

<b>Committee</b>	<b>STANDARDS COMMITTEE</b>	<b>Item No</b>	<b>4</b>
<b>Report Title</b>	<b>ANNUAL REVIEW OF COMPLAINTS MADE UNDER THE COUNCIL'S WHISTLEBLOWING POLICY</b>		
<b>Ward</b>			
<b>Contributors</b>	<b>HEAD OF LAW</b>		
<b>Class</b>	<b>Open</b>	<b>Date</b>	<b>9 November 2016</b>

## 1 **Summary**

This report sets out the referrals made under the Council's whistleblowing policy since the last annual review in May 2015 and asks the Committee whether it wishes to amend the procedure in any way.

## 2 **Recommendations**

- 2.1 To note the referrals under the Council's whistleblowing policy set out in this report and the action taken in relation to them.
- 2.2 To consider whether any changes to the current whistleblowing procedure are appropriate.

## 3 **Background**

- 3.1 A copy of the Council's current whistleblowing policy appears at Appendix 1. There has been a whistleblowing policy in place for several years and it has been reviewed by this Committee on an annual basis since its inception. The purpose of the policy is to provide a means by which complaints of malpractice or wrongdoing can be raised by those who feel that other avenues for raising such issues are inappropriate, whether because they fear repercussions or for some other reason. As members of the Committee will see, the policy confirms that so far as possible, those raising complaints under the whistleblowing policy will be treated confidentially if the complainant wishes. Members will also note that complaints may be raised in relation to the actions of Councillors or employees.
- 3.2 The whistleblowing policy was fundamentally reviewed by this Committee most recently in October 2015. Some of the key changes agreed then were that the Monitoring Officer or her deputy should personally conduct an initial review of all complaints, a requirement that complainants are regularly informed of progress where an investigation

is not likely to be completed within the expected 28 day period and the refinement of a more formalised register of complaints to facilitate closer monitoring of the progress of investigations.

- 3.3 Subsequent to the review, the Monitoring Officer arranged with the then Head of Communications for additional publicity of the revised policy to be undertaken. The revised whistleblowing policy was highlighted on the Council's website and was also placed on the Council's intranet. Additionally the Head of Law/Monitoring Officer also prepared and delivered a briefing on the revised procedure to the Council's Executive Management Team and training to all service heads on the revised policy. It was particularly important that they be especially aware of the amendments as they (and/or Executive Directors) may be called on to investigate on behalf of the Monitoring Officer. Referrals under the policy are made to the Head of Law as the Council's Monitoring Officer. Investigations are either conducted personally by the Head of Law or referred by her for investigation to another senior officer with a report back to her.

#### **4 Matters raised in the last review by this Committee**

- 4.1 The Monitoring Officer was not present at the meeting when this review was last conducted. In her absence, the Committee expressed concern about two matters.

##### **4.2 Case A**

The first matter related to a complaint made in December 2015 that there was a safeguarding issue which needed investigation at a school which it had not been possible to investigate. Members of the Committee asked for an explanation why it had not been possible to pursue the matter. On 9<sup>th</sup> July 2015, the Monitoring Officer wrote to all members of the Committee to explain that the complainant referred very broadly to "safeguarding and care provisions, and the health and safety of staff" at an unspecified school. The complainant said they would not divulge the details of their concerns until they were clear how they would be dealt with as they did not want to reveal their identity to the school. No contact details were supplied except an email address. On 18<sup>th</sup> December 2015 the Monitoring Officer wrote to the email address supplied offering an appointment to see the complainant personally, in confidence. She pointed out that without at least some detail to go on it would be very difficult indeed to investigate. There was no reply, despite a reminder being sent.

- 4.3 When the Monitoring Officer did not receive a response, she wrote to the complainant by email saying that the file would be closed, sending a feedback questionnaire. In response an email was received saying that the complainant had asked for a meeting but it had not taken place. Despite a search by the Monitoring Officer and her PA, no email was found and neither had spoken to the complainant by telephone.

Without further contact details it was not possible to telephone the complainant. A further email was sent to the email address of the complainant offering a meeting, but there was no response.

4.4 Members of the Committee will be aware that it is not possible to guarantee absolute confidentiality to a complainant, though every attempt will be made to protect it when possible. If for example the matter were to raise very serious concerns it might perhaps be necessary to refer it to the police, or it might be the case that it is not possible to investigate properly without revealing the identity of the complainant. Had any meeting occurred, the Monitoring Officer would have explained the confidentiality issues and its parameters to the complainant, but in the event it did not occur and as a result no further investigation was possible.

#### 4.5 **Case B**

It was also evident at the last review that an investigation into a complaint concerning management practices at a school had not been completed in a timely fashion. It had been referred to CYP for investigation but that investigation had not been completed, the explanation being given that the school was in transition and an Interim Executive Board (IEB) appointed. The IEB was asked to look into the complaint and they did so, so far as they could. In October 2015 they reported that because the complaint related to a period before the IEB and a new leadership team was appointed at the school, it was difficult to find possible evidence to support or refute any of the complaints. The IEB felt that the school had been through turbulent times and that the changes recently made were welcomed by the staff and timely. They found no evidence of the concerns raised by the complainant having been raised by union representatives. They found it difficult to establish evidence of opinion or anecdotal episodes. The IEB regretted that the previous leadership team at the school had not addressed the complaint before. The complainant was informed of the outcome of the report by the IEB, and a feedback form was sent on 28<sup>th</sup> October 2015. There was no response.

### 5 **Referrals since May 2015**

5.1 There have been 8 new referrals to the Head of Law since the last review. They are as follows:

#### 5.2 **Case C**

On the 20<sup>th</sup> August 2015, the Monitoring Officer received an email from the Council's Human Resources (HR) Section attaching an anonymous complaint which expressed concerns about an employee who had two posts with the Council. She had been dismissed from her employment as a meals supervisor at a special school where she had pulled a

child's hair as a reprimand for the child pulling the hair of another child. Her other position was as a Door to Door escort and HR advice was that she should not continue in that position with access to vulnerable people pending a fact finding exercise as to her suitability to continue. Instead, she was removed from this position and transferred to duties in the post room. The recommended fact finding did not take place. The complainant alleged that by being moved to the post room, the employee had received favourable treatment from her manager, and insinuations were made about the relationship between the manager and the employee concerned.

- 5.3 The procedure provides that if it is possible to investigate anonymous complaints then they will be looked into. In this case it was possible to do so and the Monitoring Officer referred the matter to the relevant Executive Director for investigation in accordance with the Council's Whistleblowing Policy. The Executive Director assisted by an officer from Human Resources investigated the allegations contained in the anonymous complaint by interviewing the parties involved.
- 5.4 Having carefully considered all the information available to him, the Executive Director concluded that there was no evidence of favouritism or ulterior motives involved in the decisions made in relation to the member of staff concerned. However, he was clear that the procedure followed had not been correct and that a more formalised fact finding into the reasons for the dismissal of the staff member from another part of the Council should have been undertaken. He was of the view that this may have avoided the necessity for the matter to be thoroughly investigated under the Council's Whistleblowing policy.
- 5.5 The Executive Director wrote to all relevant managers confirming his conclusions and observations pointing out his requirements for proper procedure in future. However he did not consider further disciplinary action appropriate.

5.6 **Case D**

In April 2015, the Chair of Overview and Scrutiny Committee wrote to the Monitoring Officer forwarding an email from a complainant who wished to keep his identity confidential, alleging that the security staff on a major development in Lewisham Town Centre were being paid less than the minimum wage, and that the site boss had been informed of this but was turning a blind eye in return for a "back payment" from the security company. Concerns were also raised about the tax and trading position of the security company. The matter was also referred to the Mayor's office and all councillors.

- 5.7 Because of the contractual arrangements in respect of the development, the Monitoring Officer raised the issue with the Development Company's Projects Director for investigation of the

activities of the supply chain. An investigation, which appears to have been very thorough, which included interviews and an inspection of paperwork, was conducted and no evidence of corruption was identified. The outcome of the investigation was reported to members and to the complainant whose details were not made known to the companies concerned. However, the Projects Director did offer the opportunity for the complainant to speak to him personally about his concerns, in confidence, to enable the complainant to take the matter further should he so wish. Because of the complainant's preference not to be identified to the companies, the Monitoring Officer passed on this information to the complainant. There was no response to the feedback questionnaire.

## 5.8 **Case E**

On the 18<sup>th</sup> November 2015, the Monitoring Officer received an email confirming that the Executive Director for Resources and Regeneration had recently received a telephone call from an anonymous whistleblower who wished to complain about two Council employees in the Children and Young People Directorate. It was claimed that they had failed to declare that they had outside business interests. The allegation was that a CYP employee (X) was making referrals to a company in which he had an interest and from which he gained financial benefit and that another employee (Y) had a similar financial interest in the company.

5.9 The Council's Anti-Fraud & Corruption Team were instructed and an investigation and report was prepared by a Special Investigations Officer who did not have any success in contacting the informant who was anonymous. However they had confirmed that the concerns were not about safeguarding issues, but about non-disclosure of personal interests.

5.10 The Special Investigations Officer ascertained that the company concerned was a community interest company and that Y was registered as a director of it. Since 2014, the Council had made payments to it of over £130,000. X was found to have no interest in the company but to have commissioned educational services from it.

5.11 The Special Investigations Team recommended that there was a case to answer in relation to Y and further that due to the seriousness of the allegations and the findings of the report that consideration be given as to whether disciplinary action be instituted. The Executive Director considered the matter and took into account the following matters:-

(1) that Y did not receive any financial benefit from the directorship of the community interest company

(2) that Y is not responsible for commissioning the services of the community interest company for any of Lewisham's looked after children

(3) that he had entered the interest in the Register of Officers' Interests in 2016 .

5.12 The Special Investigations Report further recommended that a review of procurement practices within the relevant service area be audited to ensure adherence with the Council's procurement procedures. This review was undertaken and a new improved procedure has been fully implemented which complies with procurement best practice.

5.13 In further communications between the Monitoring Officer and the relevant Executive Director it was emphasised that there was a clear need for further Code of Conduct guidance for CYP staff. A copy of the guidance was circulated to all managers in CYP.

#### 5.14 **Case F**

On the 27<sup>th</sup> February 2016 the Monitoring Officer received an email from a complainant alleging poor service by the Council's Environmental Health Service. It specifically related to the lack of response by the Council to complaints made about reports of statutory nuisance and health and safety hazards by her landlord, a housing association (HA)

5.15 The complainant had a long standing dispute with the HA. Her principal concern was that the HA had not maintained her bins properly, nor dealt with her complaints effectively. As her relationship with the HA had deteriorated, the complainant sought to involve the Council. She complained that some of her correspondence had been ignored, that the Council had not responded appropriately and that she had been discriminated against because she is a HA tenant.

5.16 The first referral to the Council was in 2013 when the complainant referred matters to Environmental Health. The Council acted appropriately in responding and contacting the HA. When the complainant contacted the Council again in 2014, the Council took up matters again with the HA, but did not inform the complainant of that fact. Several further complaints were made in 2014 about smells from drains and non collection of bins. Though the Council responded to the latter, there is no evidence either way on the former as the staff concerned have left the Council.

5.17 The investigating officer found that the Council had responded appropriately in 2013 but had not kept the complainant informed about action taken in 2014. The Council it was found had fallen short on two

occasions, but it was not found that there had been discrimination on the grounds that the complainant is a housing association tenant.

5.18 The Monitoring Officer followed the investigating officer recommendations and wrote to the complainant with the outcome, advised the Head of Service to review procedure to ensure that there was no repetition of the failure to keep the complainant informed as in this case, and advised the officer concerned to ensure that the complainant's problems were attended to. The officer confirmed that a visit was made to the complainant within days of the completion of the investigation.

#### 5.19 **Case G**

In May 2016, an anonymous complaint was received about an appointment process of a case officer (PO2) in CYP. The complainant alleged that the person appointed was a friend of the daughter of a manager (M) in CYP, was taken on initially via an agency without a job title, without experience, and was given sight of the questions in advance of the interview for the permanent PO2 post and interviewed only by one member of staff when other candidates were interviewed by two.

5.20 In line with the whistleblowing procedure a senior manager with no involvement in this matter was appointed by the whistleblowing officer to investigate. He found that the person appointed does know M's daughter but because of this, M was not involved in any way in the recruitment process. The employee was taken on via an agency with a title and grade. Her application for the permanent post shows qualifications and various experience. Examination of the application form showed that it was appropriate to interview the employee concerned. The permanent PO2 post was advertised. Of 20 applications 12 were shortlisted, among them the employee who was appointed. She was interviewed and offered the job. She was the only one of the interviewees to be interviewed on the day she was interviewed. For all other interviewees, the Panel for the interviews consisted of two officers, neither of them M, who distanced herself from the process. On the day of the interview of the employee concerned, one of the two interviewees unexpectedly called in sick. The interview went ahead with one interviewer (K), contrary to Council policy.

5.21 When interviewed by the investigating officer, K acknowledged that she had made a mistake and she should not have done so. She accepted that she should have been aware of procedure or asked for HR advice. There was no evidence that the appointee had the interview questions in advance of the interview.

5.22 The investigating officer accepted that the interview by one person had been a result of a mistake and not a device. He made

recommendations about practice in CYP which have been passed to them and that managers would remind staff that their practice in this case was unacceptable and that they must adhere to HR procedures. He also advised that a decision should be made whether to withdraw the job from the person appointed.

5.23 The Executive Director took legal advice. Given that the employee concerned had acted in good faith and had entered into a contract of employment with the Council, that advice was that it would be inappropriate to seek to withdraw from that contract. The Exec Director did not take any further disciplinary action against the appointing officer, who was in any event on compassionate leave, but confirmed that on her return she would write to her to remind her to adhere to HR procedures in recruitment.

#### 5.24 **Cases H/I/J**

In July, September and October 2016, three whistleblowing complaints were received about the management practices at a diocesan school. The school's procedure provides for internal investigation by the school unless that is inappropriate, as in this case, when matters are referred to the Council to be investigated under its whistleblowing procedure. Once an investigation is complete, though the Council may make recommendations, as it is the governing body which is the employer and not the Council, the Council will have no further role to play.

5.25 There is a considerable degree of overlap between the complaints, though they are raised by different people and the Monitoring Officer has, with the help of the Executive Director for Children and Young People, appointed an external investigator. Though the first complaint was raised in July, the Monitoring Officer informed the complainant that it would not be possible to start the investigation in earnest until the September term, and all complainants are being appraised of progress regularly. The outcome will be reported when the investigation is complete.

#### 5.26 **Case K**

A complaint has been received that a Planning Committee meeting was improperly conducted on 6<sup>th</sup> October 2016. That matter too is currently under investigation.

### **6 Review of the Procedure**

Generally, officers are of the view that the procedure is fit for purpose. Investigations are conducted under it and findings made, on occasion with recommendations for amending practice. The number of referrals this year alone demonstrates that people are aware of it and are using it. However, officers are not complacent about the possibility always for



improvement and would welcome any comments which members of the Standards Committee may have for changes to it.

## **7. Financial Implications**

There are no specific financial implications arising from this report.

## **8. Legal Implications**

- 8.1 The existence and application of the Council's whistleblowing procedure is consistent with the Council's overall fiduciary duty to exercise proper custodianship of the Council's funds and assets.
- 8.2 The promotion of the Code is also consistent with the Council's duty under Section 27 Localism Act 2011 to promote the highest standards of conduct by its members.
- 8.3 The Public Interest Disclosure Act 1998 affords certain protection to employees who blow the whistle on wrongdoing, for example by providing for dismissal as a result of doing so to be unfair, giving rise to compensation and possible reinstatement.
- 8.4 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.5 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.
- 8.6 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 8.5 above.
- 8.7 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are

potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

- 8.8 The Equality and Human Rights Commission has 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:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

- 8.9 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: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

- 8.9 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:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

- 8.10 A whistleblowing policy which protects the whistleblower in so far as possible probably encourages those who are less confident in dealing with bureaucracy to come forward if they suspect wrongdoing.

**9. Crime and Disorder**

Section 17 of the Crime and Disorder Act 1998 requires the Council when it exercises its functions to have regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The promotion of a whistleblowing policy provides a conduit to bring any allegation of wrongdoing to the attention of the Council for investigation and if appropriate to the attention of the police.

**10. Best Value**

Under S3 Local Government Act 1999, the Council is under a best value duty to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. It must have regard to this duty in making decisions in relation to this report.

**11. Environmental Implications**

Section 40 of the Natural Environment and Rural Communities Act 2006 states that: 'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. No such implications have been identified in relation to the reductions proposals.

**12. Integration with health**

Members are reminded that provisions under the Health and Social Care Act 2012 require local authorities in the exercise of their functions to have regard to the need to integrate their services with health.

**13. Conclusion**

Members are asked to note the referrals under the existing policy and to advise whether they are of the view that any changes ought to be made to the existing policy appearing at Appendix 1.

For further information about this report please **contact Kath Nicholson**, Head of Law on 0208 314 7648



**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 <sup>1</sup> 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.

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<sup>1</sup> **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](mailto: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](mailto:juliet.bennett@lewisham.gov.uk)

Any reports of suspected, corruption or other financial irregularity may also be made to [reportfraud@lewisham.gov.uk](mailto: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](mailto:sara.williams@lewisham.gov.uk) or Aileen Buckton, Executive Director Community Services, 020 8314 8107, email:

[aileen.buckton@lewisham.gov.uk](mailto: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](mailto: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](mailto: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.

## Procedure for dealing with Whistleblowing referrals flow chart

