

WHISTLE-BLOWING PROGRESS REPORT

STANDARDS COMMITTEE

21ST JANUARY 2013

CLASSIFICATION:

OPEN

If exempt, the reason will be listed in the main body of this report.

WARD(S) AFFECTED

ALL

**IAN WILLIAMS
CORPORATE DIRECTOR
FINANCE AND RESOURCES**

1. INTRODUCTION BY CABINET MEMBER FOR FINANCE & RESOURCES

- 1.1 This report summarises the details of all whistle-blowing cases received by London Borough of Hackney since April 2010. A total of 16 new reports have been received since that date.
- 1.2 The Council's whistle-blowing service is managed by the external provider Expolink, who operate a 24 hour, 7 day a week reporting service. This facility is advertised throughout Council buildings on staff notice boards as well as on the intranet. Details are also provided to all new recruits as part of their induction process.

2. SUMMARY

- 2.1 In keeping with previous years the level of whistle-blowing referrals remains a relatively low percentage of overall referrals to Audit & Anti-fraud's Investigations Team. Nevertheless, whistle-blowing is an important

component in the Council's reporting arrangements because it provides those who might otherwise be reluctant to do so with a process in which to raise their concerns.

- 2.2 In reality, a considerable number of referrals to Audit and Anti Fraud could fit the criteria for whistle-blowing but in general, managers and staff tend to refer matters of concern under the requirements of the Council's Financial Procedure Rule 4.12 which states;

"Corporate Directors shall refer all issues of potential financial irregularity initially to the ADAAF who will perform a risk assessment after considering the initial available evidence"

- 2.3 For clarity any member of staff referring irregularities to the Audit and Anti-Fraud could expect to be afforded the same protection as if they were claiming to be a whistle-blower.

3. RECOMMENDATIONS

- 3.1 That the Standards Committee note the contents of this report.**

4. RELATED DECISIONS

- 4.1 This is a regular update report.

5. FINANCIAL CONSIDERATIONS

- 5.1 There are no financial implications arising from this report.

6. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR & REGULATORY SERVICES

- 6.1 The Standards Committees is responsible for promoting and maintaining high standards of conduct, to this end, it is a function of the Committee to monitor the progress of corporate complaints procedures.

- 6.2 The law on whistleblowing is contained in the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998. Whistleblowers have a right not to be dismissed or suffer any detriment as a result of making a protected disclosure. To be protected, the whistleblower must make a disclosure of information and reasonably believe that the information tends to show that one or more of the following has occurred or is likely to occur: -

- (i) a criminal offence;
- (ii) breach of any legal obligation;
- (iii) a miscarriage of justice;
- (iv) danger to the health and safety of any individual;
- (v) damage to the environment; or
- (vi) the deliberate concealment of information about any of the above.

6.3 The whistle-blower is protected if the disclosure is made in any one of the prescribed ways laid down by law one of which is to the employer. A whistle-blowing policy is therefore recognised as essential to encourage and facilitate this.

6.4 The Standards Committee will be concerned to satisfy itself: -

- (i) that matters raised under the whistle-blowing procedures are being properly dealt with and within reasonable timescales;
- (ii) that persons using the procedures are not in any way subject to reprisals for raising matters;
- (iii) that where complaints are substantiated that prompt and effective action is taken including the application of the Council's disciplinary procedures and any others of relevance;
- (iv) that where financial and other irregularities are uncovered that a prompt and robust review of systems and processes takes place to mitigate the risk or opportunities or re-occurrence;
- (v) that any compliance lessons for the Council from the reported cases are being captured, disseminated and implemented.

7. BACKGROUND

7.1 Whistle-blowing occurs when an employee reports a genuine concern that is in the public interest to be resolved. The Council encourages issues of concern to be raised, providing this is done in good faith (i.e. not maliciously). There is a legal framework in place to support those who blow the whistle to help to ensure that they do not suffer a detriment from doing so. The following are some of the things that concerns may be raised about: -

- Fraud and corruption within or against the Council;
- A danger in the workplace;
- Deliberate neglect of people in care;
- Dumping damaging material in the environment.

These are wide-ranging areas of concern, and the expertise to deal effectively with them lies with different Council departments.

7.2 Anyone who works for the Council, or who has recently worked for the Council, can 'blow the whistle'. Whilst protection afforded to whistle-blowing only covers issues where there is a degree of public interest in reality many reports received relate to disgruntled staff and often do not result in the allegation being upheld.

7.3 The Whistle-blowing Policy does not usually extend to members of the public or service users because the confidentiality and protection from reprisal issues either do not extend to these groups, or they operate in a very different way to how they affect staff. The Council has a complaints system through which the public and service users can report their concerns. The public are also able to report concerns about fraud against the Council through the

Housing Benefit fraud hotline, the Blue Badge parking hotline, or by reporting concerns directly to Audit & Anti-Fraud.

7.4 It should be noted that Hackney Homes have introduced whistle-blowing policies in line with Hackney's own policy.

7.5 There are no implications for the equalities policies of the Council as the whistle-blowing policy is accessible to all staff and partners across the Council.

8. REFERRALS FOR THE PERIOD APRIL 2010 TO NOVEMBER 2012

8.1 Whistle-blowing activity concerning fraud against the Council is reported as part of the annual Fraud and Irregularity report. All whistle-blowing activity was last reported to Members in April 2009. The following table summarises activity in recent years: -

	2010/11	2011/12	2012/13 to date
Fraud & Corruption referrals	5	2	3
Other referrals	2	0	5
Total referrals	7	2	8

8.2 Concerns that have been reported under the category 'Other referrals' during this reporting period include health and safety concerns, HR issues and racism.

8.3 Of the 17 whistle-blowing referrals received in this reporting period four concerned the same issue, and remain under investigation. One other case is also still being investigated. Another referral was reported to Hackney in error as it concerned an issue in another borough. The outcomes for the remaining 11 cases are: -

- Employee dismissed
- Procedural issues were identified and reported
- 9 No further action

8.4 Two separate fraud investigations that have arisen from whistle-blower referrals remain on-going. These referrals account for a comparatively small percentage of the investigations that are carried out by the Audit Investigation Team.

	2010/11	2011/12	2012/13 to date
Whistle-blower referrals	5	2	3
Total investigations	331	369	484

NB. Whistle-blowing referrals normally relate to staff whereas the total investigations covered by the service includes other investigations (e.g. tenancy, blue badge) that do not normally relate to staff. HB investigations are also excluded from these figures.

8.5 Whistle-blowing referrals investigated by Audit & Anti-Fraud are dealt with under normal investigative procedures and outcomes regularly include recommendations on appropriate disciplinary action, advice on measures to be taken to address system weaknesses, and referrals to internal audit for follow-up action wherever more significant problems are identified. If concerns are more appropriately dealt with by another Service (e.g. Human Resources) a referral is made.

8.6 In relation to the legal comments contained in this report, it should be noted that every effort is made to protect the identity of the whistle-blower in order to guard against the possibility of reprisals. It is not always possible to do so but it is clear in both the policy and the Code of Conduct for employees that, any failure to act on employee’s concerns, victimisation or attempts to prevent an employee from speaking out will be regarded as a serious disciplinary offence.

9. FUTURE DEVELOPMENTS

9.1 The whistle-blowing procedure will be revised and updated prior to being communicated to all employees to promote our reporting arrangements.

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