



*Audit & Business
Risk*

INTERNAL AUDIT REPORT

ISSUED TO:	Alex Bailey	Director of Strategy & Governance
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	Charlotte Thomas	Head of Human Resources
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Final

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Introduction

The council has in place a Whistleblowing Policy in response to the Public Interest Disclosure Act 1998 (PIDA) which provides statutory protection for whistleblowers. The last significant amendment to the policy was made in November 2007.

Effective Whistleblowing arrangements which offer employees safe ways to raise a whistleblowing concern, are important for the council to manage risks. Unless employees have confidence in the arrangements, they are likely to stay silent where there is a potential threat to the council.

This audit review is part of the agreed Internal Audit Plan for 2009/10 and also part of the Counter Fraud Programme. It examined the following areas:

- Effectiveness of the Whistleblowing Policy and Procedures
- Communication of the Whistleblowing Policy and Guidance
- Case Management and Ownership of the Process
- Reporting including to the Whistleblower
- Confidentiality and Independence of Investigations
- Comparison of Concerns Raised

The scope of the audit review included comparison with twenty four Unitary Councils, County Councils and London Boroughs, eleven of which provided the number of concerns recorded over the past year. Reference was also made to available best practice in particular Whistleblowing Arrangements Code of Practice published by the British Standards Institute (BSI).

Audit Opinion

Reasonable assurance can currently be provided over the council's Whistleblowing Arrangements. There are not considered to be any significant weaknesses in the arrangements and they compare well with other local authorities examined as part of this review.

There are however opportunities to further enhance the council's governance arrangements in respect of whistleblowing, in particular by updating the policy, refreshing its communication to optimise awareness, confidence and steps to be taken by employees in raising concerns.

Audit Conclusions

The following are the main conclusions arising from this audit review. Recommendations are contained in the detailed report from page 4.

- Comparison with the whistleblowing arrangements of other local authorities did not identify any significant weakness in the council's. Indeed many issues identified in this review such as ownership and case management were common to a high number of the local authorities.
- There is an opportunity to update the Whistleblowing Policy to improve the general language used, readability and understanding to encourage legitimate concerns to be raised.
- Although guidance exists on the procedure this is separate to the main policy and should be part of the same document with a very clear step by step guide.
- The whistleblowing arrangements need to be clearly communicated through all channels.
- There is a lack of overall ownership of the arrangements and case management of concerns raised including effective recording, decisions taken and outcomes.

Audit Area 1: Effectiveness of the Whistleblowing Policy and Procedures**Finding or Issue:**

- 1.1 There is no statutory requirement in the Public Interest Disclosure Act for organisations to have a Whistleblowing Policy. Central Government however expects public bodies to have a policy in place and the whistleblowing schemes of local authorities and NHS bodies are assessed regularly by external audit.
- 1.2 The current policy is not considered to be written in an easily understood language and to allay any fears in terms of confidentiality. It may therefore not encourage members of staff or contractors to come forward and raise concerns.
- 1.3 The title being “Whistleblowing Policy” is regarded as having negative connotations, emotive and can distract concerns being raised. From comparison with other local authorities, more appropriate titles are considered to be “Speaking Up” or “Raising Concerns (Whistleblowing), Policy and Procedure. There should also be a clear confidentiality statement on the title page. For example *“The Public Interest Disclosure Act provides strong protection for staff who raise a genuine concern for example malpractice. The protection is most readily available when concerns are raised internally under this policy. The council’s whistleblowing policy and procedures are set out in this document and it tells you how safely you can raise a concern”*
- 1.4 Whistleblowing guidance is currently provided in a separate document not as appendix to the Whistleblowing Policy. It is considered to be more effective if a procedure or guidance on raising a concern is part of the same document as an appendix.
- 1.5 There is currently no generic email address or dedicated phone line for raising concerns under the Whistleblowing Policy.

Audit Area 1: Effectiveness of the Whistleblowing Policy and Procedures

- 1.6 In 2008 a Whistleblowing Arrangements Code of Practice was launched for both public and private sector organisations by the British Standards Institute (BSI) and the independent authority, Public Concern at Work. This explains why whistleblowing is an essential element of risk management and how it can be used as a key tool in tackling fraud and crime.
- 1.7 There has not so far been any staff survey carried out to establish our employee's confidence, knowledge and experience of the whistleblowing arrangements.
- 1.8 If the employee prefers not to raise a concern with their line manager, the Whistleblowing Policy contains a comprehensive list of the following officers:
- Relevant Chief Officer/Head teacher/Chair of Governors
 - Assistant Director of Human Resources
 - Head of Audit & Business Risk
 - Director of Finance & Resources
 - Director of Strategy & Governance
- 1.9 This list may however be too wide and may benefit from being reduced.
- 1.10 The policy does inform employees that if they have followed the channels detailed in the policy and still have concerns they can go to the Chief Executive and if dissatisfied with the council's response they can go to any other levels or external bodies named in the policy.
- 1.11 The Whistleblowing Policy does contain a section on independent advice to the employee that includes Public Concern at Work trade unions and professional associations. It does not however include the Audit Commission.

Audit Area 1: Effectiveness of the Whistleblowing Policy and Procedures

1.12 This council is one of twenty seven local authorities that subscribe to Public Concern at Work and who provide an on demand advisory service to its employees.

Recommendations:

1.13 The Whistleblowing Policy be renamed "Raising Confidential Concerns (Whistleblowing)" to be less emotive and when next updated, attention to be given to the wording used to improve readability and understanding of the policy.

1.14 Establish a Whistleblowing telephone hotline and email address, for example raisingaconcern@brighton-hove.gov.uk.

1.15 The Whistleblowing Procedure or Guidance to be included as an appendix to the Whistleblowing Policy as a comprehensive step by step guide.

1.16 As part of the council's annual staff survey, include questions to determine their confidence, knowledge and experience of the whistleblowing arrangements.

1.17 To consider reducing the list of officers that an employee can raise an issue with.

1.18 The list of providers of independent advice to include contact telephone numbers and also include the District Auditor/Audit Commission.

Audit Area 1: Effectiveness of the Whistleblowing Policy and Procedures

Management Response:

1.13 Agreed - Any updating and renaming of the Whistleblowing Policy should include the objective of ensuring that it is clearly a distinct,

separate policy from that under which employees can raise a grievance or other complaint.

1.14 - Agreed

1.15 – Agreed

1.16 – Agreed

1.17 – Disagreed. To encourage staff to come forward with a concern it is considered important that they have a choice who they can

approach not only within, but also outside their normal management structure. Those senior officers listed in the policy all

those with have key roles to play in ensuring good governance and are considered to be appropriate contacts for

concerns. Reducing the number of contacts would be considered to be counterproductive.

1.18 - Agreed

By Whom:

1.13, 1.15, 1.16, 1.18 - Policy & Projects Manager, Human Resources

Priority:

Medium

Audit Area 1: Effectiveness of the Whistleblowing Policy and Procedures

1.14 – Head of Audit & Business Risk

By When:

30th September 2010

Audit Area 2: Communication of Whistleblowing Policy and Guidance

Finding or Issue:

- 2.1 The Whistleblowing Policy together with guidance is available to staff via the council's intranet (The Wave).
- 2.2 The last major awareness campaign was last carried out in 2005, consisting of posters in prominent council workplaces together with a letter and small reference card sent to all employees. There was however no significant increase in concerns raised.
- 2.3 We were informed that since 2006, the council's intranet (The Wave) has been used for messages on the Whistleblowing Policy. This is not however carried out on a regular basis to embed the process as part of a drive for good governance and raising ethical standards. Certain other local authorities were found to put key messages on their intranets every six months and considered to be good practice not just for this but other policies to keep them "live".
- 2.4 The council's internet site does not currently publicise details of the Whistleblowing Policy. Some other local authorities and the Audit Commission consider this to be best practice and is endorsed by the CAA Use of Resources Assessment.
- 2.5 Whistleblowing arrangements are included in the staff handbook issued to all new staff on appointment and in staff induction training.
- 2.6 It is important that the whistleblowing policy and arrangements are communicated effectively to managers within the council to ensure buy in to the arrangements and keep these live.

Recommendations:

- 2.7 A communication strategy should be devised and actioned in order to raise awareness of the Whistleblowing

Audit Area 2: Communication of Whistleblowing Policy and Guidance

Policy amongst Members and Staff. This to include:

- The circulation of new posters throughout the council and be displayed in prominent work places particularly those where employees have no access to the intranet
- Clear messages on the council's intranet and internet
- Clear messages in The Channel (Staff Newsletter)

2.8 In addition to the above recommendation, employees should be reminded of the Whistleblowing Policy and Procedure at least six monthly via a clear message on the intranet.

2.9 To publicise the Whistleblowing Policy, email address and hotline number on the council's internet site.

Management Response:

2.7 – Agreed. Currently discussing purchase of suitable posters with Public Concern at Work. Message going into the next edition of The

Channel (staff newsletter) and on the intranet.

2.8 – Agreed

2.9 - Agreed

By Whom:

Policy & Project Manager, Human Resources

By When:

30th June 2010

Priority:

Medium

Audit Area 2: Communication of Whistleblowing Policy and Guidance

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Audit Area 3: Case Management and Ownership of the Process

Finding or Issue:

- 3.1 Concerns received and outcome of investigations should currently be recorded by the Assistant Director of Human Resources, however this is not clear in the procedure. There is therefore considered to be a risk that the current process does not capture all concerns raised. This is particularly true with immediate managers.
- 3.2 There is currently considered to be no general consistency in investigating concerns raised. This includes no initial check built into the referral process. Certain other local authorities operate a Panel consisting of the Head of Audit, Head of Law and Assistant Director of Human Resources to ensure consistency and transparency. Members of the panel can also act as "Assessors" to ensure issues such as disciplinary, civil, criminal and regulatory issues are considered from the outset as well as effectively deciding whether cases should be considered as to whether they should be dealt with under the Public Information and Disclosure Act.
- 3.3 The Whistleblowing Policy states that the first point of contact for raising a concern to be with line and senior managers. There would appear to have been no awareness training given to managers on dealing with concerns raised and further reporting to ensure effectively recorded and managed.
- 3.4 Good whistleblowing arrangements should give a clear message that if an employee has a whistleblowing concern he or she will be able to raise it with their line manager. From the record of concerns raised, few originated from line managers. It is therefore probable that line managers are either not currently referring all concerns raised to the Assistant Director of Human Resources, not dealing with any under the council's whistleblowing scheme or not receiving any.

Recommendations:

Audit Area 3: Case Management and Ownership of the Process

- 3.5 Concerns raised under the Whistleblowing Policy to be reported to the Head of Audit & Business Risk and using his team's existing case management software.
- 3.6 The Head of Audit & Business Risk to be responsible for the Whistleblowing Policy and arrangements.
- 3.7 The formation of an Officers' Whistleblowing Panel to meet periodically or as required, to review cases and review arrangements.
- 3.8 Raise awareness amongst managers of the council's whistleblowing arrangements in particular notification of concerns raised.

Management Response:

- 3.6 – Agreed
- 3.7 – Agreed
- 3.8 – Agreed
- 3.9 – Agreed

By Whom:

- 3.6, 3.7, 3.8 Head of Audit & Business Risk
- 3.9 Policy & Project Manager, Human Resources

By When:

30th September 2010

Priority:

Medium

Audit Area 3: Case Management and Ownership of the Process

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Audit Area 4: Reporting including to the Whistleblower

Finding or Issue:

- 4.1 Section 7 of the current Whistleblowing Policy is concerned with how the council will respond. It does not however include how the matter should be reported back to the Whistleblower who raised the concern. This is usually verbally, however there is no consistency in ensuring that the Whistleblower is fully informed and satisfied with the outcome.
- 4.2 There is currently no periodic reporting of concerns raised in general number terms, to either members or officers.

Recommendations:

- 4.3 The Whistleblowing Policy should be amended to include a clear method of reporting of outcome to the Whistleblower and all parties involved.
- 4.4 There should be an annual report to the council's Audit Committee of the number and outcome of cases recorded (i.e. open, closed) and the process in general e.g. publicity during the year.

Management Response:

- 4.3 – Agreed
- 4.4 – Agreed

Audit Area 4: Reporting including to the Whistleblower

By Whom:

4.3 - Policy & Project Manager

4.4 – Head of Audit & Business Risk

By When:

4.3 - 30th September 2010

4.4 – 31st March 2011

Priority:

Medium

Audit Area 5: Confidentiality and Independence of Investigations

Finding or Issue:

- 5.1 All local authorities contacted as part of this review investigate internally, concerns raised under Whistleblowing. Public Concern at Work also informed us that investigations are normally undertaken and resolved internally.
- 5.2 We were only able to identify one external organisation that would undertake investigations into concerns raised under Whistleblowing. However again because whistleblowing investigations are usually undertaken internally, they had little experience and the cost (£) would be high.
- 5.3 External commercial hotlines are operated for reporting suspected cases of fraud or corruption but cases are referred back to the organisation to investigate.
- 5.4 Concerns raised relating to fraud and corruption are referred to Audit & Business Risk for internal audit investigations. This is also a requirement of the council's Counter Fraud Strategy. Internal audit investigations are carried out with a high degree of independence and objectivity in accordance with professional standards contained in the *Code of Practice for Internal Audit in Local Government*. Regular reviews are carried out by the Audit Commission to ensure there is a high degree of independence, objectivity and standards that includes investigations carried out.

Recommendations:

None

Audit Area 6: Comparison of Concerns Raised

Finding or Issue:

- 6.1 Over the last year there have been 4 recorded concerns raised at this council although 2 of these related more to HR issues.
- 6.2 Information of concerns raised under Whistleblowing was difficult to obtain from other local authorities either because not readily available or that they would not disclose. However information was provided by 10 of the 24 local authorities who provided information. The number of concerns raised over the past year is shown below in such a way that confidentiality of responses is maintained:

Local Authority A	2	Local Authority G	4
Local Authority B	5	Local Authority H	0
Local Authority C	2	Local Authority I	6
Local Authority D	40	Local Authority J	4
Local Authority E	0	Local Authority K	4
Local Authority F	2		

- 6.3 The number of concerns raised at this council is considered to be comparable with the exception of one local authority where 40 had been received and may be explained by undergoing major transformation.

Recommendations:

None

Audit Area 6: Comparison of Concerns Raised

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Acknowledgements

We would like to thank all staff that provided assistance during the course of this audit, in particular:

Abraham Ghebre-Ghiorghis, Head of Law

Liz Boswell, Policy & Projects Manager, Human Resources

Information for comparison purposes was obtained from the following Unitary and County Councils:

Portsmouth City Council

Hertfordshire County Council

Southampton City Council

Gloucestershire County Council

Bristol City Council

Kent County Council

Reading Borough Council

Suffolk County Council

Medway Towns Council

Surrey County Council

Southend-on-Sea Council

West Sussex County Council

Royal Borough of Windsor & Maidenhead

London Borough of Bexley

Bracknell Forest Council

London Borough of Croydon

East Sussex County Council

London Borough of Bromley

Essex County Council

Westminster City Council

Leicestershire County Council

London Borough of Redbridge

Cambridgeshire County Council

London Borough of Hammersmith & Fulham

Reference was made to the following Websites to ensure the Whistleblowing Policy and Procedure is in line with latest guidance and best practice:

Public Concern at Work

The Institute of Counter Fraud Specialists

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Whistleblowing Policy

A Confidential Reporting Policy for All Employees

1 Independent Advice

- 1.1 If you are unsure whether to use this policy you should seek advice either from Human Resources or Internal Audit.
- 1.2 If you would like independent advice at any stage, you may contact:
 - your trade union representative;
 - professional associations;
 - the independent charity Public Concern at Work www.whistleblowing.org.uk on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

2 Introduction

- 2.1 Brighton & Hove City Council operates within legal requirements and regulations and is committed to the highest standards of openness, honesty and accountability. The Council therefore expects its employees to behave appropriately by adhering to all relevant laws, regulations, policies and procedures. In line with that commitment, the Council expects and encourages any employee becoming aware of another employee acting inappropriately, corruptly or illegally to come forward and voice those concerns.
- 2.2 The policy incorporates the provisions that are required from the Public Interest Disclosure Act 1998, which protects members of staff against detrimental treatment or dismissal as a result of the disclosure of normally confidential information in the interests of the public.

3 Benefits of this policy

- 3.1 The Whistleblowing Policy aims to:

- encourage and enable individuals to feel confident in raising concerns and to question and act upon any concerns;
- provide avenues for individuals to raise concerns and receive feedback on any action taken;
- ensure that individuals receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied and
- reassure individuals that they will be protected from reprisals or victimisation for raising concerns in good faith.

4 Scope

4.1 This policy applies to all employees and contractors, consultants and agency workers working on the Council's premises.

4.2 School Governing Bodies are recommended to adopt this policy as a framework for introducing the requirements of this policy in their schools.

4.3 This procedure outlines a separate route through which employees can raise concerns that fall outside the scope of the Council's other complaints procedures. It is distinct from the Council's Grievance Procedure which enables employees to lodge a grievance relating to their employment, and the Harassment Policy which includes a procedure for dealing with claims of harassment and bullying. The types of concern covered by the Whistleblowing Policy include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damage to the environment
- the unauthorised use of Council funds
- action that is contrary to the Council's financial procedures or contract regulations
- possible fraud, corruption or financial irregularity
- practice which falls below established standards or practice
- sexual or physical abuse of clients
- other unethical conduct.

- 4.4 If you work for a company that has a contract with the Council then you can also raise concerns under this policy.

5 Supporting you to raise a concern

- 5.1 **Harassment or Victimisation:** The Council will not tolerate harassment or victimisation and will take action to protect individuals who raise concerns in good faith. This protection is in addition to the legal protection provided by the Public Interest Disclosure Act 1998. The effect of raising a concern under this policy on any disciplinary or redundancy procedures will be considered on a case by case basis.
- 5.2 **Confidentiality:** Individuals are encouraged to put their name to any allegation. However, if you ask us not to reveal your identity by keeping your confidence, we will not disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.
- 5.3 **Untrue Allegations:** The City Council is committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of retribution as a result provided that:
- the disclosure is made in good faith, it does not matter if you are mistaken;
 - you reasonably believe that information, and any allegations contained in it, are substantially true and
 - you raised your concerns through one of the channels named in this policy.
- 5.4 However, we cannot give such assurance if you raise a concern maliciously or the information you have used to trigger a concern has been obtained unlawfully, for example:
- legal requirements have not been followed, e.g. the Data Protection Act has been breached or
 - through unauthorised access to records, e.g. computer hacking.

6 How to raise a concern

- 6.1 As soon as you become reasonably concerned, we hope you will feel able to raise it first with your Line Manager. Similarly, non-employees (e.g. agency workers or contractors) should raise a concern in the first instance with their contact within the Council, usually the person to whom they directly report.

- 6.2 If you want to raise the matter with someone other than your immediate manager, for whatever reason, please raise the matter with:

*Relevant Chief Officer/Headteacher/Chair of Governors
Charlotte Thomas, AD Head of Human Resources, 1290
Ian Withers, Head of Audit & Assurance ext. 1323
Catherine Vaughan, Director of Finance & Resources ext. 1333 or
Alex Bailey, Director of Strategy and Governance (The Monitoring Officer) ext.1295.*

These people will also be able to advise on confidentiality and further action required.

- 6.3 If these channels have been followed but you still have concerns or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may, as a last resort, contact:

John Barradell, Chief Executive ext.1132.

- 6.4 Concerns may be raised orally or in writing. Members of staff who wish to raise the concern in writing should use the following format:

- the background and history of the concern (giving relevant dates)
- the reason why they are particularly concerned about the situation.

- 6.5 When raising the concern you may wish to be assisted, or accompanied by either your trade union representative or a colleague who works for the City Council.

- 6.6 Although the individual raising the concern is not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

7 How the Council will respond

- 7.1 Once a concern is raised, the appropriate Council manager will make initial enquiries, taking advice from the AD, Head of HR if necessary, to help decide if an investigation is appropriate and if so, what form it should take. The person receiving the concern will ensure the Director of Strategy and Governance, as the City Council's Monitoring Officer, is provided with sufficient details to be aware of the concern raised. As soon as possible, and in any case within 10 working days of a concern being raised, the person handling the matter will write to the individual raising the concern acknowledging that it has been raised and

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indicating how, as far as possible, it will be dealt with. The individual will be kept informed of progress and will receive a full and final response, subject to any legal constraints.

- 7.2 When you raise the concern(s) you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, we ask that you tell us this at the outset. If your concerns would be more appropriately dealt with under another policy of the City Council (for example, the Anti Fraud & Corruption Strategy, Grievance Procedure or Harassment Policy), we will tell you.
- 7.3 While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can.
- 7.4 Concerns or allegations that fall within the scope of specific procedures (for example child protection) will normally be referred for consideration under the relevant procedure. Some concerns may be resolved by agreeing action with you without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 7.5 Where appropriate, the matters raised may:
- be investigated by management, internal audit, the Monitoring Officer or through the disciplinary process;
 - be referred to the Police;
 - be referred to the external auditor or
 - form the subject of an independent inquiry.

Subject to any legal constraints, you will normally be informed of the final outcome of any investigation.

- 7.6 The Council will take all reasonable steps to minimise any difficulties to employees or others raising concerns and provide advice and support should they be required to give evidence, e.g. at a disciplinary hearing by:
- providing extra support for witnesses or
 - offering counselling services where they may be beneficial etc.

8 How the matter can be taken further

- 8.1 This policy is intended to provide individuals with an avenue to raise concerns within the Council. The Council hopes that those using this process will be satisfied with the way their concerns are treated and

any investigations that may be carried out. However, if you are not satisfied and feel it is right to take the matter outside the Council, the AD, Head of HR can provide advice as to other options. Alternatively, you may contact an outside body to take the matter further. The following are examples of some of the possible contact points:

- the Audit Commission
- relevant professional bodies or regulatory organisations
- a solicitor
- the Police.

8.2 If you do take the matter outside the Council, you need to ensure that confidential information is not disclosed.

9 Corporate recording, monitoring and reviewing

9.1 The Director of Strategy and Governance has overall responsibility for the maintenance and operation of this policy and for ensuring it is reviewed every two years by involving key stakeholders in the process.

9.2 A record of all concerns raised and the outcomes (in a form which respects the individual's confidentiality) will be kept by the Human Resources Department.

10 If you are dissatisfied

10.1 If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this policy.

10.2 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly

