise externally to a third party, and to obtain legal advice<sup>(2)</sup>. External regulators specifically mentioned in the Act, to whom protected disclosures can be made, include the FSA, Inland Revenue, the National Audit Office and the Health and Safety Executive.

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<sup>(1)</sup> The regulated sector will include but is not limited to:

- banks;
- insurance firms;
- investment businesses;
- accountants;
- lawyers;
- estate Agents;
- casinos;
- money service businesses; and
- dealers in goods accepting cash payments of 15,000 euro or more.

<sup>(2)</sup> This includes advice from Public Concern at Work.

The Act applies to all workers including contract workers and trainees.

Where a worker is dismissed or otherwise disadvantaged as a consequence of having made a protected disclosure<sup>(3)</sup> they may claim unlimited compensation through an Employment Tribunal.

Confidentiality clauses in contracts of employment are considered unenforceable to the extent that the clauses prohibit disclosures protected by the Act.

### **Additional guidance**

There are external sources of guidance that may be helpful:

- Financial Services Authority (FSA) – high-level guidance entitled ‘Guidance on Public Interest Disclosure Act: Whistleblowing’. This guidance is not binding on companies regulated by the FSA, but it is highly authoritative, and should be of use to both regulated and non-regulated companies. The guidance can be accessed from the whistleblowing section of the FSA’s website [www.fsa.gov.uk/whistle/](http://www.fsa.gov.uk/whistle/). This section of the website contains other information on whistleblowing, including a copy of the FSA’s whistleblowing procedure for its own staff, and a consultation paper on whistleblowing which contains a good summary of the Public Interest Disclosure Act.
- Public Concern at Work (PCaW) provides a range of guidance and information on its website [www.pcaw.co.uk](http://www.pcaw.co.uk).
- ICAEW has issued guidance for members on whistleblowing and money laundering legislation. This information is publicly available on the ICAEW technical policy website ([www.icaew.co.uk/technicalpolicy](http://www.icaew.co.uk/technicalpolicy)):
  - TECH 17/99 – Public Interest Disclosure Act 1998
  - TECH 8/04 – Anti-Money Laundering (Proceeds of Crime and Terrorism) Second Interim Guidance For Accountants
  - TECH 16/99 – Receipt Of Information In Confidence By Auditors

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<sup>(3)</sup>A disclosure to an employer, made in good faith, of information which in the reasonable belief of the employee tends to show that one of the following has been committed, is being committed, or is likely to be committed:

- a criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- danger to the health or safety of an individual;
- damage to the environment; or
- deliberate concealment of information about the above.

For disclosures to external regulators specified under the Act, the whistleblower must reasonably believe that information disclosed is true and that the matter falls within the regulator’s area of responsibility.

Additional copies may be obtained by calling: +44 (0)20 7920 8634  
or downloaded by visiting [www.icaew.co.uk/technicalpolicy](http://www.icaew.co.uk/technicalpolicy).

ISBN 1 84152 204 X

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March 2004

## Guidance for audit committees

The Institute of Chartered Accountants in England & Wales has issued a series of publications to assist non-executive directors on audit committees to gain an understanding of the guidance included in the revised Combined Code on Corporate Governance as 'Audit Committees: Combined Code Guidance'. This is closely based on the proposals originally set out in the report of the FRC-appointed group chaired by Sir Robert Smith.

The following titles are available:

- Company reporting and audit requirements
- Monitoring the integrity of financial statements
- The internal audit function
- Evaluating your auditors
- Reviewing auditor independence
- Working with your auditors
- Whistleblowing arrangements



**Report, on behalf of the Chief Executive to the General Purposes Committee, 16<sup>th</sup> February 2011**

**BASIC PERFORMANCE INCREASE**

**1. Purpose of Report**

- 1.1 This report outlines the proposals for the pay award for Breckland staff in 2010/2011. The proposals are based upon the outcomes of consultation with Unison.

**2. Recommendations**

It is recommended that the Council/Committee:

- 2.1 Award staff a Basic Performance Increase (BPI) of **0%** of their salary.  
2.2 Award staff an increase of 0% of their salary for being rated Performing  
2.3 Award staff an increase of 0.5% of their salary for being rated Overachieving  
2.4 Award staff an increase of 1% of their salary for being rated Exceptional  
2.5 Review and renegotiate the Basic Performance Increase (BPI) in a years time with renegotiated terms to be implemented in April 2012.  
2.6 Review the PRP scheme for implementation April 2012

**Note:** In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

**3. Information, Issues and Options**

**3.1 Information**

- 3.1.1 A report was taken to the General Purposes Committee on 7<sup>th</sup> January 2009 entitled 'Breckland Performance Management and Pay Scheme' to discuss and agree the proposals for amendments to the existing performance related pay scheme.

- 3.1.2 It was agreed that the staff pay awards would be made up of the following two elements:

- A Basic Performance Increase (BPI)/ Cost of Living – consolidated to an individual's annual salary rated Performing and above. This percentage would also be the basis for reviewing and increasing the top and bottom of the salary scales for each grade.
- Performance Related Pay (PRP) award – consolidated (to the top of the scale) into an individual's annual salary 0% for Performing, 0.5% for Over Achieving and 1% for staff rated Exceptional. This award would be dictated by an individual's performance rating. Performance related pay was introduced following the withdrawal of the former incremental pay scheme.
- All awards are consolidated to the top of the pay scale and are pensionable. Any award above the top of the pay scale will be un-consolidated and paid as a one off bonus payment.

- 3.1.3 Following a series of consultation meetings with Unison, the following proposals are being put forward:

- 3.2 Award staff a Basic Performance Increase (BPI)/Cost of Living of **0%** of their salary.  
3.3 Award staff an increase of **0%** of their salary for being rated Performing (up to 50% of staff)

- 3.4 Award staff an increase of **0.5%** of their salary for being rated Overachieving (up to 35% of staff)
- 3.5 Award staff an increase of **1%** of their salary for being rated Exceptional (up to 15% of staff)
- 3.6 Review and renegotiate the Basic Performance Increase (BPI) in a years time with renegotiated terms to be implemented in April 2012. Review the PRP scheme during 2011.

### Issues

- 3.2.1 **Employee relations** – Unison have advised that following a vote of their members they are unable to support the proposals and would prefer that any available budget was applied evenly across all performing staff. However if the budget were to be evenly spread across the organisation the scheme would be more generic rather than a Performance Related Pay Scheme.

### 3.3 Options

- 3.3.1 Against the background and issues already highlighted, the following options exist:

- 3.3.2 **Option 1** – To approve the proposed recommendation as set out in section 2 of the report.

- 3.3.3 **Option 2** – Not to approve the proposed recommendations, and request that further negotiation takes place.

### 3.5 Reasons for Recommendation(s)

- 3.5.1 The suggested preferred option for the Council is **Option 1**.

- 3.5.2 The Chief Executive has conducted a series of involved consultation meetings with the trade union and Human Resources representatives. Furthermore research has been conducted to ensure that the proposals suggested are not out of line with other comparable businesses, or with the forecasted national economy.

## 4. Risk and Financial Implications

- 4.1 The recommendation for 0% Basic Performance Increase (BPI) is in line with public sector pay nationally as a result of the economic recession. This proposal is intended to recognise over achieving and exceptional performance and has been included in the 2010/11 estimating approved by Council. Please see attached Proforma B, Appendix 1.

### 4.2 Financial

- 4.2.1 The salary budgets for 2011/12 have been set assuming the percentage BPI and PRP increases as detailed in paragraphs 3.2 to 3.5 within the report. The estimate for salary budget is £21,500.

Therefore the proposed BPI and PRP levels are affordable within the current approved budget.

## 5. Legal Implications

- 5.1 None

**6. Other Implications**

- a) Equalities: An Equalities Impact Assessment has been completed.
- b) Section 17, Crime & Disorder Act 1998: None
- c) Section 40, Natural Environment & Rural Communities Act 2006: None
- d) Human Resources: None
- e) Human Rights: None
- f) Other: [e.g. Children's Act 2004] None

**7. Alignment to Council Priorities**

- 7.1 7.1 The matter raised in this report falls within the following Council priorities:
- A safe and healthy environment
  - A prosperous place to live and work

**8. Ward/Community Affected**

- 8.1 N/A

Background Papers

None

Lead Contact Officer:

Name/Post: Natalie King

Telephone: 01362 656236

Email: Natalie.King@breckland.gov.uk

Key Decision Status (Executive Decisions only):

This is not a key decision.

Appendix

Appendix 1 – Proforma B

Appendix 1

**BRECKLAND COUNCIL PROFORMA B**  
(CAPITAL AND REVENUE BUDGETS)

FROM: Alison Chubbock (Accountancy Manager)

THIS PROFORMA PROVIDES THE FINANCIAL IMPLICATIONS IN RESPECT OF THE ATTACHED REPORT
--

**REPORT:** Basic Performance Increase (BPI) Pay Award  
**REPORT DATE:** 3 February 2011

	£ Year 1 2010/11	£ Year 2 2011/12	£ Year 3 2012/13	£ Year 4 2013/14	£ Year 5 2014/15
<b>Revenue</b>					

**Total Revenue**

---

**Funding required:**  
Total capital cost  
Revenue cost

**Considered by:**  
LJCC

**Date:**  
03/02/11

**Financial Services Comments**

The salary budgets for 2011/12 have been set assuming the percentage BPI and PRP increases as detailed in paragraphs 3.2 to 3.5 within the report.

Therefore the proposed BPI and PRP levels are affordable within the current approved budget.

**REPORT, ON BEHALF OF THE DIRECTOR OF CORPORATE RESOURCES**

**ANGLIA REVENUES PARTNERSHIP – REDUCTION IN FULL TIME EQUIVALENT POSTS**

**1. Purpose of report:** This report is to give information, report on on-going consultation, and seek approval for the proposed possible redundancy of up to three posts.

**2. Recommendations**

It is recommended that the Council/Committee:

2.1 Agree to the proposed possible redundancies and give approval for the HR team to proceed with issuing notice to staff of termination of employment, on the grounds of redundancy.

**Note:** In preparing this report, due regard had been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

**3. Information, Issues and Options**

**3.1 Information**

- 3.1.1 Following on from Council's approval in principle for St Edmundsbury Council Revenues and Benefits team to form a new partnership with the Anglia Revenues Partnership; there has been a great deal of work behind the scenes to ensure that there will be a fit for purpose structure in place that can deliver the needs of the new organisation.
- 3.1.2 It is essential that in order to make the most efficient use of resources that a restructure take place that looks at all partnership staff and the St Edmundsbury team that would be joining. Across the whole structure there has been a reduction in FTE posts by 11.6 for 2011-2012.
- 3.1.3 All partners have been operating a vacancy management protocol since August 2010 with the aim of only filling vacancies with secondments/temporary contracts until 31<sup>st</sup> March 2011.
- 3.1.4 Branch and Regional Unison have been involved and consulted throughout the process.
- 3.1.5 The ARP HR Group, with representative staff and HR professionals, has been in place since the creation of the initial partnership. They meet regularly and play an active part in providing feedback and ideas about staff issues within ARP.

**3.2 Issues**

- 3.2.1 There are a number of staff who are formally at risk of redundancy, for whom following consultation, there appears to be a lack of suitable alternative employment.

- 3.2.2 There are three posts under the Breckland establishment that are currently in the position of being “at risk” with no apparent suitable alternative employment at the present time.

### **3.3 Options**

- 3.3.1 To recommend the proposed possible redundancies and give approval for the HR team to proceed with issuing notice to staff of termination of employment, on the grounds of redundancy.
- 3.3.2 No to recommend the proposed possible redundancies and give approval for the HR team to proceed with issuing notice to staff of termination of employment, on the grounds of redundancy.

### **3.4 Reasons for the Recommendations**

- 3.4.1 To provide the correct staffing structure for the partnership to be able to move forward.
- 3.4.2 To provide staff with the correct consultation and formal notifications.

## **4. Risk and Financial Implications**

### **4.1 Risk**

- 4.1.1 The future of benefits administration within local authorities is uncertain following the government white paper which proposes the payment be changed in to a Universal Credit payment by the Department for Work and Pensions. However it is financial opinion that immediate revenue savings will be made by the partner authorities by the efficiencies made not just by the staff resources, but by the economies of scale for procurement, working practices, joint ICT and telephony etc.
- 4.1.2 As with all instances of termination of employment, there may be an appeal against the decision. Following an appeal, if termination of employment continues then ex-employees do have the right to go to Employment Tribunal either for re-instatement or compensation/costs. This risk has been decreased by due involvement of the recognised trade union, ARP staff briefings, Connect Four staff newsletters, information being given on the shared drives, individual consultation through all staff being offered 1:1s with management and HR, an agreed selection and scoring criteria, skills audit/ preference forms.

### **4.2 Financial**

- 4.2.1 Financial implications of the redundancies are covered by a separate report detailing all financial matters purporting to the expansion of the partnership. This went to Cabinet on 11<sup>th</sup> January 2010 with the recommendation that Cabinet recommend to Council the expansion of the ARP to include St Edmundsbury Council with effect from 1<sup>st</sup> April 2011.

## **5. Legal Implications**

- 5.1 Please see 4.1.2

## **6. Other Implications**

- a) Equalities: None
- b) Section 17, Crime and Disorder Act 1998: None
- c) Section 40, Natural Environmental & Rural Communities Act 2006: None
- d) Human Resources: See report information
- e) Human Rights: None

f) Other: None

**7. Alignment to Council Priorities**

7.1 Delivering the Entrepreneurial Council

**8. Ward/Community Affected**

8.1 N/a

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*Key Decision Status (Executive Decisions only)*

*This is part of a key decision that is included on the Forward Plan*