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To: Personnel Committee - 10 September 2013

Subject: Policy Update

Classification: **Unrestricted**

SUMMARY: A policy update focusing on:

- 1) Whistleblowing,
 - 2) Deferred Redundancies,
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1. INTRODUCTION

- 1.1 The Personnel Committee receives an annual report on updates to Kent County Council's employment policies and procedures.
- 1.2 This paper provides the Personnel Committee with an update on two areas of policy. The Committee is invited to note for information revisions to the Whistleblowing Policy and a policy covering the management of deferred redundancies.

2. WHISTLEBLOWING POLICY

- 2.1 Kent County Council is committed to the highest possible standards of openness, probity and accountability. If employees and others working with the Council have concerns regarding any aspect of its work then the Authority encourages them to raise those concerns. In some instances, however, concerns may need to be expressed on a confidential basis.
- 2.2 If a person feels they can only raise their concerns on a confidential basis then certain protections are afforded to that person in law. Kent County Council has a policy that sets out how a person can do that and how the information they will provide will be managed. It also states KCC's commitment to the legal protections that a person is entitled to. This policy reflects the approach to probity and risk management that is epitomized through the perspective Audit has been taking and working with senior management on, entitled "Mind the Gap".

- 2.3 Enabling confidential disclosure and protecting the people who make them is important as it:
- facilitates internal controls of risk,
 - helps the Authority avoid litigation and reputational damage,
 - helps support staff morale
 - means that the Authority can also go some way to avoiding any criminal liability associated with the actions the concern has been raised about.
- 2.4 The Government has introduced reforms to certain aspects of the law relating to whistleblowing and the Authority's policy has been amended to take account of these changes. Employment legislation relating to whistleblowing provides protection for workers who make "protected disclosures". These previously were any disclosure of facts made in good faith which the whistleblower reasonably believed tended to show that one or more specific types of wrong doing had occurred.
- 2.5 This has now changed and a disclosure will only be protected if the worker reasonably believes the disclosure is in the "public interest". Despite public interest not being defined it will normally prevent a disclosure alleging a breach of an employee's contract of employment attracting whistleblowing protection where it only affects the individual. This type of disclosure will only be covered if the worker reasonably believes that raising it is in the public interest.
- 2.6 The requirement that the disclosure be made in good faith has also been removed. The important aspect is whether the disclosure is true, irrespective of the motives for making the disclosure. If the disclosure was made in "bad faith" the Tribunal does have powers to reduce any payment made if the person was dismissed as a result of making a protected disclosure or suffered other detriment.
- 2.7 Further provision, which will come in later in the year, will introduce vicarious liability for the employer where a worker who has made a protected disclosure is subjected to a detriment by a colleague or agent of the employer.
- 2.8 These key changes had been incorporated in to the Council's Whistleblowing Policy and Procedure (Appendix 1) to ensure that KCC continues to support people who make protected disclosures and that it is compliant with the law.

3. DEFERRED REDUNDANCY

- 3.1 Deferring a redundancy means that despite being redundant from a post there is an opportunity for the employee to take a temporary placement or interim role that defers when the person becomes redundant. Deferring redundancies can benefit the organisation in that it helps it retain key skills for a period of time to deliver a short term project or work that is required. It also has value in offering employees the opportunity to extend their service enabling them to secure permanent redeployment and potentially saving the council the redundancy costs.
- 3.2 The practice of deferring redundancies has been permitted for some time and has become more prevalent in light of the level of change the organisation has experienced. Facing the Challenge will present more circumstances where this approach is an appropriate response to the needs of the business.
- 3.3 The policy (Appendix 2) provides a framework for the consistent management of deferred redundancies. It provides for a cap on the length of deferments (which is in line with salary protection arrangements) and corresponds to financial practices that are associated with funding redundancy payments.

4. RECOMMENDATIONS

- a) Personnel Committee notes the revised Whistleblowing Policy.
- b) Personnel Committee agree the Deferred Redundancy Policy.

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