

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 & Corporate Anti-Fraud 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 2020-23](#) 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).

- 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. There is a separate report presented to the Audit and Performance Committee in relation to Annual Complaints for 2019/2020. This report does not identify any ethical governance complaints. 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 usually meets three times per annum. Last year the Committee met twice, 10 March 2020 and 19 October 2020.
- 5.2 At its meeting on 10 March 2020 the committee considered the Bi-annual report standards committee report which set out the work the committee had achieved over the last two years, namely, changes made to the Councillors Code of Conduct, introduction of a social media policy for Councillors and summarised the training sessions provided for Councillors. In addition, the Leader attended the committee for a question and answer session on ethical standards. Members were also told of the review of the model code of conduct by the Local Government Association (LGA). This follows the recommendation by the Committee on Standards in Public Life (CSPL) for the LGA to create an updated model code of conduct in consultation with representative bodies of councillors and officers of all tiers of local government.
- 5.3 At its meeting on 19 October the Committee reviewed the Monitoring Officers response to the LGA consultation. Since this committee meeting the LGA has published a model code of conduct. This will be reviewed at the next Standards Meeting on 8 April 2021. The Council is not obliged to adopt the LGA model code of conduct. In addition, the Committee considered a report on the Council's progress in relation to 15 best practice recommendations of the CSPL published in January 2019. The CSPL describe the best practice recommendations as representing a benchmark for ethical guidance. The Council has already adopted the majority of the recommendations, for example, including prohibitions on

bullying and harassment and including definitions within the code of conduct, review the code of conduct each year, publish the code on their website, update and publish Councillors gifts and hospitality register, have access to two independent persons. The Council has three Independent Persons. They attend and contribute at meetings of the Standards Committee.

- 5.4 The Monitoring Officer has considered six complaints alleging a breach of the Members Code of conduct. The monitoring Officer, or her deputies consulted the independent persons. In relation to three of the complaints the matters complained of did not meet the criteria set out in the Councils arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct, to warrant further investigation criteria was not met in consultation with one of the Independent Persons decided that the criteria was not met to investigate four of the complaints. In relation to the other two complaints the Councillors offered an apology to the complainant and therefore the complaints were not investigated. There was not a pattern of vexatious complaints or general theme as to the nature of the complaints.
- 5.5 Ethical standards are included in the Members' Development Programme. On 29 October 2013 Councillors attended a training session on diversity facilitated by an outside organisation.

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:

	2017 - 2018		2018 - 2019		2019 - 2020		Trend
	Closed	Open	Closed	Open	Closed	Open	
Disciplinary	9	8	11	15	16	16	Increased (as expected given increased headcount)
Staff employed	1869		1890		2461		

- The council concluded 16 disciplinary cases in total in the 2019/2020 financial year (this included 4 cases which were brought forward from 2018/2019)
- There were 4 cases opened in 2019/2020 that remained open going forward to the new financial year. These are all now concluded.
- The increase in cases can be attributed to the transfer of City West Home staff, resulting in an increase in the overall staffing headcount.
- The outcome of those disciplinary matters closed in 2019/20 were:

<u>Outcome</u>	No Case to answer	Formal Written Warning	Final Written Warning	Dismissal	Resigned	Left by mutual agreement
<u>Closed Cases</u>	2	2	3	6	2	1

- 6.5 There have been 4 cases which would fall under the remit of ethical conduct, these centred around an allegation of fraud, fraudulent claiming of shift pay, failure to declare on the gifts and hospitality register and the mismanagement of spends resulting in a significant loss of money. Although this equates for 25% of all of the disciplinary cases, it is not felt that there is a concern of poor ethical behaviour across the Council The right safeguards are in place to ensure that our employees maintain and uphold good ethical behaviour. In regard to the wider disciplinary cases, the issues included: allegations of gross negligence, safeguarding concerns, unauthorised absence, inappropriate use of social media, sexual harassment and bullying and harassment.
- 6.6 The disciplinary cases have occurred in a number of services across the Council. Given the relatively 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.

- 6.7 In 2019 / 2020 there was 1 whistleblowing matter raised. This case was linked to a grievance matter that was also raised and related to an external body to Westminster Council. The case was concluded and partially upheld. The Council took the appropriate action in addressing the concerns raised.
- 6.8 There were 24 individual grievance cases opened within the stated period and 3 brought forward from the previous year, 18 cases in total were closed and 9 remained open going forward to the next financial year. These cases have all now been concluded.

The outcome of those cases closed within 2019/2020 were;

Outcome	Not Upheld	Upheld	Partially Upheld	Dealt with Informally	Withdrawn
Closed Cases	8	0	9	0	1

- The general themes to the grievances do not highlight any concerns of unethical conduct.
- Although a greater number of cases were 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 response for Respect and Dignity (Bullying and Harassment). As can be seen the number of respondents who said that they had personally experienced bullying and/or harassment has declined. Although it should be noted that there was a 1% increase on those who preferred to not say.

In the last year while working for the council, I have personally experienced bullying and/or harassment	2017	2018	2019	2020	Trend
Yes	11%	9%	12%	9%	-3%
No	81%	81%	80%	81%	+1%
Prefer not to say	8%	10%	8%	9%	+1%

Staff Declarations of Interest and Receipt of Gifts and Hospitality

- 6.9 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 [designated](#)^[1] [posts](#) to complete a Declarations of Interests Form on taking up the post and on any change in personal circumstances.
- 6.10 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.
- 6.11 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.

Staff Receipt of Gifts and Hospitality

- 6.12 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

[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.

- 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.
- 7.3 Procurement Services support officers with best practice advice, guidance through the stages of the procurement and contract management lifecycle and will lead on all procurement activity valued at £100,000 or more.
- 7.4 The Procurement & Commercial Services department has undergone a significant transformation in 2020, which continues into 2021 and will strengthen the service and the support it provides to business areas. This includes:
- 7.5 An entirely new Leadership team has been recruited, with extensive experience from a diverse range of backgrounds; A 'Business Partner' approach is being implemented, which will enable closer alignment with business areas and better visibility of the commissioning and procurement pipeline across the Council; The Procurement Code has been updated to better reflect the Council's priorities, and the new Code will be published in early 2021, with supporting education and communications; Measures and reporting are being developed to give Council Members visibility and oversight of procurement & contract performance across the council, and of the contribution made by Procurement and the Council's supply chain to the City for All aims.

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 2019-2020. 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: Hazel Best
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BACKGROUND PAPERS:

[Report to Standards Committee October 2020 Update on review of model code of conduct by LGA](#)

[Council's response to consultation on LGA model code of conduct](#)

[Council's response to CSPL on implementation of best practice points](#)

[Table of best practice recommendations](#)