

PE1605/K

City of Edinburgh Council letter of 13 October 2016

Thank you for your letter of 16 September 2016 and for the invitation to comment in relation to Petition PE1605 (Whistleblowing in the NHS – a safer way to report mismanagement and bullying) which is being considered by The Scottish Parliament's Public Petitions Committee.

It is, of course, difficult for the Council to comment on the internal operations of another organisation in a different field. In line with your request, I have therefore concentrated on this Council's experience of introducing a hotline facility for staff. The attached background note details the whistleblowing arrangements that the Council introduced in May 2014, the practical impact and operation of the hotline and also includes links to supporting documentation that the Committee might find informative.

The introduction of these new whistleblowing arrangements within this organisation was well received by the Trades Unions and has been extremely helpful in bringing certain issues to light. The Accounts Commission in their Audit of Best Value and Community Planning of the City of Edinburgh Council in 2014 also noted that the council was the first public sector organisation in Scotland to introduce a whistleblowing hotline for staff in order that they could highlight problems which the council could then respond to.

I hope that the information provided assists the Committee in its consideration of Petition PE1605; please, however, do not hesitate to contact me should the Committee welcome any further information.

Yours sincerely

Background

The City of Edinburgh Council's Petitions Committee considered a [petition](#) similar to PE1605 in April 2013 - "*A safer mechanism for reporting Edinburgh Council mismanagement*" – and asked the appropriate Director to note its terms in final consideration of a draft policy on the subject.

On 19 September 2013 the Council's Finance and Budget Committee approved the Council's [revised Whistleblowing Policy](#), which addressed many of the concerns raised by the petitioner. The revised Whistleblowing Policy replaced the Council's Public Interest Disclosure Policy (2000) and extended its scope beyond the provisions of the Public Interest Disclosure Act 1998, to encourage the raising of "*any serious concerns that you may have about any aspect of Council business or the conduct of officers or members of the Council or others acting on behalf of the Council*" (section 3.3 of the Policy).

Committee instructed the procurement of an independent external hotline provider for a one year pilot, with an option to extend for up to one year. Following the procurement process, the Whistleblowing Policy was implemented and hotline launched simultaneously on 12 May 2014.

Whistleblowing Hotline and Associated Services

The scope of the service contract is wider than core provision of a 'hotline' and includes:

- A multi-channel reporting facility incorporating – a dedicated free (0800) telephone number;
- operational 24/7, a dedicated email address, a web reporting portal via the provider's website;
- Assessment and categorisation of disclosures;
- Advice, guidance and referral (alternative processes/ other organisations);
- Investigative services (additional charges apply);
- Reporting and provision of management information; and
- Awareness and training activities.

Promotion

The Council has promoted the hotline through a variety of channels:

- staff newsletters and email updates;

- a whistleblowing section on the Council's intranet, including advice on how to make a disclosure, what concerns are covered by the Policy and the protection that is provided to a whistleblower;
- the Policy is available to download from the Council intranet and a toolkit will be added later this year;
- each year staff must complete a mandatory policy awareness exercise, confirming that they have read and understood key Council policies, including the Whistleblowing Policy;
- posters have been circulated for display in staff only areas of all Council buildings; and
- wallet cards providing details of how to make a disclosure have been issued to staff working in teams who do not have regular access to email and the intranet.

To assess the effectiveness of these communication methods, the provider asks whistleblowers how they found out about the hotline when they make contact for the first time. This will also be measured through our bi-annual employee survey.

Management of the service

Elected members in the City of Edinburgh Council led the creation of the whistleblowing service and have a role to oversee the outcomes of investigations and related actions. The Vice Convener of the Finance and Resources Committee, Councillor Bill Cook, is the elected member lead for development of the service. The Convener of the Governance, Risk and Best Value Committee, Councillor Joanna Mowat, leads ongoing oversight and scrutiny of the service and its outcomes.

The service is managed internally by a small independent Whistleblowing Team (WBT) which comprises two staff from the Governance Service of the Council. The team manages the service alongside a range of other governance projects and work streams, with the flexibility to meet the fluctuating resource requirements of the whistleblowing service. The team is led by the Head of Strategy and Insight who reports directly to the Chief Executive of the Council and liaises with the Council's Monitoring Officer as appropriate. The service is separate and independent of Human Resources but close working is in place where appropriate.

The WBT are responsible for day to day operation of the service, including liaison with the service provider, pre-investigation enquiries and evidence gathering, support for investigations (internal and external) and support for whistleblowers (where appropriate).

There is a confidential Council email address that staff can use to contact the WBT directly for advice.

How the Council's arrangements work in practice

Hotline

The whistleblower contacts the hotline (telephone, email, web). In the case of a telephone report, the call handler will conduct a cognitive interview with the whistleblower, prompting and questioning to establish as complete a picture as possible. Whistleblowers are encouraged to identify themselves but if they decline to do so the interview will proceed in exactly the same way. Whistleblowers decide on the level of anonymity they are comfortable with, (1) full disclosure of identity, (2) identity known to the service provider but not the Council or (3) full anonymity. Irrespective of their ID status, the service provider issues the whistleblower with a reference number for their disclosure and a confidential password/pin. The whistleblower can use this unique identifier to contact the provider again, via any channel, to disclose more information or check for status updates/feedback on a secure area of the provider's website.

Management referrals

Staff are encouraged to disclose information to Council managers who in turn are required to report disclosures to the independent service provider, to ensure that a full record of whistleblowing disclosures is held centrally. There is a dedicated email address for Council managers to report disclosures to the service provider. The service provider will monitor any internal investigation to ensure it is satisfied with the approach and outcome.

Categories of disclosure

The Council's policy gives the service provider sole discretion over categorisation of disclosures. There are two categories of qualifying disclosure – major/significant and minor/operational. The provider carries out an initial assessment and recommends category of disclosure to the WBT. A course of action is agreed, in consultation with the Chief Executive and/or Monitoring Officer where necessary. This might be an investigation led by the provider (always the case for a major/significant disclosure), an internal investigation (usually carried out by an independent manager from another service) or a referral to another agency e.g. Police Scotland.

Non-qualifying disclosures

The Council receives a significant minority of disclosures that don't qualify as whistleblowing disclosures as defined by the Whistleblowing Policy. Despite this, where information is sufficient, the WBT ensure that the matter is redirected or addressed via an alternative and/or more appropriate route.

Whistleblowing Team role in investigations

One or more members of staff from the WBT will support each investigation by briefing investigating officers, making practical arrangements for interviews etc, gathering and analysing paper and electronic information, directing internal

assistance, advising and guiding investigating officers and liaising with the service provider on next steps/further action.

Investigation deadlines and alignment

Investigations should be completed within three months but can be extended for complex cases. They need to align with other Council procedures and processes e.g. disciplinary, safeguarding, to avoid conflicts if secondary procedures need to take over immediately or follow at a later date. We and the provider are also mindful of our responsibilities in relation to police and criminal investigations and have sought advice from Police Scotland where criminality might have been a factor.

Investigation outcome

An investigation outcome report is produced by the investigating officer, with recommendations for management action if appropriate. The WBT liaise between internal investigating officers and the service provider to ensure internal investigations are completed to the satisfaction of the external provider.

Quarterly reporting

The Council's Governance, Risk and Best Value Committee (GRBV) considers a report in public summarising the number and categories of disclosures received during the reporting period along with progress against the Review Action Plan.

A summary of investigation outcome reports, including any recommendations for management action, is reported separately in private, where investigating officers (internal and external) and service managers can be called to answer questions and account for their actions. GRBV Committee members have access to full copies of investigation outcome reports on request.

Whistleblowers

Anonymity

Whistleblowers are encouraged to identify themselves so that they can be afforded the full protection of the Public Interest Disclosure Act. In practice they often decline to do so as many fear reprisal. We know this because many of them tell our service provider that this is the case. Irrespective of whether or not we or the service provider know the identity of the whistleblower, the information they disclose is processed and investigated in the same way.

Support

In some cases whistleblowers and others, e.g. service users, might require support, particularly during the course of a complex investigation. It is important to ensure that suitable support services are readily accessible, e.g. counselling. The Council has a range of support services in place for employees/workers but this is not the

case for service users and we have had to make special arrangements to access specialist support for third parties.

Feedback

Where an open channel of communication exists between the service provider and the whistleblower, the provider will channel feedback on the outcome of their case to the whistleblower directly. Where the whistleblower's contact details are unknown, written feedback is posted on the secure area of the service provider's website which can be accessed by the whistleblower, using their password, at any point in the future.

Review of Pilot

The service pilot was independently reviewed by external employment law experts and a summary of their findings was reported to the Finance and Resources Committee of the Council in August 2015.

Committee accepted all but one of the recommendations in the [report](#). The review team had recommended that authority to decide on the categorisation of disclosures, and therefore who would investigate each disclosure, revert back to Council officers but Committee decided that this authority would remain with the independent service provider.

An action plan to re-procure, further develop and improve the service was approved. The procurement process to appoint an external service provider concluded in April 2016 and a new contract, incorporating improvements recommended by the review team, commenced in May 2016.

Experience to date

The Public Petitions Committee has requested feedback on the Council's experience of the hotline facility. The expert review of the pilot reported the following:

Independent reporting (hotline)

The pilot review concluded that: *"All of those interviewed considered that there was value in having an external whistleblowing service and that such an arrangement should continue"*.

The review recommended that: *"The Council should continue with the provision of an external Whistleblowing Helpline"*.

Committee decided: *"To agree the action plan outlined in Appendix 2 of the report"* (which included continuation of the service beyond the pilot and procurement of an external provider beyond May 2016).

Independent service provider

The pilot review concluded that: *“there was a strong feeling amongst many interviewees that, if not for the involvement of an external body, certain matters may not have come to light”*.

The review recommended that: *“The Council should not continue with a policy in terms of which an external provider has the discretion to determine if investigations are conducted externally or internally, albeit there should be an ability to use external investigators where appropriate”*.

Committee decided: *“To agree to retain the independence of the external provider in terms of how investigations would be carried out”*.

Development of the service

The Council is incrementally implementing the Review Action Plan approved by Committee in August 2015, focussing on improvement and development of the service, including raising awareness of the service, policy review, process improvement and training for investigating officers.

Outcomes

There is a developing confidence amongst Council colleagues that there is now a safe mechanism for reporting concerns and that these will be investigated appropriately with the oversight of an independent third party and reporting to elected members via the Council’s Governance, Risk and Best Value Committee. This is measured through our bi-annual employee survey.

Since the service launched, in May 2014, 48 disclosures have been received, including 11 that did not qualify as whistleblowing disclosures as defined by the policy. The Council’s aim is to encourage disclosure, even if the individual raising concerns is found to be mistaken, as a trusted and well utilised whistleblowing service is a key risk management tool for the authority. In addition to the investigating of qualifying disclosures, all non qualifying disclosures are followed up by the WBT to ensure, as far as possible, that the concerns of staff are addressed e.g. sign-posting to another agency or recourse through another process.

Investigations into qualifying disclosures have resulted in a range of management action and service improvements relating to Council working practices, policies, procedures and processes in areas such as health and safety, safeguarding, and recruitment.

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