

REPORT OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

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| WHISTLE-BLOWING PROGRESS REPORT AUDIT COMMITTEE - 20 April 2022 | Classification Public | Enclosures AGENDA ITEM No |
| | Ward(s) affected ALL | |

1. INTRODUCTION

- 1.1 This report summarises the Council's corporate arrangements for Whistleblowing and provides members with an update of the cases received in 2021/22.
- 1.2 An effective whistleblowing hotline procedure is an essential part of the Council's corporate governance arrangements. It helps promote an open, honest and accountable culture amongst all workers where they can express their concerns without fear of victimisation or termination of employment.
- 1.3 The Audit Committee receives regular updates relating to whistle-blowing at its quarterly meetings as part of the Internal Audit Quarterly Update Report. This report is produced to provide members with an annual overview of whistleblowing arrangements within Hackney.
- 1.4 As part of the Council's whistle-blowing arrangements, a telephone hotline service is managed by the external provider Navex, 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 whistleblowing referrals remains a low percentage of overall referrals to the Audit Investigation Team. Nevertheless, whistleblowing 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 to raise their concerns.
- 2.2 A considerable number of referrals to Audit & Anti Fraud could fit the criteria for whistleblowing but in general, managers and staff tend to refer matters of concern under the requirements of the Council's Financial Procedure Rule 4.9 which states: -

“All issues of potential fraud/financial irregularity will be investigated in accordance with the Council’s Anti-Fraud and Corruption Policy. Concerns should be reported at the earliest opportunity (to the Corporate Head of Audit, Anti-Fraud & Risk Management) who will have lead responsibility for any subsequent investigation, in certain circumstances investigations may be carried out in collaboration with individual Group Directors.”

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

3. RECOMMENDATIONS

- 3.1 The Audit Committee is recommended to note the contents of this report.

4. RELATED DECISIONS

None

5. COMMENTS OF THE GROUP DIRECTOR, FINANCE AND CORPORATE RESOURCES

There are no financial implications arising from this report.

6. COMMENTS OF THE DIRECTOR, LEGAL

- 6.1 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.

- 6.2 The whistleblower 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. The Employment Rights Act 1996, section 47B provides that a worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the employer on the ground that the worker has made a protected disclosure. A whistle-blowing policy is therefore recognised as essential to encourage and facilitate this.

- 6.3 The Council must satisfy itself that:-

- (i) matters raised under the whistleblowing procedures are being properly dealt with and within reasonable timescales;
- (ii) persons using the procedures are not in any way subject to reprisals for raising matters;

- (iii) 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) 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 for recurrence;
- (v) any compliance lessons for the Council from the reported cases are being captured, disseminated and implemented.

6.4 Consideration of this Report is within the role of the Audit Committee to monitor the Council's policies on 'Raising Concerns at Work' in respect of the Anti-Fraud and Anti-Corruption Strategy.

7. BACKGROUND

7.1 Whistleblowing 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 whistleblowing only covers issues where there is a degree of public interest in reality some reports received relate to disgruntled staff and often do not result in the allegation being upheld. A whistleblowing policy is in place which was most recently updated in April 2018, and an updated version of the policy is presented to this Audit Committee meeting for consideration.

7.3 The Whistleblowing Policy does not 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 concerns. The public are also able to report concerns about fraud against the Council through the tenancy fraud and blue badge parking hotlines, or by reporting concerns directly to the Audit & Anti-Fraud Division.

7.4 Hackney Education staff are also covered by the Council arrangements following their reintegration, as are workers at the community maintained schools. Any investigations into allegations of fraud or irregularity arising from whistleblowing reports are carried out by the Council's Audit & Anti-Fraud Division.

7.5 Hackney Education staff also have access to Navex as a means of reporting concerns, in addition to reporting to line management or Audit & Anti-Fraud.

7.6 There are no implications for the equalities policies of the Council as the whistleblowing policy is accessible to all staff and partners across the Council.

8. REFERRALS FOR THE PERIOD APRIL 2021 TO MARCH 2022

8.1 Whistleblowing reports to Navex are reported as part of the quarterly Audit & Anti-Fraud Progress Reports. A specific summary of all whistleblowing activity was last reported to Members in April 2021. Table 1 below summarises Navex activity in recent years.

| | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 |
|------------------------------|---------|---------|---------|---------|---------|
| Fraud & Corruption referrals | 2 | 1 | 4 | 2 | 1 |
| Other referrals | 3 | 2 | 5 | 1 | 1 |
| Total referrals | 5 | 3 | 9 | 3 | 2 |

Table 1

8.2 The Navex Fraud and Corruption concern that was reported during the last 12 months related to one allegation of corruption.

8.3 Concerns of fraud or corruption can be reported in a number of ways. In addition to the matters raised through the Navex telephone hotline (see section 1.4), workers may raise whistleblowing concerns through alternative channels and still be entitled to the same degree of protection that would be afforded if they had used the telephone hotline. Of the 22 internal investigations undertaken in 2021/22, six have been raised in this way (i.e. one via Navex, six by other whistleblowing routes). The following table shows all referrals by department and fraud type, with whistleblowing cases identified in brackets (where N = Navex, W = other whistleblower):

| Referral category | Neighbourhoods & Housing | Adults, Health & Integration | Children & Education | Finance & Resources | Chief Executive's | Total |
|---------------------------------|--------------------------|------------------------------|----------------------|---------------------|-------------------|---------------------|
| Employee | 6 (1W + 1N) | | 1 | 2 | 1 | 10 (1W + 1N) |
| Payment, Contracts, Procurement | 5 (2W) | 1 (1W) | | 1 | | 7 (3W) |
| Theft | | 1 | | 1 | | 1 |
| Housing Irregularity | | | | | | 0 |
| Staff parking | 1 | | | | | 1 |
| Other | | | | 2 (2W) | | 1 (2W) |
| Total | 12 (3W + 1N) | 2 (1W) | 1 | 6 (2W) | 1 | 22 (6W + 1N) |

Table 2

8.4 Whistleblowing 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. The current status of the 7 whistleblowing cases identified at section 8.3 (Table 2) are as follows:

- Four cases remain under investigation;
- One case has concluded, the concern that was raised was not substantiated but other matters were reported upon;
- Two cases were closed with no further action following an investigation.

8.5 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 whistleblower in order to guard against the possibility of reprisals. It is not always possible to keep the identity confidential, but it is clear in the policy that any detrimental retaliatory actions arising from a whistleblowing concern being raised (for example, threats, disciplinary action or dismissal) will themselves be regarded as a serious disciplinary offence.

9. FUTURE DEVELOPMENTS

9.1 New staff will continue to be provided with information about relevant Hackney procedures as part of the induction process (e.g. The Anti-Fraud & Corruption Policy, Code of Conduct, Whistleblowing Policy), together with contact details and information about the Navex hotline service.

9.2 Contact details for Navex will continue to be advertised to staff.

9.3 The Audit Committee will continue to receive quarterly progress reports and an annual report on whistleblowing arrangements and investigation outcomes.

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