

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
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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. In January 2019 the Committee on Standards in Public Life published a report following its review of ethical standards in local government. The covering letter to the report by the Chair stated that local government impacts the lives of citizens every day providing essential services to those it serves. Its decisions directly affect the quality of lives of local people. High standards of conduct in local government are

needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence. The recommendations of the review have been discussed at Standards Committee

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 fraud internet page informs staff of emerging fraud risks, encourages fraud reporting and to maintains awareness ([Fraud page](#)).

How Ethical Governance Complaints are dealt with

3.2 The [Council's Anti-Fraud & Corruption Strategy 2016-2020](#) (current strategy extended to 2020) 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. The Council's strategy aligns to the national strategy published by the Local Government Association (LGA). The LGA will shortly be issuing an updated strategy and the Council will then

review its current strategy and refer the updated strategy to the Committee for approval.

- 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. Fraud referrals in respect of welfare benefits 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 complaint's 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 2018/19, which went to Audit and Performance Committee on 27 November 2019, 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. At its meeting on 21 March 2019 the Committee discussed the report by CSPL on ethical standards in local government and noted the recommendations and points of best practice highlighted by the review. The review had examined structures, processes and practices in local government for

- Maintaining codes of conduct for local councillors
- Investigating alleged breaches fairly and with due process
- Enforcing codes and imposing sanctions for misconduct
- Declaring interests and managing conflicts of interest; and
- Whistleblowing

And

- Assessed whether the existing structures, processes and practices were conducive to high standards of conduct in local government
- Made 26 recommendations for how they could be improved and 15 points of best practice

The review highlighted that Leadership is essential in embedding an ethical culture. The Monitoring Officer has quarterly meetings with the Leader and

meetings with the Group whips to discuss any standards issues. The previous Leader was invited and attended the Standards meeting on 21 March 2019 for a question and answer session on ethical standards. The new Leader will be invited to attend the next Standards Committee.

- 5.2 A further report in relation to the CSPL recommendations was considered at the Standards Committee on 12 July 2019. The report appended a list of the review's recommendations and set out who was the responsible body i.e whether it can already be implemented by a Local Authority or if it requires legislative change, and, whether the Council has already adopted the recommendation or best practice. (include link to list). The Committee agreed to enhance the wording of the provision in relation to bullying and harassment in the Members Code of Conduct and to adopt the Cabinet Office principles for accepting gifts or hospitality. The proposed changes were endorsed by the General Purposes Committee on 11 September 2019 and agreed at the Council meeting on 18 September 2019.
- 5.3 In last year's annual update the Monitoring Officer referred to the Council's commissioning of an independent review of its planning service by the Planning Advisory Service (PAS) in 2018 and at its meeting on 25 October 2018, Cabinet considered the findings of the review. Cabinet made several recommendations on the findings one which was to improve the openness and transparency of the planning system. In January 2019 the Council introduced the procedure for public speaking at Planning sub-committee meetings. The Council has also updated the guide for Members of Planning Committees across a range of issues including, but not limited to, standards of conduct and probity in decision making.
- 5.4 On 19 December 2019 the LGA published an updated guide in relation to probity in planning concerning the role of councillors and officers in the planning process. The Council will review its guide referred to in paragraph 5.3 to consider whether it needs to be updated.
- 5.5 The LGA has introduced a new programme of work – Civility in Public Life. Part of this programme is to review the members code of conduct. The consultation will commence shortly, date to be announced with a view to the LGA taking a recommendation to their Annual General Meeting in July 2020. The Council can participate in the consultation and it is anticipated this will be discussed at the Standards Committee.
- 5.6 The Monitoring Officer has considered five complaints alleging a breach of the Members Code of conduct. The monitoring Officer, in consultation with one of the Independent Persons decided that the criteria was not met to investigate four of the complaints. The Monitoring officer, in consultation with one of the Independent Persons did consider that the criteria was met in relation to the fifth complaint. The complaint was resolved without having to refer it to the Standards Committee.

5.7 Ethical standards were 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 attended the mandatory session led by or on behalf of the Monitoring Officer. Refresher training sessions were held for Members on ethical standards and diversity in October and November 2019.

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:

	2016 - 2017		2017 - 2018		2018 - 2019		Trend
	Closed	Open	Closed	Open	Closed	Open	
Disciplinary	11	1	9	8	11	15	Increased
Staff employed	1809		1869		1890		

- The council concluded 11 disciplinary cases in total in the 2018/2019 financial year (this excludes schools).

- There were 4 cases opened in 2018/2019 that remained open going forward to the new financial year. These are all now concluded.
- The outcome of those disciplinary matters closed in 2018/19 were:

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

There has not been any case which would fall under the remit of ethical governance. In general, the issues included: allegations of inappropriate comments being made both to colleagues and on social media, sexual harassment, bringing the Council into disrepute, actions which could have resulted in the harm of others and allegations of a safeguarding nature.

The disciplinary cases have occurred in a number of services across the Council. 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 2018 / 2019 there were 3 whistleblowing matters raised. These cases were all concluded within the year, 1 case was upheld leading to disciplinary action and the dismissal of the individual identified, 1 case was partially upheld and formed part of a wider independent review and 1 case was found to be sent with malicious intent and so was not upheld.

There were 9 individual grievance cases opened within the stated period and 7 brought forward from the previous year, 13 cases in total were closed and 3 remained open going forward to the next financial year. These cases have all now been concluded.

The outcome of those cases closed within 2018/2019 were;

Outcome	Not Upheld	Upheld	Partially Upheld	Dealt with Informally	Withdrawn
Closed Cases	5	4	3	0	1

- The general themes to the grievances do not highlight any concerns of unethical conduct.
- Although around half the cases closed are indicated as being either upheld or 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 area of concern can be highlighted to senior officers.

- The below table shows the results for the September 2019 staff survey. The 'yes' figure has increased by 2% and the 'prefer not to say' has decreased by 2% also.

In the last year, whilst working for the council, I have personally experienced bullying and/or harassment	2019	2018	2017	Trend for 2018 - 19
Yes	11%	9%	11%	+2%
No	80%	81%	81%	-1%
PNTS	8%	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.

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.

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.

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. Following an extensive review of procurement, a number of transformational changes are now being implemented that will strengthen the service and the support it provides to each business area. The new service becomes effective from April 2020. The main changes include;

- The implementation of a 'Business Partner' operating model – which is designed to embed good commercial practice and oversight across all business areas;
- Consolidation of the procurement activity previously undertaken in Adults and Children's Shared services. This will create a combined centre of expertise offering greater scale and resilience, common standards and a single way of doing things;
- A standard governance model for all procurement activity - with greater emphasis on early engagement, constructive challenge and transparency;
- A stronger commitment to professional development and performance improvement at all levels.

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 2018-2019. 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:
Officer**

BACKGROUND PAPERS:

[Report to Standards Committee 21 March 2019 Review of Local Government Ethical Standards by CSPL](#)

[Report to Standards Committee 12 July 2019 Implementation of recommendations by CSPL](#)