

# **London Borough of Tower Hamlets**

## **Clear Up Project**

### **Report of the Clear Up Board**

**Final Report**

**Date: 20 April 2017**

***Version 0.6 – Final***

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## **Executive Summary**

This report is the final report and recommendations arising from the London Borough of Tower Hamlets Clear Up Project. It is the report of the Clear Up Board, comprised of the Council's three Statutory Officers and a Commissioner appointed by the Secretary of State for Communities & Local Government.

During the Clear Up nomination period (8 September – 8 December 2016) the independent Clear Up Team received 66 allegations purported to indicate improper Council decision making or impropriety in the discharge of Council functions.

Reporting to the Clear Up Board, these allegations were considered by the Clear Up Team and the findings are summarised in this report.

- A summary of the Project findings and the key learnings arising from the Clear Up Team's work is at **Section 3**
- **Annex A** provides a summary of the 66 allegations received, the findings on each allegation and the recommendations arising from the Team's work

The Council is committed to publishing this report and its Annexes, and reporting publicly on future progress in implementing the recommendations.

It should be noted that this report and its conclusions are limited to matters arising from the allegations considered by the Clear Up Team and Clear Up Board through the Clear Up Project; as such this report does not address the work of the Council more generally as this would be beyond the scope of the Project.

## **1. Introduction**

### **Background**

- 1.1 In December 2014 the then Secretary of State for the Department of Communities and Local Government appointed two Commissioners, Sir Ken Knight and Max Caller, to take control of decision making on a range of Local Authority functions at the London Borough of Tower Hamlets (LBTH). This included, amongst other functions, grant making and the sale and disposal of property. This followed an independent inspection by PricewaterhouseCoopers LLP (PwC) earlier that year, which had concluded that the Council was failing in its best value duty in these areas.
- 1.2 In April 2015, following the judgment of the Election Court, the Secretary of State proposed additional intervention powers for Commissioners to order the Council to take any actions needed to safeguard good governance throughout the Council until a new Mayor and management team were in place and fully embedded. The Secretary of State also appointed two new Commissioners – Chris Allison and Alan Wood - to join the existing Commissioners. The Commissioners worked with the Council to oversee these Council functions and to drive forward an Improvement Action Plan.
- 1.3 In September 2016 the Council, with the Commissioners' support, agreed to launch a new initiative – the Clear Up Project - to deal with any remaining allegations of impropriety or serious concerns residents or staff might have. A fully independent team was appointed to deliver this, working to a Clear Up Board, considering outstanding allegations relating to the period between October 2010 and June 2016.

### **Purpose of this Report**

- 1.4 This report is the Clear Up Board's final report on the work of the Project. It includes a summary of the allegations received, the findings of the independent team in relation to these allegations, and the recommendations agreed by the Board for further action. This report also summarises the key lessons learnt from the Project, which will be fed into Council policy and practice.
- 1.5 It should be noted that this report and its conclusions are limited to those matters arising from the Clear Up Board's consideration of allegations received and considered to be within the scope of the Clear Up Project. It has not been the role of the Clear Up Project to consider the Council overall or to look into matters beyond those raised within the allegations.
- 1.6 This report will be submitted to a public meeting of the Council and will be published on the Council's website.

## 2. Project Scope and Approach

### Project Scope

- 2.1 The terms of reference and scope of the Project were agreed in September 2016 (Mayor's Decision Log No.136) and published on Thursday 8 September 2016. The complete terms of reference are set out at **Annex B**.
- 2.2 The Clear Up Project was established to enable an independent review of any unconsidered allegations of improper Council decision making or impropriety in the discharge of Council functions during the time period between October 2010 and June 2016. This covered the period from the election of the first directly-elected Mayor to the re-launch of the Council's Whistle-blowing Policy.
- 2.3 As set out in the terms of reference, anybody could raise an allegation to the independent Clear Up Team as long as the allegation met the following criteria:
  - The allegation must have referred to a decision or activity that occurred between October 2010 and June 2016; and
  - The allegation must have included details of the alleged impropriety and any evidence which supported the complainant's claim.
- 2.4 Complainants were also asked to provide their contact details to enable a member of the Clear Up Team to discuss the allegation further with the complainant, although the Clear Up Team took the view that it would still consider any allegations submitted anonymously.
- 2.5 Complainants had several options through which to raise their allegations including to a confidential email inbox, by post to the Clear Up Team, or via the Secretary of State's Commissioners, a Member of Parliament or a Councillor.
- 2.6 The scope of the Project was clear that allegations would not be investigated if they had already been satisfactorily considered or investigated through another process, including, but not limited to:
  - the Council's complaints process;
  - the Council's Whistle-blowing procedures;
  - the Council's Code of Conduct for Members;
  - the Council's staff disciplinary procedures;
  - a Council management investigation or review;
  - an Audit Review (internal or external);
  - a Judicial Review; or
  - the PwC Best Value Inspection of Tower Hamlets Council.

It was for the Clear Up Board to assess whether any allegation had been previously satisfactorily considered prior to undertaking additional investigatory work.

### **Project Launch**

- 2.7 The Project was launched on 8 September 2016, with a series of communications including through the Council's website and intranet and through the Commissioners writing to local MPs and to other individuals they had previously engaged with. Awareness of the Project was also raised through features in the press and in local blogs. The launch of the Project on 8 September 2016 commenced a three month period for allegations to be submitted, running to 8 December 2016.

### **Protecting the Identity of Complainants**

- 2.8 In reviewing and investigating allegations, the Clear Up Team adopted the principle that the identity of each complainant should be protected, including through not disclosing the identity of complainants to the Clear Up Board. It was agreed that the identity of a complainant would only be disclosed with the complainant's permission and then only to do so if it would be necessary in order to progress investigatory work.

### **Communications with Complainants**

- 2.9 Where contact details were provided, the Clear Up Team endeavoured to keep complainants up to date on progress. This included acknowledging receipt of each allegation, requesting further information or evidence where required, and summarising the findings of the Clear Up Team's work in relation to each allegation.

### **Project Governance**

- 2.10 The Project was overseen by the Clear Up Board. This comprised four members; the three new Tower Hamlets Statutory Officers – the Chief Executive (and Clear Up Board Chair), the Chief Finance Officer and the Interim Monitoring Officer, and, to ensure independence, one Secretary of State Commissioner. No Board meeting could take place without a Commissioner present.
- 2.11 The Board met eight times during the project, and again at the end of the Project to agree this final report. The Board's duties included:
- overseeing the appointment of the independent Clear Up Team;
  - agreeing the process for scoping and investigating allegations;
  - monitoring project progress, risks and issues; and
  - appropriately dealing with any substantiated allegations, including recommending disciplinary action, referring issues to the Police and ensuring that lessons learned from the Project inform future Council policy and practice.

2.12 The Clear Up Board's Terms of Reference were agreed at its first meeting and are at **Annex C**.

### **Clear Up Team**

2.13 An independent team was appointed to investigate the allegations, with team members selected for their professional capability and experience, and also their independence from the Council.

2.14 The team comprised one secondee project manager from the Civil Service (Cabinet Office), one secondee investigator from the Civil Service (Government Internal Audit Agency, part of Her Majesty's Treasury) and four specialist contractor investigators selected by the project manager for their mix of complementary skills and experiences following an interview process, and endorsed by the Clear Up Board. Team members were primarily part-time.

2.15 The Clear Up Project was managed as a project, with a clear governance structure, a project plan, risk and issue management, progress reporting to the Clear Up Board, communications to stakeholders, and records management processes. At the Clear Up Board's first meeting a set of 'critical success factors' were agreed for the Project (**Annex D**).

2.16 As Section 3 of this report explains, many of the allegations received by the Clear Up Team were non-specific in nature, and often with little or no evidence provided to support the allegations. The Team therefore had to make a judgement in each case as to how far to progress the review of each allegation, striking a balance between ensuring independent review of the allegation and proportionality so as not to waste Council resources. It should also be noted that the Team's work was conducted on a 'best endeavours' basis, with the Team using its judgement and experience in the case of each allegation to decide whether to accept information provided as true, taking a view on when to draw to a conclusion to the work on each allegation, and in making recommendations.

### **Approach to Review and Investigation of Allegations Received**

2.17 At the second Clear Up Board meeting on 8 December 2016, marking the close of the nomination period, the project manager presented to the Board a summary of the allegations received and proposed an approach to the review and investigation stage of the Project.

2.18 At the meeting, the Clear Up Board agreed with the Project Manager's assessment that nine of the allegations should be closed as they were considered to be out of scope (the reasons are set out in **Annex A** - Summary of Findings and Recommendations from Allegations). In some cases, further action relating to these allegations was agreed to be taken forward outside the

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scope of the Project e.g. referral of alleged housing fraud matters to the Council's specialist social housing fraud team.

- 2.19 At the 8 December Clear Up Board meeting, the Project Manager also informed the Board that many of the remaining 57 allegations were vague and non-specific in nature, with limited or no evidence provided. The Project Manager proposed to the Clear Up Board that in these cases, despite the vague nature of the allegations and the lack of evidence, the potential seriousness of the allegations warranted further work to be conducted prior to any decision on closure. The Board therefore agreed with the Project Manager's recommendation that scoping work should be completed on each of the 57 remaining allegations, to enable further information and evidence to be requested from complainants so that the allegations could be clarified and decisions taken on whether full investigations should be conducted.
- 2.20 The Clear Up Board agreed that this would be the best approach to ensure that Council resources were used appropriately, and also ensuring that complainants were given a further opportunity to present evidence before the Clear Up Team took an independent view on whether a full investigation was warranted in each case. In January 2017 this approach was published on the Council's website and provided to Members. This document is at **Annex E**.
- 2.21 The Clear Up Board also agreed with the Project Manager's assessment that six of the allegations received were more general allegations of weaknesses in Council systems and processes, and noted that work on these matters was already being taken forward through the Council's existing HR improvement projects and/or through Internal Audit review work. The Board agreed that work on these matters should continue to be progressed by these Council teams, with reports back to the Clear Up Board in March 2017 on findings and future action. A summary of the findings of this work is included in **Annex A**.
- 2.22 Following the close of the nominations period, scoping reports were prepared by the Clear Up Team and reported back to the Clear Up Board for a decision. In each case, the Clear Up Team formed a view as follows:
- That there were no grounds for further investigation e.g. because the complainant had been unable to provide any evidence and any investigation would therefore be disproportionate; or
  - The findings of the scoping work completed the investigation, with recommendations in some cases; or
  - A full investigation was recommended.
- 2.23 Following scoping work, 16 allegations were agreed for full investigation by the Clear Up Board on the advice of the Clear Up Team.

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2.24 The Clear Up Team found that no existing Council methodology was in place to set out how investigations of this nature should be conducted. As a consequence, the Clear Up Team prepared a methodology for this phase of the Project. This methodology was developed by the Clear Up Team based upon best practice, in conjunction with the Council's Audit & Risk Service and whistle-blowing process leads, and then agreed with the Clear Up Board. The methodology was published on the Council's website in February 2017 and is at **Annex F**.

2.25 During the scoping and investigation stages of the project, in some cases matters arose that were outside the scope of the original allegation but which warranted further attention. In these cases, the Clear Up Team reported the matter to the Clear Up Board and, following the Board's agreement, the Clear Up Team then ensured referral to the appropriate Council team for further action. These matters are referenced in **Annex A**.

### **Support from Council Officers and Access to Information**

2.26 Throughout the Project, the Clear Up Team experienced a good level of co-operation from Council officers at all levels. In the main, the Clear Up Team has had access to all the information requested within a reasonable timeframe, apart from a small number of occasions where officers have been unable to locate historic documentation. The Clear Up Team considered any gaps in information when forming a view on each allegation, and reported these gaps to the Clear Up Board when reporting findings.

### **Resources**

2.27 As set out at paragraph 2.14 above, the independent Clear Up Team consisted of secondees from the Civil Service alongside specialist investigators recruited through the Council's agency workers' contract following an interview process. The breakdown of resource usage for the Project was as follows:

<b>Resource</b>	<b>Summary of Usage</b>
Secondee Project Manager (1)	- Part-time (2 days per week) during November and December 2016 - Full-time (5 days per week) 1 January – 12 April 2017
Secondee Investigator (1)	- 24 days during the period 23 January – 29 March 2017
Agency Investigators (4)	- 151 days during the period 10 January – 21 April 2017

2.28 The cost of the project is to be confirmed by the Council as the Clear Up Project Manager did not hold a budget.

### **Project Critical Success Factors**

- 2.29 At the start of the Project, the Clear Up Project Manager agreed 12 'critical success factors' with the Clear Up Board which, in the Project Manager's view, must have been present during the Project in order for it to deliver successfully. These Critical Success Factors are at **Annex D**.
- 2.30 The Clear Up Board reviewed the Critical Success Factors at the Board meeting held on 27 March 2017, and agreed that all had been in place and achieved, noting that:

#### Critical Success Factor 4

The Critical Success Factor referred to a 'gateway' which was superseded by the 'scoping' stage that was introduced by the Clear Up Board in agreement with the Project Manager. In practice, the scoping stage became the gateway decision point.

#### Critical Success Factor 6

The Critical Success Factor stated that the approach to investigations would be managed using the relevant, established Council investigation processes. The Clear Up Team found that there was not an established and documented Council investigation process and so created a process specifically for the Project, based upon best practice. The preparation of this was informed by the Council's Audit & Risk Service and whistle-blowing process leads. This process has been shared with the Council for possible adoption into the Council's processes.

### **3. Summary of Allegations Received, Findings and Lessons Learned**

- 3.1 During the nomination period the Clear Up Team received 66 allegations. This included some duplicate (or similar) allegations made by separate complainants. In each case, these were logged as separate allegations to ensure that all complainants received individual communications.
- 3.2 The complainants were a broad mix of local residents, local stakeholders and also individuals with a closer link to the Council. Complainants tended to submit either one single allegation or a collection of several allegations. In some cases complainants submitted allegations on behalf of other individuals. As previously highlighted, the identity of complainants was protected by the Clear Up Team throughout the Project.
- 3.3 The majority of allegations were received later in the Clear Up nominations period, most likely as a result of the publicity push that the Clear Up Team asked the Council to run during the last fortnight of the nominations period.

#### **Nature of Allegations Received**

- 3.4 The range of allegations in terms of Council function related to, type of allegation and the date of the incident was very broad and it is not possible to highlight very specific trends.
- 3.5 There were multiple allegations relating to a number of areas including disposal of property assets, electoral services, the Council's Youth Service, past Council investigations into organisations in receipt of Council funds, and other Council payments. There were also more general allegations raised that focused on alleged weaknesses in Council corporate systems and processes, including HR processes, the use of purchase cards, declarations of interest processes, and DBS (Disclosure and Barring Service) referrals. A number of allegations received related to Council officers who were no longer in post.
- 3.6 A theme of many of the allegations received was that they tended to be vague in nature, with a lack of specific information or any supporting evidence. As explained in paragraph 2.19 above, the Clear Up Team's approach was to allow a further period of scoping beyond the end of the nomination period, to enable the Team to work with complainants to attempt to obtain evidence or further information to support allegations and to provide a focus for any investigatory work.
- 3.7 A number of the allegations received related to matters that had been considered by the Council previously in some way. In these cases, unless the allegation was very clearly out of scope, the Clear Up Team generally decided that the seriousness of the allegations merited further scoping work before taking a view on whether a full investigation was required.

### Engagement with Complainants

- 3.8 Where required during the course of the scoping and investigation work, the Clear Up Team made efforts to engage with complainants, either to provide updates on progress or to seek further information about an allegation and to obtain evidence.
- 3.9 During the course of the Project, a small number of complainants chose to disengage with the Clear Up Team. The reasons given included that they felt they had provided all the information they wanted to or were able to, for personal reasons, or because they did not trust the Clear Up process.
- 3.10 Where complainants did disengage, the Clear Up Team continued to scope the allegations received and, in some cases, to conduct a full investigation as the seriousness of the allegations warranted further independent investigation even without further input from the complainant(s).

### Findings

#### 3.11 Of the 66 allegations:

- Nine were agreed by the Clear Up Board at the close of the nomination period to be out of scope of the Project and were closed (although in some cases issues raised within these allegations were referred to other Council teams for action)
  - 57 were taken forward for further scoping work, and of these a full investigation was conducted on 16 allegations
  - Of the 57 allegations considered by the project:
    - o 5 were considered to be out scope following further scoping work;
    - o 35 were rejected;
    - o 10 were partially upheld;
    - o 5 were upheld; and
    - o 1 has been referred to the Council for further consideration and investigation as the matter may be criminal
- Note:** *in addition to the above 1 allegation was partially upheld and partially rejected as the allegation contained several sub-allegations*

- 3.12 The Clear Up Team reported to the Clear Up Board with individual reports on each of the 57 allegations taken forward to the scoping and/or investigation stage. The Clear Up Board reviewed the findings according to a programme of Clear Up Board meetings during the period January – April 2017. The Clear Up Board accepted all of the Clear Up Team’s findings, conclusions and recommendations and, in some cases, proposed additional recommendations.

- 3.13 A summary of each of the allegations received, the Clear Up Team's findings, and any recommendations relating to each allegation, is set out at **Annex A**.

#### **Overarching Findings and Lessons Learned**

- 3.14 Although the scope of the Clear Up Project is limited to matters concerning the specific allegations received during the nomination period, alongside the breakdown of the 66 allegations and the findings at **Annex A**, it has been possible to draw out some key overarching findings and opportunities for lessons learned from the Project.
- 3.15 The Clear Up Team considers these matters to be important for the Council to consider and take action on, as all represent an opportunity to improve Council policy and practice.

#### **Organisational Culture - Whistle-blowing and Reporting Concerns**

- 3.16 In the course of engaging with complainants and considering allegations, the Clear Up Team noted from multiple sources that, whilst there have been improvements, there is still some distrust in the Council's current arrangements for whistle-blowing and reporting concerns. This includes distrust in the Council's processes for how concerns are assessed, investigated and acted upon, and also in the Council's commitment to fully protect the identity of whistle-blowers should they request to remain anonymous for fear of reprisal.
- 3.17 Whilst it is important to clarify that the Clear Up Project's scope did not specifically include review of the current whistle-blowing arrangements, the Clear Up Team did note that the current system is fragmented across several business areas, that a response to the telephone hotline is limited to work hours only, that concerns can only be reported in English, that there is a perception that some individuals who receive whistle-blowing reports have close connections in other departments of the Council, and that anonymous allegations are discouraged. The Team's view is that there are opportunities to improve the process further to help build trust in it.
- 3.18 The Clear Up Team is encouraged that the Council has already acted on the need to further improve the current arrangements, evidenced by the appointment of Grant Thornton UK LLP in early 2017 to undertake a review of the Council's current whistle-blowing arrangements. Grant Thornton's scope includes comparison of the current processes with best practice examples and guidance, making recommendations for any changes required and developing a plan for implementing these changes.
- 3.19 The Clear Up Team has shared its learning with the Council's whistle-blowing leads throughout the Project and also met with the Grant Thornton project team. Given the current distrust that still exists, the Team considers it crucial

that the Council acts upon the findings of the Grant Thornton review as soon as possible once it is complete, and notes that this work is already contained in the Council's future Improvement Plan.

### **Approach to Investigations**

3.20 Underlying a significant proportion of the 66 allegations is the Council's approach to conducting investigations. This includes the approach to corporate fraud investigations, investigations of organisations in receipt of Council funds, management investigations, HR/disciplinary investigations and also the recommendation of external investigators to schools.

3.21 The Clear Up Team's work to review the allegations found evidence of inconsistencies and some failings in the Council's past approach to investigations. There remains a risk that unless these inconsistencies are addressed similar problems may occur in the future. The issues seen by the Clear Up Team included:

- A fragmented system where fraud investigations have sometimes been commissioned within Directorates without the involvement or advice of the specialist Corporate Investigations Team (within the Audit & Risk Service);
- A failure to complete and/or finalise HR/disciplinary and other investigations in good time, and a failure to track progress in the implementation of actions arising from investigations;
- A lack of guidance for senior managers on when and how to commission an investigation, who should be involved, how to select an investigator, how to set the scope and terms of reference, the process to be followed, including guidance on how to investigate if a matter may have a criminal aspect to it, and on who has the skills and responsibility to review the quality of the investigation report produced;
- The appointment of investigators who may not be right for the task because the scope of the investigation is not clear, because they do not have all the required skills and training, or because they do not have sufficient time available to focus properly on the investigation and complete it in a reasonable timescale alongside their 'day job'; and
- A general lack of consistency of approach and lack of urgency, including in the case of potentially very serious allegations e.g. allegations involving children.

3.22 The Clear Up Team also saw some evidence of internal audit reports not being completed in good time, meaning that any findings and recommendations had less relevance by the time that the report was accepted for action.

3.23 Whilst **Annex A** provides a number of specific recommendations arising from the Clear Up Team's consideration of each allegation, the Team recommends that the Council considers how its approach to investigations overall could be strengthened. The Team notes that the Council has already started to acknowledge these concerns and plans to improve corporate fraud

investigation processes, HR/disciplinary processes and whistle-blowing investigations are now being developed.

### **Election Procedures**

3.24 The Clear Up Team received a number of allegations relating to past elections, and primarily the May 2014 elections. In the course of its work to review these allegations, the Clear Up Team found that, following the well-documented problems that have occurred in the past, the Council has significantly improved its election procedures. There is, however, the opportunity for further improvement and the Clear Up Team has therefore made recommendations to further strengthen election procedures and provide additional reassurance ahead of future elections. This includes work to explain these improvements to voters to help build trust ahead of the 2018 election.

### **Monitoring Compliance following Council decision points**

3.25 The Clear Up Team considered a number of allegations that highlighted failings of the Council to appropriately monitor actions / implementation after a decision has been taken. This includes (i) awarding property leases but then failing to monitor to ensure that the building is being used for the purposes original applied for; (ii) commissioned service providers not being monitored consistently and with sufficient frequency to ensure standards and value for money; (iii) grant conditions; and (iv) as highlighted above, implementation of actions from Council investigations or audits. The Council may wish to reflect on this learning and consider what improvements can be made to monitoring.

### **HR Policies and Practices**

3.26 The Council's past HR policies and practices, and the problems arising from them, was a theme across several allegations. Specific examples were provided as Clear Up allegations alongside more general comments from complainants about weaknesses in this area.

3.27 The Clear Up Board was reassured by the scope and ambition of the HR improvement work that is already underway through the One HR programme, which was reported to the Clear Up Board. The Interim Divisional Director for HR and Transformation is leading an ambitious programme of improvement work which includes consideration of how the Council handles disciplinary matters, how investigations are conducted, and how recruitment is managed. There appears to be a willingness from across the Council to improve and embed this across the organisation.

3.28 The findings of the Clear Up Team are that, with more robust HR policies, and with a consistent approach being taken to these across the Council, many of the HR-related allegations considered by the Team might not have materialised in the first place. As such, the Team considers that it is crucial that the Council

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continues to progress this programme of improvement as quickly as possible, including ensuring that any changes and improvements are backed up by upskilling of staff and managers across the Council so that they are better equipped to deal with HR matters in the future.

### **Council Systems and Processes**

- 3.29 Alongside HR policies and practices, the Clear Up Team also identified that there are opportunities to improve other Council-wide corporate systems and processes, and was encouraged that the Council's leadership has already started to act on this. This includes (i) improvements to the processes for DBS checks and referrals; (ii) the system for booking Councillor Ward surgeries; and (iii) the approval and completion of timesheets for part-time and zero hour contract staff.
- 3.30 New recommendations arising from the Clear Up Project and outlined in **Annex A** include further improvements to Council timesheets systems and also to procurement evaluation panel processes.
- 3.31 The Clear Up Team is encouraged by the Council's recent internal audit work to review officers' declarations of interest. In addition, given findings by the Clear Up Team during the course of the Clear Up Project concerning Members' declarations (referenced in **Annex A**), the Clear Up Team has recommended to the Council that the scope of this work should be extended to also include Members' declarations of interests.

### **Member / Officer Protocols**

- 3.32 The Clear Up Team received allegations, and also heard anecdotal evidence, relating to the earlier part of the Clear Up period which related to concerns that Members had inappropriately pressurised officers into bypassing Council procedures, covering a number of matters including Council grants, Council payments and recruitment.
- 3.33 The appropriate interaction between Members and officers is supposed to be regulated by the Member / Officer Protocol in the Council's Constitution. However, the Clear Up Team has identified examples of:
- An officer pressurised to make a payment which they knew would breach Financial Procedures;
  - An officer failing to obtain competitive quotes and appointing a supplier on the instructions of a Member;
  - A Member committing the Council to expenditure without any advance authorisation by the officer who was the budget holder; and
  - Direct contact by Members with relatively junior officers when any contact should be at a more senior level.

3.34 These specific instances of unacceptable behaviour by Members have been referred to the Interim Monitoring Officer for further consideration, and it is recommended that the Member / Officer Protocol is reviewed to consider whether additional guidance is required regarding acceptable behaviour.

### **Security / Confidentiality**

3.35 During the course of the Clear Up Team's work a number of security and confidentiality issues arose that the Council should consider and seek to address. Specifically these include:

- A history of leaks of confidential Council conversations and documents, which appears to be an ongoing issue (although not from the Clear Up Project);
- A weakness in the control of exempt information provided to Members (Pink Papers), particularly where it relates to ongoing litigation and litigation legal privilege applies; and
- Inappropriate IT access - a specific case where the Clear Up Team requested access to several former officers' email accounts and the Clear Up Team's confidential rationale for requesting this was mistakenly copied by an IT officer on more than one occasion to another officer who should not have seen the request.

### **Police Referrals**

3.36 The Clear Up Team considered various allegations that made reference to the withholding of information by the Council from the Police. From the Clear Up Team's work in relation to these allegations, there is clear evidence that the Council has proactively provided potentially relevant information to the Police and that there has been full cooperation with all Police requests received. Any decisions made, or actions taken, by the Police in response to the information provided to them is outside of the scope of the Clear Up Project.

#### 4. **Future Work**

- 4.1 This report, the final report of the Clear Up Board, formally closes the Clear Up Project.
- 4.2 The Clear Up Board has agreed that the Council's Monitoring Officer will be responsible for implementing recommendations from this report (as set out at **Annex A**) and embedding lessons learned from the Project, with reporting to, and oversight from the new Council Improvement Board. This will include reporting publicly on progress to ensure openness and transparency.
- 4.3 For those allegations where, as a result of the Clear Up Team's work, disciplinary action may be required, the Statutory Officers have agreed that in each case this process will be managed by one of the other three Chief Officers of the Council, with oversight by the Statutory Officers. In each case, an appropriate Divisional Director will chair any disciplinary hearings required, with a Chief Officer acting as the appeal chair if required.
- 4.4 Project records have been handed over to the Council's Interim Monitoring Officer by the Project Manager, and are stored within a protected storage system with controlled access limited to a small number of Council officers. Release of any records will only be through the agreement of the Monitoring Officer. The decision on what records to hand over has been taken by the independent Clear Up Team. Any material that could potentially identify any complainant has not been handed over to the Council and has been securely destroyed, protecting the key principle of complainant anonymity which has underpinned the Clear Up Project.

#### **Future Complaints to the Council or Whistleblowing**

- 4.5 The Council operates a whistle-blowing process alongside a corporate complaints process. As set out in paragraph 3.18 above, the Council is currently reviewing whistle-blowing arrangements with a view to making further improvements, which the Clear Up Team supports.
- 4.6 Further information on raising a future concern or complaint can be found on the Council's website at:
  - **Whistleblowing**  
[http://www.towerhamlets.gov.uk/content\\_pages/online\\_services/Report\\_it/Whistleblowing.aspx](http://www.towerhamlets.gov.uk/content_pages/online_services/Report_it/Whistleblowing.aspx)
  - **Complaints**  
[http://www.towerhamlets.gov.uk/lgn/council\\_and\\_democracy/complaints/complaints.aspx](http://www.towerhamlets.gov.uk/lgn/council_and_democracy/complaints/complaints.aspx)

**ANNEX A**

**Clear Up Project – Summary of Findings and Recommendations from Allegations**

*See separate document*

## **ANNEX B**

### **Clear Up Project (Terms of Reference / Reporting Guidance)**

#### **1. Scope**

1.1 The Clear Up project is established to conduct a review of any unconsidered allegations of improper Council decision making or impropriety in the discharge of Council functions. The project will focus on allegations which relate to any decisions or activity which took place between October 2010 and June 2016 (the period from the election of the first directly-elected mayor to the re-launch of the Whistle-blowing policy).

1.2 A key aim of the project is to encourage people to identify impropriety covering the above time period that has not been considered to date. An independent Clear Up Team will investigate these allegations.

1.3 The team's work will be led by a Programme Manager and overseen by a Clear Up Board which will be tasked with appropriately dealing with any substantiated allegations. This may include recommending disciplinary action, referring issues to the Police and ensuring that the learning from this project informs future Council practice.

1.4 Anybody can raise an allegation to the independent Clear Up Team as long as it meets the following criteria:

- The allegation refers to a decision or activity that occurred between October 2010 and June 2016;
- The allegation is notified directly to the Clear Up Team between Thursday 8th September 2016 and Thursday 8 December 2016 via the confidential email inbox [clearupteam@towerhamlets.gov.uk](mailto:clearupteam@towerhamlets.gov.uk);
- or posted to Clear Up Team, London Borough of Tower Hamlets, Town Hall, Mulberry Place, 5 Clove Crescent London E14 2BG (please mark as private and confidential) or via the Secretary of State's Commissioners, a Member of Parliament or a Councillor, and includes details of the alleged impropriety and any evidence which supports the complainant's claim.
- The complainant should also provide their contact details to allow a member of the Clear Up Team to discuss further the allegation.

1.5 Allegations will not be investigated if they have already been satisfactorily considered or investigated through another process. This would include, but is not limited to:

- the Council's complaints process;
- the Council's Whistle-blowing procedures;
- the Council's Code of Conduct for Members;
- the Council's staff disciplinary procedures;
- a Council management investigation or review;
- an Audit Review (internal or external);

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- a Judicial Review;
- the PwC Best Value Inspection of Tower Hamlets Council.

1.6 The Clear Up Team will assess whether any allegation has been previously considered prior to undertaking any investigatory work.

1.7 In investigating allegations, the Clear Up Team will:

- Seek to protect the anonymity of complainants in investigating the allegation wherever possible;
- Notify the complainant and provide an outline timetable for investigating the allegation;
- Seek to complete all investigations by 31 March 2017.

Given the potentially complex nature of some allegations, and the time lapsed from the date they may have occurred, it is not possible to provide a generic timetable for investigation. However, the Clear Up Team will provide individual guidance on this in each case.

1.8 For each allegation, the Clear Up Team will seek to provide details on the resolution of the investigation to the complainant.

1.9 Complaints concerning matters arising since June 2016 can be made through the Council's existing procedures such as the Whistleblowing procedure or the corporate complaints procedure details of which are on the Council's website.

## 2. Governance

2.1 Clear Up Board - The Board membership will comprise:

- 3 x Tower Hamlets Statutory Officers (Chief Executive (Chair), Chief Finance Officer and Monitoring Officer)
- 1 x Secretary of State's Commissioner

2.2 The Board, meeting regularly, will oversee the appointment of the Clear Up Team and management of the team once they are in place.

2.3 The Clear Up Team will comprise of an external and independent Programme Manager who will draw upon external and independent investigating officers as required.

2.4 At the first meeting of the Board following the close of the nomination period, the Clear Up Programme Manager will inform the Board of the number and nature of the allegations and provide indicative timescales for completing the investigations. In any instances where it is not entirely clear whether an allegation has previously been considered or investigated, the Clear Up Team will present the summary details of any allegation to the Board which will decide on the merits of investigating any elements of the allegation that have not been identified or sufficiently considered previously.

2.5 At the second meeting following the close of the nomination period the Clear Up Programme Manager will provide proposed timescales for the completion of

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investigations and reporting the findings. It is anticipated that the work of the Clear Up Team will be completed by the end of March 2017 or earlier subject to volume and complexity.

- 2.6 The Clear Up Programme Manager should escalate any issues, such as of access to information or employees in the Council, to the Clear Up Board which will take action to ensure that any blockages are resolved quickly and efficiently.
- 2.7 The Programme Manager will produce a report on each of the investigations detailing:
  1. Whether the allegation is upheld or rejected;
  2. Where an allegation is upheld, a view on whether the impropriety has since been remedied. For example, by changes to Council practices and internal controls;
  3. Recommendations for further action, including in relation to individuals involved.
- 2.8 The Clear Up Board will consider each investigation report and recommend action, if any, to the appropriate body or person.

### **3. Project close**

- 3.1 The Board will produce a final report on the work of the Clear Up Project including details of the number and nature of the allegations made; the number of allegations that were substantiated and any action taken as a result of the investigations. The report will also summarise any lessons learnt from the project and how these will be fed into policy and practice in the future. The report will be submitted to a public meeting of the Council and published on the Council's website.

**ANNEX C**

**London Borough of Tower Hamlets: Clear Up Project Board**

**TERMS OF REFERENCE**

<b>Version</b>	1.1 Agreed by Project Board 29 Nov 2016 1.2 Updated following agreement at Project Board 7 February 2017 that in the absence of the lead Commissioner another Commissioner can attend in their place
<b>Date</b>	29 November 2016; updated 7 February
<b>Author</b>	Clear Up Project Manager

**1 Purpose**

The purpose of the Clear Up Project Board ('the Board') is to oversee the delivery of the London Borough of Tower Hamlets Clear Up Project.

In particular the Board will:

- Oversee and manage the work of the independent Clear Up Team;
- Agree project documentation including the project plan, critical success factors and the approach to investigations;
- Agree, at the end of the nomination period, which allegations should proceed to the investigation stage, including agreeing to investigation of any allegations that have previously been considered through another Council process but where the process was not deemed to be satisfactory;
- Where required, agree the prioritising of investigations;
- Agree the pool of external investigators;
- Agree and monitor the budget for the project;
- Monitor project risks;
- If requested to do so by the Clear Up Team, resolve any blockages to investigations including access to staff and information;
- Agree to the involvement of the Police for any relevant allegations;
- Receive final reports on investigations and agree how any substantiated allegations will be dealt with by the Council;
- Contribute to / agree the final report for the project at project closure; and
- Contribute to capturing learning from the project as it proceeds to enable this to be fed into the Council's enduring Whistleblowing procedures.

Due to the nature of the items being considered by the Board, all matters will be considered as confidential.



The Project Manager shall minute the proceedings, decisions taken and actions arising. The draft minutes and actions will be provided to all Board members for comment prior to their finalisation.

**7 Declaration of Interests**

It will be the responsibility of Board Members to raise any declarations of interest at each Board meeting.

**8 Reporting**

Following the end of the nomination window, the Project Manager will prepare a regular highlight report for the Board summarising progress.

**ANNEX D Critical Success Factors (Agreed by the Clear Up Board 29 Nov 2016)**

In order for the Clear Up project to succeed in its objectives, 12 critical success factors are proposed:

1. There will be clear leadership from a dedicated Project Board involving the new Statutory Officers and an independent Commissioner
2. The Clear Up Project Manager and investigators will be external and independent of the Council
3. Investigators will be selected for their experience and knowledge of the issues being considered
4. The project will prioritise investigations to ensure maximum impact, balanced with seeking to deliver early 'quick win' results to demonstrate progress; an early 'gateway' will be included in each investigation so that, if it is found that there are no grounds for further investigation, the investigation can be closed early to prevent waste of Council resources
5. As the project progresses the learning from it will be implemented into the Council's Whistleblowing procedures in 'real time' to strengthen this crucial process and to raise confidence in Whistleblowing across the Council
6. The approach to investigations will be based upon a best practice methodology; investigations will be managed using the relevant, established Council investigation processes
7. Each investigation and any recommendations will be evidence based
8. The anonymity of complainants will be protected wherever possible, including with Project Board members. Where it becomes necessary to disclose the identity of a complainant in order to progress an investigation the consent of the complainant will be sought
9. The project will be run as a project, using project management techniques and maintaining excellent document control and written notes. All sensitive documents will be marked as confidential and handled appropriately
10. Complainants will be kept updated throughout the project, and specifically to confirm whether an allegation is to be investigated, on the outline timescales for any investigation and on the outcome of any investigation
11. If all allegation appears to relate to criminal activity the Project Board will decide whether the Police should be involved at an early stage
12. The project's final report including lessons learned will be published to ensure transparency

**ANNEX E (Published 13 January 2017)**

**London Borough of Tower Hamlets (LBTH) - Clear Up Project**

**Investigations Phase – Overview of Process**

**Nomination Period Phase**

The nomination period for the Clear Up Project ran from 8 September – 8 December 2016. The published Clear Project Reporting Guidance [http://www.towerhamlets.gov.uk/ignl/council\\_and\\_democracy/Transparency/Clear\\_up\\_project.aspx](http://www.towerhamlets.gov.uk/ignl/council_and_democracy/Transparency/Clear_up_project.aspx) confirmed that in order for allegations to be considered they must meet the following criteria:

- *The allegation refers to a decision or activity that occurred between October 2010 and June 2016;*
- *The allegation is notified directly to the Clear Up Team between Thursday 8th September 2016 and Thursday 8 December 2016 via the confidential email inbox or by post, or via the Secretary of State's Commissioners, a Member of Parliament or a Councillor;*
- *The allegation must include details of the alleged impropriety and any evidence which supports the complainant's claim. The complainant should also provide their contact details to allow a member of the Clear Up Team to discuss further the allegation.*
- *Allegations will not be investigated if they have already been satisfactorily considered or investigated through another process. This includes, but is not limited to the Council's complaints process, the Council's Whistleblowing procedures, the Council's Code of Conduct for Members, the Council's staff disciplinary procedures, a Council management investigation or review, an Audit Review (internal or external), a Judicial Review, and the Best Value Inspection of Tower Hamlets Council.*

At the close of the nomination period the Clear Up Project Board (comprising the three LBTH Statutory Officers and a Secretary of State appointed Commissioner) considered recommendations from the Project Manager concerning which of the allegations received met the criteria and as a result should progress to the investigations phase of the project.

Where the Project Board agreed that an allegation should not progress to the investigations phase, in each case the Project Manager has contacted the complainant (where contact details were provided) to confirm the reason for this.

## **Investigations Phase**

The investigations phase of the project commenced in late December 2016. A team of independent, expert investigators has been appointed to support this phase of the project, working to the Clear Up Project Manager. The investigators are all independent of the Council.

### **The investigations phase of the Project consists of two stages:**

#### **1) Scoping Stage**

The purpose of this stage is to qualify the allegations received in advance of any full investigation, including seeking further evidence from complainants where required. During this stage:

- Complainants will be notified to confirm that scoping work is taking place
- Each allegation will be assigned to a lead investigator
- The investigator will seek to qualify the allegation in order to determine whether a full investigation is required
- This stage may include the investigator seeking to obtain further evidence to support the allegation, including from the complainant where it is possible to do so, further fact finding work through document review, interviews with Council officers/other parties, and/or review of any previous Council investigatory work completed in relation to the allegation
- For each allegation a scoping report will be completed for Project Board decision, detailing whether a full investigation is recommended, and if so setting out the proposed approach and timings for this
- It is anticipated that in some cases it will be possible to complete all required investigatory work during the scoping phase
- At the end of the scoping stage and following Project Board decision the Project Team will provide an update to the complainant on the resolution.

During scoping, and also during any subsequent full investigation, the Clear Up Team will continue to protect the identity of the complainant, including with the Project Board. If it becomes necessary to disclose the complainant's identity in order to progress an investigation the consent of the complainant will be sought.

#### **2) Full Investigation**

Following scoping, where the Project Board decides that a full investigation is required the Clear Up Team will commence this work, seeking to complete all investigations by 31 March 2017, subject to the complexity of the matter to be investigated. The complainant will be notified of the outline timetable.

Investigation plans will be agreed with the Project Board and will be consistent with existing LBTH processes and procedures for investigations.

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At the end of this stage the Clear Up Team will report detailed findings and recommendations to the Project Board for a decision, detailing whether each allegation is upheld or rejected. Where an allegation is upheld, a view on whether the impropriety has since been remedied will be provided. This will include recommendations for further action, including in relation to individuals involved, and the Clear Up Board will consider each investigation report and recommend action, if any, to the appropriate body or person.

The Team will seek to provide details on the resolution of the investigation to the complainant.

### **Embedding Learning into Enduring Council Processes and Procedures**

Throughout the project lessons learned will be captured and fed into the Council's enduring processes so these can continue to improve e.g. the LBTH new Whistleblowing Procedures

### **Project Close**

At project close a final report on the work of the Clear Up Team will be produced including details of the number and nature of the allegations made; the number of allegations that were substantiated and any action taken as a result of the investigations. The report will also summarise any lessons learnt from the project and how these will be fed into policy and practice in the future. The report will be submitted to a public meeting of the Council and published on the Council's website

**ANNEX F (published 13 February 2017)**

**Clear Up Team – Investigations Procedures**

The following will apply to all Clear Up Project investigations.

Confidentiality

- All steps of the investigation process will be treated as confidential, including all meeting notes and information collected

Scope

- The scope of the investigation will be limited to the scope of the original allegation received and the investigation approach agreed with the Clear Up Board
- If, during the course of an investigation, matters outside of the scope of the investigation are raised, these should be notified to the Clear Up Board for consideration via the Project Manager
- All investigations will proceed on the assumption that the matter being investigated will not lead to a criminal case; if at any time a criminal matter is uncovered this will be notified to the Clear Up Board immediately via the Project Manager
- If, during the course of an investigation, the investigator believes that it has become necessary to amend the investigation approach (for example, conducting an additional interview or requesting additional documentary evidence) then this amendment will be approved in advance by the Project Manager and one other investigator. The investigation approach undertaken will be clearly set out in the Investigation Report.
- The number of days agreed by the Clear Up Board for each investigation will not be exceeded without further approval from the Board

Fact-Finding Meetings and Interviews

- Clear Up investigations will include two types of meetings-
- The majority will be **fact-finding meetings**, where the investigator meets with an individual e.g. a Council Officer to obtain information relating to an allegation under investigation
- Where a meeting is required with an individual who may be responsible for some form of misconduct then an **interview** will be held.
  - o For interviews, the purpose of the meeting will be communicated to the individual in advance, informing them that they are attending on a voluntary basis, that a written summary of the interview will be produced, that they are free to leave the discussion at any time, and that they may bring along a colleague or TU representative if they choose
  - o Two members of the Clear Up Team will be present for interviews, the investigator and a note taker. A written summary of the interview will be produced and shared with the individual for accuracy. The investigator and individual will be required to sign and date the written summary

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### Written Records

- An appropriate record of fieldwork undertaken will be maintained by the investigator to track activity related to the investigation, including contact made with individuals, interviews conducted and documentation reviewed – including the source of the documentation
- Documentation will be stored by the investigator and issued to the Project Manager at the end of the investigation and once the Clear Up Project's records management arrangements are agreed

### Investigation Report format

- Investigation reports will be clear and concise and will be completed using the agreed template (guideline 4-12 pages in length)
- Investigation reports will be password protected before being circulated electronically, including in draft format
- The identity of the whistle-blower will not be disclosed within the investigation report
- The investigation report template will include the following:
  - Executive Summary section that sets out the allegation, the key findings and conclusion of the investigation and the recommendation to the Clear Up Board on future action (to take forward disciplinary action against an individual, to strengthen controls, to conduct further investigation etc.)
  - Background to the allegation and detailed findings of the investigation in the main body of the report, including a summary of the timing of events concerning the allegation
  - Confirmation of documentation reviewed and meetings and interviews conducted