

 City of Westminster	<h1>Audit and Performance Committee Report</h1>
Date:	16 February 2022
Classification:	General Release
Title:	Maintaining High Ethical Standards at the City Council
Wards Affected:	All
Financial Summary:	N/A
Report of: Author:	Hazel Best Interim Monitoring Officer for Westminster City Council, Bi-borough Legal Services Joyce Golder Principal Lawyer, Bi-Borough Legal Services Email: joyce.golder@rbkc.gov.uk

1. Executive Summary

- 1.1 This is an annual report which, this year, in the absence of a Director of Law (recruitment for the new Director of Law post is currently underway), is the report of the City Council's Interim Monitoring Officer. The previous report was received by the Committee on 17 February 2021.
- 1.2 This report is submitted to the Audit and Performance Committee in accordance with its Terms of Reference, which state that the Committee is:
- “15. 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 and the Chief Finance Officer”.*
- 1.3 The City Council's Interim Monitoring Officer 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.
- 1.4 '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.

- 1.5 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.
- 1.6 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 this report will detail how we maintain ethical governance in each case.
- 1.7 In compiling this report the Interim Monitoring Officer relies on information provided by or on behalf of Directors and officers of a number of services. The areas covered in this year's report are the following:
- Shared Audit, Fraud, Risk and Insurance 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 Committee notes this Annual Report and actions taken to maintain high standards of ethical governance throughout the City Council.
- 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. Shared Audit, Fraud, Risk and Insurance Service

- 3.1 The Shared Audit, Fraud, Risk and Insurance Service reviews policies, procedures and governance arrangements across the City 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 intranet 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.
- 4.2 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"*
- 4.3 As the Shared Corporate Anti-Fraud 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 Shared Corporate Anti-Fraud Service to take the appropriate action.
- 4.4 The Corporate Complaints Team is a distinct service to that of the Shared Corporate Anti-Fraud Service and is based within the Revenues & Benefits Department. The team has overall responsibility for the management and development of the Corporate Complaints

policy and for the compilation of the Annual Complaints Review. There is a separate report already presented to the Audit and Performance Committee in relation to Annual Complaints for 2020/21. 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, although these would be dealt with outside of the Corporate Complaints Policy.

5. Ethical governance at Member level

- 5.1 The City Council's Standards Committee usually meets three times a year. In 2021, the Standards Committee met on, 8 April 2021, 1 July 2021 and 4 November 2021.
- 5.2 During the year the Committee has considered and discussed the recommendations of the report entitled "Local Government Ethical Standards" and how it would continue to be fit for purpose, incorporating advances in technology, social media, case law and changes in legislation. In addition, the Committee considered the code of conduct training provided to members and an annual update on member complaints. The Leader also attended the committee for a question and answer session on ethical standards.
- 5.3 At its meeting on 4 November 2021 the Committee held a session with the Chief Executive regarding undertaking a review of the Council's Member Officer Protocol as a consequence of one of the recommendations coming from the Marble Arch Mound Review. The importance of the review was highlighted by Members as it presented a good opportunity to review the protocol with a view to ensuing good working relationships and ethical governance across the organisation.
- 5.4 The Committee agreed to undertake the review and said it was a good opportunity to update the Protocol and assist in building constructive working relationships between Councillors and Officers across the Council.
- 5.5 The Council has three Independent Persons. They attend and contribute at meetings of the Standards Committee.
- 5.6 In the calendar year 2021 the Monitoring Officer considered four complaints put forward against Councillors alleging a breach of the Members' Code of Conduct. The Monitoring Officer, or her deputies, considered each of the complaints and the evidence provided. On each complaint one of the Council's Independent Persons was consulted. On each occasion it was felt that the complaint did not warrant formal investigation.
- 5.7 Ethical standards are included in the Members' Development Training Programme. The Councillors attended a Code of Conduct Training on 3 June 2021.

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 provide guidance and structure on the manner in which Council employees should carry out their duties. The main provisions are summarised in the Council's Code of Conduct for employees. The Employee Code of Conduct details source documents such as HR Policies where more comprehensive information can be found.
- 6.3 Breaches of the [Code of Conduct \(sharepoint.com\)](#) 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 detailed below are regarded as normal in an organisation the size of the City Council.

- 6.5 An overall three-year trend:

	2018 - 2019		2019 - 2020		2020 - 2021		Trend
	Closed	Open	Closed	Open	Closed	Open	
Disciplinary	11	15	16	16	9	10	Decrease
Staff employed	1890		2461		2541		

- 6.6 The Council concluded nine disciplinary cases in total in the 2020/2021 financial year (this included four cases which were brought forward from 2019/2020).
- 6.7 There were five cases opened in 2020/2021 that remained open going forward to the new financial year. These are all now concluded.
- 6.8 There has been a notable decrease in the number of disciplinary cases in comparison to 2019/2020.
- 6.9 The outcome of those disciplinary matters closed in 2020/21 were:

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

- 6.10 For the cases opened in 2020/2021 there have been two cases which would fall under the remit of ethical conduct, these centred around an allegation of fraud, and the registration of a personal business at a premises owned by the Council. This equates to less than 20% of all of the disciplinary cases and therefore it is not felt that, at the present time, there is a concern of poor ethical behaviour across the Council.
- 6.11 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, gross misconduct, taking absence without authorisation, a breach of professional standards and behaviour which could lead to a breakdown in trust and confidence.
- 6.12 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.
- 6.13 In 2020 / 2021 there were four whistleblowing complaints raised. The cases were logged and dealt with via our external whistleblowing hotline, Safecall. In summary two of the complaints raised did not relate to a Westminster Employee and were dealt with via the appropriate contractor. There was one complaint raised around the recruitment of a senior officer and another complaint raised alleging sex discrimination claims across the Council. In both cases the Council undertook an investigation, and the complaints were unsubstantiated and no further action was taken.
- 6.14 There were 17 individual grievance cases opened within the stated period and nine brought forward from the previous year, 19 cases in total were closed and seven remained open going forward to the next financial year. Out of the remaining cases only one case still remains open at the time of submitting this report. It should also be noted that within the 19 cases we had some individuals raise multiple grievances and the Council had in fact 15 individuals raise grievance complaints in 20/21.
- 6.15 The outcome of those cases closed within 2020/2021 were;

Outcome	Not Upheld	Upheld	Partially Upheld	Dealt with Informally	Withdrawn
Closed Cases	16	1	2	0	0

- 6.16 The general themes to the grievances do not highlight any concerns of unethical conduct.
- 6.17 A majority of these cases were not upheld however there were management learnings highlighted and implemented, which supports our managers to have a growth mindset. We continually monitor this important matter in our annual staff survey so that any area of concern can be highlighted to senior officers.

6.18 The table below, from the Your Voice Survey 2021 shows the response for Respect and Dignity (Bullying and Harassment). In 2021 the question was changed to also include inappropriate behaviour. The 'No' response has increased by 8% which is a positive although the 'Yes' response has also increased by 2%. The 'prefer not to say' option was removed this year which will explain why we have seen the increase in both 'No' and 'Yes' responses.

During the past 12 months have you personally experienced inappropriate behaviour at work? <i>(The following questions are about inappropriate behaviour at work, such as discrimination and/or bullying and harassment)</i>	2017	2018	2019	2020	2021	Trend
Yes	11%	9%	12%	9%	11%	+2%
No	81%	81%	80%	81%	89%	+8%
Prefer not to say	8%	10%	8%	9%	-	-

Staff Declarations of Interest and Receipt of Gifts and Hospitality

6.19 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 posts^[1] to complete a Declarations of Interests Form on taking up the post and on any change in personal circumstances.

6.20 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.

6.21 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

^[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.

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

- 6.22 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 Head of Internal Audit.
- 6.23 In July 2021 the Council launched a new Gifts and Hospitality Policy to ensure clarity of what could be and should not be accepted by employees, and to allow for full transparency. The key principles of the new Gifts and Hospitality Policy are:
- Employees may not accept any fee or reward whatsoever other than their proper contractual pay and benefits.
 - Employees cannot accept or give gifts, unless in accordance with the limited exceptions set out in the policy, such as small token value gifts (i.e. pens, diaries etc).
 - Hospitality which needs to be recorded, both accepted or declined, is defined as drinks, meals, events, entertainment, overnight accommodation and travel with an estimated value of £25 or more.
 - It may be appropriate in very limited circumstances to accept offers to modestly priced ticketed events but only if they are taking place within the City of Westminster and if acceptance would not be viewed as an attempt to influence that employee's part in a council decision making process.
 - We have removed managerial sign-off and shifted the ultimate responsibility onto the individual being offered the gifts and/or hospitality.
 - If employees have any doubts as to whether it would be appropriate to accept G&H, then they should not accept it.
 - We have committed to publishing the G&H register entries on our external website twice yearly for transparency.

A copy of the new policy can be found [here](#)

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.
- 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 potential that the £500million annual Council spend on third party contracts represents was recognised by the Procurement and Commercial Service as a significant lever to drive positive action on increasingly important issues such as tackling the climate emergency and ensuring labour rights in our supply chain. The team therefore developed a Responsible Procurement and Commissioning (RPC) Strategy as a framework through which to deliver City for All and wider sustainable development goals, whilst delivering maximum value for Westminster and its residents and partners.
- 7.5 Since March of 2021, the team has been working with colleagues across the Council to develop the RPC Strategy, which is going to Cabinet on 17 February 2022 with a planned launch date in March 2022 subject to endorsement.
- 7.6 The RPC Strategy is based on four themes, which include areas of local impact and social value, as well as wider aspects related to sustainable development and responsible business. These themes include Environmental Sustainability, Community and Business Partnerships, 'Build Back Better' and Inclusive, High-Quality Work. The latter theme includes ensuring appropriate pay and conditions of our supply chain workforce, professional development opportunities, a diverse workplace that is representative of its community, legal and fair employment practices and combatting modern slavery and labour rights abuses.
- 7.7 The Procurement and Commercial Service is also working alongside the Bi-borough Modern Slavery Coordinator to develop and publish the City of Westminster's first Modern Slavery Statement in the first quarter of 2022. This Statement provides a description of the actions the Council has taken to date to implement due diligence procedures to mitigate risks of modern slavery and exploitation in our supply chains and future actions planned with both existing and new suppliers. This work is being supported by the Bi-borough Modern Slavery and Exploitation Group and is underpinned by the Bi-borough Modern Slavery Strategy.

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 2021-2022 year.

- 8.2 As detailed in this report, action has been taken to ensure the Council is fully compliant with relevant legislation relating to ethical governance and to ensure Officers' and Members' responsibilities in this context are communicated accordingly.
- 8.3 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.
- 8.4 The Council's Interim Monitoring Officer welcomes any recommendations the Committee may have on whether the Committee feels this report provides them with the information they require or whether any other particular areas should be covered or could be expanded on which are not.

If you have any queries about this Report or wish to inspect any of the Background Papers (here provided below again as links), please contact:
Joyce Golder

joyce.golder@rbkc.gov.uk

BACKGROUND PAPERS:

[Fraud page](#)

[Council's Anti-Fraud & Corruption Strategy 2020-23](#)

[Whistleblowing at Work Policy](#)

[Fraud Response Plan](#)

[Code of Conduct \(sharepoint.com\)](#)

[Declarations of Interests Form](#)

[Gifts and Hospitality Policy](#)