

Finance and Budget Committee

10.00, Thursday 19 September 2013

Revised Whistleblowing Policy

Item number	7.2
Report number	
Wards	All

Links

Coalition pledges	
Council outcomes	CO25, CO27
Single Outcome Agreement	

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Executive summary

Revised Whistleblowing Policy

Summary

A robust and effective whistleblowing policy is a key part of proper risk management.

It is critical that Council employees have a mechanism to report their concerns to ensure that wrongdoing and malpractice, as well as any issue that could give rise to significant risks to the Council, are flagged and addressed appropriately.

In response to concerns about proper oversight and the whistleblowing process it is proposed to pilot a Whistleblowing Hotline which will allow Council employees to raise their concerns with an external third party in the knowledge that all concerns will be logged and reported regularly to the Governance, Risk and Best Value Committee (the 'GRBV Committee') who will scrutinise and call management to account for the proper handling of all concerns raised.

In the case of 'major/ significant' concerns, the Whistleblowing Hotline will own the investigation. It will liaise with line management proactively to investigate and report on issues raised, where they are of a serious nature, and to pass more minor/ operational issues to line managers for investigation, where they consider it appropriate.

This report therefore sets out officer recommendations following a review of the existing "Public Interest Disclosure Policy", which was put in place in 2000, and seeks the approval of the Finance and Budget Committee to replace this with the "Revised Whistleblowing Policy."

On implementation of the Revised Whistleblowing Policy, all whistleblowing disclosures by employees will require to be brought to the attention of an external commercial "Whistleblowing Hotline".

The Revised Whistleblowing Policy covers malpractice under the whistleblowing legislation and other serious concerns.

The Revised Whistleblowing Policy has been drafted to ensure that employees have the right to raise concerns in the knowledge that they will be taken seriously, that matters will be investigated appropriately, and confidentiality will be maintained.

It is intended that the primary way for an employee to raise concerns is by recourse to the external, commercial Whistleblowing Hotline. Alternatively, the employee may wish to make a disclosure to a manager within the Council; if this is the case, the manager in all cases is required to report that they have received a disclosure to the Whistleblowing Hotline provider.

The Whistleblowing Hotline provider will determine the distinction between a 'minor/ operational' whistleblowing disclosure and a 'major/ significant' whistleblowing disclosure.

In the case of a 'minor/ operational' whistleblowing disclosure (and at the sole discretion of the Whistleblowing Hotline provider), they may ask a manager within the Council to conduct investigations and report back to them with their findings. If this is the case the Whistleblowing Hotline provider will liaise with the Monitoring Officer's whistleblowing team. Alternatively, the Whistleblowing Hotline provider may themselves carry out the investigation and reporting function concerning a 'minor/ operational' whistleblowing disclosure.

In the case of 'major/ significant' whistleblowing disclosures, the Whistleblowing Hotline provider will always carry out the investigation and reporting to the GRBV Committee.

Where the Whistleblowing Hotline provider carries out investigations they will (as appropriate and at their discretion) liaise with the Monitoring Officer, the Monitoring Officer's Whistleblowing team, the Director of the service area, the Chief Executive, line managers and employees at the Council. The Whistleblowing Hotline provider will prepare quarterly and annual summary reports of issues raised and prepare independent investigative and outcome reports on disclosures; they will also be responsible for dissemination of any report(s) on a disclosure conducted by a manager within the Council.

The Whistleblowing Hotline provider will also maintain a record of all disclosures and provide full copies of all investigative and outcome reports for the GRBV Committee. They will however be submitted to the Monitoring Officer, each Director and the Chief Executive of the Council for information and comment only, in advance of being presented to the GRBV Committee. The Chief Executive of the Council will report to the GRBV Committee in relation to the outcome of the Whistleblowing Hotline providers' findings, however, the Chief Executive may determine that the report should be submitted by the Monitoring Officer or relevant service area Director.

In short, reporting to Councillors and senior officers by the Whistleblowing Hotline provider shall take place as follows:

- Corporate Management Team:
 - Quarterly and annual reports with a high level summary of the issues raised and actions taken;
- Finance and Budget Committee:
 - Quarterly and annual reports with a high level summary of the issues raised and actions taken;
- GRBV Committee:
 - Quarterly and annual reports with a high level summary of the issues raised and actions taken;
 - All investigative and outcome reports;
- Monitoring Officer and Chief Executive:

- Quarterly and annual reports with a high level summary of the issues raised and actions taken;
- All investigative and outcome reports, in advance of being presented to the GRBV Committee.

Recommendations

The Finance and Budget Committee are asked to:-

1. note the contents of this report including the Revised Whistleblowing Policy at Appendix 1 and the terms of the Petition at Appendix 2;
2. approve the Revised Whistleblowing Policy;
3. instruct the Director of Corporate Governance to implement its terms including those steps necessary to procure a commercial Whistleblowing Hotline provider to meet the requirements of the Revised Whistleblowing Policy and on the basis that a one year pilot is entered into with this provider; and
4. instruct the Director of Corporate Governance to secure a local collective agreement and the development of a joint implementation plan with the trade unions once approval is confirmed.

Measures of success

Employees feel able to report suspected wrongdoing as early as possible in the knowledge that:-

- (a) their concerns will be taken seriously and investigated appropriately;
- (b) they will be protected from victimisation; and
- (c) the provisions of the Revised Whistleblowing Policy ensure all matters at the Council are fully transparent and officers are accountable.

Financial impact

It is recommended that a pilot independent Whistleblowing Hotline is set up for one year with a review after six months.

The use and efficacy of this mechanism will be closely monitored during the first year and a report will be sent to the Corporate Management Team prior to the expiry of the pilot with proposed recommendations as to its continuance.

The cost of the Whistleblowing Hotline will be determined once an assessment has taken place of those providers in the market who are able to provide best value to facilitate and meet the requirements of the current draft Revised Whistleblowing Policy.

It is intended that the cost of investigatory work and subsequent reporting shall be borne by the service area to which the disclosure relates.

As a guide it is estimated that it would cost £78,000 inclusive of VAT for a provider to carry out the functions/ requirements as set out in the Revised Whistleblowing Policy for the pilot phase.

It is intended that a provider is secured following a procurement exercise.

Equalities impact

There are no direct equalities implications arising from this report.

Sustainability impact

There are no sustainability implications arising from this report.

Consultation, engagement and implementation

The Revised Whistleblowing Policy has been drafted to ensure that employees have the right to raise concerns in the knowledge that they will be taken seriously, that matters will be investigated appropriately, and confidentiality will be maintained.

The intention behind the changes is to improve policy arrangements to ensure that Council employees feel able to 'blow the whistle' in confidence.

An audit of other local authority policies has taken place and an assessment of the various providers that can facilitate and meet the demands of the Council's Revised Whistleblowing Policy is well underway.

Following the meeting of the Petitions Committee on 18 April 2013 the Director of Corporate Governance, in consultation with the Corporate Management Team, were asked to note the terms of the petition "A safer Mechanism for reporting Edinburgh Council Mismanagement". The terms of the petition can be found at Appendix 2 and its proposals are addressed further at paragraphs 2.13 and 2.15 of the Report.

Consultation with the trade unions shall take place to secure a local agreement.

A joint implementation plan will be developed, which will include:

- those steps necessary to procure a commercial Whistleblowing Hotline provider to meet the requirements of the current draft Revised Whistleblowing Policy and on the basis that a one year pilot is entered into with this provider;
- arrangements concerning Whistleblowing in induction programmes;
- an 'e-learning' package; and

- communications planning for the launch and implementation of the policy and hotline.

Background reading / external references

There is no background reading or external references arising from this report.

Revised Whistleblowing Policy

1. Background

- 1.1 This report proposes the adoption of a Revised Whistleblowing Policy, which replaces the current Policy on Public Interest Disclosure, in order to strengthen existing whistleblowing procedures and to meet the requirements of the Public Interest Disclosure Act 1998 (“the Act”).
- 1.2 Following recent high profile cases, external representations, officer and member initiatives and the petition for an independent whistleblowing hotline, a number of changes are now proposed to the existing procedure.
- 1.3 The intention behind these changes is to ensure:-
 - 1.3.1 the primary way for an employee to raise concerns is by recourse to the external commercial Whistleblowing Hotline;
 - 1.3.2 where an employee decides to make a disclosure to a manager within the Council, in all cases the manager reports that they have received a disclosure to the Whistleblowing Hotline provider;
 - 1.3.3 the Whistleblowing Hotline provider determines the distinction between a ‘minor/ operational’ whistleblowing disclosure and a ‘major/significant’ whistleblowing disclosure;
 - 1.3.4 in the case of a ‘minor / operational’ whistleblowing disclosure (and at the sole discretion of the Whistleblowing Hotline provider), they may ask a manager within the Council to conduct investigations and report back to them with their findings. If this is the case the Whistleblowing Hotline provider will liaise with the Monitoring Officer’s Whistleblowing team. Alternatively, the Whistleblowing Hotline provider may themselves carry out the investigation and reporting function concerning a ‘minor/ operational’ whistleblowing disclosure;
 - 1.3.5 in the case of a ‘major/ significant’ whistleblowing disclosures the Whistleblowing Hotline provider will always carry out the investigation and reporting function;
 - 1.3.6 where the Whistleblowing Hotline provider carries out investigations they will (as appropriate and at their discretion) liaise with the Monitoring Officer, the Director of the relevant service area, the Chief Executive, line managers and employees at the Council. The Whistleblowing Hotline provider will prepare quarterly and annual summary reports on issues raised and prepare independent investigative and outcome reports on disclosures; they will also be

- responsible for dissemination of any report(s) conducted by a manager within the Council;
- 1.3.7 the Whistleblowing Hotline provider provides quarterly and annual summary reports on issues raised to the Corporate Management Team, the Finance and Budget Committee, and the GRBV Committee;
 - 1.3.8 the Whistleblowing Hotline provider maintains a record of all disclosures and provides full copies of all investigative and outcome reports to the GRBV Committee;
 - 1.3.9 the Monitoring Officer, each Director and the Chief Executive of the Council shall receive all reports from the Whistleblowing Hotline provider. They shall be submitted to the Monitoring Officer and the Chief Executive of the Council for information and comment only, in advance of being presented to the GRBV Committee;
 - 1.3.10 the Monitoring Officer and/ or the Director of the relevant service area and/ or the Chief Executive of the Council will report to the GRBV Committee in relation to the outcome of the Whistleblowing Hotline provider's findings;
 - 1.3.11 the Revised Whistleblowing Policy is more accessible for employees who wish to make a qualifying disclosure and it has been aligned to those areas of malpractice where employees qualify for protection in terms of the Act. Those areas of malpractice under the Act are noted below;
 - 1.3.11.1 criminal activity;
 - 1.3.11.2 a failure to comply with any legal obligation;
 - 1.3.11.3 miscarriages of justice;
 - 1.3.11.4 damage to health and safety;
 - 1.3.11.5 damage to the environment; and
 - 1.3.11.6 deliberate concealment of any of the above matters.
 - 1.3.12 where employees raise issues that are not malpractice they will be correctly directed to other Council policies and procedures; the Whistleblowing Hotline provider will perform this referral function;
 - 1.3.13 a clear delineation of responsibilities amongst Employees, the Whistleblowing Hotline provider, Managers of the Council, the Monitoring Officer, the service area Director and the Chief Executive of the Council under the policy;
 - 1.3.14 the timescales for action on the part of the Whistleblowing Hotline provider or line manager are clear when they investigate and report on whistleblowing matters; and

1.3.15 the stages involved in dealing with whistleblowing disclosures are simplified.

2. Main report

- 2.1 An initial risk assessment was undertaken by HR to determine the distinction between existing policies and procedures and the terms proposed in the Revised Whistleblowing Policy.
- 2.2 This assessment involved reviewing current policies and procedures, and assessing equivalent whistleblowing arrangements.
- 2.3 Of the 29 local authorities where equivalent whistleblowing policy arrangements are in place, only one has an arrangement for a confidential “helpline”. None of the local authorities assessed have a “hotline”.
- 2.4 The Council already has in place a procedure to allow whistleblowing. It is recommended that the current policy on Public Interest Disclosure, drafted in 2000, is replaced by a Revised Whistleblowing Policy to ensure that the Council can continue to demonstrate compliance with the Act.
- 2.5 The Revised Whistleblowing Policy, appended to this report at Appendix 1, provides information and guidance on how the Council will prevent, recognise and deal with whistleblowing issues.
- 2.6 The Revised Whistleblowing Policy introduces a confidential external hotline, known as the Whistleblowing Hotline, for employees to use when raising issues of malpractice.
- 2.7 The Revised Whistleblowing Policy makes the commercial Whistleblowing Hotline provider the primary route for employee disclosures.
- 2.8 Alternatively, the employee may wish to make a disclosure to a manager within the Council; if this is the case, the manager (in all cases) is required to report that they have received a disclosure to the Whistleblowing Hotline provider.
- 2.9 The Whistleblowing Hotline provider will determine if they or a manager within the Council is to investigate and report on a disclosure by liaising with the Monitoring Officer’s Whistleblowing team.
- 2.10 Overall corporate responsibility for ensuring compliance with the Act lies with the Council’s Monitoring Officer.
- 2.11 It is intended to run a one year pilot of the Whistleblowing Hotline with a review at six months to determine if it increases the reporting frequency of protected disclosures and represents value for money. A report on the findings of the pilot will be reported to the Corporate Management Team and Finance and Budget Committee after the pilot has concluded.
- 2.12 The cost of the Whistleblowing Hotline will be determined once an assessment has taken place of those providers in the market who are able to provide best value to facilitate and meet the requirements of the current draft Revised

Whistleblowing Policy. It is intended that the cost of investigatory work and subsequent reporting shall be borne by the service area to which the disclosure relates.

2.13 The petition "A safer Mechanism for reporting Edinburgh Council Mismanagement" (Appendix 2) seeks "a hotline" to which only senior Councillors would be the recipient of information from the hotline provider. It is officers' view that while an external, commercial hotline is an appropriate mechanism, it is anticipated that reportable matters will, in the main, be of an operational nature. Therefore a hotline to which only senior Councillors have access would not be an appropriate mechanism. In order to allow appropriate oversight and scrutiny by elected members, this report recommends:-

- the Corporate Management Team receive quarterly and annual reports with a high level summary of the issues raised and actions taken;
- the Finance and Budget Committee receive quarterly and annual reports with a high level summary of the issues raised and actions taken;
- the GRBV Committee receive quarterly and annual reports with a high level summary of the issues raised and actions taken and all investigative and outcome reports;

2.14 In addition, the Monitoring Officer, each Director and the Chief Executive will receive quarterly and annual reports with a high level summary of the issues raised and actions taken and all investigative and outcome reports, in advance of being presented to the GRBV Committee.

2.15 The setting up of the independent hotline does of course partially satisfy the terms of the petition and officers are confident this will be welcomed by the petitioners.

2.16 The Revised Whistleblowing Policy also seeks to promote a culture where employees can raise concerns without fear of victimisation or recrimination, but in the knowledge that in the unlikely event complaints are shown to be malicious or vexatious this will lead to disciplinary action.

2.17 The Revised Whistleblowing Policy also makes it clear that any attempt to thwart the whistleblower by a fellow employee will be treated as serious misconduct. This is particularly important for the Council as, since April 2013, an employer may be held vicariously liable for any acts of victimisation by an employee against the whistleblower.

2.18 The Act creates two levels of protection for whistleblowers. The dismissal of an employee will be automatically unfair if the reason, or principal reason, for their dismissal is that they have made a "protected disclosure".

2.19 The Act also protects workers from being subjected to any detriment on the ground that they have made a "protected disclosure".

2.20 Implementation of the Revised Whistleblowing Policy will require considerable planning. As has been the case with previous policy or procedure implementation, it is recommended that a joint implementation plan is developed with the trade unions. Such a plan should include:

- securing a hotline provider;
- arrangements concerning whistleblowing in induction programmes;
- an 'e-learning' package; and
- communications planning for the launch and implementation of the policy and hotline.

3. Recommendations

3.1 The Finance and Budget Committee are asked to:-

3.1.1 note the contents of this report including the Revised Whistleblowing Policy at Appendix 1 and the terms of the Petition at Appendix 2;

3.1.2 approve the Revised Whistleblowing Policy;

3.1.3 instruct the Director of Corporate Governance to implement its terms including those steps necessary to procure a commercial Whistleblowing Hotline provider to meet the requirements of the Revised Whistleblowing Policy and on the basis that a one year pilot is entered into with this provider; and

3.1.4 instruct the Director of Corporate Governance to secure a local collective agreement and the development of a joint implementation plan with the trade unions once approval is confirmed.

Alastair D Maclean

Director of Corporate Governance

Links

Coalition pledges

Council outcomes CO25 - The Council has efficient and effective services that deliver on objectives.
CO27 - The Council supports, invests in and develops our people.

Single Outcome Agreement

Appendices Appendix 1 Draft Revised Whistleblowing Policy
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WHISTLEBLOWING POLICY

(Covering all employees & workers)

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WHISTLEBLOWING POLICY

(Covering all employees & workers)

1. PURPOSE

- 1.1 The aims of this Policy are to uphold the highest standard of conduct and ethics in all areas of the Council's work.
- 1.2 In line with this commitment if you have serious concerns about any aspect of the Council's work you are encouraged to come forward and voice those concerns.
- 1.3 This Policy covers malpractice under the whistleblowing legislation and other serious concerns.
- 1.4 The relevant whistleblowing legislation is the Public Interest Disclosure Act 1998 (the 'Act').
- 1.5 You have the right to raise concerns in the knowledge that they will be taken seriously, investigated appropriately, and your confidentiality will be maintained.
- 1.6 This Policy explains how to raise concerns.
- 1.7 The main way to raise concerns is to the external 'Whistleblowing Hotline'. Details are at paragraph 4.
- 1.8 You can also make a disclosure to a Manager within the Council. Details are also at paragraph 4.
- 1.9 You will be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.
- 1.10 The Monitoring Officer (the Council's Director of Corporate Governance) has overall responsibility for this Policy which means undertaking periodic reviews to reflect organisational changes, best practice, operational experience or legislative updates.
- 1.11 This Policy applies to all employees and workers, including persons contracted to personally provide services to the Council, persons undergoing training or work experience as part of a training course and agency workers.

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2. HOW TO WHISTLEBLOW IN CONFIDENCE

- 2.1 You can blow the whistle by contacting the external 'Whistleblowing Hotline' maintained by [PROVIDER] which is a separate organisation.
- 2.2 You can also make a disclosure to a Manager within the Council.

2.3 An explanation of how these arrangements work is at Appendix 1, the Whistleblowing Flowchart.

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3. WHAT CAN YOU RAISE AS A WHISTLEBLOWING CONCERN?

3.1 The following areas of malpractice can be raised under this Policy:-

3.1.1 criminal activity;

3.1.2 a failure to comply with any legal obligation;

3.1.3 miscarriages of justice;

3.1.4 damage to health and safety;

3.1.5 damage to the environment; and

3.1.6 deliberate concealment of any of the above matters.

3.2 The above does not represent an exhaustive list of areas covered by this Policy.

3.3 You should also raise 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 under this Policy.

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4. RESPONSIBILITIES

4.1 Employee/ Worker obligations

4.1.1 You should report any concern to the Whistleblowing Hotline provider.

4.1.2 You can also report a concern to any Manager at the Council.

4.1.3 You should do so where you have a reasonable belief that malpractice has occurred, where you have any serious concerns and it is in the public interest to do so.

4.1.4 You should not use this Policy for complaints relating to your employment as they are best addressed using the Council's Grievance or Fair Treatment at Work procedures.

- 4.1.5 You are responsible for acting professionally if you have a concern about the work of your colleagues, including an expectation on you to report malpractice.
- 4.1.6 You may also be called upon to assist the Whistleblowing Hotline provider regarding your disclosure.
- 4.1.7 In the unlikely event that your reported concern or issue is found to be deliberately vexatious or malicious this will be considered as a disciplinary matter.

4.2 Whistleblowing Hotline

- 4.2.1 The Whistleblowing Hotline is maintained by [PROVIDER] which is a separate organisation.
- 4.2.2 The Whistleblowing Hotline is accessed by email and phone at:-
 - 4.2.2.1 [PROVIDER EMAIL];
 - 4.2.2.2 [PROVIDER PHONE].
- 4.2.3 The Whistleblowing Hotline is the main way to make a whistleblowing disclosure (it is not the only way however).
- 4.2.4 You can also make a whistleblowing disclosure to any Manager at the Council (further details are explained at paragraph 4.4 below).
- 4.2.5 The Whistleblowing Hotline provider will follow the procedure once they receive your disclosure as set out in paragraph 4.2 and 4.3 and at paragraph 5 below.
- 4.2.6 If you make a disclosure to a Manager within the Council the Manager, in all cases, needs to report that they have received a disclosure to the Whistleblowing Hotline provider. This is to ensure that they can maintain a record of all disclosures.
- 4.2.7 When you contact the Whistleblowing Hotline provider they will determine if it is a 'minor/ operational' whistleblowing disclosure, or a 'major/ significant' whistleblowing disclosure.
- 4.2.8 In the case of a 'minor/ operational' whistleblowing disclosure (and at the sole discretion of the Whistleblowing Hotline provider), they may ask a Manager within the Council to conduct investigations and report back to them with their findings. If this is the case the Whistleblowing Hotline provider will liaise with the Monitoring Officer's whistleblowing team. Alternatively, the Whistleblowing Hotline provider may itself carry out the investigation and reporting function concerning a 'minor/ operational' whistleblowing disclosure.

- 4.2.9 In the case of 'major/ significant' whistleblowing disclosures, the Whistleblowing Hotline provider will always carry out the investigation and reporting function.
- 4.2.10 The Whistleblowing Hotline provider may at any time make a recommendation to the Monitoring Officer and the Chief Executive of the Council that a matter which has been disclosed:-
- 4.2.10.1 be investigated internally;
 - 4.2.10.2 be referred to the Police;
 - 4.2.10.3 be referred to the external auditor; or
 - 4.2.10.4 form the subject of an independent inquiry.
- 4.2.11 The Whistleblowing Hotline provider may also direct you to other Council policies and procedures where the issue you have raised would be best addressed under one of those policies/procedures.
- 4.2.12 The Whistleblowing Hotline provider may therefore determine that matters raised by you are appropriately dealt with under the following Council policies and procedures:- the Complaints Procedure, the Care Service Feedback Procedures, the Policy on Fair Treatment at Work, the Procedure for Hearing Grievances and the Equality and Rights in Employment Policy. Further action may also be considered under the terms of the Employee Code of Conduct, the Disciplinary Procedure, the Anti-Fraud Policy, and the Anti-Bribery Policy.
- 4.2.13 The Whistleblowing Hotline provider may also determine that the issues raised fall under the scope of other specific Council policies and procedures (such as child protection matters, social services matters and discriminatory conduct) or other professional codes.
- 4.2.14 The Whistleblowing Hotline provider will liaise (as appropriate and at their discretion) with the Monitoring Officer and his whistleblowing team, the Chief Executive, the Directors in each service area, line managers and employees at the Council to the extent necessary to allow them to investigate and report on whistleblowing disclosures.

4.3 Whistleblowing Hotline Reports

- 4.3.1 Where the Whistleblowing Hotline provider carries out investigations they will (as appropriate and at their discretion) liaise with the Monitoring Officer, the Monitoring Officer's whistleblowing team, the Chief Executive, the Director of the relevant service area, relevant line managers and relevant employees at the Council.
- 4.3.2 The Whistleblowing Hotline provider will prepare quarterly and annual summary reports and prepare independent reports on disclosures for the Governance, Risk and Best Value Committee (the 'GRBV Committee'); they will also be responsible for dissemination of any report(s) on a disclosure conducted by a Manager within the Council to the GRBV Committee.

4.3.3 The Monitoring Officer and / or Director of the relevant service area and/ or the Chief Executive of the Council will initially receive all reports from the Whistleblowing Hotline provider. They will however be submitted to the Monitoring Officer, each Director and the Chief Executive of the Council for information and comment only, in advance of being presented to the GRBV Committee. The Monitoring Officer and / or the Chief Executive of the Council will report to the GRBV Committee in relation to the outcome of the Whistleblowing Hotline providers findings.

4.3.4 The Whistleblowing Hotline provider will also maintain a record of all disclosures and provide full copies of all investigative outcome reports for the GRBV Committee.

4.3.5 The quarterly and annual reports to the GRBV Committee will state a high level summary of the issues raised and the actions taken concerning whistleblowing. As a minimum this will include:-

4.3.5.1 the number of calls;

4.3.5.2 the length of each call;

4.3.5.3 the type of message received;

4.3.5.4 whether the call required to be handled by other means;
and

4.3.5.5 classification of the disclosure/ area of malpractice.

4.3.6 The investigative and outcome reports of the Whistleblowing Hotline provider will contain sufficient detail to allow the GRBV Committee to questions persons where necessary and to call upon Council managers to account for their handling of matters.

4.4 **Monitoring Officer's whistleblowing team**

4.4.1 The Monitoring Officer's whistleblowing team will liaise with the Whistleblowing Hotline provider on all 'minor/ operational' disclosures.

4.4.2 The Monitoring Officer's whistleblowing team will identify which Managers within the Council are able to carry out those investigations deemed necessary and liaise with the Whistleblowing Hotline provider as appropriate.

4.5 **Manager(s) of the Council**

4.5.1 The Whistleblowing Hotline provider may pass 'minor/ operational' disclosures to Managers for investigation where they consider it appropriate.

- 4.5.2 In the case of 'minor/ operational' disclosures the Whistleblowing Hotline provider will always liaise with the Monitoring Officer's whistleblowing team in the first instance.
- 4.5.3 At the sole discretion of the Whistleblowing Hotline provider, and through the Monitoring Officer's whistleblowing team, they may ask the Manager within the Council to conduct investigations and report back to them with their findings.
- 4.5.4 On receipt of a disclosure the Manager will follow the procedures as set out within this paragraph 4.5 and at paragraph 5, below.
- 4.5.5 The investigative and outcome reports of the Manager within the Council will contain sufficient detail to allow the GRBV Committee to question persons where necessary and to call upon Council managers to account for their handling of matters.
- 4.5.6 Managers, may also be called upon to assist the Whistleblowing Hotline provider regarding your disclosure. Those called upon to do so must assist the Whistleblowing Hotline provider to the extent necessary to facilitate their investigations and subsequent reporting.
- 4.5.7 Those called upon to assist the Whistleblowing Hotline provider are to retain confidentiality as directed by them.
- 4.5.8 Those called upon to assist the Whistleblowing Hotline provider also require to provide such assistance as soon as reasonably practicable in order that the provider can carry out appropriate investigations and subsequent reporting.

4.6 Monitoring Officer / Chief Executive / Directors of the Council

- 4.6.1 The Whistleblowing Hotline provider will provide a copy of the final report(s) to the Monitoring Officer, each Director and the Chief Executive of the Council for information and comment only, in advance of the final report(s) going to the GRBV Committee.
- 4.6.2 The Monitoring Officer and/ or the Director of the relevant service area and/ or the Chief Executive of the Council will report to the GRBV Committee in relation to the outcome of the Whistleblowing Hotline providers findings.
- 4.6.3 In the case of 'major/ significant' whistleblowing disclosures, the Whistleblowing Hotline provider shall immediately inform the Monitoring Officer and each Director and the Chief Executive of the Council. The Monitoring Officer and his whistleblowing team and the Director in the relevant service area and the Chief Executive of the Council will support the Whistleblowing Hotline provider as necessary to allow them to carry out their investigatory and reporting duties.

4.7 GRBV Committee

- 4.7.1 The role of the GRBV Committee in respect of this policy is to monitor the financial performance of the Council and its subsidiary undertakings, the effectiveness of the Council's audit and inspection, risk management and governance arrangements and of the control environment of the Council and associated anti-fraud and anti-corruption arrangements.
- 4.7.2 The GRBV Committee will receive quarterly and annual high level summary reports and all investigative and outcome reports regarding whistleblowing disclosures (prepared by the Whistleblowing Hotline provider) from the Monitoring Officer and / or the Director of the relevant service area, and/ or the Chief Executive of the Council. The Chief Executive of the Council will report to the GRBV Committee in relation to the outcome of the Whistleblowing Hotline providers' findings, save that the Chief Executive may determine that the report should be submitted by the Monitoring Officer or relevant service area Director. This includes those reports prepared by a Manager of the Council where the Whistleblowing Hotline provider directed them to undertake the report.
- 4.7.3 The GRBV Committee will be entitled to question relevant persons where necessary and to call Council managers to account for their handling of matters raised under this Whistleblowing Policy.

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5. PROCEDURE ON RECEIPT OF A DISCLOSURE

- 5.1 The Whistleblowing Hotline provider or the Manager within the Council (as directed by the Whistleblowing Hotline provider) will take ownership of any investigations, liaise with those within the Council as necessary and following the investigation, prepare a report.
- 5.2 The Whistleblowing Hotline provider, or the Manager within the Council, will follow such procedures as necessary to investigate and conclude their findings.
- 5.3 Ordinarily a whistleblowing disclosure will be acted upon and concluded in good time. Good time will normally mean no more than three months.
- 5.4 A disclosure made by you will be treated with sensitivity and your confidentiality will be maintained.
- 5.5 If it is necessary during the course of investigating your concern to reveal your identity this will be discussed with you in advance.

5.6 You may be required to come forward as a witness. In such circumstances, the Whistleblowing Hotline provider or the Manager at the Council conducting the investigations will arrange for you to be given advice about the relevant procedure. You will also be afforded the opportunity to be accompanied by a trade union representative or work colleague of your choice if you have any further active involvement in the process.

5.7 Disclosures may be made to the Whistleblowing Hotline provider or the Manager within the Council orally, or in writing. The disclosure should, wherever possible, contain all relevant details about the background and history of the matter being disclosed including names, dates and times as well as the grounds for your concern. If you are unsure about how to approach this situation you may seek advice from the Whistleblowing Hotline provider or the Manager within the Council conducting the investigations.

5.8 A disclosure to the Whistleblowing Hotline or the Manager within the Council will be dealt with in three stages.

5.9 **Stage 1**

You can make a disclosure to the Whistleblowing Hotline provider or any Manager within the Council.

Where the Manager within the Council receives the disclosure they need to report this to the Whistleblowing Hotline provider so the provider can assess the seriousness of the matter.

Where the Whistleblowing Hotline provider determines that the matter does not fall within the terms of this Policy, they will direct you to the appropriate alternative Council policy or procedures.

The Whistleblowing Hotline provider or the Manager within the Council will acknowledge receipt of the disclosure as soon as reasonably practicable and no later than two working days.

5.10 **Stage 2**

The Whistleblowing Hotline provider or the Manager within the Council (via the Monitoring Officer's whistleblowing team, if appropriate) shall assess what further action is required concerning the disclosure and inform you of the further action to be taken.

5.11 **Stage 3**

The Whistleblowing Hotline provider or the Manager within the Council provider will determine a programme of action.

A programme of action may include, but will not be limited to, investigations, a recommendation that an internal audit be carried out, a recommendation that recourse be made to the Disciplinary Procedure or referral to the appropriate external agency.

The Whistleblowing Hotline provider may also recommend urgent action to curtail alleged malpractice prior to further investigation; this may include a recommendation that the matter:-

- be investigated internally;
- be referred to the Police;
- be referred to the external auditor; or
- form the subject of an independent inquiry.

You may be required to be a witness in any investigatory or other process and regarding any subsequent proceedings which may arise as a result.

The outcome of the programme of action will be notified to you in writing.

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6. PROTECTION AGAINST VICTIMISATION

- 6.1 You will be given support and protection to allow you to feel confident in making a disclosure.
- 6.2 Where you make a disclosure of malpractice, the Council are required to take appropriate action to ensure that you are protected from any form of victimisation, bullying or harassment.
- 6.3 Victimisation, bullying or harassment of anyone making a disclosure will be regarded as a serious disciplinary offence/gross misconduct. It will also be regarded as a serious disciplinary offence to attempt to deter someone from making a disclosure.

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7. ANONYMOUS DISCLOSURES

- 7.1 If a disclosure is made anonymously this could make it difficult for the Whistleblowing Hotline provider or Manager within the Council to deal with the disclosure effectively. You are therefore strongly encouraged to make yourself known when making a disclosure under this Policy.
- 7.2 Disclosures which are made anonymously will still be considered under this Policy.
- 7.3 If an anonymous disclosure cannot be progressed due to lack of information, it will be held on record by the Whistleblowing Hotline provider and may form part of a future investigation. The record of disclosure will be held for 6 years.

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8. DISCLOSURES TO EXTERNAL BODIES

- 8.1 The purpose of this Policy is to create the conditions in which you feel confident to raise matters of concern. It is also recognised that there may be circumstances where matters may be properly reported to certain external bodies (other than the Whistleblowing Hotline provider).
- 8.2 Certain external bodies to which matters may be properly reported are known as 'prescribed persons'. A list of prescribed persons is made available by the Secretary of State, who currently lists more than 50 regulatory bodies to whom protected disclosures can be made. It can be found at <https://www.gov.uk/whistleblowing/how-to-blow-the-whistle>
- 8.3 In circumstances where you decide to raise the matter externally, you will only be protected under this Policy, and under employment law, where the disclosure is made in accordance with the Act.
- 8.4 This means that the disclosure must fall under one of the categories listed in paragraph 3.1 regarding malpractice (above) and must be made in one of the following ways:
- 8.4.1 in the course of obtaining legal advice;
 - 8.4.2 to a prescribed person (as noted at paragraph 8.2 above):-
 - 8.4.2.1 in the reasonable belief that the relevant failure falls within the prescribed person's area of concern; and
 - 8.4.2.2 in the reasonable belief that the information is substantially true.
 - 8.4.3 to other third parties where you make the disclosure:-
 - 8.4.3.1 in the reasonable belief that the information is substantially true;
 - 8.4.3.2 otherwise than for personal gain;
 - 8.4.3.3 in the reasonable belief that you will be subjected to a detriment by the Council; in circumstances where there is no prescribed person, in the reasonable belief that evidence relating to the relevant failure will be concealed or destroyed by the Council; or you have already raised the matter with the Whistleblowing Hotline provider, the Manager within the Council or prescribed person; and
 - 8.4.3.4 where in all of the circumstances it is reasonable to make the disclosure.
 - 8.4.4 the disclosure is of an exceptionally serious nature and you make the disclosure:

- 8.4.4.1 in the reasonable belief that the information is substantially true; and
- 8.4.4.2 otherwise than for personal gain; and
- 8.4.4.3 where in all of the circumstances it is reasonable to make the disclosure.

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9. CONTACT WITH THE MEDIA

- 9.1 This Policy has been developed to enable you to express concerns on the basis that it is in the public interest to make such matters known to the Whistleblowing Hotline provider or a Manager within the Council. However, reporting of a concern does not mean that such matters should be made available for public consumption through the media and/ or social media.
- 9.2 Disclosure to the media is prohibited during the course of, or after completion of an investigation either conducted internally or via those external bodies known as 'prescribed persons'. Disclosure to the media in these circumstances may lead to disciplinary action against you.

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10. GENERAL

- 10.1 This Policy is not intended to replace any other statutory reporting procedures operated by the Council.
- 10.2 Matters of concern relating to your employment situation which would normally be dealt with under the Council's Grievance Procedure should continue to be handled in that way.

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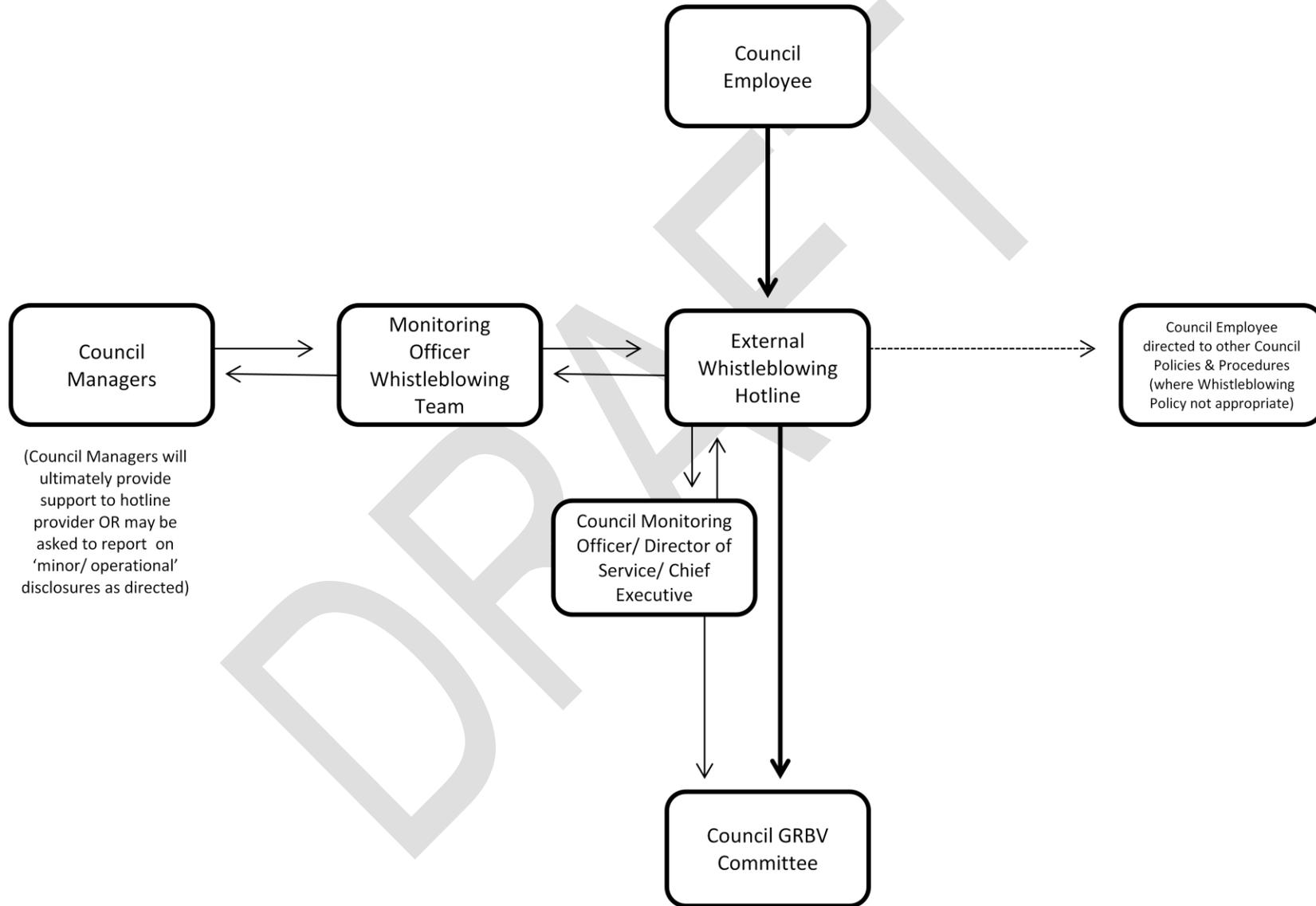
11. LOCAL AGREEMENT

- 11.1 This document is a local collective agreement between the Council and the recognised Trade Unions. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement, and adjusted by agreement to meet changing future needs. In the event of failure to reach agreement, both parties reserve the right to terminate this local agreement by giving four months notice in writing. In such circumstances, the terms of the local agreement will cease to apply to existing and future employees.

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Appendix 1

WHISTLEBLOWING FLOWCHART



Appendix 2 – Petition

A safer mechanism for reporting Edinburgh Council mismanagement

I ask the Council to implement a whistleblowing hotline for Council staff with an organisation that exists outside the Council, to which only senior Councillors would have access. An independent body such as Expolink or the Edinburgh Voluntary Organisation Council (EVOC) should run the hotline and every Council worker should learn about it as part of their induction training. The hotline should: i) Be completely inaccessible to Council staff apart from when a suggestion or complaint was lodged ii) Allow the staff complainant's name to be withheld by the body should they need to investigate any matter with relevant Council staff, but that the body might make the name available to elected members on condition of confidentiality iii) Be resourced by the Council through a revenue grant sufficient to administer the scheme. iv) Act as a deterrent against inappropriate and criminal behaviour by Council staff; giving elected members the information they need to take rapid, remedial action

The hotline could contribute to the re-building of confidence between Cllrs, ordinary staff and the rate-paying public after the property conservation and Mortonhall scandals, and help dissipate a culture of fear in speaking out at the Council- about either malpractice or the unintended consequences of Council management decisions. I believe that it would be to the clear advantage of the Council to have an improved whistleblowing system in place, which would assist both Councillors and employees to avoid future scandals that would bring the Council into disrepute.