

Committee	STANDARDS COMMITTEE	Item No	
Report Title	ANNUAL REVIEW OF COMPLAINTS MADE UNDER THE THE COUNCIL'S WHISTLEBLOWING POLICY		
Ward	n/a		
Contributors	HEAD OF LAW		
Class	Open	Date	17 October 2017

1 **Summary**

This report sets out the referrals made under the Council's whistleblowing policy since the last annual review in November 2016 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 is highlighted on the Council's website and on the Council's intranet. Additionally the Head of Law/Monitoring Officer has 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 is particularly important that they be especially aware of the policy and procedure 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 Cases in progress in November 2016

- 4.1 The Committee's attention is drawn to cases H,I,J and K which were reported at the previous review but at that time the referrals were under investigation and had not been concluded. Those investigations are now complete and they are summarised below.

4.2 Cases H//J

Case H - In July 2016, Mr M, a teacher at a diocesan school complained that another teacher, Ms S at the same school had been denied a position of responsibility because of her pregnancy. The Whistleblowing Officer conducted an initial assessment and concluded that the matter should be investigated in detail. She informed the complainant that with the assistance of the Executive Director for Children and Young People, an external investigator with experience of management in schools was appointed to look into the complaint but that because of the intervening school holidays and the need for school staff to be interviewed, the investigation would not commence in earnest until September 2016.

Case I – In September 2016, a further whistleblowing complaint was received from a more senior member of staff at the same diocesan school. This complaint covered the specific issue set out at case H above but also related to the management practices of the head teacher more generally which, it was alleged, contradicted the school's aims of equality of opportunity and spiritual care. The complainant alleged that the head teacher treated black students less favourably than white. Again, the complaint was investigated in detail and the same external investigator was asked to expand his investigation to

cover this complaint also. The whistleblowing complaints alleged discriminatory and unacceptable management practices at a diocesan school.

Case J – During the course of investigation into Cases H and I, a further complaint was received. The complaint was about the behaviour and management practices of both the head teacher and the Chair of Governors (though the complaint about the Chair of Governors was later retracted.) Investigation of this complaint was added to the terms of reference of the external investigator.

The school's procedure provides for internal investigation by the school unless that is inappropriate, as it was in this case given the identity of the complainant and the person complained about. In such cases matters are referred to the Council to be investigated under its whistleblowing procedure. Once an investigation is complete however, though the Council may make recommendations, decisions as to appropriate action, if any are for the governing body as it is the governing body and not the Council which is the employer.

Given the increased complexity and the number to be interviewed, the investigations were completed in December 2016, though all complainants were kept apprised of timescales on a regular basis.

In relation to Case H, the external investigator was unable to reach a firm conclusion about what had been said in unrecorded meetings between the head teacher and Ms S about the more responsible position, though he did reach the conclusion that his findings "gave cause for concern".

The Whistleblowing Officer informed the diocese and the governing body of the findings. She also told the complainant of the findings and advised him to address any further queries he may have to the diocese as the Council could play no further role. A questionnaire was sent to the complainant but he did not respond.

In Case I, the investigator found that there was no evidence that allegations of racial, sexual, age or disability discrimination were well founded. However he did reach the conclusion that the head teacher spoke to staff in a way that was considered offensive by others and caused distress, though he found no direct evidence that it actually was offensive.

The complainant was informed that the investigation was complete and a copy had been sent to the governing body and the diocese, to whom any further queries should be addressed.

In response to request for feedback, the complainant stated that she was unhappy with the outcome and would be seeking further union advice. She had in any event been assisted from the beginning by her

union representative with whom the Whistleblowing Officer liaised. The Whistleblowing Officer provided a response to the complainant's concerns in writing.

Case J – There was a large overlap between the complaints at I and J. The report of the external investigator, which reached similar conclusions was sent to the diocese and the governing body for them to consider what, if any, action was appropriate.

The Chair of Governors wrote to the Whistleblowing Officer in February 2017 to confirm that the school had completed its actions in relation to the complaints.

4.3 **Case K**

A complaint dated 17th October 2016 was received that a Planning Committee meeting was improperly conducted on 6th October 2016. It was acknowledged on 20th October. The complainant felt that the objectors to an application had not been given sufficient time to address the committee and that the application approval had been “steam rolled” through.

The Whistleblowing Officer made enquiries of the solicitor who was in attendance at the meeting who examined the handwritten notes of the meeting. Following those enquiries, the Whistleblowing Officer wrote to complainant that both applicants and objectors were allowed 5 minutes to present their view. Members then questioned the agents about the application in accordance with normal practice and this is not time limited. On 10th November, the Whistleblowing Officer confirmed to the complainant that she did not consider there had been any unfairness in the decision making.

The complainant also raised an issue that an interest ought to have been declared. The Whistleblowing officer asked for specific details, but there was no further contact from the complainant.

4.4 There have been 3 further referrals since the last review.

4.5 **Case L**

In January 2017, a complaint was received from Ms D, a school employee, that another person had been appointed to a position in preference to her as a result of the other person being given special treatment. The complaint was acknowledged and a meeting offered to discuss the complaint. However on 19th January 2017 Ms D wrote to withdraw her complaint. A feedback questionnaire was sent on 24th January 2017 but there was no response.

4.6 **Case M**

On 23 May 2017 Ms H wrote to complain that her company, which is a subcontractor to an organisation (M), which is in contract with the Council. The contract is managed by Lewisham Homes. Ms H had complained to Lewisham Homes that M had not paid her company significant sums owed to it. She also complained that M had overclaimed payment from the Council for monies which had not been paid to her company. This she said was fraud and corruption.

The Deputy Monitoring Officer wrote to Ms H to inform her that matters between contractors and sub-contractors are not ones in which the Council would be involved normally, but because of the possibility of fraud, the investigation was being referred to the Council's Head of Corporate Resources. There was an unfortunate delay due to the absence of the Deputy Monitoring Officer through illness, but the audit investigation was duly completed and on 4th October 2017, the Head of Corporate Resources wrote to Ms H to inform her that the investigation was complete. He was satisfied that the Council had only paid the main contractor for works that had been completed and properly certified under the contract. A feedback questionnaire has been sent. A reply is awaited.

4.7 **Case N**

On 14th March 2017, emails dated 23rd January 2017 and 20th February 2017 addressed to committee@lewisham were released by the Council's anti-spam software. They complained that a director of a company, who is not a member of the Council, was also a trustee of a related charitable foundation to whom the Council had pledged funding. The complainant alleged that this should be investigated under the Council's whistleblowing policy. Also on 14th March, the Head of Committee Business wrote to the complainant to inform him that the emails had just been released. The complainant wrote back to ask that his complaint be disregarded in the light of the establishment of the Dyson Inquiry.

5. **Review of the Policy and Procedure**

Generally, officers are of the view that the policy and 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.

- 5.2 Due to the creation of the Department of Work and Pensions (DWP) Single Fraud Investigation Service (SFIS) responsibility for the investigation of benefit fraud transferred along with the Council's benefit fraud investigations to the DWP. Accordingly the policy will be amended to reflect this change.

6. Financial Implications

There are no specific financial implications arising from this report.

7. Legal Implications

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 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.
- 7.6 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.
- 7.7 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.

- 7.8 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>

- 7.9 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](#)

- 7.10 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>

- 7.11 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 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

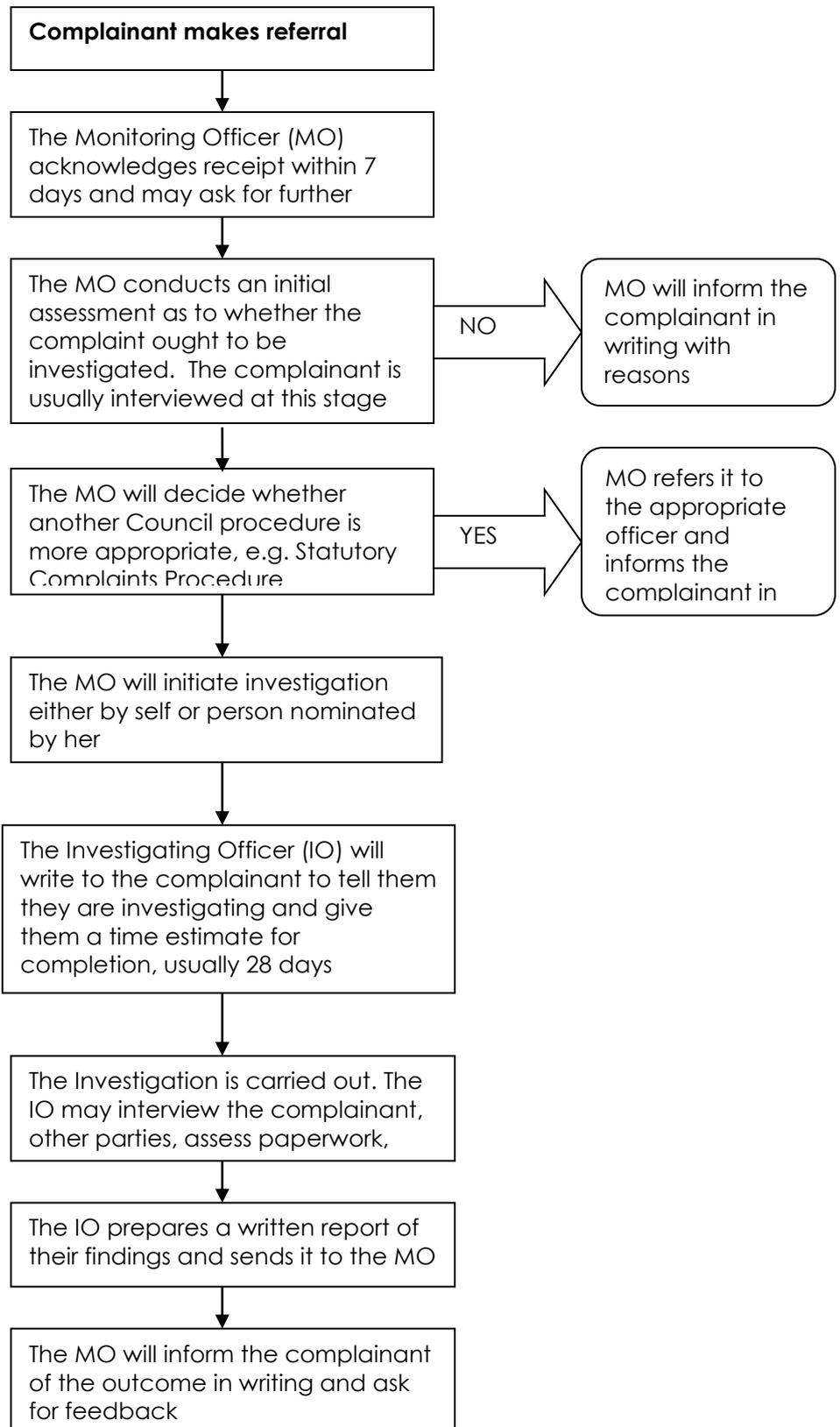
The Council also has a Standards Committee made up of councillors and independent people. The role of the Standards Committee is to promote the highest standards of ethical conduct amongst members.

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.

Procedure for dealing with Whistleblowing referrals flow chart



WHISTLEBLOWING POLICY OCTOBER 2017

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.
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 - that feedback is given to the whistleblower about the outcome of the investigation.

² **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** -

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- 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 the National Benefit and Fraud Hotline: 0800 854 440 or online at:
<https://www.gov.uk/report-benefit-fraud>

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.

Procedure for dealing with whistleblowing Referrals

