


Non-Executive Report of the: Audit Committee 29 th March 2018	 TOWER HAMLETS
Report of: Asmat Hussain, Corporate Director, Governance and Monitoring Officer	Classification: Unrestricted
Whistleblowing Update	

Originating Officer(s)	Paul Greeno, Senior Corporate and Governance Lawyer
Wards affected	All

Summary

This is a periodic report updating on the Council's whistleblowing and investigation monitoring information.

Recommendations:

The Audit Committee is recommended to:

1. Note the whistleblowing and investigation monitoring information contained in this Report as well as Appendix 1.

1. REASONS FOR THE DECISIONS

1.1 This is a noting report.

2. ALTERNATIVE OPTIONS

2.1 This is a noting report.

3. DETAILS OF REPORT

3.1 11 concerns were still outstanding since the last Committee Report. 5 of those concerns have now been concluded and the cases closed. Of those 5:

- 2 were upheld (1 Partial)
- 3 were not upheld

3.2 Out of the 3 not upheld, there were lessons to be learnt in 1 case as follows:

- An alleged criminal act by an employee in the course of their duties amounting to unauthorised use or misuse of public funds and abuse of position for financial gain. There was no evidence of any fraud but there had been negligence and a series of control and process failures. Recommendations to address such failings were sent to the appropriate Corporate Directors and these recommendations will be followed up to ensure that they are actioned by the Monitoring Officer.

3.3 Appendix 1 sets out anonymised details of those Whistleblowing matters that were upheld.

3.4 Since the last report, there has also been a further whistleblower concern raised and there are therefore 7 matters still ongoing. These are all at various stages and an update in relation to those matters will be provided at the next meeting of the Audit Committee.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 There are no direct financial implications arising from the recommendations within this report.

5. LEGAL COMMENTS

5.1 Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'. The law does not however require employers to have a whistleblowing policy in place but it is accepted good practice. The existence

of a whistleblowing policy shows an employer's commitment to listen to the concerns of workers. Further the Department for Business Innovation and Skills ('BIS') Guidance and Code of Practice provides that it is good practice for employers to have a whistleblowing policy or appropriate written procedures in place.

- 5.2 As an employer, the Council wishes to create an open, transparent and safe working environment where workers feel able to speak up and it has a whistleblowing policy. This policy was last revised in November 2017.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 Monitoring of whistleblowing is a continuation of the Council's improvement to its organisational culture. It demonstrates a commitment to put the concerns of employees and local people first and for fair and transparent decision making and which contributes to the delivery of One Tower Hamlets priorities and objectives.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Whilst the report does not propose any direct expenditure, it is looking to put in place arrangements in the exercise of its functions having regard to efficiency and thereby also economy and effectiveness.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 None.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 Ensuring a culture whereby persons feel empowered to raise concerns when there is a reasonable belief (and it is in the public interest) that one or more of a criminal offence, a breach of legal obligation, a miscarriage of justice, a danger to the health and safety of an individual, damage to the environment, and/ or a deliberate attempt to conceal one of these, has occurred or is likely to occur is an important part of risk management and should reduce risks.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 Ensuring a culture whereby persons feel empowered to raise concerns when there is a reasonable belief (and it is in the public interest) that a criminal offence, a miscarriage of justice is likely to occur should assist in reducing crime.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- 1 – Table of completed investigations where allegation upheld

Local Government Act, 1972 Section 100D (As amended)**List of “Background Papers” used in the preparation of this report**

- NONE.

Officer contact details for documents:

- N/A

APPENDIX 1

URN	Details of Concern	Outcome
003/WB/2016	<p>The initial allegation was prior to the Whistleblowing process being overseen by the MO: this came in in April 2016. The complaint was therefore raised directly with the Corporate Anti-Fraud Team and the investigation process was managed by them. Further linked concerns came through and which were sent to the MO. In total, there were 18 allegations received from the person raising the concern but 8 of these were grouped. The allegations were all against named individuals and therefore details cannot be given. 11 of the 18 allegations were upheld (including the 8 grouped)</p>	<p>5 recommendations were made as follows:</p> <ol style="list-style-type: none"> (1) To avoid unnecessary misunderstandings Parking Services management should consider better communications with staff around management roles and responsibilities (2) Recruitment Standard and Guidance should be amended to require recruiting managers to declare if any of the candidates are known to them in any context, including from previous roles (3) Divisional Director Public Realm to conduct a full review of all currently held parking permits within Parking Services to ensure that: <ol style="list-style-type: none"> (a) the permits have been issued in the correct manner with the correct authorisation; (b) the holders comply with current eligibility requirements i.e. need a car to carry out their duties; (c) where permits are held by individuals that they have a 'registration specific' permit not a MVP; and (d) where MVP pool permits legitimately required they are adequately controlled and monitored. (4) CLT agree the recommendations made in the report on improvements to management of agency staff and consultants namely <ol style="list-style-type: none"> (a) Evidence must be recorded in C.net that a competitive process has been completed to source consultants; and (b) The lead manager and other members of panels be required to declare any interest in respect of applicants or bids to carry out work (5) Mandatory investigation training should be introduced for managers prior to them undertaking any investigations.

037/WB/2017	<p>Allegation that an officer was claiming sick pay whilst fit for work and was going abroad on holiday. Also that the officer was in charge of a company that was undertaking fraudulent practices</p>	<p>It was established that times off sick matched times on holiday and the matter is now subject to a disciplinary investigation. The business the subject of the alleged fraudulent practices is under investigation by the Police and therefore inappropriate for the Council to also investigate.</p>
040/WB/2017	<p>Allegation for the same officer as above but different holiday dates. Also that the officer was in charge of a different company that undertaking fraudulent practices</p>	<p>It was established that times off sick matched times on holiday and the matter is now subject to a disciplinary investigation. The business the subject of the alleged fraudulent practices is under investigation by the Police and therefore inappropriate for the Council to also investigate.</p>
046/WB/2017	<p>This allegation overlapped with a matter carried forward from the Clear-Up Team (Case Ref. No. CU 023)</p>	<p>A total of 11 recommendations were made and which have been separately published. To date, 10 of those recommendations have been completed and the final recommendation relates to communication processes between Services and an Audit Report has made recommendations which are being put in place with completion scheduled by the end of March.</p>

049/WB/2017	<p>Allegation that particular staff are coming in late and leaving early. That staff are smoking in work vehicles. A member of staff is leaving early to go and do private work. An officer has gone off sick because that officer said that they had not been off sick for a while and wants to try to get ill health retirement.</p>	<p>There was evidence to show that on one day an officer had come in late whereas their timesheet indicated they had arrived 40 minutes early. However on other days came that officer came in approximately 30 before the time stated on their timesheet.</p> <p>There was evidence of smoking in work vehicles but not who was smoking. There was no evidence regarding the allegations.</p> <p>The Manager raised issues of timekeeping and that timesheets should be honest and accurate at a Team Meeting on 27/04/2017. That was sufficient and no further action required.</p> <p>As to smoking in vehicles, whilst there is evidence of smoking, it could not be established who had been smoking. Again, the Manager raised the issue of smoking in work vehicles at Team Meeting on 27/04/2017 and that it was a criminal offence. Again, that was sufficient and no further action required.</p>
122/WB/2017	<p>Employee convicted of an offence of assault and also on Police bail in respect of another matter but failed to advise the Council, as employer.</p> <p>Employee resigned when it was raised with them. Disciplinary investigation still undertaken due to sensitive nature of post and to ensure completeness of records and in case any future legal challenge to outcome.</p>	<p>2 accounts of gross misconduct were considered formally at a disciplinary hearing and employee invited to attend.</p> <p>Panel</p> <p>The agreed to:</p> <ul style="list-style-type: none"> - uphold recommendation for summary dismissal (had person remained an employee) and for the conclusion to be made known to the employees professional body - Recommend a strategy meeting with the Adults Safeguarding Officer, and to report the matter to the Council's safeguarding Board