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Auditor General for Wales

Review of whistleblowing and grievance policies and procedures in **Pembrokeshire County Council**

Audit year: 2017-18

Date issued: March 2018

Document reference: 430A2018-19



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Mae'r ddogfen hon hefyd ar gael yn Gymraeg. This document is also available in Welsh.

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Report

The Council needs to strengthen its approach to whistleblowing and employee grievance and address issues raised in earlier whistleblowing reviews

- 1 It is important for organisations to have clear policies and procedures for dealing with whistleblowing concerns and employee grievances as part of good governance. Legislation covers both, and [Appendix 3](#) has more detail.
- 2 Our review examined the arrangements that Pembrokeshire County Council (the Council) has for dealing with both employee grievances and whistleblowing concerns. The review also looked at the decision-making arrangements the Council uses for deciding whether it deals with concerns under whistleblowing or grievance procedures.
- 3 As part of our review, 'Arrangements to Support Safeguarding of Children' in 2014, we looked at the Council's approach to whistleblowing. We found that whistleblowing arrangements were generally sound, but some weaknesses in policy, process and training needed to be addressed¹. [Appendix 1](#) lists the proposals for improvement we made and our view of progress.
- 4 Afterwards the Council carried out a Councillor led review into the effectiveness of their whistleblowing policy and procedures. The Task and Finish Group of Councillors reported² their findings to the Safeguarding Overview and Scrutiny Committee in 2015. [Appendix 2](#) lists the seven recommendations made and our view of progress.
- 5 Recent examples of whistleblowing concerns raised by employees have brought into question whether the Council deals with issues raised effectively and under the correct policy. So we decided to re-examine the Council's policies and look in detail at the procedures for dealing with whistleblowing and grievance concerns.
- 6 We asked '**Does the Council have effective arrangements for dealing with employee whistleblowing concerns and employee grievances?**'
We decided the **Council needs to strengthen its approach to whistleblowing and employee grievance and address issues raised in earlier whistleblowing reviews**, because:
 - the Council's whistleblowing and grievance policies are easy to read but lack some procedural detail;

¹ Wales Audit Office, **Local Authority Arrangements to Support Safeguarding of Children - Pembrokeshire County Council**. December 2014.

² Pembrokeshire County Council, Report to Safeguarding Overview and Scrutiny Committee – **Review of Pembrokeshire County Council's Whistleblowing Procedure**. 25 June 2015.

- whistleblowing training is good but training is not compulsory so not all managers, governors and councillors have received it; and
- the Council has been slow to action the proposals and recommendations made in earlier reviews of whistleblowing arrangements.

Proposals for improvement

7 The table below (**Exhibit 1**) contains our proposals for ways in which the Council could improve the effectiveness of its whistleblowing and grievance policies and procedures.

Exhibit 1: proposals for improvement

Proposals for improvement
<p>P1 Clarify the role of the line manager and Head of Service in handling whistleblowing concerns</p> <ul style="list-style-type: none"> • The Council should explain within its Whistleblowing Policy the procedure a 'prescribed person', line manager or Head of Service follows once a relevant concern is raised. This will: <ul style="list-style-type: none"> – ensure central collation of all concerns; – promote a consistent approach for handling concerns across the Council; and – help the corporate centre monitor cases.
<p>P2 Schedule regular meetings with the three internal 'prescribed persons' in the Council's Whistleblowing Policy</p> <ul style="list-style-type: none"> • The three 'prescribed persons' listed in the Whistleblowing Policy need to meet regularly to review the Council's current whistleblowing concerns and grievance logs. • This regular meeting would allow the 'prescribed persons' to: <ul style="list-style-type: none"> – monitor the uptake of the correct policies across the Council; – discuss cases, monitor progress and review procedures followed; – develop and publicise the role of the Whistleblowing Champions; and – raise potential risks with the Audit Committee.
<p>P3 Include timescales and methods within the Whistleblowing Policy for responding to those who raise concerns and keeping them up-to-date on the investigation</p> <ul style="list-style-type: none"> • Include detail in the Whistleblowing Policy on the timescales and methods for responding to someone who raises a concern and keeping them informed during the investigation.
<p>P4 Mandate the e-learning whistleblowing module for all officers, councillors and governors</p>

Proposals for improvement

- The Council has produced a good whistleblowing e-learning training course, it should mandate this training for all officers. The Council should also actively encourage councillors and governors to attend. This will help to raise awareness and knowledge.

P5 Clarify the role of Human Resources in the Council's Grievance Policy

- To ensure the Council gives consistent, correct advice and to monitor cases, the Grievance Policy should ask all line managers to contact Human Resources as soon as an employee raises a grievance.

P6 Review and amend the Council's Grievance Policy to include:

- clarification of who decides if a grievance investigation is required;
- explanation of who will complete an investigation (including reassurance that any investigating officer would be impartial);
- explanation of how witnesses' views will be considered (e.g. interviewing other employees) ; and
- sharing of a draft investigation report with the grievance raiser to enable them to check for factual accuracy.

Appendix 1

Proposals for Improvement from our 2014 Whistleblowing Review

Exhibit 1: Wales Audit Office proposals for improvement from the 2014 review³ that relates to the whistleblowing policy and arrangements in Pembrokeshire County Council

The table shows the four main proposals for improvement from our 2014 review of the whistleblowing policy and arrangements in Pembrokeshire County Council

Wales Audit Office proposals for improvement from 2014 work
<p>Strengthen whistleblowing arrangements by:</p> <ul style="list-style-type: none">• Strengthening the Whistleblowing Policy further by:<ul style="list-style-type: none">○ clarify the procedure for investigations;○ be explicit about raising concerns rather than ignoring wrongdoings○ clarify the difference between whistleblowing concerns and grievances; and○ provide links to the full list of external prescribed persons.• Involve councillors in the scrutiny of the whistleblowing policy, arrangements and performance.• Develop, through training, the knowledge of the whistleblowing policy and procedures for managers, named people in the policy and councillors.• Plan how all staff will be updated on whistleblowing arrangements and review the methods for checking staff awareness.

8 In this review we found that the Council's Whistleblowing Policy remains well structured and easy to read but, it would benefit from greater clarity and more detail:

- the policy lists line managers and heads of service as a 'first step' when an individual wishes to raise a concern. This relies on all line managers being well trained and familiar with the correct procedure to follow. However, there is no detail within the Policy on how a concern passes from the line manager to the corporate centre. There is a risk, therefore, that line managers could be hearing whistleblowing concerns but not passing them on to the corporate centre for effective and efficient action. Thus, the corporate centre may not be aware of all whistleblowing concerns currently 'live' in the

³ Wales Audit Office, **Local Authority Arrangements to Support Safeguarding of Children - Pembrokeshire County Council**. December 2014.

organisation. The Council should provide clear guidance to line managers on how to handle concerns raised by their staff and clearly explain what specialised training they need to fulfil their role.

- the Council has identified two Whistleblowing Champions to raise awareness across the Council. However, the Whistleblowing Policy does not include the names of these two people or a description of their role.
- the three 'prescribed persons' named in the Whistleblowing Policy are senior members of management and this seniority may deter employees from raising concerns.
- the Whistleblowing Policy states the Council 'actively discourages anonymous whistleblowing' which may deter people from raising concerns. While anonymous whistleblowing may add difficulty to investigations, anonymous allegations would be preferable to silence about any serious wrongdoing.
- while the Whistleblowing Policy clearly lists three 'prescribed persons' within the Council to hear whistleblowing concerns, these three people do not meet formally to review cases. The Council provided logs of whistleblowing concerns and grievances for our fieldwork. No formal committees receive these logs. The data contained in the logs was inaccurate. If the three 'prescribed persons' did meet regularly to review the logs they would be able to check the data, check progress of cases and ensure correct that everyone is following the correct procedure.
- the Whistleblowing Policy states that concern-raisers will be kept up-to-date about how an investigation is progressing and how long it is likely to take. But there is no mention of specific time frames. Similarly there is no mention of what method the Council will use to update concern-raisers and how often such updates could take place.

- 9 The Council still does not present whistleblowing data to Overview and Scrutiny Committees but the Council is completing the template and deciding which committees should receive the data.
- 10 The schools we spoke too all stated they adopt the Council's policies on whistleblowing and grievance. However, not all schools were able to provide the correct version of the Whistleblowing Policy.
- 11 The Council's newly created e-learning material on whistleblowing is good but it is not compulsory. The Council has not made plans on how to roll out the training or been clear on who will need to complete it.

Appendix 2

Recommendations from the Council's Task and Finish Group

Exhibit 2: recommendations extracted from Pembrokeshire County Council: Report to Safeguarding Overview and Scrutiny Committee – **Review of Pembrokeshire County Council's Whistleblowing Procedure**, 25 June 2015.

Recommendations	
Recommendation heading	
R1	<p>A task and finish group comprising of officers and members be established to review and re-draft the whistleblowing policy as appropriate, with particular reference to:</p> <ul style="list-style-type: none">a) ensuring the document is easily understandable, written in plain English and available bilingually;b) that the language is supportive and reassuring to potential whistle-blowers and makes clear that whistleblowing is 'everyone's business';c) clarifying the difference between whistleblowing concerns and a grievance;d) reviewing the appropriateness of the Council's designated 'prescribed persons'. <p>Once completed:</p> <ul style="list-style-type: none">e) the reviewed policy to be subject to full consultation with all stakeholders;f) a communication strategy be prepared to promote the policy and raise awareness across the whole organisation (all due end March 2016).
R2:	<p>Once reviewed, the whistleblowing policy to be published on the Council's website together with a public statement, on behalf of all members and officers, of the commitment to support and protect whistle-blowers (due April 2016).</p>
R3:	<p>To improve employee awareness:</p> <ul style="list-style-type: none">a) an e-learning training package to be developed and made compulsory for all employees (roll out during 2016-17);b) the employee survey to be undertaken every year to monitor employee attitudes (every April);c) a generic email inbox to be set up to receive whistleblowing information eg whistle-blowing@pembrokeshire.gov.uk.⁴ (due end March 2016).
R4:	<p>An all-member seminar to be arranged to raise awareness and understanding of whistleblowing (due April 2016).</p>
R5:	<p>Management information in relation to whistleblowing data to be presented by way of quarterly reports to the authority's Overview and Scrutiny committees (due January 2016).</p>

⁴ The Council's Task and Finish group removed R3c. This alteration was agreed in the Council meeting on 14 December 2017.

Recommendations

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|-----|---|
| R6: | The chairs of the 3 Overview and Scrutiny Committees involved in this review to appoint an elected member and a senior officer to act as whistleblowing champions (no timescale given). |
| R7: | A report on whistleblowing procedures in schools to be presented to the Children and Families Overview and Scrutiny committee (due April 2016). |

- 13 In this review we found that the Council's has been slow to take action to address some of these recommendations, for example:
- Recommendation R3b wanted the Council to carry out an employee survey each year to check employee attitudes to whistleblowing. The Council intends to do this as part of a wider workforce survey.
 - The Task And Finish Group followed the advice provided by Human Resources to remove recommendation R3c. The Group decided that a specific email inbox for staff to send whistleblowing concerns to was not the best way forward.
 - Recommendation R5 asked the Council to present whistleblowing data to Overview and Scrutiny Committees quarterly. The Task and Finish Group changed this recommendation in November 2017 to annual reporting. Action remains incomplete but the Council is finishing the template and deciding which committees should receive the data.
 - Recommendation R7 asked for a presentation on whistleblowing procedures in schools to the Children and Families Overview and Scrutiny Committee in April 2016. This recommendation remains outstanding.

Appendix 3

Whistleblowing and Grievance Definitions

Whistleblowing

- 14 Under the Public Interest Disclosure Act 1998 (PIDA), an employee may make a disclosure to his or her employer – this is called whistleblowing. Whistleblowing enables an employee to pass on information about wrongdoing, risk or malpractice in the workplace that they are aware of, and to be protected by PIDA⁵. For protection, an employee who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. The second is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
- criminal offences (this may include, for example, types of financial impropriety such as fraud);
 - failure to comply with an obligation set out in law;
 - miscarriages of justice;
 - endangering of someone's health and safety;
 - damage to the environment; and
 - covering up wrongdoing in the above categories.
- 15 As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. Although the law does not need employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer's commitment to listen to the concerns of workers.
- 16 The Council is also a 'prescribed person' under PIDA. Disclosures can be made to the Council in the following circumstances when the Council is not the employer:
- compliance with the requirement of consumer protection legislation;
 - compliance with the requirements of food safety legislation;
 - matters which may affect the health and safety of any individual at work; and
 - matters which may affect the health and safety of any member of the public arising out of or in connection with the activities of persons at work.

⁵ Strictly it is Part IVA of the Employment Rights Act 1996. PIDA inserted part IVA into the 1996 Act.

Grievance

- 17 There is a difference between a grievance and making a whistleblowing disclosure. A grievance is solely a personal matter rather than one of wider concern, or one that affects the interests of others.
- 18 A grievance is a concern, problem or issue pertaining to their employment that an employee raises with their employer. Anybody working in an organisation may, at any time, have a problem, issue or concern about their work which they want addressed and resolved. A grievance may be about:
- the things an employee is being asked to do as part of their job;
 - the terms and conditions of the employment contract;
 - the way an employee is being treated at work;
 - health and safety;
 - discrimination at work;
 - disagreements with colleagues; and
 - harassment, bullying or victimisation.
- 19 The Employment Act (2008) came into force in April 2009 and removed the former statutory processes for disciplinary, grievance and dismissal procedures. They were replaced with the Advisory, Conciliation and Arbitration Service (ACAS) voluntary code of practice on Disciplinary and Grievance Procedures (the 'ACAS Code') which was subsequently updated in March 2015.
- 20 The Code sets out the principles for handling disciplinary and grievance situations in the workplace. A failure to follow the Code does not, in itself, make a person or organisation liable to legal proceedings. However, employers and employees should follow the Code to ensure a reasonable standard of behaviour, and employment tribunals are legally required to take the Code into account when considering relevant cases.
- 21 The ACAS Code sets out the following steps once the employee has let the employer know the nature of the grievance:
- hold a formal meeting with the employee to discuss the grievance as soon as possible;
 - allow the employee to be accompanied to the meeting;
 - decide on appropriate action and communicate the outcome in writing to the employee; and
 - allow the employee to take the grievance further through an impartial appeal process.
- 22 It is important that an organisation has clear grievance or dispute resolution procedures that are communicated to all employees. Line managers and anyone involved in managing and hearing grievances must be trained appropriately and have access to guidance. The organisation is responsible for ensuring that all disputes and grievances must be handled in a fair and consistent manner across the organisation.

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