

MEETING

AUDIT COMMITTEE

DATE AND TIME

WEDNESDAY 14TH JULY, 2021

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

Dear Councillors,

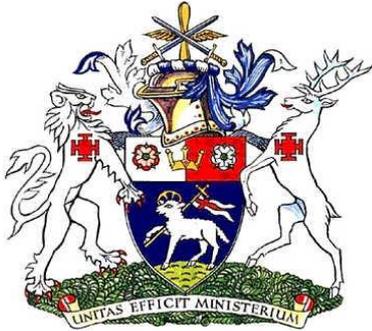
Please find enclosed additional papers relating to the following items for the above-mentioned meeting which were not available at the time of collation of the agenda.

Item No	Title of Report	Pages
9.	WHISTLEBLOWING POLICY	3 - 12

Please note: The deadline for questions and comments for this item has been extended to 6pm, Wednesday 14 July.

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Audit Committee**14 July 2021**

Title	Whistleblowing Policy
Report of	Director of Assurance
Wards	Not applicable
Status	Public
Urgent	No
Key	Yes
Enclosures	Appendix 1 - Whistleblowing Policy Statement 2021
Officer Contact Details	Clair Green, Director of Assurance clair.green@barnet.gov.uk 020 8359 7791

Summary

The Whistleblowing Policy forms part of the Counter Fraud Framework and was last updated in 2018. In Q1, 2021 it has been reviewed by HBPL, senior officers in the Assurance Group and Protect (the whistleblowing charity), who noted areas of good practice alongside some areas for improvement, which have been addressed in the amended policy. For example:

Good Practice:

- Clear on purpose of whistleblowing
- Clear on victimisation
- Arrangements for Oversight of the Policy

Areas for Improvement:

- Clarification that a concern can be raised with a line manager, it does not have to be raised to a designated 'Reporting Officer'
- Some terminology too legalistic

As a result, the Director of Assurance is proposing changes to the Whistleblowing Policy as follows:

- To comply with legislation that the WB route will no longer be available to members of the public. Residents should follow the Statutory / Corporate Complaints route, or general Fraud referral. If the complaint includes what appears to be a Whistleblowing referral this will be routed back to the Director of Assurance and will be considered on its merits. Residents and members of the Public also have the option to contact Protect, the whistleblowing charity, previously known as Public Concern at Work.
- The policy has been updated to signpost members of the Public accordingly.
- The WB telephone line will, from now on, be a recorded message with a voicemail facility. It will be staffed to take calls every Monday between midday and 2pm and these calls will be handled on rotation by the Head of Governance, Head of Internal Audit and Head of Counter-Fraud Operations. The dedicated email address will remain.
- Delegated authority to be given to the Director of Assurance to make further amendments to the WB policy in the future.

We will be taking forward a Comms campaign around Whistleblowing, including the changes to the policy and areas for improvement once it has been approved by the Audit Committee.

Recommendations

- 1. That the Committee approves the Whistleblowing Policy Statement 2021**
- 2. That the Committee delegates authority to the Director of Assurance to make further amendments to the Whistleblowing Policy Statement following consultation with the Chairman of the Audit Committee.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Audit Committee's role in receiving this report is to approve the updated Whistleblowing Policy Statement and its removal from the Counter-Fraud Framework as it is a Corporate Policy.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Whistleblowing Policy Statement has been reviewed as part of the work underway reviewing the Council's arrangements against the Centre for Governance and Scrutiny Governance Risk and Resilience Framework.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 N/A

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

This policy supports the delivery of the entire Barnet Plan, and in particular Clean Safe and Well Run objective – which set out the corporate approach on how delivering better services while ensuring value for money for all our residents and businesses to approach to provide a fair deal for our residents and a commitment to delivering services that matter most by making decisions to prioritise our limited resources.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 None in the context of this report

5.3 Social Value

- 5.3.1 N/A

5.4 Legal and Constitutional References

- 5.4.1 The Public Interest Disclosure Act 1998 and the Employment Rights Act 1996 give statutory protection for employees, workers, and former workers who disclose information showing:
- a criminal offence,
 - breach of a legal obligation,
 - miscarriages of justice,
 - danger to health or safety,
 - damage to the environment; or
 - the deliberate concealment of information about any of the above
- The disclosure of this information must be in the public interest and must be made to either the Council, or in certain circumstances to prescribed persons such as HMRC, the Environment Agency or the Health and Safety Executive.

5.4.2 The legislation protects an employee from being dismissed, and protects employees/workers/former workers from being subjected to any detriment, on the grounds that they have disclosed information of the type outlined in paragraph 3.1 of the policy. In addition, the Council will treat any victimisation or harassment of an employee who has made the report under this procedure as a serious disciplinary offence – harassment of a whistle-blower could amount to gross misconduct and may lead to dismissal without notice.

5.4 Risk Management

5.4.1 The Policy revisions supports the council's overall risk management strategy and processes. Where appropriate, outcomes from any investigations are reported to both Audit Committee and relevant services in either highlighting or confirming effective internal controls, compliance and/or suggested areas for improvement.

5.5 Equalities and Diversity

5.5.1 Effective systems of internal control, compliance and corporate governance provide assurance on the effective allocation of resources and quality of service provision for the benefit of the entire community. Individual audits assess, as appropriate, the differential aspects on different groups of individuals to ensure compliance with the Council's duties under the 2010 Equality Act.

5.7 Corporate Parenting

5.7.1 None in the context of this report.

5.8 Consultation and Engagement

5.8.1 N/A

5.9 Insight

5.9.1 N/A

6. BACKGROUND PAPERS

<https://barnet.moderngov.co.uk/documents/s31468/Counter%20Fraud%20Fraudwork%20Review.pdf>

The Whistleblowing Policy was last reviewed by Audit Committee in 2016.

It was further updated under delegated authority to the Director of Assurance in 2018.

Whistleblowing Policy Statement 2021

Whistleblowing Policy Statement

1. Policy Statement

- 1.1 The London Borough of Barnet firmly believes in open and honest governance. It is the policy of this Council that all those who raise honest concerns about anything this Council does will be treated with respect, supported and protected from any adverse treatment. The Council is committed to being open, honest and accountable in all we do. We are committed to the highest possible standards of openness and probity, and the aims and objectives of the Public Interest Disclosure Act 1998.
- 1.2 The essence of a whistleblowing system is that workers (a worker is defined as an individual who undertakes work to do or to perform personally any work or service for another party, whether under a contract or not – and includes staff at all levels, those permanently employed, temporary staff, agency staff, contractors, non-executives, , consultants, or other partner or contracted organisations) should be able to by-pass their direct management line arrangements, as this may be the area about which their concerns arise. They should also be able to go outside the organisation if they feel the overall management is engaged in an improper course of action.
- 1.3 The role of the whistleblowing policy is to assist with the deterrent and detection of wrongdoing. The Policy explains how concerns should be raised and seeks to allay any fears whistle-blowers may have.
- 1.4 It is our policy **that any worker** may raise concerns within the Council (or, under certain circumstances, with a prescribed regulator or external body) without fear that they may be victimised, discriminated against or disadvantaged in any way as a result.
- 1.5 If any worker raises concerns under this policy, they are to be perceived as and treated as a witness and not as a complainant.
- 1.6 All concerns, regardless of their nature, raised under this procedure will be treated seriously and sensitively by experienced staff.
- 1.7 Workers are encouraged to report wrongdoing and have the right to be heard and taken seriously when they do so. The Council will take all reasonable steps to protect workers who make such disclosures from any detrimental action which may occur because of making the disclosure.
- 1.8 The Council neither tolerates improper conduct by its, workers, staff, members, or its partners or contractors, nor the taking of reprisals against those who come forward to disclose such conduct.
- 1.9 The Council recognises the value of both confidentiality and accountability in its core functions and fully supports the making of disclosures to reveal corrupt conduct, mismanagement of public resources, or conduct which involves risk to service users, public health and safety, or the environment.
- 1.10 This whistleblowing policy has been drawn up in conjunction with the Public Interest Disclosure Act 1998. The Act establishes a framework for responsible whistleblowing and is intended to encourage workers to report any concerns that they may have of improper conduct or malpractice or abuse within the Council or to any of its service users.
- 1.11 This policy is designed to complement normal communication channels between staff members, partners, contractors and management. All workers or workers are encouraged to continue to raise matters via their respective Line Managers, however we recognise that sometimes this is not appropriate or that workers or workers may feel more comfortable making disclosure of improper conduct using this procedure.

Whistleblowing Policy Statement

2. Scope

- 2.1 Whilst the Public Interest Disclosure Act lists specific times when formal protection must be granted to those who report suspicions of wrongdoing, it is our intention that any reports of wrongdoing which are made in the public interest will gain the reporter the protection set out in this policy.
- 2.2 Notwithstanding the previous paragraph, the policy does **not** cover reports about:
- 2.2.1 Issues affecting you as an employee (these should be raised through the Council's relevant procedure such as Grievance Procedure)
 - 2.2.2 Service requests or complaints from the public about Council services
 - 2.2.3 Lobbying for or against Council policy
 - 2.2.4 Trade union or staff consultation
 - 2.2.5 Complaints about Members of the Council

3. Protection from reprisal

- 3.1 The Public Interest Disclosure Act 1998 and the Employment Rights Act 1996 give statutory protection for employees, workers and former workers who disclose information showing:
- a criminal offence;
 - breach of a legal obligation;
 - miscarriages of justice;
 - danger to health or safety;
 - damage to the environment; or
 - the deliberate concealment of information about any of the above.

The disclosure of this information must be in the public interest and must be made to either the Council, or in certain circumstances to prescribed persons such as HMRC, the Environment Agency or the Health and Safety Executive.

- 3.2 The legislation protects an employee from being dismissed, and protects employees/workers/former workers from being subjected to any detriment, on the grounds that they have disclosed information of the type outlined in paragraph 3.1 of this policy. In addition, the Council will treat any victimisation or harassment of an employee who has made the report under this procedure as a serious disciplinary offence – **harassment of a whistleblower could amount to gross misconduct and may lead to dismissal without notice.**
- 3.3 An individual who victimises or harasses an employee who has made a protected disclosure can be personally liable in court for their actions.
- 3.4 No action will be taken against any person if a report has been made but is not confirmed by the investigation.
- 3.5 **Conversely, any person should not make a report, which they do not reasonably believe to be true, or which is malicious. Disciplinary proceedings may be taken against a member of staff who makes false allegations maliciously or with a view to personal gain.**
- 3.6 If the worker making a report is already the subject of a related grievance disciplinary, capability, redundancy or other council procedures they will not necessarily be halted because of a whistleblowing allegation.

Whistleblowing Policy Statement

4. Oversight of Policy

- 4.1 Members shall have oversight of this policy. This function is delegated to the Audit Committee. The Constitution requires the Audit Committee to approve this policy and recommend its application across the Council.
- 4.2 The Audit Committee shall receive a report on whistleblowing referral numbers (and where appropriate summary information / outcomes) by officers every three months. This report will form part of the Corporate Anti-Fraud Team Quarterly update / Annual report.
- 4.3 The report shall be produced by the Director of Assurance and presented to the Audit Committee (or to such other committee as the full Council shall nominate). The report must not contain any information that identifies whistle-blowers, nor may it identify specific allegations until all associated investigations are completed.
- 4.4 Following that report, the Audit Committee may make such recommendations as they deem necessary relating to the policy and may give such directions as they deem necessary to ensure that the Council's policy is followed.
- 4.5 Members recognise that it would not be proper for them to be seen to have any influence on outcomes. Their function is, with reference to the reports, to satisfy themselves that the policy is robust and that it is being followed by all officers involved in this area of work. To protect them from any wrongful allegations, members **are not** able to direct investigations or be given details of on-going investigations. However, it is acknowledged that there may be some instances where it is appropriate and necessary to share some details with relevant members, however this will be at the discretion of the Director of Assurance and/or other relevant Statutory Officers.

5. Adoption of Policy and Amendments

- 5.1 This policy was adopted by The London Borough of Barnet July 2021. It replaces any previous policy.
- 5.2 The Director of Assurance is instructed to make any changes that are necessary to this and any associated documents to ensure that they comply with changes to primary legislation and with codes of practice. Changes to the policy made under this section must be reported to members in the next quarterly report.

Whistleblowing Policy Statement

Making a Whistleblowing report: -

If you wish to raise any concerns there is a dedicated confidential whistleblowing phone line **0208 359 6123** to leave a message and an appropriate officer will call you back.

Alternatively, the phone line will be answered in person by an appropriate officer during the hours of midday – 2pm on Mondays.

Or, there is a dedicated email address **whistleblowing@barnet.gov.uk** that you can use.

There are a number of dedicated **Whistleblowing Reporting Officers** that may deal with your report. These are: **Director of Assurance, Monitoring Officer, Chief Executive** (or designated deputy), **Section 151 Officer** (Director of Resources), **Head of Counter Fraud Operations, Head of Internal Audit** or the **Head of Governance**.

Alternatively, if the matter you wish to report does fall within the remit of our Whistleblowing Policy but specifically concerns **Fraud** or **the Safeguarding of a Child, Young Person or an Adult** please make your report as directed below. These matters are considered whistleblowing and merit the protections granted under the policy but there is a designated process better suited to raising these issues:

- **Fraud** - To report a fraud, visit www.barnet.gov.uk/anti-fraud or call our **fraud hotline on 020 8359 2007**.
- **Children and Young People** - Contact the Multi Agency Safeguarding Hub (MASH) team on **020 8359 4066** if you are concerned about a child or young person in Barnet and provide as much information as you can.
Outside of these hours, care and welfare concerns about children and young people that need an immediate response should be reported to the Emergency Duty team on **020 8359 2000**.
- **Adults** Contact Social Care Direct
- Tel: 020 8359 5000 (9am- 5pm, Mon to Fri), or 020 8359 2000 (out of hours)
- Email: socialcaredirect@barnet.gov.uk

Or the police on 101. If the danger is immediate, always call the police on 999.

Additionally, both workers and residents or members of the public also have the option to contact **Protect**, the whistleblowing charity, for advice and support:

<https://protect-advice.org.uk/>
020 3117 2520

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