

ABERDEEN CITY COUNCIL

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COMMITTEE	Audit, Risk & Scrutiny Committee
DATE	June 2016
INTERIM DIRECTOR	Richard Ellis
TITLE OF REPORT	Whistleblowing – Annual Report 2016
REPORT NUMBER	CG/16/093
CHECKLIST COMPLETED	Yes

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1. PURPOSE OF REPORT

To provide Committee with a summary of Whistleblowing activity during the period 1 April 2015- to 31 March 2016.

2. RECOMMENDATION(S)

It is recommended that the Committee:

- i) Note the report.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications arising from this report.

#### 4. OTHER IMPLICATIONS

None.

#### 5. BACKGROUND/MAIN ISSUES

5.1.1 The Public Interest Disclosure Act 1998 which amended the Employment Rights Act 1996, provides that a worker can make a protected disclosure about a wrongdoing. A disclosure will only be considered a protected disclosure if the following conditions apply;

1. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.
2. The worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
  - criminal offences (this may include, for example, types of financial impropriety such as fraud)
  - failure to comply with an obligation set out in law
  - miscarriages of justice
  - endangering of someone's health and safety
  - damage to the environment
  - covering up wrongdoing in the above categories.

5.1.2 Aberdeen City Council's Whistleblowing Policy and Procedure was implemented in November 2013 and provides a mechanism for individuals (including agency staff/ contractors) to raise concerns they have about serious malpractice or wrongdoing in connection with any Council Service without fear of reprisal and independently of their line management, where this is appropriate.

5.1.3 If a concern does not fall into the categories specified in 5.1.1 above, it will not be deemed a Whistleblowing matter. That said, it is likely that the concern, if reasonably held by an individual, can be dealt with appropriately under a different Council policy or procedure such as; Grievance, Bullying & Harassment and Fraud. The Head of Legal and Democratic Services in his capacity as Monitoring Officer determines whether a concern falls within the remit of the Whistleblowing Policy.

#### 5.2 Whistleblowing cases

5.2.1 In the period from 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016, there were two cases reported to the Monitoring Officer. One has yet to be determined as a Whistleblowing case. Additional information has been requested from the individual who raised the initial concern, in order that the Monitoring Officer can determine whether it falls under policy. The other was deemed to have been investigated previously and was held

not to be a matter which fell under the scope of the Policy. There have been no further Whistleblowing concerns raised with the Monitoring Officer during this period.

- 5.2.2 It's difficult to interrogate and analyse one case particularly because no investigation was borne out of it, other than to question why the numbers of cases are so low and consider whether this is comparable across Scotland. In 2015, the whistleblowing charity Public Concern at Work published the outcome of a report into whistleblowing cases in the UK in 2012 and 2013<sup>1</sup>. That report analysed calls to the charity's advice-line which included concerns raised by staff/ individuals in local government. The most common type of wrongdoing complained of related to ethical and financial concerns. It was found that raising the concern as a grievance had a negative outcome for the whistleblower as there was a higher chance of reprisal. The outcome was more successful if the concern was raised with management in the first instance.
- 5.2.3 The Department for Business Innovation and Skills "Whistleblowing" Guidance for Employers, March 2015, states that whilst it is good practice to have a policy in place to encourage workers to "blow the whistle", each organisation needs to let its workers know about the policy and make sure they know how to make a disclosure. The Council Whistleblowing Policy is available and accessible on the Zone.
- 5.2.4 At the Council meeting on 11<sup>th</sup> May 2016, Members noted and agreed the scope of the Governance Review which has as its remit the development of a governance framework which supports the Council in implementing the Strategic Business Plan. As part of Review a particular workstream has been identified in connection with Fraud, Bribery and Whistleblowing processes which provides that these be reviewed to ensure that they still remain "fit for purpose", are communicated effectively and are complied with. Whilst the content of the Whistleblowing policy is likely to require minimal changes due to the law on the area remaining unchanged, a wider review on the application and communication of that policy will be required to ensure that managers and staff are aware of the policy, and highlight that there is an open and supportive culture within the Council which encourages staff to report concerns about service delivery.

## 6. IMPACT

Having this policy in place demonstrates the Council's commitment to providing a mechanism for individuals to raise concerns about service delivery without fear of reprisal. The work to be undertaken in the wider

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<sup>1</sup> <http://www.pcaw.org.uk/files/Whistleblowing%20-%20the%20inside%20story%20FINAL.pdf>

review of Council policies through the platform of the Governance Review will only seek to promote this commitment.

## 7. MANAGEMENT OF RISK

7.1 Concerns raised through the Policy which are deemed a whistleblowing concern ensure that the Council responds to concerns about serious malpractice or wrongdoing in connection with the services it delivers.

7.2 The reporting of whistleblowing activity is monitored by Audit Scotland, through the Council's Audit plan and this annual report satisfies the requirement to report on such activity.

## 8. BACKGROUND PAPERS

None

## 9. REPORT AUTHOR DETAILS

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