

**HUNTINGDONSHIRE DISTRICT COUNCIL**

**Title:** Annual Review of Whistleblowing Policy and Procedure  
**Meeting/Date:** Corporate Governance Panel – 27 November 2013  
**Executive Portfolio:** Resources: Councillor J A Gray  
**Report by:** Internal Audit Manager  
**Ward(s) affected:** All Wards

---

**Executive Summary**

The purpose of whistleblowing law is to protect individuals who make disclosures of wrongdoings in the public interest without fear of reprisals from their employer.

The whistleblowing policy and procedure was introduced in 2000 in response to the Public Interest Disclosure Act 1998 (PIDA). Both documents are reviewed annually to ensure they continue to be fit for purpose.

Sections 17-20 of the Enterprise and Regulatory Reform Act 2013 (ERRA) introduced a number of changes to the PIDA.

<b>Section</b>	<b>Change introduced</b>
17	narrows the definition of 'protected disclosure' to those that are made in the 'public interest'
18	removes the requirement that a worker or employee must make a protected disclosure 'in good faith'. (Employment tribunals will have the power to reduce compensation by up to 25% for detriment or dismissal relating to a protected disclosure that was not made in good faith).
19 & 20	introduce protection for whistleblowers from bullying or harassment by co-workers. This amendment introduces personal liability for co-workers who victimise whistleblowers. Employers can then be held vicariously liable for these employees unless they can show that they took reasonable steps to prevent victimisation.
21	enables the Secretary of State to extend the meaning of 'worker' for the purpose of defining who comes within the remit of the whistleblowing provisions.

The Government considered that before ERRA, whistleblowing was open to abuse. Employees were able to make whistleblowing claims around spurious issues (such as the terms of their employment contracts) as it did not impose a requirement that the alleged disclosure should relate to a public interest. ERRA now makes this a requirement.

“Public interest” has not been defined by the ERRA, it is likely that Employment Tribunals and case law will determine the definition.

The updated whistleblowing policy and procedure are attached. The changes that are being proposed are highlighted. Following approval, the Council's website will be updated to reflect the changes.

### **Financial implications**

There are no financial implications arising from the report. .

### **Legal implications**

The Council is not required to have a whistleblowing policy.

The PIDA deals with whistleblowing concerns raised by workers and contractors. The Council's policy and procedure were originally written so that they explained how any concern raised (regardless of by whom) would be dealt with. This decision was taken so as to encourage everyone, not just workers and contractors, to raise issues in confidence via the various whistleblowing routes available.

Whilst the changes introduced by the ERA have made some changes to employment law they do not require the policy or procedure to be fundamentally changed. The protected disclosure status has been made clearer.

An issue that is not included in the updated policy refers to S19 of the ERA. This states that an employer can be held liable (vicarious liability) for any detriment inflicted on the whistleblowing worker by his or her colleagues.. The employer would have a defence if it can demonstrate that it took all reasonable steps (such as compliance with its whistleblowing policy) to prevent such detriment being inflicted on the whistleblower. Compensation for a successful whistleblowing claim against an employee is unlimited and could therefore in some instances be quite substantial.

### **Recommendations:**

It is recommended that the Panel :

1. Approve the revised whistleblowing policy and guidance.

### **BACKGROUND PAPERS**

Public Concern at Work website

### **CONTACT OFFICER**

David Harwood. Internal Audit Manager  
Tel No. 01480 388115