
Report to:	<ul style="list-style-type: none"> • Audit and Governance Committee • Council 	Date of Meeting:	25 March 2015 23 April 2015
Subject:	Whistleblowing Policy and Constitutional Amendments	Wards Affected:	All
Report of:	Director of Corporate Services		
Is this a Key Decision?	No	Is it included in the Forward Plan?	No
Exempt/Confidential	No		

Purpose/Summary

Further to the Audit and Governance Committee Meeting on 10 September 2014 and the deliberations of the Member Working Group, the Confidential Reporting Policy has now been amended and re-named as the Whistleblowing Policy and requires consideration by Members.

The report also provides an update on progress with respect to a number of Constitutional amendments.

Recommendations

(1) Audit and Governance Committee be requested to:

- (i) Refer to Council the proposed Whistleblowing Policy as set in out in Appendix 1 to the report.
- (ii) Note that a further report on proposals for the implementation of the training associated with the introduction of the Whistleblowing Policy will be submitted to a future meeting.
- (iii) Refer to Council the amendments to the Constitution as set out in paragraph 1.(b) of the report, in relation to the Planning Committee, the Health and Wellbeing Board and the Terms of Reference for the Older People and Health Cabinet Member.

(2) **Council be requested to:**

- (i) Approve the proposed Whistleblowing Policy as set in out in Appendix 1 to the report.
- (ii) Approve the amendments to the Constitution as set out in paragraph 1.(b) of the report in relation to the Planning Committee, the Health and Wellbeing Board and the Terms of Reference for the Older People and Health

Cabinet Member.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities		√	
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendations:

To ensure good governance and transparency within Sefton Council.

Alternative Options Considered and Rejected:

It is open to Members not to amend the Whistleblowing Policy and/or the proposed Constitutional amendments, or to amend them in a different way. Officers believe that the draft Policy and Constitutional amendments presented, best reflect good practice and in particular the Policy has been refined to suit Sefton Council's circumstances.

What will it cost and how will it be financed?

(A) Revenue Costs

Nil

(B) Capital Costs

Nil

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial None arising from the contents of the report.
Legal These are contained within the contents of the report.
Human Resources None arising from the contents of the report.
Equality 1. No Equality Implication <input type="checkbox"/> 2. Equality Implications identified and mitigated <input checked="" type="checkbox"/> 3. Equality Implication identified and risk remains <input type="checkbox"/>

Impact of the Proposals on Service Delivery:

Both the Whistleblowing Policy and the Constitutional amendments, if adopted, will ensure that good practice is embedded in each of these respective issues.

What consultations have taken place on the proposals and when?

The Head of Corporate Finance and ICT (FD 3496/15) has been consulted and has no comments to add to the report.

The Head of Corporate Legal Services (LD 2788/15) is the author of the report.

Implementation Date for the Decision

Immediately following the Council meeting.

Contact Officer: Jill Coule, Head of Corporate Legal Services and Monitoring Officer

Tel: 0151 934 2031

Email: jill.coule@sefton.gov.uk

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

a) Review of the Council's Confidential Reporting Policy

Members will recall that a review was undertaken of the Council's Confidential Reporting Policy as part of the Internal Audit Plan approved by the Audit and Governance Committee on 27 March 2014. Sefton Council has up to now called its policy, which deals with "Whistleblowing", the Confidential Reporting Policy. This report updates Members on the rationale for review and the work being undertaken to date.

To summarise the rationale, the ability to 'blow the whistle' is imperative to good governance of the Council. Sefton Council wants the Policy to be accessible to those/all who may have cause to use it. The audit report made a number of recommendations. There were zero critical recommendations, two high recommendations and nine medium recommendations.

As part of the update and in order to achieve the desired outcome of transparency, Sefton Council should also review current training arrangements and consider implementing whistleblowing training for all new staff. Legal and/or Personnel staff will ensure that all Employees and Officers of the Council are briefed regarding the changes.

In line with the Audit Report recommendations, the Council used the Public Concern at Work model policy as a basis for the new policy. At the Member Working Group, a discussion took place as to which officers should be identified as key contacts within the policy, what steps officers should take to raise awareness of, understanding of and confidence in the policy and where on the inter/intranet the policy should be located. It is currently located on the Intranet along with the Grievance Policy in the Human Resources (HR) procedures.

The policy and associated arrangements are now presented to the Audit and Governance Committee for consideration and recommendation to Council.

With respect to training and raising awareness of this policy, a number of methods will be utilised:

- Policy to be included in information for all new staff starters
- Item on the Intranet 'Informing Sefton'
- Greater prominence/ease of navigation on the Council's Intranet to the Whistleblowing Policy
- Short presentation to senior Departmental Management Teams to raise awareness of the revised policy and consider best ways to raise awareness/cascade the information in their respective teams. The approach will need to be tailored to ensure that all teams are briefed appropriately.

It is suggested that a follow up report be provided to Members later in the year to advise on the implementation of the training.

b) Constitutional Amendments Update

Planning Committee

At the last meeting of the Audit and Governance Committee in December 2014, Members determined that certain Constitutional amendments should be considered by the Planning Committee.

Those Constitutional amendments were proposed changes to

- the terms of reference (delegations) of the Planning Committee, and
- the planning applications petition process.

Minute 96 from the Planning Committee meeting on 7 January 2015, confirms that it was resolved that:

“(1) It be noted that the following proposed amendments would be inserted into the Constitution

The addition of the following words to Chapter 7 Paragraph 21:

“Consideration of Conservation Area Appraisals and to make recommendations to Cabinet”

The addition of the following words to Chapter 5 Paragraphs 29- 61:

“To receive recommendations from the Planning Committee regarding Conservation Area Appraisals and to determine them accordingly”.

(2) The proposal to remove the requirement to submit a petition with at least 25 signatures and endorsement by a Councillor to be able to speak at Planning Committee and to replace this with a requirement to register an intention to speak by a set time before the Planning Committee meeting be deferred and the Director of Built Environment be requested to consider the issues surrounding the present petition scheme and submit a further report to this Committee.”

With respect to item number (2) above, initial discussions have been held with the Director of Built Environment and it is anticipated that the report will be considered by Planning Committee early in the next municipal year.

Health and Wellbeing Board and Consequential Amendments

The Better Care Fund as issued by government attaches a number of conditions to the governance of that Fund. This means that there must be some amendments to the terms of reference as set out in the Council’s Constitution to the Health and Wellbeing Board. Whilst the Better Care Fund is not the only Section 75 agreement the Council has, the size and scale of this has warranted a comprehensive approach being adopted to all of these arrangements. It is also hoped that these governance arrangements, if approved, will future proof the Council from a governance perspective should further agreements be entered into.

Set out below are the existing and the proposed terms for the Health and Wellbeing Board. A report which sets out more detail on the Better Care Fund and the required legal

agreement (Section 75 agreement) will be considered by Cabinet at its meeting on 26 March 2015. A verbal update will be provided to Cabinet members on any comments arising from this Committee's consideration of the proposed changes to the terms of reference, if necessary.

The current terms of reference for the Health and Wellbeing Board can be found in Chapter 7 of the Constitution – Regulatory and Other Committees.

Health and Wellbeing Board – Current Terms of Reference

- *To encourage integrated working between commissioners of health services, to public health and social care services.*
- *To encourage those who provide services related to wider effects of health, such as housing, to work closely with the Health and Wellbeing Board.*
- *To lead on the Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS) including involving users and the public in their development.*
- *To be involved throughout the process as Clinical Commissioning Groups to develop their commissioning plans and ensure that they take proper account of the Joint Health and Wellbeing Strategy when developing these plans.*

Health and Wellbeing Board – Additional Proposed Term of Reference

- *To be responsible for the review of performance and oversight of Section 75 Agreements prepared under the National Health Service Act 2006 or any subsequent legislation.*

The detailed Section 75 Agreement for the Better Care Fund sets out in detail the role the Board will need to undertake to fulfil this responsibility. In essence it will be to map joint resources, review delivery of outcomes generally and individual schemes conducted under the framework of the agreement. The Board will need to establish a set of principles against which commissioning takes place, ensuring that these are allied to the parties to the Agreement's commissioning principles.

There are a number of executive actions associated with the administration of these Section 75 Agreements. Examples of these are set out below:

- Where the Council is to become Lead Commissioner as defined by the Agreements, then any such commissioning will need to be considered by the Cabinet Member or Cabinet dependent on the value of the proposed function or service and must use the Council's procurement processes.
- Consideration of variation, renewal or termination of the Agreement will be a delegated function and again, dependent on the nature of the variation, could be agreed by the relevant officer, the Cabinet Member and/or Cabinet.
- As the Council manages the budgets on behalf of the Clinical Commissioning Group and the Council, it will need to ensure that approval for expenditure from the budgets pooled accordingly are embedded into the Council's financial management systems. It is important that the executive elements of the management of any Section 75 agreements are embedded into the Council's processes. It is not necessary to further

amend the Cabinet Terms of Reference specifically due to the generic principle which is currently recorded in the Constitution as follows:

Chapter 5 – The Cabinet

Paragraph 29

“At the meeting of Council on 29th May 2008 Members resolved that Cabinet should have a general power of competence to determine all executive functions (notwithstanding the general delegations set out below) or elsewhere within the Constitution.”

It is thought worthy of amending the Older People and Health Cabinet Member Terms of Reference to reflect this area of responsibility by adding the following:

- Section 75 agreements prepared under the National Health Service Act 2006 or any subsequent legislation.

In exercising any executive responsibilities required for the management of the Section 75 Agreements, the Cabinet Member will no doubt be mindful that those responsibilities will be exercised consistently with other parts of the Constitution such as the procurement thresholds.

A further amendment is required with respect to the work of the Health and Wellbeing Board arising from the requirements of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013/349. It is therefore proposed to amend the terms of reference for the Health and Wellbeing Board as follows:

- To approve the pharmaceutical needs assessments and ensure that it is published.