# Birmingham City Council

# Audit Committee

**26 March 2025**

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| **Title:** | **ANNUAL WHISTLEBLOWING ASSURANCE REPORT** |
| **Lead Member:** | Cllr Pocock, Cabinet Member for Transformation, Governance and HR |
| **Relevant Overview and Scrutiny Committee:** | Not applicable |
| **Has this report been shared with the relevant Overview and Scrutiny Committee Chair?** | No |
| **Report Author:** | Deborah Carter-Hughes, Assistant Director (Law and Governance) - Corporate<br>Law and Governance<br>Deborah.Carter-Hughes@birmingham.gov.uk |
| **Authorised by:** | Marie Rosenthal, City Solicitor<br>Law and Governance |
| **Is this a Key Decision?** | No |
| **Reason(s) why not included on the Forward Plan and confirm who has authorised it to be considered:** | N/A |
| **Is this a Late Report?** | No |
| **Reason(s) why Late and confirm who has authorised it to be considered:** | N/A |
| **Is this decision eligible for 'call in?'** | No |
| **If 'call-in' has been dis-applied, please provide reason(s) and confirm who has authorised:** | Report is for note. |

**Wards:** Not applicable

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| **Does this report contain exempt or confidential information?** | No |
| **Has this decision been included on the Notification of Intention to consider Matters in Private?** | N/A |
| **Reasons why not included on the Notification and confirm who has authorised it to be considered:** | N.A |

## 1 EXECUTIVE SUMMARY

1.1 The Council adopted a new Whistleblowing and Serious Misconduct Policy in April 2024. One of the requirements of the Policy was to provide an annual report to the Audit Committee on whistleblowing.

1.2 This report provides further information in relation to whistleblowing referrals received by the Council and the implementation of the approaches set out in the revised Policy.

## 2 COMMISSIONERS' REVIEW

2.1 Commissioners welcome this report. Individuals having the confidence to bring to the attention of the Monitoring Officer their concerns under the Whistleblowing Code is an important measure of the cultural health of the organisation. At the beginning of the Best Value Intervention, Commissioners, who are Designated Persons under the legislation, were in receipt of a number of such allegations, because it was felt the Council would not take such concerns seriously, take too long to look at them, or not deal with the underlying concern. This was particularly true of the Oracle implementation and was referred to in the report to Full Council.

2.2 Since the relaunch of the process, the numbers of issues raised directly with Commissioners has dropped and individuals are more willing to allow the Council to deal with their concerns. Most importantly, even if the issue is not found to be in the scope of the Code but requires other action and feedback from the Council, building confidence that this will happen is essential.

## 3 RECOMMENDATIONS

**That the Committee:**

3.1 **note the contents of the report to satisfy themselves that the process and arrangements are operating effectively; and**

3.2 **make any recommendations for improvement in future reporting.**

## 4 KEY INFORMATION

### Context

4.1 The Council is required to have an effective whistleblowing policy and arrangement in place.

4.2 In February 2024 a review of the Council's Whistleblowing and Serious Misconduct Policy was undertaken.

4.3 In April 2024 Full Council approved two new whistleblowing policies. The first policy was aimed at employees and the second covered whistleblowing disclosures from third parties.

4.4 The Council was in the process of procuring a new Employee Assist Provider at this time and one element of the procurement was a provider who could assist

with supporting on whistleblowing disclosures, particularly for those individuals who may wish to remain anonymous. The new contract was awarded to Viv-Up in August 2024 and therefore minor amendments were made to the employee Whistleblowing and Serious Misconduct Policy to include this detail.

4.5 The February 2024 review made a number of recommendations to improve the whistleblowing process. These included:-

4.5.1 the separation of the employee and third party policy to ensure clearer coverage of legal responsibilities and protections provided;

4.5.2 the introduction of an internal triage process when considering any concerns raised, enabling a higher level of scrutiny and identification of suitable next steps;

4.5.3 the need for a more robust approach to anonymous whistleblowing concerns;

4.5.4 the introduction of a whistleblowing panel and a greater reporting process to enable accountability and robustness in the approach taken.

4.6 The new Policy was followed from April 2024 (although the ability to support anonymous whistleblowing concerns was not live until August 2024).

4.7 The Policy complies with the Public Interest Disclosure Act 1998 (Act) which makes it unlawful to victimise, harass or treat someone unfairly because they have made a 'protected disclosure'.

4.8 A 'protected disclosure' is one made by the employee in the public interest and in good faith with a reasonable belief that one or more of the following has occurred, is occurring, or is likely to occur:

- A criminal offence
- A breach of any legal obligation
- A miscarriage of justice
- Danger to the health and safety of any individual
- Damage to the environment
- The deliberate concealing of information about any of the above.

4.9 If a concern does not fall into the categories specified in paragraph 4.8 above, it will not be deemed a Whistleblowing matter. However, there are other Council policies and procedures that an employee can avail themselves of such as the grievance policy, dignity at work policy etc.

4.10 This is the first annual report provided to the Audit Committee on whistleblowing.

**April 2024-January 2025**

4.11 This report covers the 10 months from 1st April 2024 to 31st January 2025. This timescale is necessary to ensure that reporting deadlines for the March Audit

Committee could be met. The March 2026 Annual Report will cover the 12 month period from 1st February 2025 to 31st January 2026.

4.12 It should also be noted that this report covered referrals received by the Professional Standards Team (who lead on whistleblowing) either directly or through referrals from managers within the Council. It is not possible for us to report on whistleblowing concerns which may be received, and dealt with, by service areas directly. The Policy does encourage staff to raise whistleblowing concerns with a manager in their directorate area where they feel able to do so.

4.13 During the 10-month period identified, the Professional Standards Team received 37 referrals under the Whistleblowing and Serious Misconduct Policy.

4.14 35 of these referrals were received directly into the Whistleblowing email inbox and 2 were received anonymously through the Viv-Up reporting portal.

4.15 For all 37 referrals, an informal triage process was undertaken by the Professional Standards Team Manager and the Assistant Director (Law and Governance). Where it was felt that the issues raised were serious a further triage meeting took place with the Assistant Director (HR Improvement and OD) to consider escalation through the whistleblowing process.

4.16 30 of the whistleblowing referrals (81%) were not considered to fall within the criteria for progression under the Policy and fell within another investigation process. In these circumstances, the matters were redirected to a more appropriate Council department for consideration and response.

4.17 Of the remaining 7 referrals (19%), 4 have progressed to investigation (11%) with three referred to the Internal Audit team for investigation in accordance with defined Terms of Reference. 1 case was referred to an external organisation for investigation (3%). Three cases (9%) remain at pre-investigation stage whilst further information is obtained from the complainant to decide on the best form of investigation.

4.18 Majority of the referrals (70%) came from named individuals and communication with these individuals has been possible to obtain further information in relation to the whistleblowing concern received. 27% of concerns came from anonymous individuals with 2 of those through the new Viv-Up portal. One concern was directed to the Council from an outside organisation.

**Whistleblowing Referrals By Directorate**

4.19 Whistleblowing referrals can be split by Directorate as follows:-

| Council Directorate | No. of Referrals Received |
|---|---|
| Adult Social Care | 5 (13%) |
| Children and Families (including Children's Trust) | 18 (48%) |
| City Housing | 1 (3%) |

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| City Operations | 3 (8%) |
| Finance | 2 (6%) |
| People Services | 6 (16%) |
| Place, Prosperity and Sustainability | 2 (6%) |

4.20 The whistleblowing referrals received covered a number of different Directorates within the Council although the largest concentration was in Children and Families. Majority of these relate to schools and were, therefore, provided to the governing body for investigation and response (whether under whistleblowing or an alternative process).

## Viv-Up Portal

4.21 The Viv-Up Portal was introduced in August 2024 and is a further tool for employees to raise whistleblowing concerns. The service offers a helpline where employees can discuss any concerns that they might have and receive pastoral support when submitting a concern. There is also an online portal to submit a complaint electronically using a guided form.

4.22 Any concerns raised with Viv-Up are sent through to the Council using its Whistleblowing email address in the same was as any direct referrals would be.

4.23 The advantage of the Viv-Up Portal is that whistleblowers can submit complaints anonymously should they feel it necessary to do so. In the event that the whistleblower does not wish to disclose their identity they can complete the online form and select to remain anonymous. The submission that is then provided to the Council refers to the individual by reference number and not name. It is then possible for the Professional Standards Team to communicate with the whistleblower through the portal (to seek clarification or further information) on an anonymous basis. This makes the process smoother than dealing with an anonymous concerns where it is not possible to find out more details or update the individual on what is happening.

### Outcomes of Completed Whistleblowing Concerns

4.24 As set out in paragraph 4.13 above, 30 of the whistleblowing referrals received were not thought to meet the whistleblowing criteria and should be dealt with by alterative processes. Many related to grievance or dignity at work investigations. Some required further investigation by the service area themselves or through a HR advisor. None of the 30 referrals were “dropped” or ignored. All were referred to a more appropriate process (although this was not always to the satisfaction of the individual raising the concern).

4.25 Of the 7 concerns that are still sat with the Professional Standards Team, 3 are waiting further information before being progressed and their status cannot be

determined until a response is received. 3 further concerns are currently with Internal Audit for investigation and these are ongoing.

4.26 One 1 whistleblowing concern has been concluded over the last 10 months. This matter was referred to an external investigator in the previous financial year and investigation started in February 2024. This matter has now been concluded and relevant action taken. Further, following the outcome, a review has been undertaken of anything that could have been done differently by the service area to avoid any such claims arising in the future and action is being taken.

**Conclusion**

4.27 This is the first Annual Whistleblowing Report produced by the Council and therefore we do not have previous years figures to use in comparison. This will be possible when the next report is produced in 2026 and future years.

4.28 Employees are approaching the Councils whistleblowing email address, raising concerns and engaging with the Professional Standards Team why the status of the concern is determined. The introduction of the Viv-Up Portal is a welcome addition to the ways that concerns can be raised but we have not seen a significant increase in anonymous concerns through this process.

4.29 The new triage approach is providing a more robust approach to referrals received and providing the ability to produce detailed and effective terms of reference. The new Whistleblowing Panel is also providing support in considering next steps and actions to be taken.

4.30 Whilst it is early days for the amended Policy it is hoped that the process will become more embedded and allow more information to be provided to Audit Committee in future years.

**Proposal and Reasons for Recommendations**

4.31 That Audit Committee note the report and make any recommendations for improvement that are felt necessary. The Audit Committee should be satisfied that the Council is undertaking its statutory duty robustly and has oversight of this.

**Other Options Considered**

4.32 There are no other options available to the Committee in relation to this report. The Committee, under its terms of reference, are required to receive this report.

## 5 RISK MANAGEMENT

5.1 There are no risks identified in relation to whistleblowing. Further training has been undertaking by those individuals leading on this process over the last 12 months and a more robust and structure approach is being taken to the triaging of concerns received.

## 6 MEMBER ENGAGEMENT

### Ward Councillor(s)

6.1 Not applicable.

### Overview and Scrutiny

6.2 Not applicable.

### Other

6.3 Not applicable.

## 7 IMPACT AND IMPLICATIONS

### Finance and Best Value

7.1 There are no direct financial implications associated with this report. Effective whistleblowing can benefit the Council through tackling and preventing fraud and reducing financial and reputational loss. It can also help inform improving the financial control environment.

### Legal

7.2 This report complied with the Council's Officer Code of Conduct. There are no legal implications associated with this report. The Public Interest Disclosure Act 1998 creates a framework for whistleblowing across a workplace. The Act provides individuals in the workplace with protection from victimisation where they make a protected disclosure. The Council's Whistleblowing and Serious Misconduct Policy gives effect to this statutory requirement.

### Procurement

7.3 There are no procurement implications arising from this report.

### People Services

7.4 This report fulfils the requirements of The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017. The Policy is widely available to all officers through the Council's intranet and to third parties through the Council's website.

### Corporate Parenting

7.5 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

### Other

7.6 There are no other implications arising from the recommendations in this report.

## 8 APPENDICES

8.1 None

## 9 BACKGROUND PAPERS

9.1 None