

**Manchester City Council
Report for Information**

Report To: Standards Committee – 1 November 2018
Subject: Operation and Efficacy of Whistleblowing Policy
Report of: Head of Internal Audit and Risk Management

Summary

It is the role of the Standards Committee “to overview the Council’s whistleblowing policy”. This report provides a review of the operation and efficacy of the Whistleblowing Policy. It includes an update on changes made to the policy and procedures in the year and further developments planned in 2018/19.

Recommendations

Standards Committee are requested to note the report and changes to the Council’s Whistleblowing Policy.

Wards Affected:

All

Financial Consequences:

None

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Background Documents (available for public inspection):

Whistleblowing Policy Update Reports to Standards Committee 2 November 2017;
Audit Committee 6 March 2017; and Personnel Committee 4 November 2017.

1. Introduction

- 1.1. In accordance with Article 9 of Part 2 of the Council Constitution, Standards Committee has the role of overseeing the Whistleblowing Policy.
- 1.2. The Council is committed to providing effective whistleblowing arrangements and ensuring that there are adequate measures in place to receive, investigate and report on whistleblowing referrals.
- 1.3. The purpose of this report is to provide Members with an overview of the operation and efficacy of the whistleblowing policy and provide details of the amendments made to the Whistleblowing Policy since it was last presented to both Standards Committee and Audit Committee in 2017.

2. What is Whistleblowing?

- 2.1. Whistleblowing is the confidential disclosure by an individual or any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or in respect of those who work for the Council. The whistleblowing process assists individuals, who believe they have discovered malpractice, impropriety or wrongdoing, to raise a concern, in order that this can be investigated and addressed.
- 2.2. The Public Interest Disclosure Act 1998 (PIDA) is known as the whistleblowing law and is designed to encourage and enable employees to "speak out" and report suspected wrongdoing at work. The legislation protects employees from suffering detriment from their employer or colleagues that arises as a result of making a protected disclosure.

3. Operation and Efficacy of the Whistleblowing Arrangements Overview

- 3.1. The Fraud Response Plan and Whistleblowing Policy (appendices A and B respectively) set out the process for the receipt, review, investigation and reporting of concerns. The following paragraphs summarise the key elements of the process and areas that have or are being developed further in 2018/19.

Receiving Concerns

- 3.2. Whistleblowing, both from staff and external parties, remains one of the key means of reporting suspected irregularity, wrongdoing or misconduct. Concerns can be raised either anonymously or by a named individual.
- 3.3. The Council's Whistleblowing Policy sets out how individuals can raise concerns; including a dedicated telephone line and email account maintained by officers within Internal Audit. In addition individuals may submit concerns in the post, or in person – these may be received by officers within Internal Audit, HROD or via line management within the relevant business area.

- 3.4. The Whistleblowing Policy is reviewed and refreshed regularly and is available on the Council's internet and intranet site.

Identifying Whistleblowing Concerns

- 3.5. As part of the Annual Internal Audit Plan 2018/19, Internal Audit committed to further develop the existing the Counter Fraud arrangements, in particular the operational processes with regard to whistleblowing. This includes training to ensure that officers assigned with handling and progressing whistleblowing concerns are proficient in the various stages within the process, including recognising and assessing whistleblowing concerns as well as legislative requirements to provide whistleblowers with protection from detriment (as a result of raising concerns).

Training

- 3.6. The charity Protect (formally Public Concern at Work - PCAW) are the UK's leading whistleblowing specialists with legally trained advisors providing support and guidance to both employers and employees regarding dangers, wrongdoing and serious risks that threaten public good.
- 3.7. In common with many public sector organisations, the Council has for a number of years made reference to the work of Protect (PCAW) within the Whistleblowing Policy. It was recognised that the procurement of specific services from Protect including a dedicated confidential independent advice line for Council staff and training for key officers regarding roles and legislative responsibilities would help further strengthen existing arrangements. This was taken forward by Internal Audit in 2018.
- 3.8. An independent telephone advice line was introduced during September 2018 and details are to be launched to all staff shortly so they are signposted to this new aspect of Council whistleblowing arrangements. Training for designated officers within Internal Audit, HROD and Legal Services who are most likely to handle whistleblowing referrals was delivered during October. Further work is being progressed with regard to a desk based review of the Whistleblowing Policy. These developments will help demonstrate and embed an open, transparent and constructive culture within the Council. These arrangements are replicated with colleagues in Bolton Council and the GM Combined Authority as part of a collaborative Audit and Risk Management approach under a shared Head of Service.
- 3.9. A counter fraud e-learning package, which incorporates whistleblowing, has been procured. The training, which will be mandatory for all staff, will be launched in 2018/19 and will help reinforce the Whistleblowing Policy and inform managers of how to recognise whistleblowing concerns.
- 3.10. Officers from Internal Audit are presently liaising with the Communications Team to establish a suitable plan for disseminating these key messages regarding policy and procedures to staff across the Council.

Review, Record and Assess

- 3.11. A central record of all referrals/concerns received within Internal Audit is maintained and used to confirm status and direct actions required. This is overseen by the Lead Auditor (Counter Fraud) and reviewed no less than monthly with the Audit Manager and Head of Audit and Risk Management.
- 3.12. Allegations are discussed as part of liaison between Internal Audit, HROD and Legal Services to understand if there are any other indications or reports of concern having been made; and enable any wider context to be considered in planning the risk assessment and investigation response. These are shared anonymously so that the anonymity and protections afforded to whistleblowers are maintained. Where allegations have a potential broader corporate impact or are deemed very high risk the key concerns are shared anonymously with the City Solicitor, City Treasurer and Director of HROD by the Head of Audit and Risk Management.
- 3.13. During 2018/19 a new web based counter fraud case management system has been introduced for use by the Internal Audit Counter Fraud Team. This development on previous arrangements helps further ensure a standardised and consistent approach to recording of all cases and improves the management oversight and reporting function. The system also helps to ensure compliance with the Criminal Proceeding and Investigation Act 1996 (namely that cases are prepared to criminal standard) should prosecution action be pursued.
- 3.14. All referrals raised with Internal Audit are formally risk assessed and triaged. This considers the exposure to risk and records the agreed strategy for examining the issues raised. Some of the concerns received are investigated by Internal Audit whilst others can be referred to colleagues in HROD (to be progressed via the Employee Dispute Resolution Policy), Corporate Complaints (to be investigated under the Corporate Complaints Process) or, where appropriate, concerns will be referred back to departments or school governors for action, with support from Internal Audit as necessary.
- 3.15. During 2017/18 the risk assessment process was further developed to incorporate a public interest test. This enables officers responsible for investigating concerns to consider the factors in favour of disclosing information received in relation to potential fraudulent activities involving third party organisations or individuals. This could include organisations which are funded or part funded by the Council or where there is a partnership working relationship or determined duty of care on the behalf of the Council. This helps to ensure that only appropriate data is shared, in line with GDPR requirements.
- 3.16. Internal audit received 64 referrals of potential corporate fraud, theft or other irregularity during 2017/18; 28 of these were raised by members of staff and as such were handled under the Council's Whistleblowing Policy and attracted the protections provided by the Public Interest Disclosure Act legislation.

	2017/18	2016/17	Change %
Corporate and Whistleblowing Referrals			
Total referrals to Internal Audit	64	80	-20%
Those classified as whistleblowing	28	25	+12%

3.17. Thus far during 2018/19 Internal Audit have received 36 referrals, of which 12 of these were considered whistleblowing allegations and handled under the Council's Whistleblowing Policy.

3.18. A summary of allegations by type for the previous financial year and current year to date is provided in the table below:

Type of Whistleblowing Allegations	2018/19	2017/18
Misconduct	3	9
False Identity	0	0
Abuse of Position	3	5
Procurement	0	4
Payroll and Contract Fulfilment	3	3
Economic and Third Sector Activity	0	1
Other	3	6
*For the period April to October 2018	12 *	28

Investigations and Reporting Outcomes

3.19. Whilst the nature, scale and complexity of whistleblowing referrals varies, there have been few actual detected or proven cases or quantifiable financial loss as result of employee related fraud. Many referrals relate to irregularity, non-compliance with procedure, staff behaviour, conduct issues and service delivery concerns.

3.20. A confidential summary report is produced for each whistleblowing investigation undertaken by Internal Audit. The reports are issued to the Chief Executive, City Solicitor, City Treasurer and Director of HROD and provide senior management with details on the outcome of the investigation and any recommendations for management action, including any key control issues.

This is to ensure lessons are learned and systems of control are revised as appropriate to minimise the risk of issues reoccurring.

- 3.21. Regular periodic meetings are held with officers from HROD to consider complex cases involving staff members which may also include elements relating to grievance and disciplinary.

Management Oversight and Reporting

- 3.22. Case management and development meetings are held with the Audit Manager and Head of Internal Audit and Risk Management on a monthly basis.
- 3.23. High risk cases are discussed as part of monthly strategy meetings comprising the Head of Audit and Risk Management, Director of Human Resources and Legal Services. Key issues arising are also focus of a regular meeting of the City Solicitor, City Treasurer and Director of HROD, also attended by the Head of Audit and Risk Management.
- 3.24. Quarterly Counter Fraud Investigation Reports are produced for the City Treasurer (S151 Officer). This provides an overview of activity in the period and key priorities.
- 3.25. An Annual Counter Fraud Report is issued to Audit Committee that summarises the key issues and actions arising from all counter fraud work, including whistleblowing. This is presented in private to the Committee as it describes matters that if made public could expose the Council to risks of theft or fraud. From 2017/18 a report is also issued to the Chief Executive and Senior Management Team that highlighted risks and issues identified in whistleblowing and wider Internal Audit counter fraud and irregularity work.
- 3.26. An overview of the Fraud Response Plan is provided at Appendix A. This diagram identifies the key stages and milestones in relation to whistleblowing investigations, details of which are provided in narrative below.

4. Policy Revisions

Whistleblowing Policy

- 4.1. The Whistleblowing Policy was last reviewed and approved by Audit Committee in March 2017 and was submitted to Standards Committee for oversight in November 2017.
- 4.2. At the November 2017 meeting Standards Committee discussed the respective roles and responsibilities of the Committee and of Audit Committee for approval and oversight of the whistleblowing policy. To aid clarity the draft Code of Corporate Governance has been amended to state that Standards Committee has oversight of the policy and Audit Committee is responsible for policy approval. The Committees' Terms of Reference will be amended accordingly.

- 4.3. The Council's Internal Audit Service regularly review the whistleblowing and counter fraud policies. Following the introduction of the GDPR, paragraph 8.6 of the Whistleblowing Policy has been amended as follows:

From

"The Council will ensure that our handling of concerns meets the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000"

To:

"When processing personal data as part of a whistleblowing investigation, the Council will take all necessary precautions to protect such data and not to share it more widely than is necessary as part of the investigation. The Council will apply the General Data Protection Regulation and the Data Protection Act 2018 in all aspects of any whistleblowing investigation."

Ethical Procurement Policy

- 4.4. The Council's Ethical Procurement Policy was updated in April 2018 to incorporate expectations of contractors and suppliers in respect of whistleblowing. This section includes the following statement: "Manchester City Council is committed to the highest possible standards of honesty, openness and accountability and will not tolerate malpractice or wrongdoing and expects that its suppliers, service providers and contractors are committed to and have in place a similar policy for its employees and subcontractors which seeks to protect those individuals who make certain disclosures with regard to any instance of malpractice or wrongdoing and to investigate them in the public interest".
- 4.5. To support implementation of this policy, Internal Audit undertook a review of processes in place for ensuring the Council's contractual suppliers had whistleblowing arrangements in place. This was finalised in September 2018. The audit identified areas for further development in officer awareness of whistleblowing and in arrangements to assure that contractor whistleblowing arrangements were operating effectively. A number of actions were agreed by management that include amendment of standard Council contract documents and guidance to include contract managers' responsibilities on whistleblowing; and whistleblowing to be covered in training organised by Integrated Commissioning. These actions were scheduled for completion between October and December 2018.

5. Actions/Next Steps

- 5.1. In line with the requirements of the Constitution, the attached Whistleblowing Policy is to be presented to Audit Committee and Personnel Committee for approval and oversight respectively.
- 5.2. Audit Committee will be updated on the progression of the training and communications programme, including key milestones and implementation dates as part of the quarterly Internal Audit Progress and Assurance Report.

6. Recommendations

- 6.1. Standards Committee are requested to note the report and changes to the Council's Whistleblowing Policy.