

Audit and Performance Committee Report

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Title:	Maintaining High Ethical Standards at the City Council
Wards Affected:	All
Financial Summary:	N/A
Report of:	Tasnim Shawkat, Bi-Borough Director of Law and Monitoring Officer.
Author:	Andrew Palmer Senior Committee and Governance Officer Email: apalmer@westminster.gov.uk Tel: 020 7641 2802

1. Executive Summary

- 1.1 This annual report to the Audit and Performance Committee is submitted in accordance with the Committee's term of reference as follows:

"To maintain an overview of the arrangements in place for maintaining high ethical standards throughout the Authority and in this context to receive a report annually from the Director of Law".

The Director of Law also serves as the Council's Monitoring Officer which is a statutory appointment under the provisions of Section 5 of the Local Government and Housing Act 1989. One of the roles of the Monitoring Officer is to advance good governance and ensure the highest standards of ethical behaviour are maintained through the effective discharge of their statutory duties.

- 1.2 'Ethical governance' lies at the very heart of the way in which an organisation is run, how its business is transacted and how its decisions are taken.
- 1.3 At the City Council we recognise that ethical governance is not simply a matter for the 'decision-makers at the top' but is applicable to all those who work for or in conjunction with the organisation – our elected Members, our staff and our contractors are all expected to adhere to the highest standards of conduct and

behaviours. In this context the report will detail how we maintain ethical governance in each case. In compiling this report the Director of Law relies on information provided by or on behalf of Directors of a number of services. The areas covered in this year's report are the following:

- Tri-Borough Internal Audit Service;
- Ethical governance complaints monitoring
- Ethical governance at Member-level;
- Ethical governance in relation to staff and service areas
- Ethical governance in relation to the Council's contractors and procurement.

2. Recommendations

- 2.1 That the annual report and actions taken to maintain high standards of ethical governance throughout the authority be noted
- 2.2 That the Committee suggest any areas of ethical governance which have not been addressed in this report, for inclusion in the next annual report

3. Tri-Borough Internal Audit Service

- 3.1 The Council's Internal Audit & Fraud Investigation Service reviews policies, procedures and governance arrangements across the Council's Services and promotes a culture of zero tolerance in respect of fraud, corruption and mismanagement. Fraud awareness training is available to service areas where a need has been identified and a quarterly newsletter entitled *Fraud in Brief*, informs staff of emerging fraud risks, encourages fraud reporting and to maintains awareness ([Fraud Home Page](#)).

How Ethical Governance Complaints are dealt with

- 3.2 The Council's [Anti-Fraud & Corruption Strategy 2016-2019](#) sets out the Council's overall policy on fraud and corruption and states that if fraud, corruption or any misconduct directed against the Council is suspected, this should be reported immediately.
- 3.3 The Officers' Code of Conduct reinforces the requirement for all staff to be vigilant and describes how they should raise any concerns they may have. Further guidance is also provided in the Council's Whistleblowing at Work policy and the Fraud Response Plan.
- 3.4 Support from members of the public is also important in combating fraud and corruption, and facilities are provided to enable them to report their concerns, including an electronic "Report a Fraud" facility on the internet and a more

traditional Fraud Hotline. The majority of referrals via these channels provide information regarding unlawful subletting, the abuse of residents' or disabled parking badges and possible fraud in respect of welfare benefits (which are redirected to the Department for Work and Pensions).

- 3.5 The Council's Fraud Response Plan provides guidance on the action to be taken when a fraud or corruption complaint is received, and details action to be taken to ensure the Council can;
- Minimise and recover losses
 - Establish and secure evidence necessary for criminal and disciplinary action
 - Take disciplinary action against those involved
 - Review the reasons for the incident and ensure that actions are implemented to strengthen procedures and prevent recurrence.
- 3.6 Any suspicion of fraud will be treated seriously and will be investigated in accordance with the Council's procedures and the relevant legislation including the Fraud Act 2006.

4. Ethical Governance Complaint Monitoring

- 4.1 As part of the arrangements in place for maintaining high ethical standards throughout the Authority, on 15 March 2007 the Standards Committee endorsed a definition of what constitutes an ethical governance complaint so that Departments can identify and refer any ethical governance complaints to the appropriate persons, and consistently record such complaints.

The definition of an ethical governance complaint as endorsed by the Standards Committee is as follows:

"An alleged breach of the high standards of ethical conduct set out in the codes of conduct for officers and Members"

- 4.2 As the Tri-Borough Internal Audit Service investigate allegations of fraud, bribery and corruption, it is not appropriate for such ethical governance complaint issues to be investigated under the Council's normal complaints procedure. However, if such a complaint is raised under the complaints procedure, the complainant will be advised that the matter will be referred to the Fraud Investigation Team to take the appropriate action.
- 4.3 The Corporate Complaints Team is a distinct service to that of the Fraud Investigation Team and is based within the Corporate Services Department. The team has overall responsibility for the management and development of the Corporate Complaints procedure and for the compilation of the Annual Complaints Review. The Annual Complaints Review for 2017/18, which went to Audit and

Performance Committee on 14 November 2018, did not report on any complaints which meet the definition of an ethical governance complaint as none were reported to the Complaints Team. Adults and Children Social Care Services each have their own separate statutory complaints procedure. Neither have received any complaints which meet the definition of an ethical governance complaint.

- 4.4 As part of monitoring ethical governance complaints service areas are reminded on a quarterly basis what constitutes an ethical governance complaint, and they are also asked if any ethical governance complaints have been dealt with under the Council's complaint procedure. It is not unusual for Departments to report that no ethical governance complaints have entered the complaints procedure and as already explained it is a matter of general practice that allegations of this nature are usually referred to Internal Audit for investigation as appropriate.

5. Ethical governance at Member-level

- 5.1 The Council's Standards Committee meets three times per annum. In March 2018, the Standards Committee had reviewed arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct, and had extended the deadline for complaints from 3 to 6 months where allegations involved bullying, harassment and intimidation.
- 5.2 Members of the Standards Committee had also taken part in the stakeholder consultation on local government ethical standards, which were carried out by the Committee on Standards in Public Life.
- 5.3 The Monitoring Officer had considered three complaints about Member conduct, one of which was a service complaint and so not pursued for investigation; while the other two did not proceed as one of the Members ceased to be a Councillor, and the other resigned. There was no pattern of vexatious complaints.
- 5.4 At its meeting on 25th October, Cabinet considered an independent review of the City Council's planning function, and agreed to restate to both Officers and Members their responsibilities set out in the Council's gifts and hospitality policies.
- 5.5 Ethical standards had been included in the Members' Development Programme, as part of a mandatory Code of Conduct session following the local elections in 2018. All re-elected councillors and newly elected Councillors have attended the mandatory session led by or on behalf of the Monitoring Officer.

6. Ethical Governance in relation to staff and service areas

- 6.1 The public is entitled to expect the highest standards of conduct from all Westminster City Council employees.

- 6.2 The law, the Council's Constitution, Code of Governance, Terms and Conditions of Employment, policies and procedures all bear on the way Council employees carry out their duties. The main provisions are summarised in the Council's Code of Conduct for employees. The employee guide to the Code of Conduct details source documents such as HR Policies where more comprehensive information can be found.
- 6.3 Breaches of the Code may result in action under the Council's Disciplinary Code. The Code is published on the Council's intranet and forms part of corporate induction for all new starters

People Services

Details of Staff Disciplinary Cases and Whistleblowing / Grievance issues

- 6.4 Details of staff disciplinary cases, grievance cases and whistleblowing issues throughout the authority, excluding schools, categorised by issue, are set out below. Details of all cases are monitored by People Services who review these and flag up any issues arising. The level of disciplinary cases are regarded as normal in an organisation the size of the City Council.

An overall three-year trend:

	2015 - 2016		2016 - 2017		2017 - 2018		Trend
	Closed	Open	Closed	Open	Closed	Open	
Disciplinary	13	4	11	1	9	8	Increased
Staff employed	1861		1809		1869		

- The Council concluded 9 disciplinary cases in total in the 2017/2018 financial year (this excludes schools).
- There were 8 cases opened in 2017/2018 all were closed within the reporting financial year.
- The outcome of those disciplinary matters closed in 2017/18 were:

Outcome	No Case to answer	Formal Written Warning	Final Written Warning	Dismissal	Resigned	Left by mutual agreement
Closed Cases	2	3	0	0	3	1

There were 3 cases which would fall under the remit of ethical governance and these were in relation to the following:

- Failure to disclose a substantial overpayment
- Submitting inaccurate timesheets for payment via WCC's Agency provider.
- Misappropriating council resources through the misuse of the Council's procurement procedures.

These cases were within CMC and Adult Social Care. Given the small number of cases there is no evidence that there are systemic weaknesses or problems of unethical conduct in the Council or in any particular department.

In 2017 / 2018 there was 1 whistleblowing matter raised and one that was carried forward from the previous financial year. Both complaints were concerns of bullying and harassment and other issues with line management. Neither case was upheld.

There were 10 individual grievance cases opened within the stated period and 4 brought forward from the previous year, 7 cases in total were closed and 7 remained open going forward to the next financial year. These cases have all now been concluded.

The outcome of those cases closed within 2017/2018 were;

Outcome	Not Upheld	Upheld	Partially Upheld	Dealt with Informally	Withdrawn
Closed Cases	3	0	4	0	0

- The general themes to the grievances do not highlight any concerns of unethical conduct. To summarise the grievances were in relation to complaints of bullying and harassment behaviour from line management.
- Although over half the cases closed are indicated as being partially upheld we do not deem there to be a widespread cultural issue of harassment and bullying across Westminster's management. For these cases there were management learnings highlighted and implemented. We continually monitor this important matter in our annual staff survey so that any particular areas of concern can be highlighted to senior officers.
- The below table shows the results for the September 2018 staff survey. The 'yes' figure has decreased by 2% and the 'prefer not to say' has increased by 2% also.

In the last year, whilst working for the council, I have personally experienced bullying and/or harassment	2018	2017	Trend
Yes	9%	11%	-2%
No	81%	81%	0
Prefer Not To Say	10%	8%	+2%

Staff Declarations of Interest and Receipt of Gifts and Hospitality

- 6.5 The Council requires all employees to disclose any interests which may conflict with their public duty by completing a Declarations of Interests Form. The form is accessible from the Council's intranet, The Wire. The Council also requires all employees in specified designated¹ posts to complete a Declarations of Interests Form on taking up the post and on any change in personal circumstances. Employees are further prompted to disclose whether they have any such interests when completing their annual performance appraisal form.
- 6.6 ELT members or their nominated officer will use the information on Declaration of Interests Forms to compile and maintain a register of pecuniary and personal interests for their area of responsibility. Each ELT member will review their register and consider whether any steps need to be taken to avoid conflict when relevant employees complete and resubmit forms. The register is not available for public inspection and there is no statutory requirement to make them available. However, subject to any exemptions which may apply, information contained within the register will be disclosed in accordance with the Freedom of Information Act 2001.
- 6.7 Every endeavour is made to keep the registers up to date but the onus is on employees to ensure that their registration details are accurate and up to date. Information will be maintained and held on the register during the employees' employment and for six years thereafter. In addition to completion of the declaration of interests form, employees must also declare any interests at meetings as appropriate. Failure to disclose such interests may lead to disciplinary action under the council's policies.

¹ Designated Posts

- all posts at Band 5 or above level or their non-Reward equivalent
- any post referred to on a Directorate / Unit Scheme of Delegation for contract purposes; and
- any other post as determined by the EMT member or their nominated officer where the post holder has a significant involvement in contract matters or other work which requires a high level of transparent probity.

Staff Receipt of Gifts and Hospitality

- 6.8 The Council also provides managers and employees with guidance as to when they can legitimately receive or give gifts and hospitality during the course of their duties. Without exception all gifts and hospitality given and received, whether accepted or declined, must be entered in the designated corporate register immediately after the offer is made. Given that the Council is a public body it is essential that all such items are recorded in an easily accessible and efficient way. To this end, an online Gifts and Hospitality Register has been implemented and been used since 19 December 2006. The corporate Gifts and Hospitality Register is maintained and reviewed by the designated monitoring officer on a regular basis. This is currently the Audit Manager.

7. Ethical Governance guidance and safeguards in relation to the Council's contractors and procurement

- 7.1. The Council's [Standing Orders](#) and the [Procurement Code](#) set out the requirements which must be followed in respect of all procurement and contract management activity. The Code states that the Council expects all officers involved in procurement activity to ensure they are aware of and comply with all legislation, corporate strategies and policy; to take the necessary action to formally disclose situations of potential, perceived or actual conflict of interest; to behave with the highest levels of probity and integrity, making specific reference to the Bribery Act 2010 and the Council's Code of Conduct.
- 7.2. The Code informs officers of the appropriate governance and procurement assurance processes to be followed, as well as the approvals that must be obtained to ensure good business practices are applied and risks are minimised. *It reflects the EU Treaty principles to drive competition and to ensure compliance with public procurement law.*
- 7.3. Procurement Services support officers with best practice advice, guidance through the stages of the procurement and contract lifecycle and will lead on all procurement activity valued at £100,000 or more.
- 7.4. Whilst these safeguards are in place a complete review of the service and the model for Procurement as it current operates across the Council is underway. It is envisaged that this will further strengthen the governance of procurement and the Council's contractors.

The review is being undertaken by a small team of external consultants, working very closely with the Heads of Service. This group forms the leadership team for the service. The scope of the review and subsequent change programme falls into five workstreams:

- Target Operating Model
- Strategy and Governance
- Systems and Processes
- Structure and Capabilities
- Engagement, Development and Culture

8. Conclusion

- 8.1 This report provides the Committee with an overview of the arrangements in place across the Council to maintain high standards of ethical governance and highlights the work which has been undertaken in this respect during the 2017 - 2018 municipal year. As detailed in this report, action has been taken to ensure the Council is fully compliant with legislation relating to ethical governance and to ensure Officers' and Members' responsibilities in this context are communicated accordingly. Appropriate systems are in place to facilitate the reporting of ethical governance complaints and defined mechanisms and procedures exist to ensure any such complaints are dealt with in the correct way.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact:
Andrew Palmer, Senior Committee & Governance Officer
Policy, Performance & Communications
Email: apalmer@westminster.gov.uk**

BACKGROUND PAPERS:

- Anti-Fraud, Bribery and Corruption Strategy
- Member's Code of Conduct
- Arrangements for Dealing with Complaints alleging a Breach of the Members' Code of Conduct
- Monitoring Officer Protocol
- Localism Act 2011