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Standards Committee Members

Members of the committee, listed below, are summoned to attend the meeting to be held on Thursday, 29 October 2015.



Barry Quirk, Chief Executive
October 21 2015

Councillor Obajimi Adefiranye Councillor Brenda Dacres Councillor Colin Elliott Councillor Alan Hall Councillor Simon Hooks Councillor Hilary Moore Councillor Pauline Morrison Councillor Andre Bourne Councillor Paul Bell Councillor Jim Mallory	Gill Butler David Roper-Newman Cathy Sullivan Leslie Thomas 2 vacancies
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Standards Committee Agenda

Thursday, 29 October 2015
7.00 pm, Committee Room 4 - Civic Suite
Civic Suite
Lewisham Town Hall
London SE6 4RU

For more information contact: Troy Robinson 0208 3149365

Part 1

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STANDARDS COMMITTEE		
Report Title	Declarations of Interests	
Key Decision	No	Item No. 1
Ward	n/a	
Contributors	Chief Executive	
Class	Part 1	Date: October 29 2015

Declaration of interests

Members are asked to declare any personal interest they have in any item on the agenda.

1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.

- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member’s knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
 - (a) that body to the member’s knowledge has a place of business or land in the borough; and
 - (b) either
 - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

(3) Other registerable interests

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes , or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

(4) Non registerable interests

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members’ Interests (for example a matter concerning the closure of a school at which a Member’s child attends).

(5) Declaration and Impact of interest on members' participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must not take part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.
- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

(6) Sensitive information

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

(7) Exempt categories

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

Agenda Item 2

STANDARDS COMMITTEE		
Report Title	MINUTES	
Key Decision	No	Item No. 2
Ward		
Contributors	Head of Law	
Class	Part 1	Date: 29 October 2015

Recommendation

It is recommended that the Minutes of the meeting of the Committee , which was open to the press and public held on 20 May 2015 be confirmed and signed (copy attached).

LONDON BOROUGH OF LEWISHAM

Minutes of the meeting of the STANDARDS COMMITTEE which was open to the press and public, held at LEWISHAM TOWN HALL, CATFORD, SE6 4RU on WEDNESDAY 20 MAY 2015 at 7:00 p.m.

Present

Councillors Obajimi Adefiranye, Paul Bell, Andre Bourne, Brenda Dacres, Colin Elliott, Alan Hall, Simon Hooks, Jim Mallory, Hilary Moore and Pauline Morrison

Independent members: Gill Butler, David Roper-Newman, Cathy Sullivan and Leslie Thomas QC.

Apologies received from Hannah Le Vay

<u>Minute No.</u>	<u>Action</u>
1.	<u>DECLARATIONS OF INTEREST</u> None was declared.
2.	<u>MINUTES</u> RESOLVED that the minutes of the Committee meetings held on the 11 December 2014 and 26 March 2015 be approved as a correct record and signed by the Chair.
3.	<u>REVIEW OF LOCAL CODE OF CORPORATE GOVERNANCE 2014/15</u> Paul Aladenika, Principal Policy Officer, introduced the report and explained that this is a standard report presented to the Committee annually. A brief discussion followed and it was commented that the implementation of Modern.Gov was a good idea. It was further commented that the use of actual examples throughout the review was to be commended. An enquiry was raised as to whether any

Minute
No.

Action

information on the Lewisham Congress which met in October 2014 had been published. Paul Aladenika agreed to make such information available to members of the Committee.

Policy
Manager

It was also clarified that the outcomes of the Peer Review were reported to Business Panel and Overview & Scrutiny Committees as well as to the Mayor & Cabinet.

RESOLVED that the outcomes of the review be endorsed.

4. REVIEW OF WHISTLEBLOWING
REFERRALS AND POLICY

Helen Glass, Deputy Monitoring Officer, introduced the report and explained there had been two referrals since the last report considered by the Standards Committee.

In relation to Case A, the Monitoring Officer had referred the matter to the Executive Director Children and Young People Directorate (CYP) for the matter to be dealt with in accordance with the Directorate's procedures.

Alan Docksey, Head of Resources, CYP, explained to the Committee that on receipt of the complaint, which related to staffing and management issues at a school, it was felt appropriate for the issues to be investigated and responded to by the school and consequently the matter was passed to the Chair of Governors.

It was further explained that there had recently been a significant amount of change at the school. The Governing Body had been dissolved and replaced with an Interim Executive Board (IEB). This matter was being progressed by the IEB although there was an acknowledgement due to the passage of time and staff changes that matters may be more challenging to deal with at this stage. Schools Human Resources Team would assist and offer

a view as they are contracted to provide human resources advice to the school and would have knowledge of some of the issues raised.

It was commented that it was for the Council in dealing with complaints brought under the whistleblowing policy to demonstrate independence and that it would be appropriate to seek to obtain some corroboration of the matters complained about before forwarding the matter to the school .

It was suggested that the better course of action would have been for the matter to be investigated by the Council and not simply referred to the school. An effective whistleblowing policy must instil confidence that people can raise issues and that those issues will be properly investigated.

There were some comparable comments in relation to Case B. It was also asked that as that complaint related to safeguarding was there not a different procedure to be adopted. Officers explained that where complaints are made about safeguarding these are always matters of serious concern and CYP Directorate will always look for corroboration. However where the complainant is anonymous and no school identified, in the absence of any further information, it is very difficult to know how to progress.

It was noted that it seemed to be a generic response that enquiries about schools are referred to the school/governing body. A request was made for the Children & Young Person's Directorate procedures to be submitted to the Committee.

ED CYP

In response to an enquiry about timescales in relation to Case A it was confirmed that this had not been agreed with the IEB. It was agreed that information in relation to timescales will be referred back to the Committee.

In relation to Case B members enquired whether the response from the Monitoring Officer had been sufficiently proactive. The

Deputy Monitoring Officer informed the Committee that she did not have knowledge of the actual complaint but explained that if the complaint was anonymous and did not identify a particular school, save attempting to obtain further information, it would be virtually impossible to take matters further. The Deputy Monitoring Officer agreed to report to the Committee after making further enquiries into the complaint.

RESOLVED that:

(i) there be a review of the Whistle blowing Policy and Procedures. An update of the review to be brought to the next meeting of the Standards Committee.

(ii) timescales in relation to the investigations into Case A be provided to the committee members.

(iii) the Monitoring Officer review Case B and provide an update as to whether there was sufficient information for a safeguarding investigation.

(iv) the report be otherwise noted

5 APPOINTMENT TO SUB COMMITTEES

RESOLVED that Councillors Dacres, Adefiranye, Bell, Elliott, Mallory, and Gill Butler and Leslie Thomas QC be members of Standards Sub Committee A.

Councillors Hooks, Bourne, Hall, Moore, Morrison and Cathy Sullivan and David Roper-Newman be members of Standards Sub Committee B.

DATE OF NEXT MEETING

29th October 2015

The meeting ended at 7:50pm

Agenda Item 3

STANDARDS COMMITTEE		
Report Title	Compliance with the Member Code of Conduct	
Key Decision		Item No.
Ward		
Contributors	Kath Nicholson, Monitoring Officer	
Class	Part 1	Date: 29 OCTOBER 2015

1. Summary

This report deals with the way in which Members address the need to comply with the Lewisham Member Code of Conduct and seeks the Committee's views about whether any amendment to practice is required or further information brought to the Committee's attention.

2. Purpose

The purpose of this report is to give information about the extent of compliance with the Lewisham Member Code of Conduct and to seek from the Committee any views about how practice in Lewisham could be improved.

3. Recommendation

- 3.1 To consider the information set out in this report and to consider whether to make any recommendations to the Council in respect of the effectiveness of the Member Code of Conduct.

4. Background

- 4.1 On June 28th 2012 the Council adopted a new Code of Conduct to comply with the requirements of the Localism Act 2011 in relation to the Council's ethical framework. The adoption of the Code was to not only ensure compliance with the new law but to maintain the Council's long held commitment to the highest standards of behaviour in local government and to promote public confidence in local governance.

4.2 The Lewisham Member Code of Conduct has appended to it a number of protocols:

- Member and Officer relations
- Member Use of IT
- Planning and Lobbying
- Code on Publicity

These protocols do not form part of the Code, but may be of assistance in deciding whether there has been a breach of the Code's main provisions.

5. Assessment of Current Practice

Officers have looked at elements of practice by Lewisham members to establish whether practice fits the requirements of the Code.

5.1 A statutory requirement to undertake to comply with the Member Code of Conduct

- (i) On election in May 2014 all members of the Council, (including those who are co-opted members) have signed a declaration that they undertake to comply with the Member Code of Conduct. These declarations are held by the Monitoring Officer, and are in the appropriate format to comply with the Local Elections (Declaration of Acceptance of Office) Order 2012.

5.2 Declarations of Interest

- i) The model Code of Conduct introduced by the Coalition Government sets minimum standards . The Council has adopted a local Code which requires members to declare the following interests:
- a) disclosable pecuniary interests
 - b) other registerable interests
 - c) any other interest where that member is of the view that a reasonable member of the public in possession of all the facts would think the member's judgement is so significant that it would be likely to impair the member's judgement of the public interest.

Members must also take no part in consideration of the matter and withdraw from the room before it is considered if the interest is a disclosable pecuniary interest or where it is a registerable interest or other significant interest where that member is of the view that a reasonable member of the public in possession of all the facts would think the member's interest is so significant that

it would be likely to impair the member's judgement of the public interest.

ii) An assessment has been conducted of the number of declarations that have been made since 1st October 2014. The focus has been meetings of the Mayor and Cabinet (including Mayor and Cabinet (Contracts)) and the Planning Committees. The emphasis has been placed on these meetings as they are the major decision making fora. All declarations of interest are minuted by the committee clerk in attendance and a review of the minutes shows the following results:

October 2014 – September 2015		
	Declaration (personal interest)	Withdrew (disclosable pecuniary/ registerable/ other significant interest)
Mayor & Cabinet	12	6
M&C (Contracts)	5	3
Planning Committees	7	5
Council	22	1

iii) It is apparent that there is a clear awareness that members must consider whether to declare and withdraw, as the incidence of such practice shows.

As previously considered and agreed by this Committee a notice now appears at the front of each agenda which details the circumstances in which a personal interest can arise. Members have commented that they find this notice to be a helpful reminder and concise summary of their responsibilities on declaring interests.

5.3 Advice on Ethical Issues

- i) Some of the declarations/withdrawals referred to in paragraph 5.2 above followed a request for advice from the Monitoring Officer, or her representative. However, several were made without even an approach, as the member concerned was of the view that an interest existed without the need for such advice.
- ii) Where possible, if Code of Conduct issues arise, Monitoring Officer advice is incorporated into reports.

- iii) There is a body of evidence which demonstrates that members are aware of Code of Conduct issues as this is embodied in the number and nature of ad hoc requests for advice from the Monitoring Officer. A review of that file shows that councillors have sought advice on Code of Conduct issues arising.

The range of matters includes those below but this is not exhaustive:

- advice to the Mayor in relation to possible underwriting of an application of grant funding by Horniman Museum
- advice to the Mayor in relation to potential patronage of a local organisation seeking to redevelop a site within the borough
- advice to all members in the run up to the General Election in May 2015
- briefing to a Cabinet member in relation to TUPE implications arising from a court case involving Lewisham Council
- advice to the Chair of CYP Select Committee in relation to the procedure and members rights in relation to scrutiny of schools requiring intervention
- advice to the Chairs of Planning Committees in relation to participation and consideration of an application for planning permission from Lewisham Homes
- advice on payment to the Chair of Pensions Board
- advice to members about attendance at committees under Standing Orders
- advice to a member on the appointment of directors to Catford Regeneration Partnership Ltd.
- advice to local assemblies on their decision making powers

In all of the instances referred to the Monitoring Officer above, she believes that the advice given has been followed. A written record of all Monitoring Officer advice given is kept.

5.4 Dispensation

There have been no applications for dispensation.

5.5 The Members' Register of Interests

Section 30 of the Localism Act 2011 requires members or co-opted members to notify the monitoring officer of any disclosable pecuniary interest of them or a spouse or civil partner they live with. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 specify what is a pecuniary interest. The need to register any of the following interests in the Members' Register of Interests is also a key feature of the Member Code of Conduct.

- (a) Employment, office, trade, profession or vocation**
Any employment, office, trade, profession or vocation carried on by a relevant person* for profit or gain.
- (b) Sponsorship**
Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (c) Contracts**
Any contract which is made between a relevant person* (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities** of which body corporate they have a beneficial interest) and the relevant authority—

 - (a) under which goods or services are to be provided or works are to be executed; and
 - (b) which has not been fully discharged.
- (d) Land**
Any beneficial interest in land which is within the borough.
- (e) Licences**
Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.
- (f) Corporate tenancies**
Any tenancy where (to the Member's knowledge)—

 - (a) the landlord is the Council; and
 - (b) the tenant is a body in which the relevant person* is a firm in which they are a partner, or a body corporate in

which they are a director or in the securities** of which body corporate they have a beneficial interest.

(g) Securities

Any beneficial interest in securities of a body where—

- (a) that body (to the Member's knowledge) has a place of business or land in the borough; and
- (b) either—
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

A "relevant person" is:-

- (i) the Member, their spouse, or civil partner;
- (ii) a person with whom the member is living as husband and wife; or
- (iii) a person with whom the member is living as if they were civil partners.

"Securities" means shares, debentures, debenture stock, loan stock, units of a collective investment scheme within the meaning of the Financial Services and markets Act 2000 and other securities of any description other than money deposited with a building society

There are entries for all members and an annual reminder is also sent to all members about the need to keep this up to date. All members have submitted a completed Declaration of Interest which now includes a section requesting information in relation to gifts and hospitality.

Individual returns are now available on the Council website.
www.lewisham.gov.uk

5.6 Hospitality & Gifts

Under the Member Code of Conduct members are required to provide details of any gift or hospitality over the value of £25 and the source of such gift or hospitality that they receive as a member. The Code requires that within 28 days of receiving any gift or hospitality over the value of £25 that they notify the Monitoring Officer of the existence and nature of the gift or hospitality.

For the purpose of this review relevant entries for the previous year in the relevant section of the Register of Interests have been perused in

an attempt to establish recent and current compliance with the requirements of the Code of Conduct. The Register has been completed by all whether by indicating hospitality received or by completing the section with "None". This tends to indicate that members have a clear recognition of their need to make relevant entries and it was highlighted in the training by the Head of Law.

Individual returns are now available on the Council website.
www.lewisham.gov.uk

6. Complaints of breach of the Member Code of Conduct

- 6.1 Complaints of breach must be made to the Monitoring Officer, and there is a dedicated email address for this to be done. This is widely publicised on the Council's website where there is a direct link alongside the Complaints Procedure. The address is monitoring.officer@lewisham.gov.uk.
- 6.2 Perhaps the most telling indicator of the extent of compliance with the Member Code of Conduct is the number of complaints of breach made to the Council. Under changes introduced by the Localism Act 2011 the procedure for investigation of allegations of complaints of breach of the Code of Conduct is a matter for local discretion. The Council adopted a revised Procedure for Handling Complaints at its meeting on the 28th June 2012, which is a much simpler procedure than that previously in place and allows for informal resolution where appropriate
- 6.3 Since the consideration of the last report on the compliance with the Member Code of Conduct in December last year there have been two complaints raised against members. One such referral, which had been made but not investigated yet by the time of the last committee followed a request for advice to the Monitoring Officer about how to raise a complaint.
- 6.4 The complaint related to the behaviour of a member at a meeting of full Council in which the complainant alleged that the response from the member to a Council question was bullying and an abusive personal attack against the complainant and his family.
- 6.5 In responding to the complaint and in accordance with the Council's procedures the Monitoring Officer sought to resolve the matter informally. Both the complainant and the member concerned were prepared to consider an informal resolution of the complaint, without prejudicing the right to this matter proceeding formally if attempts at informal resolution failed.
- 6.6 A meeting with the Monitoring Officer and all interested parties was held and the matter was able to be resolved informally on the member agreeing to provide a public apology to the complainant and his family

for any offence that was caused by the responses provided at the earlier full Council meeting. An apology was subsequently provided by the member concerned at full Council.

- 6.7 The other referral related to a formal complaint and request for an investigation about the behaviour of a member of a Licensing Committee on an application for a Temporary Entertainments Notice.
- 6.8 The complainant alleged that the member's response was "ill judged, intemperate, unnecessary and disproportionate." Additional to the formal complaint the complainant also raised with the Chief Executive more generalised issues relating to the Council's Licensing Committees and the potential for future community services being provided by an organisation in which the complainant is involved.
- 6.9 In responding to these concerns the Chief Executive invited the complainant to meet with him. A meeting between the complainant and the Chief Executive took place and the complainant decided not to pursue the complaint.

7. Whistleblowing Complaints

If there were complaints of alleged breaches of the Code of Conduct by members, it may be that they would arise through the Council's whistleblowing policy, which is well embedded. This Committee has so far received nine annual reports on whistleblowing cases. As is evident from those reports none of the complaints have referred to members. Had they done so, the Monitoring Officer would have advised the complainant of their right to refer the matter to her for possible consideration by the Standards Committee.

9. Legal Implications

The ethical framework under which the measures set out in this report have been established are provided in the Localism Act 2011 and Regulations made under it.

10. Financial Implications

There are no specific implications arising.

11. Crime and Disorder Implications

The Code of Conduct deals with the promotion of the highest standards of behaviour, and the prevention of breaches of the Member Code of Conduct which may well amount to criminal behaviour.

13. Human Rights Act Implications

There are no specific implications arising.

14. Equal Opportunities Implications

There are no specific implications arising.

15. Environmental Implications

There are no specific implications arising.

16. Conclusion

The Member Code of Conduct appears to be well embedded in Lewisham. Evidence seems to suggest a high level of compliance. Members of the Standards Committee are asked for their views on this data, and to make any further comments they consider appropriate to improve practice.

STANDARDS COMMITTEE		
Report Title	WHISTLEBLOWING REVIEW	
Key Decision	N/A	
Ward	All	
Contributors	Head of Law	
Class	Part 1	Date 29 October 2015

1 Summary

This report reviews the Council's whistleblowing policy and makes proposals to amend it with a view to improving it.

2 Purpose of the Report

To ensure that the whistleblowing policy remains fit for purpose and up to date.

3 Recommendation

To consider whether to agree the proposed amended whistleblowing policy appearing at Appendix 2 to this report and the measures set out in this report for its operation.

4 Background

4.1 The Council was among the very first to do so when it introduced its whistleblowing policy approximately 20 years ago. A copy of the current policy appears at Appendix 1. Under the policy, complaints of malpractice or wrongdoing by members, employees, Council contractors or suppliers can be made by any person. The policy is widely publicised, is available on the Council website and is explicitly referred to in induction for employees and in the guidance for Council contractors

4.2 Since the inception of the Standards Committee, an annual report has been submitted to the Committee about the cases that have been looked into under the policy. In the last 13 years, there have been 28 referrals and in 4 instances, the complaint was held to be well founded and appropriate action taken. Even where the complaint was not well founded on two occasions the investigation led to recommendations for amended practice

4.3 In considering each annual report, members are also asked to consider

whether to update the policy, but subject to some amendments to reflect changes in personnel and changes to the law such as the introduction of the Bribery Act in 2011, there have been few substantive changes.

- 4.4 At the most recent meeting of the Standards Committee, members asked that the policy be fundamentally reviewed. Officers have carried out that review and now make proposals for some changes to the policy to make it clearer and to deal with practical issues that have arisen in the operation of the policy to date.
- 4.5 Having reviewed a number of similar policies in other boroughs both in and out of London, there are a number of features in those policies and in Lewisham's which the Council would want to affirm strongly. These include:
- A commitment to high standards of probity
 - Encouragement to staff and others to disclose malpractice
 - A commitment to investigate thoroughly and promptly
 - The policy to be a supplement to other avenues of complaint not a substitute
 - Safeguards to protect a whistleblower who reasonably raises concerns in good faith, even if they are unfounded
 - Agreement to keep the identity of the whistleblower confidential if requested and possible, without a guarantee that confidentiality will always be possible (e.g., If referral to police is necessary)
 - Anonymous complaints are more difficult to investigate but depending on the nature of the complaint and the possibility of obtaining other evidence they may still be investigated, particularly if the allegation is serious
 - Disciplinary action to be taken against any employee who makes a vexatious complaint under the policy
 - The whistleblower to be kept informed of progress and the outcome of the investigation

The above matters are explicitly reflected both in the existing and proposed amended whistleblowing policy.

5. Scope

- 5.1 The existing policy makes it clear that the Council intends that the whistleblowing policy be used as a supplement to other avenues for complaint to enable matters not covered by other procedures to be investigated. It is also stated that the whistleblowing policy should not be used to deal with matters pertaining to an employee's own contract which would be covered under the grievance procedure.
- 5.2 However there have been several disclosures under the existing policy where the whistleblower has not fully appreciated this distinction, nor

that the disclosure would not necessarily halt ongoing disciplinary investigation. Officers therefore suggest that this be clarified by exemplifying the sort of matters intended for investigation under the whistleblowing policy as follows:

- Conduct that is a criminal offence or a breach of law
- Disclosures relating to miscarriage of justice
- Health & safety risks to the public and/or employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud or corruption
- Sexual or physical abuse of clients, or
- Other unethical conduct

5.3 It is proposed that any serious concerns the whistleblower may have about any aspect of service provision, the conduct of officers or members, or others acting on behalf of the Council can be reported under the policy. This would cover anything which the whistleblower believes to be against the Council's standing orders or policies, falls below established standards of practice, or amounts to improper conduct. If there is a more appropriate channel for investigation the Monitoring Officer will direct the complaint to that channel, unless for some reason it is not appropriate to do so (for example, the whistleblower fears reprisals if that were done).

5.4 It is also suggested that the exclusion of grievance procedure matters be given more prominence in the whistleblowing policy to prevent any further misunderstanding.

5.5. For the amendments relating to the scope of the policy, members are referred to paragraphs 4.1 and 4.2 of Appendix 2.

6. Initial Review

6.1 The existing policy provides for initial review by the Monitoring Officer to establish whether the matter ought to be investigated and if so how. In practice, the Monitoring Officer has passed all complaints for investigation to the person appointed to look into the matter (often a senior manager in the relevant service directorate). In future it is proposed that the Monitoring Officer conduct this initial review herself, or ask the Deputy Monitoring Officer to do so. This will ensure that she is in a position to advise whether the matter should be investigated and if so how, with potential timescales. It would also enable her to advise whether there are elements of the complaint that do not fall within the ambit of the policy. Members' attention is drawn to paragraph 8.2 of Appendix 2 where this is dealt with.

7. Timescales and Informing the whistleblower

- 7.1 The existing policy states that investigations will normally be completed within 28 days. Depending on the complexity of the investigation and the commitments of the investigating officer, this may not always be possible. Officers suggest that the Monitoring Officer inform the whistleblower in writing when an investigation is being undertaken and that the intention is that it be completed within 28 days. If however that proves not to be possible, it is proposed that the investigating officer will write to the whistleblower before the expiry of that 28 day period to update on progress and offer an updated estimated date for completion of the investigation. The investigating officer will update the whistleblower in writing at least every 28 days if there is further delay. Copies of all such correspondence must also be sent to the Monitoring Officer.
- 7.2 Once the investigation is complete, the Monitoring Officer will inform the whistleblower of the outcome in writing and will ask for feedback about the way their referral has been handled.

Section 8 of Appendix 2 applies.

8. Register of referrals

- 8.1 In practice, the Monitoring Officer has kept a file containing the paperwork relating to disclosures under the policy and used this as a “register” of referrals and the source documentation for annual reports to the Standards Committee. Though this is comprehensive it is not the most useful management tool to enable her to check on the progress of ongoing investigations. There have been several instances where investigations by some managers asked by the Monitoring Officer to investigate on her behalf have taken longer than would be expected and in one most recent case not been pursued at all before the annual report to the Standards Committee. Though this latter case involved a whistleblowing matter in a school and arguably did not fall completely within the remit of the policy, it is unacceptable that there was no response to a request to investigate. The regular use of a formal register should enable a more systematic check on progress by providing a more effective management tool to monitor progress of investigations. Also the proposals set out in paragraph 7 above should ensure that there is no repetition of this failure.

9. Spreading awareness among senior managers

- 9.1 As the whistleblowing policy has been in place for several years it is appropriate now that its profile, especially given any amendments made, is re-emphasised. It is proposed that the Monitoring Officer carry out a refresher seminar for all service heads to highlight the existence of the policy and their duties under it. It is also proposed that an annual report on the implementation of the whistleblowing policy be submitted not only to the Standards Committee as now, but also to the

Council's executive management team to ensure that it is given support at the highest officer level.

10. Other avenues for complaint

- 10.1 Whilst many internal avenues for complaint remain the same as in the current policy, some amendments are needed to reflect changed circumstances. Paragraph 11.1 and 11.2 of Appendix 2 refers. Changes to external avenues for complaint in the event of a whistleblower being dissatisfied with the outcome of any investigation are also reflected in Appendix 2 at paragraph 11.3.

11. Schools

- 11.1 Some referrals under the whistleblowing procedure relate to activities within schools. In these cases it is proposed that the Monitoring Officer will conduct a preliminary investigation into the complaint and then refer the matter, if it warrants investigation and depending on the nature of the complaint, either to the Headteacher or Chair of Governors of the school and to the Executive Director for Children & Young People. If the complaint exposes a potential safeguarding issue in any event it would be referred through the Council's safeguarding procedures. Where investigations involve schools it will be for CYP to report on progress of the investigation to the Monitoring Officer as set out in paragraph 7 above.

12. Anonymity

- 12.1 The proposed policy as in the existing one will emphasise that anonymous complaints are more difficult to investigate. However, where a serious complaint is raised anonymously every effort will be made to investigate it. In deciding whether to investigate it will be important to consider whether it is possible to obtain other evidence in relation to the complaint without knowing the identity of the person raising it. This is dealt with in the policy at paragraph 10 of Appendix 2.

13. Feedback

- 13.1 In response to a recent request by the Standards Committee officers on completion of an investigation now ask the whistleblower for their views about the way the matter they raised was handled. This is already practice and it is now proposed that it be reflected in the amended policy. This is dealt with at paragraph 6.6 in appendix 2.

14. Financial Implications

- 14.1 There are no specific implications arising from this report.

15. Legal Implications

- 15.1 The Public Interest Disclosure Act 1998 (PIDA) as amended sets out a framework for public interest whistleblowing which protects workers from reprisals because they have raised a concern about malpractice. The Act provides protection where a disclosure relates to one of the broad categories of malpractice qualifying for protection under the Act. For a disclosure to be protected the whistleblower must make the disclosure in good faith and before making any external disclosure the concerns should have been raised internally or with a prescribed regulator. The Council's whistleblowing policy and the procedures for dealing with disclosures made under it are designed to comply with PIDA.
- 15.2 Disclosures about the actions of Councillors can be made under the whistleblowing policy. However, in accordance with the with the statutory framework for doing so, the Council has a Member Code of Conduct and a procedure for handling allegations of breach of that code. There is a statutory element to investigations of breaches of the Member Code of Conduct, including the involvement of an Independent Person. Any complaints about member conduct made under the whistleblowing policy will be dealt with under those procedures.
- 15.3 Similarly, there are statutory procedures in relation to vulnerable children and adult services and, where appropriate, allegations made under the whistleblowing policy will be directed for investigation in accordance with those statutory requirements.
- 15.4 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 15.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 15.6 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to

eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

- 15.7 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 15.8 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
 - Meeting the equality duty in policy and decision-making
 - Engagement and the equality duty
 - Equality objectives and the equality duty
 - Equality information and the equality duty
- 15.9 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>
- 15.10 There are no specific equality implications arising from this report.

16. Crime & Disorder Implications

- 16.1 The whistleblowing policy is designed to enable anyone to bring to the surface any allegation of malpractice or wrong doing so that it can be investigated thoroughly and appropriate action can be taken. This is consistent with the Council’s duties under the Crime & Disorder Act as amended. By keeping the profile of the policy high and encouraging complaints to come forward the intention is to create a culture which promotes the highest standards of probity.

17. Environmental Implications

There are no specific implications arising.

18. Conclusion

- 18.1 It is clear that the whistleblowing policy has been used since its introduction. This is evidenced by the number of cases that have been referred and the fact that, where appropriate, action has been taken to rectify malpractice. However, officers recognise that the time is ripe for the Council's approach to whistleblowing to be reinvigorated and for an amended policy to be relaunched with training for senior officers and members as well as a series of publicity initiatives. Members are asked to consider the contents of Appendix 2 and to approve it, subject to any amendments the Committee may approve.

Appendix 1

Whistleblowing Policy

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Whistleblowing Policy


The Council is committed to the provision of the highest quality services for local people and to full accountability for the services it provides. The Council is also committed to the highest standards of conduct and has in place detailed rules, regulations, quality standards and procedures to ensure that these standards are observed. However, sometimes malpractice and wrongdoing may occur. Lewisham is not prepared to tolerate any such malpractice or wrongdoing in the performance of its services.

The Council acknowledges that the greatest deterrent to malpractice or wrongdoing is the probability that it will be discovered, reported and investigated thoroughly and that those responsible will be held to account. This policy is intended to be a clear and unequivocal statement that whenever any malpractice or wrongdoing by the Council, its employees, contractors or suppliers is identified or reported to the Council, it will be promptly and thoroughly investigated and that the alleged malpractice or wrongdoing will be rectified as necessary. The Council will also investigate means of ensuring that such malpractice or wrongdoing can be prevented for the future.


The Council is committed to ensuring compliance with its statutory obligations. This policy is one of a number of corporate policies , including the Lewisham Anti-Bribery Act 2011 policy , which together demonstrates and reinforces Lewisham's commitment to the prevention of malpractice in public life.

The scope of the whistleblowing policy - The principles

The policy is based upon the overriding principle that the public interest and the needs of service users must come first.

 The Whistleblowing Policy complies with the requirements of the Public Interest Disclosure Act 1998.

What's covered?

 It is intended that any significant concern which a member of staff, service user, Councillor or member of the public has about

- ▶ any aspect of service provision
- ▶ the conduct of officers or Members of the Council, or
- ▶ the conduct of any other parties acting on behalf of the Council, which may be:
- ▶ unlawful (including fraud or corruption)

▶ against the Council's Standing Orders or policies

▶ contrary to established professional or other standards, the Council's Member and Employee Code of Conduct or any other established Codes of Practice can be reported under this procedure.

It is not intended however, that this procedure should replace existing processes such as the grievance or disciplinary codes. Instead it may be that once the whistle has been blown, action under other processes (such as the disciplinary code) may ensue.

A supplement not a substitute

Anyone, including Councillors, employees, service users and members of the public are encouraged to raise complaints or matters of genuine concern with the Council. There are already in existence a number of channels available to raise such concerns. Where an appropriate avenue exists to deal with that concern, people are urged to use it. This whistleblowing policy is intended to supplement, rather than replace the existing procedures wherever practicable. These channels are:-

▶Service Managers/Directors

Anyone with a complaint about Council services is encouraged to contact the manager directly responsible for that service or the relevant Executive Director. In most cases where there is concern this avenue will be the first point of reference. If a complaint relates to an Executive Director, it should be referred to the Chief Executive.


▶The Council's Complaints Procedures

The Council has a corporate complaints procedure by which it invites any person to raise a complaint they may have about Council Services. Information about this procedure is available from the Advice and Information Service on extension 48761.

▶Local Councillors

Members of the public are encouraged to refer matters of concern to their local Councillor who can then either identify the best point of contact for them to report the matter or take up the issue on their behalf. Information about how to contact local Councillors is available from Governance Support at Lewisham Town Hall on extension 49455.

▶The Council's Grievance Procedure

 This deals with complaints relating to an individual employee's conditions of employment. The whistleblowing policy is not intended to replace the grievance procedure and should not be used to deal with matters which relate to an individual's

contract of employment. If a concern is raised through the whistleblowing policy which would be more properly dealt with through the grievance procedure, it will be referred to Andreas Ghosh, Head of Human Resources.

►Anti-fraud Procedures

The Council's Anti-Fraud & Corruption Team (A-FACT) investigates all allegations of fraud within and against Lewisham Council and is part of the Audit & Risk Group based within the Resources and Regeneration Directorate. As well as Housing Benefit and Council Tax Benefit fraud the team has specialist officers covering housing fraud, employee fraud, fraud relating to contractors, blue badges etc.

►Internal Fraud

The Council's Financial Regulations state that it is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Audit and Risk Manager. When so informed, the Executive Director shall appraise the circumstances and shall notify and discuss the action to be taken concurrently with the Audit and Risk Manager. All information shall be treated in complete confidence.

Reports of suspected fraud may also be made to the suspected fraud, corruption or other financial irregularity can also be made to the Anti-Fraud & Corruption Team Manager who will conduct an investigation and make recommendations for appropriate action. Further information about this procedure can be obtained from Carol Owen ext. 47909.

►Benefit Fraud

All allegations of Benefit fraud should be made to Carol Owen, Anti-Fraud & Corruption Team Manager, preferably by email to, carol.owen@lewisham.gov.uk.

►Tenancy Fraud

The Council has a dedicated Housing Investigator who investigates fraudulent applications for housing. They also receive allegations of subletting on behalf of Lewisham Homes and other housing providers. All allegations of housing related fraud should be made to Juliet Bennett, Housing Investigation Practitioner, preferably by email to, juliet.bennett@lewisham.gov.uk

Any reports of suspected, corruption or other financial irregularity may also be made to reportfraud@lewisham.gov.uk or to the team's 24 hour freephone Hotline on 0800 0850119.

► Statutory Officers

In addition the officers who have particular responsibility for regulating the conduct of the Council and its activities. They are as follows:

Chief Executive - Head of Paid Service Barry Quirk ext 46444

Responsible for overall management of the workforce.

Executive Director for Resources Janet Senior ext 48013

Chief Finance Officer - The Council's officer with responsibility for the financial management, audit and financial probity of the Council.

Head of Law - Monitoring Officer Kath Nicholson ext 47648

Dealing with advising on the probity and legality of the Council's decision making. The Head of Law, as Monitoring Officer, is the Council's Whistleblowing officer.

Employees with serious concerns about Councillors should in the first instance raise them with the Head of Law.

► The Standards Committee

The Council also has a Standards Committee made up of councillors and independent people. The role of the Standards Committee is to promote the highest standards of ethical conduct amongst members.


In the First Place...

People are primarily encouraged to use any and all of the mechanisms for raising concerns as set out above. For Councillors, public and staff it is likely that the majority of concerns will be dealt with by bringing the matter to the attention of management in the relevant Directorate. Such references are positively welcomed by the Council and once the issue is brought to light the manager will treat the complaint seriously, investigate it promptly and inform the complainant of the outcome. The investigation officer will be expected to interview both the individual raising the complaint and the person complained against, as well as any other individuals as appropriate. If no further action is proposed, the complainant will be given an explanation. If further action is proposed under a separate Council procedure (such as the disciplinary code) the complainant will also be informed.

If a concern is raised by a member of staff, it would be normal for their first reference to be to their direct line manager. However, depending on the nature and sensitivity of the issue, or the identity of the alleged wrongdoer, the line manager may not be the appropriate manager. In such cases it may be more appropriate to raise the issue with a Head of Service or other senior manager. A member of staff may be accompanied by a friend when meeting management to raise a concern. In short, managers within Directorates will adopt a flexible and open approach so that those having concerns feel confident that they may raise them.

But if the usual channels aren't appropriate?

Circumstances may arise where none of the channels above are reasonably available. It may be that the whistleblower fears repercussions for example, or senior members of staff or Councillors may be implicated. Alternatively the whistleblower may have used those channels but still feel that there is real cause for concern. In such circumstances the whistleblower may refer their concern to the Head of Law directly.

 The Head of Law will then ensure that the matter is dealt by her either personally or by a whistleblowing officer nominated by her and operating under her supervision.

How will the whistleblowing officer respond?

Acting under the supervision of the Head of Law the whistleblowing officer will first receive and record the complaint in a register kept specially for the purpose. An initial assessment will then be made to decide what sort of investigation ought to take

In the most serious cases, it may be that a Police enquiry will ensue or an independent investigation may be called for. In some cases the issue will be referred for a management investigation, possibly by the Chief Executive or another officer nominated to act on his behalf. Allegations of fraud, corruption or financial irregularity will be referred to the Special Investigations Manager for investigation.

In other cases however, it may not be appropriate to conduct any further enquiry at all. People are encouraged to raise genuine concerns and do not have to prove them. But understandably they do need to demonstrate that there is a sufficient basis for investigation. This initial consideration will allow the Council to decide on the appropriate method of enquiry and to ensure that resources are not wasted where investigation would be inappropriate.

Unless the issue is raised anonymously then the whistleblowing officer will generally interview the whistleblower as part of this initial assessment. If the whistleblower requests that his or her identity remains confidential then all possible steps will be taken to respect that wish.

If an investigation is to ensue then the whistleblower will be informed of the fact and given an estimate of the time by when the investigation will be completed. Normally

the investigation will be conducted within 28 days, though the time taken to conduct an enquiry will depend on the nature of the concern and its complexity. The whistleblower will be informed of the outcome and this will be noted in the register.

In appropriate circumstances the Head of Law and/or the whistleblowing officer will prepare a report for the Council and for the Standards Committee dealing with the outcome of a particular investigation, the action taken to rectify the situation and prevent a recurrence.

Each year the Head of Law will prepare for the Standards Committee a report dealing with the application of the whistleblowing policy in the previous year, and making suggestions where necessary for changes to improve its efficiency.

Issues raised by Members of the Council or by the public shall be dealt with in a similar manner to those raised by employees, though serious concerns about the conduct of Councillors should in all cases be referred to the Head of Law.

Some General Safeguards

►No Victimisation

The Council recognises that the decision to blow the whistle can be a difficult one to make, not least because there is a fear of reprisal from those who may be perpetrating malpractice or others. The Council will not tolerate any victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate disciplinary action.

►Confidentiality and Anonymity

The Council will, wherever possible, protect the identity of the whistleblower who raises a concern and does not want his/her name to be disclosed. However this may not be possible in all circumstances as the very fact of the investigation may serve to reveal the source of the information and the statement of the whistleblower may be needed as part of evidence against the perpetrator.

►False and Vexatious Complaints


Just as the Council will seek to protect those who raise concerns in good faith, so it will seek to protect those against whom claims are made which turn out to be unfounded. A concern which is made in good faith and sincerely expressed may transpire to have no basis in reality. In addition it is possible that vexatious or malicious claims may be made. The Council will take disciplinary action against any employee who makes a vexatious claim. In either case, where it turns out that the claim was without foundation, the Council will use its best endeavours to ensure that any negative impact on the person complained of is minimised. However the Council acknowledges that it may not be able to prevent all such impact in every case.

▶ **Alternative methods of complaint**

As well as the initial complaints and whistleblowing procedures set out in this policy, any member of the public who wishes to make a complaint about the Council may contact one of the following organisations:

▶ Local Government Ombudsman - who receives and investigates complaints of maladministration against the Council. He can be contacted at 21 Queen Ann's Gate, London SW1H 9BU, telephone 020 7915 3210.

▶ Grant Thornton UK LLP - The Council's External Auditor who investigates complaints of financial irregularity or unlawful expenditure leading to financial loss by the Council. To contact Grant Thornton UK LLP write to Darren Wells (Director) at The Explorer Building, Fleming Way, Manor Royal, Gatwick, RH10 9GT. Telephone 01293 554 120. Darren Wells can also be contacted at darren.j.wells@uk.gt.com

▶  Further information about this whistleblowing policy can be obtained from Kath Nicholson ext. 47648 or Helen Glass ext. 49968.

Comment [t1]:

WHISTLEBLOWING POLICY OCTOBER 2015

1. INTRODUCTION

- 1.1 The Council is committed to openness, probity and full accountability for the services it provides. It seeks to achieve the highest standards of conduct and has in place detailed rules and procedures to ensure such standards are observed. However, sometimes malpractice or wrongdoing may occur. The Council is not prepared to tolerate any malpractice or wrongdoing and this policy is intended to be a clear and unequivocal statement that whenever malpractice or wrongdoing by the Council, its employees, contractors or suppliers is reported, it will promptly investigate. If malpractice or wrongdoing has occurred, the Council will take appropriate action to rectify, if possible, and investigate means of preventing it in future.
- 1.2 This policy is one of a number of corporate policies ¹ which together demonstrate the Council's commitment to the prevention of malpractice in public life. Those documents can be found on the Council's website.

2. Principles

- 2.1 The overriding principle underpinning this policy and its implementation is that the Council will act fairly and in the public interest.

3. Aims

- 3.1 This policy aims to encourage people to feel confident to come forward with serious concerns
- to ensure that those concerns are properly and promptly investigated;
 - where concerns are well founded that appropriate action is taken; and
 - that feedback is given to the whistleblower about the outcome of the investigation.

¹ **Employee Code of Conduct** – <http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Documents/EmployeeCodeConduct.pdf> **Member Code of Conduct** – <http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Pages/council-ethical-standards.aspx> **Anti-Fraud and Corruption** - <http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/Pages/Report-fraud.aspx>

4. Scope

4.1 This whistleblowing policy is intended to cover major concerns that fall outside the scope of other procedures. It is intended that the whistleblowing policy be a supplement to and not a substitute for other avenues through which complaints or matters of genuine concern may be raised. Examples of the issues which it might be appropriate to raise through the whistleblowing policy include:

- Conduct that is a criminal offence or a breach of law
- Disclosures relating to miscarriage of justice
- Health & safety risks to the public and/or employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud or corruption
- Sexual or physical abuse of clients, or
- Other unethical conduct

4.2 Concerns may also be raised under this whistleblowing policy where the nature of an allegation means that it would not be appropriate to use those other avenues of complaint, for example, where the allegation relates to a more senior officer, or the whistleblower fears reprisals should they make a complaint through other channels.

5. Grievance Procedure

5.1 There are existing procedures to enable employees to lodge a grievance relating to their own employment, including allegations of bullying, harassment, or breach of the Council's equal opportunities policy. Disclosures relating to an employee's own contract of employment will not normally be investigated under this policy, unless there are compelling public interest reasons to do so.

6. Complaints about the conduct of Council Members

6.1 Complaints about malpractice/wrongdoing against Council members will be handled in accordance with the Council's procedure for handling complaints of breach of the Council's Member Code of Conduct.

7. Making a Complaint

7.1 Anyone may make a complaint under this policy, including councillors, employees, and members of the public. Anyone considering making a complaint under this policy should first consider whether another avenue to raise the complaint is more appropriate. If so, they are urged to use it. Details of other avenues for complaint are set out in paragraph xx below. If none of these avenues is appropriate, then concerns should be raised with the Head of Law who is the Council's whistleblowing officer. Concerns may be raised verbally or in writing.

- 7.2 Anyone making a written report is invited to mark the envelope “to be opened by addressee only” and to set out the background and history of the concern, giving relevant dates. Whistleblowers should also set out the reason why they are particularly concerned about the situation.
- 7.3 The earlier a concern is expressed, the easier it is to take action.
- 7.4 Whistleblowers are not expected to prove the truth of an allegation. However, they will need to demonstrate to the Head of Law that there are reasonable grounds for the concern.
- 7.5 The Head of Law will provide advice/guidance on how to pursue a matter of concern under the whistleblowing policy to anyone who asks and how to do so.

8. The Council’s response

- 8.1 The Head of Law will acknowledge in writing any complaint brought to her attention and record the complaint in a register kept specially for the purpose.
- 8.2 The Head of Law, or in her absence her deputy, will make an initial assessment of the complaint to decide whether an investigation ought to take place and if so, how. This initial consideration will allow the Council to decide on the appropriate method of enquiry and to ensure that resources are not wasted where investigation would not be in the public interest.
- 8.3 Unless the issue is raised anonymously, then the Head of Law will generally interview the whistleblower as part of this initial assessment.
- 8.4 Once this initial assessment is complete, the Head of Law will write to the whistleblower to inform them of the outcome of that assessment. If an investigation is to ensue, then the Head of Law will inform the whistleblower of that fact and inform them who will be conducting the investigation (either the Head of Law personally, or an investigating officer nominated by her to do so).
- 8.5 The Head of Law will inform the whistleblower that the investigation should normally be completed within 28 days, though this will depend upon the nature of the complaint and its complexity. If it proves not to be possible, the investigating officer will write to the whistleblower before expiry of that 28 days to give an estimated time for completion of the investigation. In any event, the investigating officer will inform the whistleblower of progress of the investigation every 28 days. Copies of this correspondence from the investigating officer to the whistleblower will also be sent to the Monitoring Officer and details entered in the register.
- 8.6 In the most serious cases it may be that a police enquiry will ensue, or an independent investigation may be called for. In some cases the issue will be referred for a management investigation, possibly by the Chief Executive, or another officer nominated to act on his behalf. Allegations of fraud,

corruption, or financial irregularity will be referred to the Special Investigations Manager for investigation. In any investigation conducted by or on behalf of the Council the provisions of paragraph 8.5 above will apply so that the whistleblower is kept updated on the progress of the investigation.

- 8.7 Once the investigation is complete the Head of Law will inform the whistleblower of the outcome and this will be noted in the register. She will also ask the whistleblower for feedback about the way their complaint was handled.
- 8.8 In appropriate circumstances, the Head of Law will prepare a report for the Standards Committee and/or Council dealing with the outcome of a particular investigation, and any action taken in response to rectify the situation and/or prevent a recurrence

9. Safeguards

9.1 No Victimisation

The Council recognises that the decision to blow the whistle can be a difficult one to make, not least if there is a fear of reprisal from those who may be perpetrating malpractice, or others. The Council will not tolerate any victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate, disciplinary action.

9.2 Vexatious complaints

Just as the Council seeks to protect those who raise complaints in good faith, it will seek to protect those against whom claims are made which turn out to be unfounded. No action will be taken against anyone who reasonably raises a concern in good faith which transpires to be unfounded. However, the Council will take disciplinary action against any employee who makes a vexatious claim. In either case, where it turns out that a claim was without foundation, the Council will use its best endeavours to ensure that any negative impact upon the person complained of is minimised.

9.3 Confidentiality

Wherever possible, the Council will protect the identity of a whistleblower who raises a concern and does not want his/her name to be disclosed. When a whistleblower has requested that their identity be kept confidential all reasonable efforts will be made to obtain evidence which is pertinent to the claim without disclosing the whistleblower's identity. However, it may not be possible in all circumstances to keep the identity of the whistleblower confidential, for example, if the matter needs to be referred to the police, or it is not possible to obtain other corroborating evidence. The very fact of the investigation may serve to reveal the source of the information and the statement of the whistleblower may be needed as part of evidence against the perpetrator. Where a whistleblower has requested confidentiality but it is not

possible to continue the investigation on that basis if the investigation is to proceed, the Head of Law/investigating officer will discuss this with the whistleblower before doing so.

10 Anonymity

- 10.1 Complaints which are made anonymously are usually more difficult to investigate. However, the Council prefers anonymous complaints to be made, rather than serious concerns to go unreported. Whether or not an anonymous complaint can be investigated will depend upon the circumstances of the case. If there is sufficient detail provided to enable an investigation to be carried out without knowing the identity of the whistleblower an investigation will ensue, provided it is in the public interest to do so. Where an anonymous complaint raises serious concerns every effort will be made to investigate thoroughly.

11. Alternative Avenues for complaint

- 11.1 Where an appropriate internal avenue exists to deal with a concern, people are urged to use it. This policy is intended to supplement rather than replace existing channels. Where practicable existing internal channels should be used. These include:

Service Managers/Directors

Anyone with a complaint about Council services is encouraged to contact the manager directly responsible for that service or the relevant Executive Director. In most cases where there is concern this avenue will be the first point of reference. If a complaint relates to an Executive Director, it should be referred to the Chief Executive.

The Council's Complaints Procedures

The Council has a corporate complaints procedure by which it invites any person to raise a complaint they may have about Council Services. Information about this procedure is available from the Advice and Information Service on extension 48761.

Local Councillors

Members of the public are encouraged to refer matters of concern to their local Councillor who can then either identify the best point of contact for them to report the matter or take up the issue on their behalf. Information about how to contact local Councillors is available from Governance Support at Lewisham Town Hall on extension 49455.

Anti-fraud Procedures

The Council's Anti-Fraud & Corruption Team (A-FACT) investigates all allegations of fraud within and against Lewisham Council and is part of the Audit & Risk Group based within the Resources and Regeneration Directorate. The team has specialist officers covering housing fraud, employee fraud, fraud relating to contractors, blue badges etc.

The Council's Financial Regulations state that it is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Head of Corporate Resources. When so informed, the Executive Director appraise the circumstances and shall notify and discuss the action to be taken with the Head of Corporate Resources. All information shall be treated in complete confidence.

Reports of suspected fraud may also be made to the suspected fraud, corruption or other financial irregularity can also be made to the Anti-Fraud & Corruption Team Manager who will conduct an investigation and make recommendations for appropriate action. Further information about this procedure can be obtained from Carol Owen ext. 47909.

Benefit Fraud

All allegations of Benefit fraud should be made to Carol Owen, Anti-Fraud & Corruption Team Manager, preferably by email to, carol.owen@lewisham.gov.uk.

Tenancy Fraud

The Council has a dedicated Housing Investigator who investigates fraudulent applications for housing. They also receive allegations of subletting on behalf of Lewisham Homes and other housing providers. All allegations of housing related fraud should be made to Juliet Bennett, Housing Investigation Practitioner, preferably by email to, juliet.bennett@lewisham.gov.uk

Any reports of suspected, corruption or other financial irregularity may also be made to reportfraud@lewisham.gov.uk or to the team's 24 hour freephone Hotline on 0800 0850119.

Statutory Officers

In addition the officers who have particular responsibility for regulating the conduct of the Council and its activities. They are as follows:

Chief Executive – Head of Paid Service – Barry Quirk ext 46444

Responsible for overall management of workforce.

Executive Director for Resources & Regeneration – Janet Senior ext 48013

Chief Finance Officer - The Council's officer with responsibility for the financial management, audit and financial probity of the Council.

Head of Law – Monitoring Officer – Kath Nicholson ext 47648

Dealing with advising on the probity and legality of the Council's decision making. The Head of Law, as Monitoring Officer, is the Council's Whistleblowing officer.

Employees with serious concerns about Councillors should in the first instance raise them with the Head of Law.

Children & Vulnerable Adults

Concerns about the safety and wellbeing of children and vulnerable adults may be raised either with Sara Williams, Executive Director for Children and Young People on 020 8314 8527, email: sara.williams@lewisham.gov.uk or Aileen Buckton, Executive Director Community Services, 020 8314 8107, email: aileen.buckton@lewisham.gov.uk

The Standards Committee

The Council also has a Standards Committee made up of councillors and independent people. The role of the Standards Committee is to promote the highest standards of ethical conduct amongst members.

- 11.3 If anyone is unhappy with the process or outcome of an investigation and the Council's response, they may wish to raise the matter externally with:
- The Council's auditors Grant Thornton LLP, Darren Wells, Director on 01293 554 120, email: Darren.j.wells@uk.gt.com for all matters relating to fraud, corruption or misuse of public money.
 - The Local Government Ombudsman on 0300 061061
 - The Whistleblowing Helpline for NHS and Social Care on 08000 724725
 - The independent charity "Public Concern at Work" on 020 3117 2520, email: whistle@pcaw.org.uk
- 11.4 If an employee does choose to take a concern outside the Council, then it is their responsibility to ensure that confidential information is not handed over (i.e. confidential information, in whatever format, must not be handed over to a third party, unless in line with the Data Protection Act 1998). If clarification is required on this, the advice of the Head of Law should be taken.

Agenda Item 5

STANDARDS COMMITTEE			
Title	Work Programme		
Key decision	No	Item no	
Wards			
Contributors	Head of Law		
Class	Part 1	29 October 2015	

1. Summary

This report sets out proposals for scheduled items to be considered at upcoming meetings of the Standards Committee in this municipal year and makes suggestions for inclusion at meetings in the next.

2. Recommendation

To agree the proposals for a work programme set out in paragraph 3.3 below

3. Background

3.1. Full meetings of the Standards Committee are convened twice yearly, usually about October/November and May/June. These meetings consider certain items on a regular basis to promote the highest standards of conduct. These include:-

- Work programme
- Review of compliance with Member Code of Conduct
- Annual Complaints Report
- Review of whistleblowing referrals and policy
- Review of Code of Corporate Governance

3.2. From time to time other matters are considered by full Committee as well as training being provided to the Committee.

3.3. The proposed scheduled work programme for this municipal year and some suggestions for 2016/17 are set out below:-

October 2015

- Annual Complaints Report
- Compliance with Member Code of Conduct
- Work Programme

May/June 2016

- Review of whistleblowing referrals and policy
- Review of Code of Corporate Governance
- Media relations for councillors

November/December 2016

- Annual Complaints Report
- Compliance with the Member Code of Conduct
- Work Programme

- 3.4 In addition to these scheduled items the Standards Committee may receive unscheduled items from time to time – for example in relation to dispensations allowing members to vote notwithstanding a disqualifying interest, in circumstances permitted by law. There may also be particular training events which may be dovetailed with scheduled meeting times.
- 3.5 Additionally sub committees may need to meet in response to complaints on which the Monitoring Officer has conducted an investigation.

4. Legal Implications

There are no specific legal implications associated with this report.