



**Report for:
INFORMATION**

Item Number:

Contains Confidential or Exempt Information	No
Title	Annual review of whistleblowing policy operation
Responsible Officer(s)	Helen Harris, Director of Legal and Democratic Services
Author(s)	Justin Morley and Shahzad Ayub
Portfolio(s)	Not applicable
For Consideration By	Standards Committee
Date to be Considered	26 March 2024
Implementation Date if Not Called In	Not applicable
Affected Wards	All
Area Committees	Not applicable
Keywords/Index	Whistleblowing Concerns

Purpose of Report:

To consider disclosures made pursuant to the Council's whistleblowing policy since the last report.

1. Recommendations

It is recommended that the committee:

- 1.1 Notes the details of the whistleblowing cases set out in paragraph 3.

2. Reason for Decision and Options Considered

- 2.1 The various functions of this committee include receiving reports on the operation of the Council's whistleblowing policy.

3. Key Implications

- 3.1 The Council's whistleblowing policy includes information about the nature of whistleblowing, about how concerns should be investigated and about the protection afforded to the whistleblower once concerns have been raised. However, the policy is only as effective as its operation in practice. Members therefore have an important role in scrutinising how the Council responds to concerns that have been raised and in reviewing current policy. The Council's whistleblowing policy was updated by full Council in July 2023 and is compliant with the latest policy and guidance.
- 3.2 A central register of whistleblowing cases is maintained by the Audit and Investigation (A&I) team. The officer with responsibility for this register is the Investigation Manager. Cases are held on the register for as long as relevant and the register is monitored regularly.

- 3.3 'Whistleblowing' cases are entered on the A&I case management system and a record is kept of actions taken. The ongoing progress of cases is monitored by way of periodic management case reviews.
- 3.4 The key contacts for the whistleblowing policy are the Assistant Director of Audit and Investigation and the Director of Legal and Democratic Services. The Council seeks to ensure that allegations of wrongdoing are dealt with consistently across the Council, and these reviews assist with monitoring that objective.
- 3.5 A marker on the A&I case management system allows for 'whistleblowing' cases referred during any particular period to be identified and assist with the production of reports.
- 3.6 For cases managed by the A&I team, procedures are held within the A&I Guidance Manual for the management of whistleblowing cases. These are reviewed periodically.
- 3.7 All allegations, including whistleblowing cases, are risk assessed prior to being accepted for investigation.
- 3.8 Where required reports on whistleblowing cases are drafted and shared with the Director of Legal and Democratic Services.
- 3.9 Adherence to procedures for investigations is the responsibility of the line managers within the A&I team. The Investigation Manager regularly monitors the cases within the A&I team performance against KPI's.
- 3.10 The last report was considered by the Standards Committee on 9 March 2023. That report covered the period from 1 March 2022 to 28 February 2023.
- 3.11 The Council's Whistleblowing policy was promoted on the intranet on 28 March 2023 providing links to the policy itself, advice of how to address concerns and contact details of relevant Council officers.
- 3.12 The Council's Whistleblowing policy was updated in July 2023 with minor amends to the name of an organisation.
- 3.13 At the time of the last report there were no new whistleblowing reports.
- 3.14 From 1 March 2023 to 29 February 2024 there have been three new whistleblowing cases:
 - a) Complaint dated November 2023 was made anonymously and purportedly from a former member of staff. It concerned the behaviour of a manager and the action taken in response to this. This was referred to the service who responded. Nothing to report.
 - b) A report January 2024 from a member of staff in relation to procurements, a staff appointment, bullying/behaviours and compliance with regulations. The service manager is investigating and enquires remain ongoing.
 - c) An anonymous report in January 2024 relating to staff turnover, timeliness of action and cases being closed by the Head of Service without adequate review. This was passed to the service area to review and have responded.

4. Financial

- 4.1 All work connected with investigations following whistleblowing reports is carried out using existing resources, primarily the Audit and Investigation department. Where the

departments have carried out investigation work themselves, these costs are met by the relevant departments and not by the Audit and Investigation team.

5. Legal

- 5.1 The Public Interest Disclosure Act 1998 was introduced to protect individuals making certain disclosures in the public interest and to allow such individuals to claim compensation for any victimisation following such disclosure. This legislation made changes to the Employment Rights Act 1996, giving workers a direct remedy against their employer.
- 5.2 The Public Interest Disclosure Act 1998 (the 'Act') specifies different criteria for a disclosure to be defined as a "protected disclosure" (and thus bring a worker within the protection of the Act) depending on whether the disclosure is made to the employer, to the individual's own legal adviser, to an appropriate regulator, or otherwise externally to a third party. The prescribed regulators, to whom protected disclosures can be made, depending on the subject matter of the disclosure, include:
- i) the Council's auditor, appointed in accordance with Local Audit and Accountability Act 2014
 - ii) the Care Quality Commission
 - iii) the Children's Commissioner
 - iv) HMRC
 - v) General Medical Council
 - vi) Health and Care Professions Council
 - vii) Information Commissioner
 - viii) an MP
 - ix) Pensions Regulator
 - x) Secretary of State for Education
 - xi) Secretary of State for Health
 - xii) the Health and Safety Executive

The full list is found in the Public Interest Disclosure (Prescribed Persons) Order 2014/2418, which is updated from time to time, most recently in December 2023.

- 5.3 The Act applies to all workers including agency workers. Where a worker is dismissed or otherwise disadvantaged as a consequence of having made a protected disclosure, he or she may claim compensation through Employment Tribunal proceedings. There is no numerical cap on the amount of compensation that an Employment Tribunal can award to a worker in whistleblowing cases.
- 5.4 The Employment Tribunal claim form allows Claimants (i.e., those claiming compensation) to indicate that they want matters raised in their claim referred to the appropriate regulatory body under the Act.
- 5.5 The Act does not contain legal requirements in respect of what an organisation must do in order to investigate an allegation, or what steps it must take to rectify matters if there is substance to the allegation. Those requirements fall within the Council's general obligations to: (a) act lawfully; (b) manage its financial affairs prudently; and (c) comply with the relevant pieces of legislation (for example health and safety regulations).

6. Value For Money

6.1 An effective whistleblowing policy plays a key part in the Council's corporate governance arrangements. When the policy is operating effectively, a culture of openness is created which should help to prevent or expose fraud and other criminal activity. The high costs associated with dealing and responding to those matters should therefore be reduced.

7. Risk Management

7.1 Ensuring that new staff, workers and contractors are made aware of the whistleblowing policy should help to minimise the risk of concerns not being raised. The responsibility for advising new employees and agency workers of the Council's policy rests with the employing service area.

8. Community Safety

8.1 None.

9. Links to three Key Priorities for the Borough

9.1 The Council's administration has three key priorities for the Borough. They are: (a) tackling the climate change crisis; (b) creating good jobs; and (c) tackling inequality. An effective whistleblowing policy assists with the Council's commitment to improvement and becoming a high performing organisation in order to deliver on the aforementioned key priorities.

10. Equalities, Human Rights and Community Cohesion

10.1 There are no implications from this report itself.

11. Staffing/Workforce and Accommodation implications:

11.1 There are no implications from this report itself. Workers have statutory protection when making protected disclosures as detailed in this report. The Council's whistleblowing policy reflects that protection and helps to ensure that workers are aware of it.

12. Property and Assets

12.1 None.

13. Consultation

13.1 As well as the views of the Standards Committee, the Director of Legal and Democratic Services takes into account the view of the Strategic Director Resources, the Director of Workforce and Organisation Development and the Assistant Director of Audit and Investigations.

14. Timetable for Implementation

14.1 Not applicable.

15. Sustainability Impact Appraisal

15.1 It is not envisaged that the matters in this report will have any sustainability impact. Accordingly, no appraisal has been carried out.

16. Background Information

16.1 [Ealing Council Whistleblowing policy 2023](#)

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Helen Harris	Director of Legal and Democratic Services	13 March 2024	13 March 2024	
Emily Hill	Strategic Director Resources	13 March 2024	13 March 2024	
Mike Pinder	Assistant Director of Audit and Investigation	13 March 2024	13 March 2024	
Kim Brown	Director of Workforce and Organisational Development	13 March 2024	15 March 2024	
Chris Rabe	Reactive Fraud Manager	13 March 2024	13 March 2024	
External				
None				

Report History

Decision type: Non key		Urgency item? Not urgent	
Authorised by Cabinet member:	Date report drafted:	Report deadline: 15 March 2024	Date report sent: not applicable as this is not a cabinet report.
Report no.:	Report author and contact for queries: Shahzad Ayub (ext. 5192) Senior Lawyer		