

Audit, Standards & General Purposes Committee

Date: **24 September 2024**

Time: **4.00pm**

Venue **Council Chamber, Hove Town Hall**

Members: **Councillors:** West (Chair), Guilmant (Group Spokesperson),
Atkinson, Baghoth, Gauge, Grimshaw, Mackey and Meadows

Co-optees

David Bradly (Independent Person), Barbara Beardwell
(Independent Person) and David Gill (Independent Person)

Contact: **Grace Leonard**

01273 29 1065

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AGENDA

15 PROCEDURAL BUSINESS

- (a) **Declarations of Substitutes:** Where councillors are unable to attend a meeting, a substitute Member from the same political group may attend, speak and vote in their place for that meeting.
- (b) **Declarations of Interest:**
 - (a) Disclosable pecuniary interests;
 - (b) Any other interests required to be registered under the local code;
 - (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

Note: Any item appearing in Part Two of the agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the press and public. A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls and on-line in the Constitution at part 7.1.

16 MINUTES

7 - 12

To consider the minutes of the meeting held on 25 June 2024.

Contact Officer: Grace Leonard

Ward Affected: All Wards

17 CHAIR'S COMMUNICATIONS

18 CALL OVER

- (a) Items (21-25) will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

19 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 10 am on the 12/09/2024;
- (c) **Deputations:** to receive any deputations submitted by the due date of 10 am on the 12/09/2024.

20 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

21 EXTERNAL AUDITOR'S AUDIT FINDINGS REPORT 2023-24 To Follow

Contact Officer: Jane Strudwick Tel: 01273 291255
Ward Affected: All Wards

22 AUDITED STATEMENT OF ACCOUNTS 2023-24 To Follow

Contact Officer: Jane Strudwick Tel: 01273 291255
Ward Affected: All Wards

23 INTERNAL AUDIT AND COUNTER FRAUD QUARTER 1 PROGRESS REPORT 2024/25 13 - 34

Contact Officer: Carolyn Sheehan
Ward Affected: All Wards

24 NEW BULLYING HARASSMENT AND VICTIMISATION POLICY AND PROCEDURE 35 - 50

Contact Officer: Tracy Lucas
Ward Affected: All Wards

25 STANDARDS UPDATE 51 - 60

Contact Officer: Victoria Simpson Tel: 01273 294687
Ward Affected: All Wards

26 ITEMS REFERRED FOR COUNCIL

(1) To consider items to be submitted to a relevant Committee for information.

(2) To consider items to be submitted to full Council for information.

27 ITEMS FOR THE NEXT MEETING

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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Grace Leonard, (01273 29 1065, email grace.leonard@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

BRIGHTON & HOVE CITY COUNCIL
AUDIT, STANDARDS & GENERAL PURPOSES COMMITTEE

4.00pm 25 JUNE 2024

COUNCIL CHAMBER - BRIGHTON TOWN HALL

MINUTES

Present: Councillor Guilmant (Group Spokesperson), Atkinson, Baghoth, Gauge, Grimshaw, Mackey, Meadows and Shanks

Independent Persons Present: David Bradly

PART ONE

1 PROCEDURAL BUSINESS

1a Appointment of Chair

- 1.1 The Legal Adviser communicated that the Chair was unwell and unable to attend the meeting. As the committee did not have the position of Deputy Chair, it would be necessary to appoint a replacement Chair for the meeting.
- 1.2 Councillor Gauge proposed Councillor Guilmant as Chair.
- 1.3 Councillor Grimshaw seconded the proposal.
- 1.4 The Committee voted in support of the proposal and Councillor Guilmant was appointed as Chair for the meeting.

1b Declarations of substitutes

- 1.5 Councillor Shanks was present as substitute for Councillor West.

1c Declarations of interests

- 1.6 There were none.

1d Exclusion of the press and public

- 1.7 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the

business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

1.8 **RESOLVED** - That the press and public not be excluded from the meeting.

2 MINUTES

2.1 **RESOLVED** – That the minutes of the previous meeting of the Audit and Standards Committee held on 16 April 2024 be approved and signed as the correct record.

3 CHAIR'S COMMUNICATIONS

3.1 The Chair provided the following communications:

“Welcome once again to this meeting of the Council’s Audit, Standards and General Purposes Committee, which I am happy to chair in Councillor West’s absence. This Committee plays a key role in reviewing the Council’s governance arrangements and in providing the oversight, support and challenge needed to ensure that the organisation is run well, and in a way which best serves our city.

You will likely be aware that on 16th May full Council decided to adopt an executive system. As a result of that decision, the terms of reference have been extended to include delegations over and above those carried out by the old Audit & Standards Committee. So as well the audit and standards related functions which form a key part of this Committee’s governance-related delegations, it is now responsible for making recommendations to full Council regarding such matters as proposals made by the Independent Remuneration Panel and suggestions as to how certain parts of the Council’s Constitution might be updated. In addition, this Committee has been charged with performing those non-executive functions that are not specifically delegated to another Committee or Sub Committee of the Council. I am informed that the delegation is framed in a purposefully general way so that this Committee may receive reports on a range of functions that may not be determined by the Executive, or Cabinet. This category of decision includes the adoption of HR policies and the determination of certain rights of way issues. This part of the Committee’s business is expected to preoccupy a relatively low proportion of this Committee’s workload, and information will be provided to members to enable them to engage appropriately with relevant topics as and when the need arises. We will have the opportunity to discuss this in due course, if members decide to call the Constitution Matters Report on the agenda.”

4 CALL OVER

4.1 The Democratic Services officer called the agenda items to the committee. The following items were not called for discussion and were therefore taken to be agreed in accordance with the officer’s recommendation:

- Item 12 – Standards Update

4.2 All other items were called for discussion.

5 PUBLIC INVOLVEMENT

5.1 No public representations were received.

6 MEMBER INVOLVEMENT

6.1 No member representations were received.

7 CONSTITUTIONAL MATTERS

7.1 The Committee considered a report of the Director of Corporate Services that provided members with information on the Committee's terms of reference and related matters, and to seek this Committee's formal approval to the appointment of a Standards Hearings Sub-Committee, an Employment Sub-Committee and (until the specified date) the Personnel Appeals Panel Sub-Committee.

7.2 Councillors Guilmant, Mackey, Meadows, and Shanks asked questions and contributed to the debate of the report.

7.3 RESOLVED –

That the Audit, Standards, and General Purposes Committee:

- 1) Note this Committee's terms of reference, as set out in Appendix 1 to this report;
- 2) Formally approve the establishment and membership of three Sub-Committees: the Standards Hearings Sub-Committee, the Employment Sub-Committee, and (until the specified date) the Personnel Appeals Sub-Committee, this in accordance with the terms of reference outlined in Appendix 1; and
- 3) Delegate authority to the Monitoring Officer to make any changes to the Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members and related documents considered necessary to enact recommendation.

8 EXTERNAL AUDIT PLAN AND INFORMING THE AUDIT RISK ASSESSMENT 2023/24

8.1 The Committee considered the report of the External Auditor that provided members with an overview of the planning scope and timing of the council's statutory external audit for the financial year ending 31 March 2024. The audit plan sets out, for example, the significant risks identified ahead of the main audit work, levels of materiality for the financial statements and the proposed audit fees for 2023/24.

8.2 Councillors Atkinson, Gauge, Guilmant, Meadows, and Shanks asked questions and contributed to the debate of the report.

8.3 RESOLVED –

That the Audit, Standards, and General Purposes Committee:

- 1) Notes and considers the documents and notifies the external auditor if there are any additional matters that it considers may also impact on the planned audit work and context for the financial year ending 31 March 2024.
- 2) Notes both the external audit plan and informing the audit risk assessment for 2023/24.
- 3) Approves an increase of the existing accounting policy of a de minimis level of £20,000 for capitalisation of plant, property, and equipment up to £50,000, and authorises the Chief Finance Officer to make necessary changes to the council's accounting policies to reflect the increase.

9 INTERNAL AUDIT ANNUAL REPORT AND OPINION 2023-24

- 9.1 The Committee considered the report of the Director of Corporate Services that provided members with an opinion on Brighton and Hove City Council's control environment for the year from the 1 April 2023 to 31 March 2024 and an update on all internal audit and counter fraud activity completed during quarter 4 (2023/24) including a summary of all key audit findings.
- 9.2 Councillors Gauge, Guilmant, Grimshaw, Meadows, and Shanks asked questions and contributed to the debate of the report.

9.3 RESOLVED –

That the Audit, Standards, and General Purposes Committee:

- 1) Note the work undertaken and the performance of Internal Audit in 2023/24 and the resultant annual opinion of the Chief Internal Auditor.
- 2) Note any significant control issues that should be included in the Council's Annual Governance Statement.
- 3) Consider whether the Council's arrangements for internal audit have proved effective during 2023/24.

10 COUNTER FRAUD ANNUAL REPORT 2023-24

- 10.1 The Committee considered the report of the Director of Corporate Services that provided members with an update on all counter fraud activity completed during 2023/24.
- 10.2 Councillors Atkinson, Grimshaw, Mackey, Meadows, and Shanks asked questions and contributed to the debate of the report.

10.3 RESOLVED –

That the Audit, Standards, and General Purposes Committee:

- 1) Notes the report, providing members with an update on all counter fraud activity completed during 2023/24.

11 FORMAL APPROVAL OF THE ANNUAL GOVERNANCE STATEMENT 2023-2024

11.1 The Committee considered the report of the Director of Corporate Services that provided members with an Annual Governance Statement (AGS) to report publicly on the extent to which it complies with its own code of governance. The report directly supports the Council Plan Outcome 4: A responsive council with well-run services – Good governance and financial resilience.

11.2 Councillors Atkinson, Grimshaw, and Shanks asked questions and contributed to the debate of the report.

11.3 RESOLVED –

That the Audit, Standards, and General Purposes Committee:

- 1) Approve the Annual Governance Statement 2023-2024 in Appendix 1. Once approved, the AGS will be signed by the City Council's Leader and the Chief Executive before publication alongside the City Council's Accounts.

12 STANDARDS UPDATE**12.1 RESOLVED –**

That the Audit, Standards, and General Purposes Committee:

- 1) Note the contents of this report.

13 ITEMS REFERRED FOR COUNCIL

13.1 No items were referred to Full Council for information.

14 ITEMS FOR THE NEXT MEETING

14.1 No items were requested for the next meeting.

The meeting concluded at 5.50pm

Signed

Chair

Dated this

day of

Audit, Standards and General Purposes Committee

Subject: Internal Audit and Counter Fraud Quarter 1 Progress Report 2024/25

Date of meeting: 24th September 2024

Report of: Corporate Director, Corporate Services

Contact Officer: Carolyn Sheehan (Audit Manager)
Tel: 07795 335692
Email: carolyn.sheehan@brighton-hove.gov.uk

Russell Banks (Chief Internal Auditor)
Tel: 07824 362739
Email: russell.banks@eastsussex.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The purpose of this report is to provide Members with an update on all internal audit and counter fraud activity completed during quarter 1 (2024/25), including a summary of all key audit findings. The report also includes an update on the performance of the Internal Audit Service during the period.

2. Recommendations

2.1 That the Committee note the report.

3. Context and background information

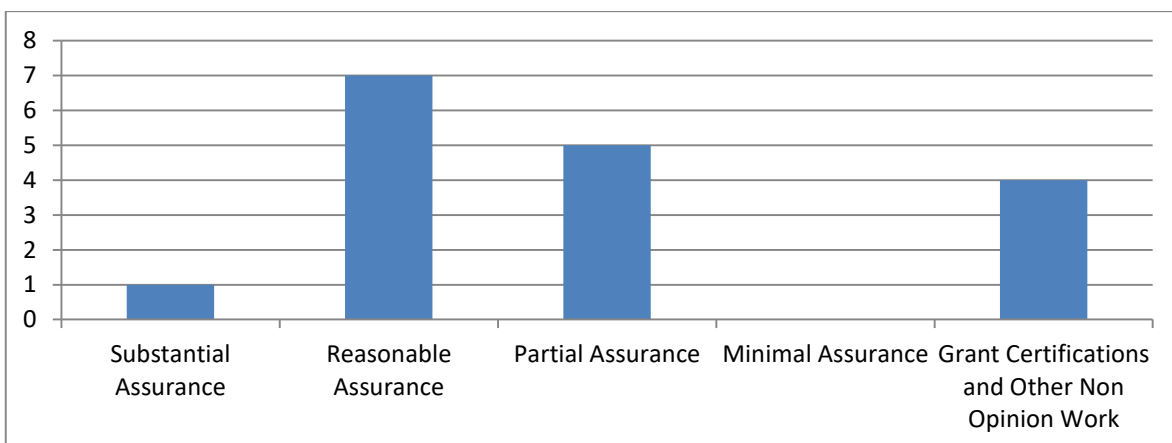
3.1 The current annual plan for internal audit is contained within the Internal Audit Strategy and Annual Plan 2024/25 which was approved by the Audit and Standards Committee on 16th April 2024.

4. Analysis and consideration of alternative options

4.1 Full details of both the audit and counter fraud work delivered during quarter 1 are detailed in Appendix 1, together with our progress against our performance targets.

4.2 Most of the assignments included in the quarter 1 progress report are carried forward from the 2023/24 audit plan and were in progress at year end. New audits for 2024/25 have started during quarter 1 but are not yet finalised and will be included in subsequent progress reports.

- 4.3 It is pleasing to report that the four follow up audits completed in this period, where there was previously partial assurance, resulted in an improved audit opinion.
- 4.4 Of particular note is the follow up audit on Service Agreements (residential and non-residential) where all agreed actions had been fully implemented and we were able to give an opinion of substantial assurance.
- 4.5 During quarter 1 there were five partial assurance reports issued. Three of these were referenced in the 2023/24 Internal Audit Annual Opinion report as they had been issued as a draft report at year end. Issues of organisational capacity and limitations of current IT systems were contributing factors in these reviews, something we had previously flagged with the committee. Two of the partial assurance reports relate to school audits. A follow up review will be completed for all partial assurance reports in due course to assess progress in implementing agreed actions.
- 4.6 Following on from the 2023/24 annual audit opinion of Partial Assurance, we continue to take the opportunity to discuss current and emerging audit opinions with senior management, who have clearly recognised the importance of strengthening the control environment and are committed to taking all necessary action to address the issues arising. We will continue to work closely with management to help support the necessary improvement.
- 4.7 The audit opinions finalised in quarter 1 are summarised in the chart below, with one substantial assurance report, seven reasonable assurance reports and five partial assurance reports (two of which were schools). In addition, there were two grant certifications, which have been included under the category “Grant Certifications and Non-Opinion work”. We also issued two reports (Adult Social Care Debt Management and Commissioning of Supported Accommodation) without a formal audit opinion, where we instead provided advice and support to organizational change activities.



5. Community engagement and consultation

- 5.1 The quarterly progress report has been informed by internal audit and counter fraud work carried out during the quarter which has included extensive engagement with officers. The report has been discussed with the

Corporate Leadership Team, where there was a discussion about the need to address capacity and systems issues as part of the organisation redesign and transformation work already underway.

6. Conclusion

6.1 The Committee is asked to note the report.

7. Financial implications

7.1 It is expected that the Internal Audit Annual Plan 2024/25 will be delivered within existing budgetary resources. Progress against the plan and action taken in line with agreed actions support the robustness and resilience of the council's practices and procedures which in turn support the council's overall financial position.

Name of finance officer consulted: Haley Woollard

Date consulted: 19/08/24

8. Legal implications

8.1 The Accounts and Audit Regulations 2015 require the Council to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account Public Sector Internal Audit Standards. Reviewing the work planned and completed by the Council's internal audit function is a key part of the Audit, Standards and General Purposes Committee's delegated functions.

Name of lawyer consulted: Victoria Simpson

Date consulted 2/9/2024

9. Equalities implications

9.1 There are no direct equalities implications.

10. Sustainability implications

10.1 There are no sustainability implications.

11. Other Implications

11.1 There are no other implications.

Supporting Documentation

1. Appendices

1. Internal Audit and Counter Fraud Quarter 1 Progress Report 2024-25

Internal Audit and Counter Fraud Quarter 1 Progress Report 2024/25

CONTENTS

1. Summary of Completed Audits
2. Counter Fraud and Investigation Activities
3. Action Tracking
4. Amendments to the Audit Plan
5. Internal Audit Performance

1. Summary of Completed Audits

Adult Social Care Service Agreements (Residential & Non-residential) Follow Up

- 1.1. Adults requiring care and support contact the Council who will undertake an assessment which determines the required package of care and the cost. Once the package of care has been determined and agreed, a service agreement between the client, provider of the supported care (for example, residential, nursing and community care) and the Council is put in place. As of January 2024, the total gross cost of open service agreements for 2024/25 was approximately £2.5m.
- 1.2. An audit of this area was completed in October 2023, with an opinion of Partial Assurance, and six actions were agreed with management in response to the report findings. These are summarised in the 2023-24 Q2 progress report, which was presented to Audit & Standards Committee on 30th January 2024.
- 1.3. An early follow-up review was agreed with the service and added to the 2023/24 audit plan and was in progress at year end. The objective of this was to provide assurance over the progress made in implementing the agreed actions from the previous audit.
- 1.4. Actions included improvements in defining roles and responsibilities, reducing delays in setting up service agreements, updating guidance and procedures, authority levels for approvals of changes to packages, reducing input errors from Eclipse to Care First and timely closure of service agreements.
- 1.5. We are pleased to report that we found that all of the agreed actions have now been implemented and we are therefore able to give an improved opinion of **Substantial Assurance**.

Adult Social Care Financial Assessments Follow Up

- 1.6. The Care Act 2014 permits local authorities to undertake financial assessments to determine the level of someone's financial resource, and the amount (if any) which they may be likely to be able to pay towards the cost of meeting their needs through care and support services. Financial assessments are undertaken by the Financial Assessments Team, the Council has approximately 3,500 adults with a care package for either home care or residential nursing care that have had a financial assessment or may need reassessment at any given time.
- 1.7. An audit of the financial assessments for Adult Social Care clients was completed in January 2023, and we provided an audit opinion of Partial Assurance with eight actions agreed with the service. These are summarised in the Q3 2022-23 Progress Report presented at the 18th April 2023 Audit & Standards Committee

- 1.8. As part of the 2023/24 audit plan, we agreed with management to undertake a follow-up review to assess the extent that actions to improve control, agreed with management in the original audit, had been implemented.
- 1.9. In completing this follow-up review, we were able to provide an improved opinion of **Reasonable Assurance**. The only high risk finding identified from the original audit, where a review of capacity to deliver financial assessment reviews for non-residential clients was required had been implemented. Other improvement actions implemented included developing guidance and procedure notes, including information and deadlines on outcome notification letters, and improving communications with clients to remind them of their responsibility to notify the Council where there are changes in financial circumstances.
- 1.10. A formal action plan to address the outstanding actions of this review has been agreed with management.

Council Tax Follow Up

- 1.11. Council tax is a key financial information system, dealing with the calculation, billing, and collection of the council tax revenue. The funds received from council tax form an integral part of the Council's budget. Brighton & Hove City Council's 2023/24 total budget was £891.1 million, with £170.3 million (19.1%) of this coming from collection of council tax.
- 1.12. An audit of council tax was completed in December 2023, and we provided an opinion of Partial Assurance, with ten actions agreed with the service in response to findings. A summary of this report can be found in the 2023-24 Quarter 3 Progress Report, presented to the Audit & Standards Committee on 16th April 2024.
- 1.13. An early follow up review was agreed with the service as an addition to the 2023/24 audit plan.
- 1.14. This follow-up review found that eight of these actions had been implemented, including in response to the one high-risk finding relating to reducing the significant backlog of processes. As the majority of agreed actions had been implemented, we were able to provide an improved opinion of **Reasonable Assurance** in this area.
- 1.15. Other actions implemented included improving accuracy of liable party details which included strengthening communication with housing services, identifying resources to conduct reviews of discounts and more clearly documenting reasons for write offs.
- 1.16. A formal action plan to address the outstanding actions has been agreed with management.

Health and Safety Follow-up

- 1.17. The Council has a statutory duty under the Health and Safety at Work Act 1974 to secure, as far as is reasonably practicable, the health and safety of employees and others who may be affected by the Council's activities. The Health and Safety Executive (HSE) has developed a framework to help organisations understand the actions they need to take to comply with health and safety legislation.
- 1.18. An audit of the management of Health and Safety was completed in September 2022 and an audit opinion of Partial Assurance was provided. A summary of this report can be found in the 2022-23 Quarter 2 Progress Report, presented to the Audit & Standards Committee on 29th November 2022.
- 1.19. We agreed with management to undertake a follow-up review as part of our planned work for 2023/24.
- 1.20. In completing this follow-up review, we were able to provide an improved opinion of **Reasonable Assurance**. Of the eight agreed actions from the previous audit, three actions had been fully implemented, including the approval of the updated Health and Safety Improvement Plan, reporting to members, and improving the guidance for escalation of serious incidents.
- 1.21. The remaining five actions have been partially implemented and a new action had been raised regarding key performance indicators for reporting incidents. A formal action plan to address the outstanding actions has been agreed with management.

Parking Enforcement

- 1.22. Parking income accounts for a significant element of the Council's budget. Penalty Charge Notices (PCNs) accounted for approximately £7.3m in income to the Council for 2023/24, with around 140,000 notices issued annually. The issuing of PCNs and enforcement of unpaid PCNs is contracted out to external suppliers.
- 1.23. This audit was included in the 2023-24 audit plan at the request of the Corporate Director.
- 1.24. The purpose of the audit was to provide assurance that controls are in place to meet the following objectives:
 - The contract with NSL is robustly managed to ensure that the contractor is performing in accordance with contract and service requirements;
 - Fees and charges are adequately communicated to the public and all chargeable parking spaces have sufficient signage and road markings;
 - Unpaid PCNs are promptly passed to enforcement agents for collection;
 - Contracts with collection agencies are managed and ensure that contractors are performing in accordance with contract and service requirements;

- There are robust appeals process in place and all challenges are dealt with in a fair and timely manner;
 - Refunds and write-offs are only processed in appropriate circumstances after senior officer approval: and
 - There is a complaints process in place that operates in accordance with corporate policy and is used to inform service improvements.
- 1.25. In reviewing the parking enforcement arrangements, we were able to provide an opinion of **Reasonable Assurance** over the controls in place. We found that the contract with NSL is being effectively managed, fees and charges are updated promptly and reflect the current charging structure, complaints follow the corporate process and are reviewed within defined timescales, and new processes have been introduced to tackle debt. However, there were opportunities to further enhance controls, including ensuring that:
- The backlog of unpaid PCNs is processed. This will be achieved through new contracts with collection agencies and a new contract with detailed key performance indicators used to monitor all aspects of collection performance;
 - Quality checks are undertaken on a sample of appeals each month;
 - Monthly reports are produced showing all PCNs cancelled due to issues with signage and/or road markings, this will be monitored monthly and be a key performance indicator; and
 - Spot checks are undertaken for automated write-offs and development of a strategy for transparency of write-off approval by appropriate officers.
- 1.26. A formal action plan to address the findings of this review has been agreed with management.

Information Governance (Subject Access Request and Freedom of Information Reporting Arrangements)

- 1.27. The Freedom of Information Act 2000 (FOI) and the Data Protection Act 2018 (SAR) give people the right to access information held by public authorities, such as the Council. The Council has to respond to these requests in a timely and lawful manner, and report on its performance and compliance to the Information Commissioner's Office (ICO), the regulator for these laws, Failure to comply can result in warnings and enforcement notices. Any serious breaches can lead to significant fines.
- 1.28. This audit was agreed for the 2023-24 audit plan and was in progress at year end.
- 1.29. The objective of the review was to provide assurance that controls are in place to allow the Council to respond to all freedom of Information requests and subject access requests in a timely manner and that there are sufficient reporting and governance processes to monitor and manage performance.
- 1.30. The purpose of the audit was to provide assurance that controls are in place to meet the following objectives:

- An effective governance framework is in place to support compliance with FOI and SAR responsibilities;
 - Policies and procedures are in place covering the Council's approach to fulfilling FOI and SAR requests to ensure compliance with legislation, as well as documenting and communicating associated responsibilities; and
 - Council officers have awareness of their requirements and responsibilities when handling requests.
- 1.31. We were able to provide an opinion of **Reasonable Assurance** over the arrangements in place. We can confirm that a governance framework is in place to support the Council in meeting its compliance responsibilities as set out by the Information Governance Commissioner. This includes appropriate policies and guidance, training, and oversight by the Senior Information Risk Owner (SIRO). We note that the Information Rights Team provide good support to services throughout their completion of assigned requests.
- 1.32. We found some areas where further improvements could be made to the control environment, and these include:
- Documenting the roles and responsibilities of staff involved in FOI and SAR requests more clearly;
 - Documenting the processes and guidance for managing system releases, which are updates or changes to the IT systems that store information;
 - Ensuring that SAR responses are reviewed for accuracy and quality before they are sent out;
 - Improving the format and clarity of the performance reports that are sent to senior managers;
 - Monitoring and enforcing the completion of mandatory information governance training for all staff and councillors; and
 - Reviewing and updating the procedure notes for FOI and SAR requests regularly.
- 1.33. A formal action plan to address the findings of this review has been agreed with management.

System Change Control & Release Management (Patch Management)

- 1.34. System change control and release management is the process of identifying, acquiring, testing, and deploying IT system changes and releases. These changes and releases may aim to correct problems, close vulnerabilities, and/or improve system functionality. By implementing system changes and updates the Council can minimise the risk of known vulnerabilities being exploited, enhance its cyber security, as well as ensuring that all systems have optimal or improved functionality.
- 1.35. This audit was agreed as part of the 2023-24 audit plan and the objective was to provide assurance that robust controls are in place around system changes and supplier releases, and these are operating as expected to manage risks to the Council's systems,

data, and services. The audit focused on changes and update processes on critical systems managed by IT&D hosted on-premises. Third party systems hosted off-premises were not included as part of this audit.

- 1.36. The scope of this audit was to provide assurance that controls are in place to meet the following objectives;
- Updates and changes for all systems, and applications in use are identified and applied to all relevant systems;
 - Updates and changes are applied in a timely manner and prioritised appropriately;
 - Use of outdated, unsupported software (for which updates are no longer available) is minimised. Where remaining in use, additional precautions are taken to mitigate the risk associated with such software;
 - Adequate testing and roll-back arrangements are in place to minimise disruption to users and service provision from the application of changes and updates; and
 - Comprehensive records of changes and update application are maintained.
- 1.37. We were able to provide an opinion of **Reasonable Assurance** over the controls in place. We found that there is a clear and appropriate process in place for custom changes to IT&D managed systems. This is clearly documented with roles and responsibilities assigned. Risk assessments are completed and help officers prioritise the request and understand the impact on other systems. We also noted that information around implementation and system downtime is effectively managed and communicated to system users.
- 1.38. We found a few areas where further improvement could be made, including:
- Preparing of RACI (Responsible, Accountable, Consulted, and Informed) documentation to enhance the details of roles and responsibilities for business-critical systems;
 - Developing guidance or process documentation to detail the principles and management of system releases; and
 - Strengthening approval steps for changes to ensure only appropriate changes are made.
- 1.39. A formal action plan has been agreed with management to address these findings.

Corporate Governance Policy Framework and Associated Guidance

- 1.40. Governance is the combination of processes and structures put in place by an organisation to inform, direct and monitor activities in order to achieve its objectives. Each local government body operates through a governance framework which brings together an underlying set of legislative requirements, governance principles and management processes (policies and procedures). Through the publication of an Annual Governance Statement (AGS), this will make the adopted practice open and explicit.
- 1.41. It was not within the scope of this audit to review how the organisation as a whole is being directed and managed, defined as 'Corporate Governance,' but rather to examine

the underpinning policy framework and associated guidance/documentation. Our review, therefore, focussed on the completeness, accuracy, quality, and timeliness of the documentation available, and the extent of awareness of this amongst management and staff. In addition, we reviewed and analysed the documents that feed into and underpin the Council's corporate governance arrangements. We excluded an in-depth assessment of the risk management and performance management frameworks, as separate audit reviews have been completed in these areas recently.

- 1.42. The scope of this audit was to provide assurance that controls are in place to meet the following objectives;
- Activities to ensure Council governance arrangements, and therefore the integrity, transparency, and efficiency of the Council, are identified and taken in a timely manner by appropriate individuals;
 - Key policies and procedures that contribute to the Council's overall governance arrangements are in place, subject to regular review, updated and approved, and there are effective communication arrangements of these documents;
 - The Council has measures in place which monitor compliance with key policies ensuring that services to residents remain unaffected; and
 - The process for compiling and reporting the AGS is efficient, effective and fit-for-purpose, and information provided is clear and accurate.
- 1.43. In completing this work, we identified weaknesses in the current arrangements, which mean opportunities to improve the corporate governance policy framework and associated guidance/ documentation continue to exist. Therefore we were only able to provide an opinion of **Partial Assurance** over this defined area. A robust action plan was agreed with management to ensure that:
- The Whistleblowing Policy and process is reviewed and updated to ensure this is robust;
 - The Local Code of Corporate Governance is updated to include information pertaining to the Council's corporate governance and adherence to the CIPFA/SOLACE Governance Framework. In addition, key policies and procedures linked to governance will be included in the Local Code of Corporate Governance and the AGS;
 - Communication of key policies and procedures that feed into corporate governance will be increased and made available on the Council's intranet site; and
 - Directorate Management Teams are involved with the development of the AGS at the initial stage and all necessary detail is included in the AGS on the Council's governance arrangements.
- 1.44. Improvement actions in all of these areas were agreed with management and we will complete a follow-up review to assess the extent to which these actions have been implemented.

Off Payroll Working (IR35)

- 1.45. Employees paid through the payroll make up the majority of the workforce at the Council, with agency workers, consultants and contractors generally being paid 'off-payroll.' The HMRC off payroll working rules, known as IR35, aim to ensure that a worker or contractor pays broadly the same Income Tax and National Insurance as an employee would. The engager is responsible for checking the employment status of the worker/contractor to determine if they are in scope (where Income Tax and National Insurance contributions deducted from their pay) or out of scope and paid via the accounts payable system.
- 1.46. The purpose of the audit was to provide assurance that controls are in place to meet the following objectives:
- There are clear criteria as to when individuals should be employed, and when off-payroll payments are appropriate, to ensure compliance with off-payroll working rules;
 - There are robust policies in place to ensure compliance with IR35 legislation, reducing the risk of regulatory penalty and financial loss;
 - There are regular reports on off-payroll workers, ensuring sufficient oversight; and
 - Robust procurement practices are in place to ensure value for money.
- 1.47. From the audit work undertaken, we found weaknesses in identifying, monitoring, and reviewing engagements across the Council where there is a potential for off-payroll working rules (IR35) to apply. As a result, we were only able to provide an opinion of **Partial Assurance**. We acknowledge that the Council's financial system is not compatible to introduce system controls for off-payroll payments and, therefore, a robust action plan was agreed with management to ensure that:
- Quarterly reports are developed, and spot checks undertaken to report on off-payroll payment arrangements to ensure compliance and maintain economies of scale;
 - Guidance is developed for managers engaging individuals in off-payroll working;
 - Over the longer-term, a system solution is developed to request, upload and store, the self-assessment for those individuals being paid off-payroll for services supplied;
 - Supplier set up is explored to see if an IR35 designation can be added; and
 - Communication of IR35 requirements is shared with management across the Council.
- 1.48. Due to the Partial Assurance opinion, we will complete a follow-up review to assess the extent to which these actions have been implemented.

Debtors/ Accounts Receivable

- 1.49. The Central Collections Team (CCT) is responsible for ensuring that all income due to the Council is collected and correctly accounted for. For 2022/23 £78.9m of income was processed. This is made up of £41.1m of corporate income, and £37.8m of Adult Social Care income.

1.50. This audit was agreed as part of the 2023/24 audit plan and included as a key financial system. The purpose of the audit was to provide assurance that controls are in place to meet the following objectives:

- All income generating activities are identified and invoices accurately raised to customers;
- A customer account maintenance process is in place and operating effectively;
- Amendments to invoices are correct and authorised;
- Collection and debt recovery is managed efficiently and effectively, and resources are focused on areas of priority debt;
- Writes offs are processed accurately and correctly authorised;
- Payments are received and recorded against the correct debtor account in a timely manner; and
- Reconciliations between the Accounts Receivable system and the General Ledger are undertaken on a regular basis.

1.51. We were only able to provide an opinion of **Partial Assurance** as a number of weaknesses in the control environment were identified, including around the current management of collection and debt recovery which has resulted in expected controls not performing adequately, increasing the risk of income being lost. We note that processes were found to be hindered by limited resources in the team, which management have recognised. A robust action plan was agreed with management to ensure that:

- New recovery routes are implemented, and recovery guidance is updated and published;
- A clear system for prioritisation and escalation of debt is introduced;
- Reports on suspended debt are run and reviewed;
- Accuracy of key performance indicators is improved and ensure write-off figures are reported separately from collection figures;
- Individual's authorisation levels are aligned to their job role;
- Use of reports to identify duplicate debtors and duplicate invoices is explored; and
- Notes and supporting evidence are captured to the debtor's system.

1.52. Due to the Partial Assurance opinion, we will complete a follow-up review to assess the extent to which these actions have been implemented.

Schools

1.53. We have a standard audit programme in place for all school audits, with the scope of our work designed to provide assurance over key controls operating within schools. The objectives of our work are to ensure that:

- Governance structures are in place and operate to ensure there is independent oversight and challenge by the Governing Body;
- Decision making is transparent, well documented, and free from bias;
- The school is able to operate within its budget through effective financial planning;

- Unauthorised or inappropriate people do not have access to pupils, systems, or the site;
- Staff are paid in accordance with the schools pay policy;
- Expenditure is controlled and funds used for an educational purpose;
- The school ensures value for money on contracts and larger purchases; and,
- All voluntary funds are held securely and used in accordance with the agreed purpose.

1.54. Three school audits were finalised in quarter 1. The table below shows details of the schools audited, together with the final level of assurance reported to them.

Name of School	Audit Opinion
Brunswick School	<p>Partial Assurance</p> <p>Areas requiring improvement included:</p> <ul style="list-style-type: none"> • Ensuring governors declarations of interest are updated annually and published on the school website; • Ensuring contractors have the correct level of public liability insurance; • Improving expenditure controls and oversight of expenditure; and • Management of debt.
Hove Park School	<p>Partial Assurance</p> <p>Areas requiring improvement included:</p> <ul style="list-style-type: none"> • Ensuring the single central record is kept up to date; • Ensuring governors declarations of interest are updated annually and published on the school website; • Ensuring contractors have the correct level of public liability insurance; and • Improving expenditure controls and oversight of expenditure.
Balfour School	<p>Reasonable Assurance</p> <p>Areas requiring improvement included:</p> <ul style="list-style-type: none"> • Ensuring governors declarations of interest are updated annually and published on the school website; and • Improving expenditure controls and oversight of expenditure.

- 1.55. We aim to undertake follow-up audits at all schools with Minimal Assurance opinions. For Partial Assurance opinions we will write to the Chair of Governors to obtain confirmation that recommendations have been implemented.
- 1.56. The core financial role of the LA is to set and monitor a local framework, including provision of budgetary information, provision of a financial oversight and ultimately intervening where schools are causing financial concerns. Schools (the governing body and the Headteacher) are required to manage their delegated budget effectively ensuring the school meets all its statutory obligations, and through the Headteacher comply with the LA's Financial Regulations and Standing Orders.

Grant Certifications and Non-Opinion Work

Library On Grant

- 1.57. The Council applied for a capital grant from the British Library and received £42,395 to deliver the project Community Connect. A requirement of the grant conditions was that Internal Audit reviewed and certified expenditure against this grant.
- 1.58. In completing this work we identified some overspending against individual budget lines in excess of 5% that should have been communicated, however this was not significant as the total budget was not overspent. Expenditure for the grant was certified.

Supporting Families Programme Grant

- 1.59. The Department of Levelling Up, Housing and Communities (DLUHC) requires Internal Audit to verify a proportion (5-10%) of outcome submissions made by the Local Authority for Supporting Families (SF) Programme, using the updated national Outcomes Framework (October 2023 – March 2025).
- 1.60. We reviewed 5 of the 23 submissions made in quarter 4 of 2023/24 and found no significant issues. The eligibility criteria were met, and the required outcomes evidenced as achieved.

Adult Social Care Debt Management and Recovery

- 1.61. Income from charging is an essential contribution to Adult Social Care's (ASC) budget to support the delivery of service to help people live and age well. The Care Act 2014 revised the legal framework for the recovery of debts and introduced the Deferred Payment Agreements, which require the property owners' agreement for a charge against property.
- 1.62. At the time of this review, an audit of the Council's corporate Debtor's/Accounts Receivable system was underway, which looked at the recovery and debt management processes across the Council as a whole. Given the timing of the Debtors audit report (summarised above), and the fact that many of the issues highlighted in that report

directly impact on ASC debt management and recovery, this review has not sought to provide an assurance opinion, as this would have likely resulted in duplication. Similarly, any control weaknesses identified during this review which have already been reported on as part of the Debtors audit have not been repeated as part of this work.

- 1.63. Overall based on the audit work undertaken, areas of good practice were identified as there is regular discussions of the ASC debt position and action taken. In addition, pilot schemes are currently in progress to address areas of outstanding debt. However, some areas for improvement were identified, including the need to ensure that:
- The development of an ASC collection strategy, ASC debt policy and procedures/guidance;
 - Roles and responsibilities are defined in the ASC debt management and recovery process;
 - Key performance indicator reporting on ASC direct debits will be requested and a review will be undertaken to see if uptake could be increased; and
 - Reconciliations will be completed between the Council's financial system and the data reporting system.
- 1.64. A formal action plan has been agreed with management to address the findings raised.

Commissioning of Supported Accommodation

- 1.65. The Council's Core-Funded Single Person Pathway provides short-term supported accommodation to individuals with support needs, including those related to mental health, physical health, and substance misuse. This provision currently comprises 111 low support, 96 medium support and 23 high support bedspaces, via a range of providers, with a budget for these services in excess of £3m for 2023/24. The previous 5-year arrangement ended in March 2024, and so an exercise to recommission these services took place, with new contracts to be in place by July 2024.
- 1.66. Whilst we did examine the commissioning arrangements for the provision of supported accommodation, we did not provide a formal audit opinion due to the commissioning exercise being already near completion at the time of the review and the service would be unable to implement meaningful actions to address risks identified in relation to the current commissioning.
- 1.67. However, our work did provide an opportunity to explore lessons learnt and apply these to future similar exercises. We identified that there was opportunity for improvement around having formal documentation in place to evidence key decisions and information relating to the commissioning.
- 1.68. We have agreed with management that a full audit of the ongoing contract management arrangements for the new contracts will be included in the Internal Audit plan for 2025/26. This will consider controls in place for ongoing contract arrangements and is likely to

include those relating to performance monitoring and reporting, budget, variations to contracts, business continuity arrangements and data handling.

2. Proactive Counter Fraud Work

Counter Fraud Activity

- 2.1 Internal Audit have been liaising with the relevant services to provide advice and support in processing the matches received as part of the National Fraud Initiative.
- 2.2. The team continue to monitor intel alerts and share information with relevant services when appropriate.
- 2.3. We provided advice and support to services in several cases that did not require internal audit investigation.

Summary of Completed Investigations

Multiple Employment

- 2.4 An application from a known offender was identified and stopped prior to offer of employment. This was the result of active investigations at the two other Orbis partner councils.

Housing Tenancy Fraud

- 2.5 The Tenancy Fraud Team continue to investigate allegations of potential sublet. They work closely with Housing managers and officers on a joined-up approach to allegations of abandonment with an increasing emphasis on visits and communication with tenants to increase awareness and reiterate a tenant's responsibility under their tenancy agreements.

Council Tax Fraud

- 2.6 The Team continues to investigate allegations of false claims for Single Person Discount (SPD) and Council Tax Reduction Support (CTRS).

Fraud Area	Year to Date	(£) 2023/24	(£) 2022/23	(£) 2021/22
Properties Recovered	-	558,000	186,000	279,000
Housing Application Withdrawn	51,396	-	-	-
Homeless Application Withdrawn		-	-	-
Right-To-Buy Withdrawn		-	-	-
SPD Removed	433	8,625	511	9,746
CTRS		440	406	-
Housing Benefit		3,853	3,658	-
Business Rates		-	-	-
Total	51,829	570,918	190,575	288,746

3. Action Tracking

- 3.1 All high priority actions agreed with management as part of individual audit reviews are subject to action tracking. When high priority actions become due, we seek confirmation from service management that actions have been implemented. At the end of quarter 1, we can report that 97.4% of high priority actions due, have been confirmed as implemented by management.
- 3.2 There was one high priority action which was overdue at the end of Q1. Details are provided below.

Details of Audit Issue	Due date	Revised date	Agreed Action
Payment Card Industry Data Security Standards – Roles and Responsibilities	30/11/23	12/04/24	A Responsibility, Accountability, Consulted and Informed (RACI) matrix will be completed. This will map out every task, milestone, and key decision in relation to the Payment Card Industry Data Security Standards process. Assigning roles to these responsibilities and timescales where appropriate

- 3.3 A follow up review of Payment Card Industry Data Security Standards is scheduled in the coming year, where we will seek to assess the level of progress made against the action agreed.
- 3.4 A number of high priority actions have had their implementation deadlines extended, in agreement with management. Where the revised deadlines are not met, these will be reported to the next meeting of the Audit & Standards Committee.

4. Amendments to the Audit Plan

- 4.1 In accordance with proper professional practice, the Internal Audit plan for the year has been kept under regular review to ensure that the service continues to focus its resources in the highest priority areas based on an assessment of risk. Through discussions with management the following audits have been added to the audit plan this quarter:

Planned Audit	Rationale for Addition
General Ledger	This audit was deferred from 2023/24 and is included to provide assurance before the development and implementation of updates to back-office systems.

Building Health & Safety Regulations Housing	Provide some advice work around new building regulations and progress towards compliance
Property Asset Collection Controls in Housing	Included to provide assurance that appropriate controls are in place following an incident where cash was found during clearance of a Council owned property.
Payment Card Industry Data Security Standards follow up	Follow up audit is required following Partial Assurance audit opinion in 2023/24

4.2 In order to allow these additional audits to take place, contingency days have been used. These changes have been made on the basis of risk prioritisation and/or as a result of developments within the service areas concerned requiring a rescheduling of audits:

5. Internal Audit Performance

5.1 In addition to the annual assessment of internal audit effectiveness against Public Sector Internal Audit Standards (PSIAS), the performance of the service is monitored on an ongoing basis against a set of agreed key performance indicators as set out in the following table:

Aspect of Service	Orbis IA Performance Indicator	Target	RAG Score	Actual Performance
Quality	Annual Audit Plan agreed by Audit Committee	By end April	G	2024/25 Internal Audit Strategy and Annual Audit Plan formally approved by Audit and Standards Committee 16th April 2024.
	Annual Audit Report and Opinion	By end July	G	2023/24 Annual Report and Opinion presented to Audit, Standards & General Purposes Committee 25th June 2024
	Customer Satisfaction Levels	90% satisfied.	G	100%
Productivity and Process Efficiency	Audit Plan – completion to draft report stage	22.5%	G	29.3%
	Percentage of audit plan days delivered	22.5%	G	24.3%
Compliance with Professional Standards	Public Sector Internal Audit Standards	Conforms	G	Dec 2022 - External Quality Assurance completed by the Institute of Internal Auditors (IIA). Orbis Internal Audit

Aspect of Service	Orbis IA Performance Indicator	Target	RAG Score	Actual Performance
				<p>assessed as achieving the highest level of conformance available against professional standards with no areas of non-compliance identified, and therefore no formal recommendations for improvement arising.</p> <p>November 2023 - Updated self-assessment against the Public Sector Internal Audit Standards completed, the service was found to be fully complying with 319 of the standards and partially complying with 2 of the standards, in both cases proportionate arrangements remain in place.</p> <p>November 2023 - Quality Review exercise completed, no major areas of non-conformance identified. The need to ensure consistency in the quality of the evidence contained within a small number of audit working papers was identified, this will be addressed at the auditor development days during 2024/25.</p>
	Relevant legislation such as the Police and Criminal Evidence Act, Criminal Procedures, and Investigations Act	Conforms	G	No evidence of non-compliance identified
Outcome and degree of influence	Implementation of management actions agreed in	95% for high priority	G	97.4% for high priority agreed actions (see above)

Aspect of Service	Orbis IA Performance Indicator	Target	RAG Score	Actual Performance
	response to audit findings	agreed actions		
Our staff	Professionally Qualified/Accredited (Includes part-qualified staff and those undertaking professional training)	80%	G	94%

Audit Opinions and Definitions

Opinion	Definition
Substantial Assurance	Controls are in place and are operating as expected to manage key risks to the achievement of system or service objectives.
Reasonable Assurance	Most controls are in place and are operating as expected to manage key risks to the achievement of system or service objectives.
Partial Assurance	There are weaknesses in the system of control and/or the level of non-compliance is such as to put the achievement of the system or service objectives at risk.
Minimal Assurance	Controls are generally weak or non-existent, leaving the system open to the risk of significant error or fraud. There is a high risk to the ability of the system/service to meet its objectives.

Brighton & Hove City Council

Audit, Standards and General Purposes Committee

Agenda Item 24

Subject: Anti Bullying Harassment and Victimisation Policy and Procedure

Date of meeting: 24 September 2024

Report of: Acting Corporate Director – Corporate Services

Contact Officer: Name: Tracy Lucas
Tel: 07871734158
Email: tracy.lucas@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The purpose of this report is to obtain approval of a new Anti Bullying Harassment and Victimisation Policy and Procedure to replace the existing Dignity and Respect at Work Policy and Guidance documents.

The new policy supports the delivery of the Council Plan and our determination to be ‘A responsive council with well-run services’, providing a working environment that is safe, inclusive, accessible and supportive of staff health and wellbeing.

2. Recommendations

- 2.1 That Committee agrees the new Anti Bullying Harassment and Victimisation Policy and Procedure to replace the existing Dignity at Work Policy and Guidance.
- 2.2 That Committee delegates authority to the acting Corporate Director – Corporate Services to take any action necessary to implement this on or after the 1st October 2024.

3. Context and background information

- 3.1 A commitment was made to review the Dignity at Work Policy following concerns raised by managers, staff, trade unions and staff forums that the current policy was not fit for purpose for the reasons outlined in 3.2 to 3.4 below. It is good practice to keep all policies under constant review and ensure they are in line with best practice and legal requirements. The recent issues detailed by the [KC report](#) into allegations at City Clean which exposed a toxic culture further underlined the need for a new policy. In addition, it is essential we have a robust policy and procedure for handling complaints to uphold our commitment to driving forward

fairness, inclusivity, our anti-racist practices and a sense of belonging for all our staff.

- 3.2 The existing Dignity at Work Policy and Guidance for allegations of bullying or harassment states that these will be treated as alleged misconduct and will be investigated under the council's Disciplinary Procedure, instead of as a grievance. The consequence of this means those raising complaints don't get a right of appeal against the outcome.
- 3.3 There is no requirement for a detailed report or findings of the investigation to be shared with the complainant, and this means the process of investigating a serious complaint lacks transparency.
- 3.4 The CIPD sets out that if the investigation concludes there is insufficient evidence of bullying, or that the alleged actions do not constitute bullying, it is important that the complainant(s) is made fully aware of how the conclusions were reached and why no formal action is being taken. The alleged respondent also needs to be informed of the outcome.

Key Changes

- 3.5 The new policy and procedure sets out that a complaint of bullying and harassment is treated more in line with a grievance but under a separate policy due to the sensitivities around such claims. The new policy and procedure follows the same timescales and appeal levels as the Grievance procedure. The new draft policy would replace the existing Dignity and Respect at Work Policy and Guidance.
- 3.6 If an investigation finds that bullying and harassment has taken place this would then be referred to a disciplinary panel. The respondent will be advised during the course of the investigation that if the complaints are upheld this will be referred to a Disciplinary hearing.
- 3.7 The new policy and procedure recommends that a full report of the findings of an investigation is shared with the Complainant and Respondent together with copies of witness statements and other relevant documents. This will be made clear to the Complainant and Respondent and any witnesses in the policy and at investigation meeting.
- 3.8 As with the grievance procedure there would be a right of appeal for the complainant.
- 3.9 In implementing the policy, the council recognises the importance of ensuring that all staff and managers are aware of the high standards of behaviour and respect expected in the organisation, the impact of poor behaviour and the consequences where investigations uphold complaints of bullying and harassment. It is also important that staff and managers are supported to behave and manage in line with our principles of respect, inclusivity, belonging and have the skills needed to tackle poor behaviour proactively. With this in mind, the implementation of this procedure will be accompanied by mandatory training that ensures everyone is aware of expectations, and our journey to become a fair and inclusive organisation continues.

4 Analysis and consideration of alternative options

4.1 The alternative is to retain the existing Dignity at Work Policy and Guidance which is not deemed to be transparent or fit for purpose.

5. Community engagement and consultation

5.1 The new Anti Bullying Harassment and Victimisation Policy and Procedure is an internal policy and procedure relevant to all Council employees.

5.2 The draft new policy has been shared with relevant stakeholders including Staff Networks, the Equality Diversity and Inclusion Team and our Trade Unions. Extensive collaboration has taken place and the views, thoughts and input of stakeholders has been taken into account. Sitting alongside the policy, will be a new anonymous reporting tool that will support staff who do not feel confident to raise concerns internally.

5.3 Consultation has taken place with GMB and UNISON, their feedback has been considered and changes made to the draft accordingly. GMB and UNISON have confirmed they agree with the new policy.

6. Conclusion

6.1 It is considered that the currently dignity at Work Policy and Guidance is not fit for purpose in the way in which it deals with complaints of bullying and harassment.

6.2 The existing Dignity and Work Policy and Guidance are not transparent in terms of sharing relevant information with the complainant or respondent party to such a complaint.

6.3 The new Anti Bullying Harassment and Victimisation Policy and Procedure provides greater transparency for complainants and respondents.

6.4 The new Anti Bullying Harassment and Victimisation Policy and Procedure takes into account up to date legislation and best practice.

7. Financial implications

7.1 There are no direct financial implications arising from the recommendation of this report

Name of finance officer consulted: James Hengeveld Date consulted 16/07/2024

8. Legal implications

There are no direct legal implications arising from the recommendation of this report. The correct process has been followed in respect of implementation and there is agreement amongst all relevant stakeholders.

Name of lawyer consulted: Chris Kingham Date consulted : 02/08/2024

9. Equalities implications

An Equality Impact Assessment has been carried out related to the new policy.

Supporting Documentation

Appendices

1. New Anti Bullying Harassment and Victimisation Policy and Procedure

Anti Bullying, Harassment and Victimisation Policy & Procedure

Policy

1. **Introduction**
2. **Definition of Terms**
3. **Principles**
4. **Criminal Offence**
5. **Equality and Diversity Statement**
6. **How the council will implement the policy**
7. **The legal position**
8. **Roles and Responsibilities**
9. **Consultation, Approval, Ratification & Review**
10. **Further Information**
11. **Vexatious or Malicious complaints**
12. **Monitoring**

Procedure

13. **General Principles**
14. **Informal Approach to tackling Bullying & Harassment**
15. **Procedure for making a formal complaint**
16. **Stage 1**
17. **Stage 2 Appeal**
18. **What to do if you are accused formally of bullying or harassment.**

Appendices

1. **Bullying and Harassment Form Stage 1**
2. **Bullying and Harassment Form Stage 2**
3. **Letter to Complainant inviting to meeting**
4. **Letter to Respondent inviting to meeting**
5. **Letter to witness inviting to meeting**
6. **Outcome letter following Stage 1 (Complainant)**
7. **Outcome letter following Stage 1 (Respondent)**
8. **Acknowledgement of appeal and arranging appeal meeting**
9. **Outcome letter following Stage 2**

POLICY

1. Introduction

Brighton & Hove City Council (BHCC) has a zero tolerance approach to bullying, harassment and victimisation and is committed to tackling this at all levels of the organisation and ensuring all staff feel a sense of belonging. The purpose of this policy is to assist in maintaining a supportive, inclusive, and respectful working environment where unacceptable behaviour is easily identified, challenged, and stopped. It is intended this will improve employee performance, raise morale, reduce stress and absence levels and aid retention.

- All employees are entitled to:
 - a working environment free from bullying, intimidation, harassment or victimisation
 - be treated with dignity, respect and courtesy
 - experience no form of unlawful discrimination
 - be valued for their skills and abilities

2. Scope

This policy and procedure is intended to set out how to raise complaints of bullying and harassment against a colleague also employed by Brighton & Hove City Council.

The policy and procedure does not apply to staff appointed by a Governing Body to work in a School.

For concerns about councillors please see [Complaints about councillors \(brighton-hove.gov.uk\)](http://brighton-hove.gov.uk)

For concerns about service users please see the [Managing unreasonable customer behaviour policy](#).

3. Definition of Terms

- 3.1 **Bullying** while there is no legal definition of bullying ACAS defines it as is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.
- 3.2 **Harassment**, , is unwanted conduct related to a protected characteristic(s) and includes sexual harassment as unwanted behaviour of a sexual nature. Harassment has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. The protected characteristics are set out in the Equality Act 2010. Please see [here](#).
- 3.3 **Discrimination** is treating someone less favourably than someone else because of a protected characteristic they hold.
- 3.4 **Victimisation** is a term used in discrimination law to describe action by one person , against another, in retaliation for involvement in bringing, or supporting, a complaint of discrimination.
- 3.5 **Complainant(s)** – employee or employees raising a complaint.

- 3.6 **Respondent(s)** – employee or employees who are subject to a complaint.
- 3.7 **Investigation Manager** – person appointed to investigate and determine an outcome.
4. **Principles**
- 4.1 All employees are responsible for ensuring they behave in an appropriate manner, showing respect for colleagues, customers and others working alongside or engaged with BHCC.
- 4.2 Managers have responsibility for setting standards. They should set a good example and ensure concerns raised are acted upon expediently.
- 4.3 All employees are responsible, where possible, for appropriately challenging inappropriate behaviour either witnessed or towards them. If an employee does not feel able or safe to challenge the person responsible directly, they should raise concerns with an appropriate person, which is likely to be the alleged perpetrator's manager.
- 4.4 Bullying is more usually a regular pattern of behaviour but can be a one-off incident if sufficiently serious.
- 4.5 Unacceptable behaviour may be verbal or written; intentional or unintentional.
- 4.6 Comments or actions may have taken place outside the working environment, such as on work related social events or via social media.
- 4.7 Online behaviour is considered equivalent to face-to-face behaviour. Employees must not engage in any conduct online that would not be acceptable in the working environment or that is unlawful. For example, making derogatory remarks, bullying, intimidating or harassing other users, using insults or posting content that is hateful, slanderous, threatening, discriminatory or pornographic. This includes conduct that impacts on work using social media (e.g. Twitter, Facebook or personal blogs, etc.), which may have been written out of working hours or using personal equipment. Please refer to the [Social media policy and guidelines](#) for more information.
- 4.8 It is likely that unacceptable behaviour, where upheld following formal investigation, will be subject to disciplinary procedures.
- 4.9 If an employee approaches a manager within their reporting hierarchy e.g. their manager or their line manager's manager, and that manager ignores/dismisses/refuses to acknowledge/discuss issues of bullying, harassment or victimisation, then they may be seen as complicit in any such act (in that they are allowing it to continue). It is noted a manager would not be expected to act against the wishes of the person experiencing unacceptable behaviour, unless there are over-riding health and safety reasons (including personal safety). If a manager is unsure about escalating they should seek advice from HR.
- 4.10 Proportionate actions by a manager to support and encourage an employee to perform against key objectives and to manage performance appropriately do not constitute bullying or harassment.
- 4.11 Support and advice is available, more detail is set out in Point 19

5. Criminal Offence

When a criminal offence may have been committed, the Bullying and Harassment Procedure may not be appropriate. These cases include, but are not be limited to, serious assault or threat of serious assault. Employees may wish to seek advice from their manager or HR and/or approach the Police directly.

6. Equality and Diversity Statement

BHCC is committed to equality, creating fair and equitable outcomes for our people and service users, and embraces diversity in our working, learning, research and teaching environment. Our policies, procedures and guidance apply to all employees, whether fixed-term, permanent, part-time, full-time, and casual, inclusive of age, disability, gender marriage and civil partnership, pregnancy and maternity, 'race', religion or belief, sex and sexual orientation. More information can be found here [Our equality and inclusion policy statement and strategy](#)

7 How the Council will implement the policy

BHCC requires all employees to support and comply with the principles of this policy.

The policy will be communicated via the Wave.

8 The legal position

The law underpinning this policy is the [Equality Act 2010](#)

Other relevant legislation is the Health and Safety and Work Act 1974

9. Roles and Responsibilities

Achieving dignity and respect at work require collaborative effort by managers and employees.

Corporate Leadership Team (CLT) will

- demonstrate their commitment and support of this policy and to reflect the policy's principles within their own management practices

All Managers are responsible for ensuring that they:

- support the implementation of the policy and apply it in a fair, consistent and transparent way with regard to BHCC's Equality and Inclusion Policy;
- communicate to all their employees the behaviour expected of them, and set boundaries;
- intervene to stop unacceptable behaviour;
- take appropriate action if unacceptable behaviour continues;
- provide a supportive working environment;
- provide support for individuals who make a complaint, and those that are subject to complaints;
- set a good example by their own behaviour

Human Resources (HR) will

- consult with the relevant Trade Unions in implementing and updating the policy to reflect BHCC's and employee's needs;
- provide support and advice on the process.

Employees

- All employees have a responsibility to help create and maintain a work environment free from bullying and harassment.
- All employees should collaborate in stopping unacceptable behaviour by treating colleagues with dignity and respect;
- Have an understanding of how their own behaviour, may affect others or the and, necessary, changing it;
- Will intervene, if possible, to stop unacceptable behaviour and giving support to recipients;
- Will make it clear to colleagues if you find their behaviour unacceptable and explain why;
- Will report allegations of bullying and harassment to their manager (or appropriate manager), or HR and fully engaging in the investigation of the complaint
- Are required to co-operate with the process if a complaint is raised against them or if they have raised a complaint;
- Will complete any mandatory training required by the Council

Trade Unions

- Have the right to be consulted on any modifications to the policy;
- support Trade Union members alleging harassment, bullying or victimisation and members who have allegations raised against them.

10. Consultation, Approval, Ratification & Review

The policy has been shared with Unison and GMB for comment and input.

The policy and procedure will be reviewed after three years, or earlier if required by changes in legislation.. Any changes will be consulted upon with the recognised trade unions.

11. Further information

This policy should be read in conjunction with the following policies and documents

[Equality and inclusion policy statement and strategy](#)

[Restorative approach to racism guidance](#)

[Behaviour Framework](#)

Employees Code of Conduct

Disciplinary Policy and Procedure

Social Media Policy and Guidelines

Health and Safety Policy

12. Vexatious or Malicious complaints

If, at any time, there is evidence that allegations of harassment or bullying

have been made vexatiously or maliciously, and/or that false information has been provided, disciplinary action may be taken.

13. Monitoring

Human Resources will record the number of complaints received, either openly or anonymously, and also outcomes in order to monitor trends.

PROCEDURE

14. General principles

What is Bullying and Harassment?

- 14.1 Bullying and harassment is any behaviour that is unwanted, unwelcome and undermines an individual's dignity. This includes behaviour that unreasonably threatens job security, promotion prospects, or that creates an intimidating working environment. Behaviour may be perceived as unacceptable even if there was no intent to cause offence. Behaviour may also have overtones that an employee finds offensive, even if it was not directed at them.

Bullying and harassment can take many forms and can range from physical attack to more subtle conduct such as remarks or jokes. It can also include behaviour which deliberately or inadvertently excludes individuals from normal activities in the workplace, such as invitation to and participation at meetings.

Examples of bullying and harassment that are covered by this statement include (but are not limited to) the following:

- persons in authority who abuse their position by assuming a threatening or intimidating management style, e.g., ignoring people who are waiting to make a contribution to a meeting; cutting people off whilst they are speaking; aggressive questioning; dismissing others' views or suggestions; excluding relevant people from departmental plans and communications;
- excluding team members from team activities and communications;
- work place banter which includes language that could be offensive to others;
- allocating employees unreasonable workloads that require an individual to work excessive hours for sustained periods, or scheduling work without due consideration of the need for meal breaks or inter-site travel;
- undermining someone's competence or expertise;
- unwelcome jokes or personal comments;
- homophobic, biphobic or transphobic jokes or comments;
- jokes or comments about sexual orientation, gender identity and gender expression;
- racist jokes or comments;
- sexual harassment, which can include (but is not limited to) unwanted sexual comments or comments about someone's body, unwelcome innuendos, wolf whistling, groping, tugging or lifting someone's clothing, or stalking;
- physical conduct ranging from unwelcome touching to assault;
- harassment may be on the basis of someone's own protected characteristic(s) or because of their association with another person or persons with a protected characteristic(s).

Harassment on any grounds can also be a criminal offence under the Protection from Harassment Act 1997. Employees who are harassed by fellow employees or third parties may report it to the police.

14.3 Employees have an absolute right to complain, either informally and/or formally, if they are treated in a manner that they believe has caused offence, humiliation, embarrassment or distress. Talking about unacceptable standards of behaviour can be difficult, but BHCC is committed to listening to and addressing complaints.

15. Informal approach to tackling bullying or harassment

15.1 It may be possible to sort out matters informally, particularly if the person does not know that their behaviour is unwelcome or upsetting. An informal discussion may help them to understand the effect of their behaviour and agree to change it.

15.2 It is acknowledged that the complainant may feel that they are unable to start the process at an informal stage, in which case they may proceed to the Stage 1 formal process.

15.3 People who witness unacceptable behaviour, as well as those whom experience it directly, have the right to raise concerns.

15.4 You may wish to have a confidential discussion with someone in the Fair and Inclusive Team before you decide what to do. This team provides an internal, completely confidential space, to raise any issues and speak to a member of staff who is trained to provide signposting support and discuss the options of how a concern can be taken forward. You can contact them by emailing FairandInclusive@brighton-hove.gov.uk

15.5 Some people feel able to approach the person on their own, or with the help or support from a colleague, manager, Trade Union representative or the appropriate Staff Forum.

15.6 When raising a concern, politely tell the person what they have said or done that is offensive and unwelcome, and ask them to stop it immediately. It could be added that, if the behaviour continues, a formal complaint may be made.

15.7 If an employee feels unable to approach the person face to face they may want to consider putting their concerns in writing to the person. It should be made clear what they have said or done that is offensive and unwelcome and be asked to stop it immediately. Make it clear that, if the behaviour continues, a formal complaint may be made.

15.8 You may not feel able to approach the person yourself but prefer to raise the issue informally with your manager, or the next appropriate line manager, before proceeding to the Stage 1 formal process.

15.9 It is advised that those who experience unacceptable behaviour keep a record of any incidents that occur and/or attempts to address the issue, noting the dates, times, circumstances and names of any witnesses. This will be useful in the event that they need to use the formal route to deal with the problem.

15.10 If an employee is approached and told that their behaviour could be construed as bullying and harassment, they should be prepared to listen patiently and calmly to the

situation. Whilst it may be upsetting, they should allow the other employee to express their concerns, and then try to reach common ground to remedy the situation and allow normal working relationships to be resumed.

- 15.11 Being subjected to, accused of or tackling unacceptable behaviour may be difficult and stressful. Support is available via Occupational Health and/or the confidential Counselling helpline.
- 15.12 Managers, complainants and respondents are encouraged, wherever possible, to be open minded when trying to identify ways of resolving differences in order to maintain good employment relations. It is expected that all individuals involved will enter into the informal procedure in good faith, with the aim of resolving a particular issue.
- 15.13 If you feel the actions were of a discriminatory nature and related to one or more of your protected characteristics, you can choose to follow the Reparative approach to discrimination. (LINK)
- 15.14 The Council operates a Mediation Scheme. This entails an independent third party known as a mediator to try and help resolve issues thereby potentially avoiding the need for the formal process to be instigated. However a mediator can be deployed at any stage of the procedure. Mediation works by encouraging the parties to speak to each other in order to reach a mutually acceptable agreement. It gives them a chance to talk honestly about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better. Mediation is a voluntary process which all parties involved need to agree to.

What to do if a colleague wants to discuss a concern about your behaviour with you

- 15.14 Do not ignore a complaint because you were only joking, or decide the complainant was being too sensitive. Everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others - you may have offended someone without intending to. If that is the case, the person concerned may be willing to accept an apology from you and an assurance that you will be careful to avoid behaving in a way that might knowingly cause offence.
- 15.15 Provided that you do not repeat the behaviour which has caused offence, this is likely to be the end of the matter. It can be, and should be, seen as a useful learning experience about the effect of your behaviour on others, and therefore an opportunity for self-reflection and improvement.
- 15.16 If you are approached for this reason you can meet with them at once, or agree to meet to discuss the issues in the next couple of days, to give you time to reflect. You may want to suggest it would be helpful to have a colleague present or consider mediation.
- 15.17 **When you meet:**
- listen to the points that are made without interrupting or getting defensive;
 - allow the complainant to explain the way they feel;
 - seek clarification on what aspects of your behaviour are felt to be unacceptable;
 - discuss how you might work together more effectively;

- it may be a shock to be told about the effect of your behaviour, so if you need to, ask for a break or time to consider your response;
- try to remain calm and avoid aggravating what is a difficult situation for both of you;
- apologise, if appropriate.

16 Procedure for making a formal complaint

General Principles

- 16.1 In order to safeguard individuals, confidentiality must be very strictly respected and information limited to those who have a need to know and only to the extent necessary. Any breach of confidentiality may result in disciplinary action being instigated.
- 16.2 BHCC reserves the right to seek advice from, or share information with, appropriate external authorities if it believes that it is under an obligation to do so.
- 16.3 If a formal complaint of harassment, bullying or victimisation is made, consideration may be given to separating the complainant and respondent at work while the allegation is investigated. This is not intended to be a punishment but to protect both parties and BHCC pending a formal investigation and appropriate action being taken.
- 16.4 Any person against whom a complaint has been made (respondent) needs to know the nature and details of the complaint in order to respond.

17 Stage 1 – Formal Complaint of Bullying and/or Harassment

- 17.1 If a complainant is unable to resolve their concerns informally and wish to raise a formal complaint, they should complete B&H Form 1 and submit it to their Head of Service or a more senior manager if the complaint is about the Head of Service. A copy of the form should also be sent to Human Resources. Please see [\(link to form when on Wave\)](#)
- 17.2 If the complaint is about a member of the Corporate Leadership Team, the B&H Form 1 should be sent to the Chief Executive. If the complaint is about the Chief Executive the form should be sent to the Monitoring Officer
- 17.3 The recipient (as set out in 17.1 or 17.2) of the complaint will acknowledge receipt of the form and liaise with Human Resources to identify an appropriate Investigation Manager.
- 17.4 The Investigation Manager will be at an appropriate level of management more senior than either the Respondent or Complainant where this is possible. Alternatively BHCC may engage an external consultant to investigate the complaint. In the event of any concerns raised about who is an appropriate Investigation Manager a final decision will be made by the Director of HR & Organisational Development (or nominee).
- 17.5 The Investigation Manager will write to the Complainant to arrange a meeting. A member of Human Resources will usually attend the meeting. The Complainant will be advised of their right to be accompanied to this meeting by a trade union representative or work colleague.
- 17.6 The Investigation Manager will write to the Respondent notifying them a complaint has been raised and ask them to attend a meeting. A member of Human Resources will usually attend

the meeting. The Respondent will be advised of their right to be accompanied to this meeting by a trade union representative or work colleague. A record of the meeting will be made.

- 17.7 The Complainant and the Respondent will both be offered appropriate support via Occupational Health. HR will advise on this.
- 17.8 Following meetings with the Complainant and Respondent the Investigation Manager, with advice from Human Resources, will decide if it is necessary to interview anyone else in connection with or as a witness to the allegations.
- 17.9 Following the interviews the Investigation Manager will compile a report outlining their decision on the outcome of the Complaint.
- 17.10 The Investigation Manager will send the report to the Complainant and Respondent, normally within ten working days of the completion of the investigation. Meetings with the Complainant and Respondent may be appropriate to share the key findings of the investigation. In exceptional circumstances it may be necessary to redact personal or sensitive information from witness statements before sharing them with the report. If any of the material is relevant to the case it will be referenced in the report without disclosure of sensitive or personal details. The final decision on this will be made by Director of HR & Organisational Development (or nominee).
- 17.11 Possible outcomes may include:
- There is no evidence to support the complaint and therefore no action will be taken - the complaint has not been upheld.
 - The complaint is upheld and an outcome and recommendations are communicated. Recommendations may be one of or a combination of the following:
 - Additional support for the Complainant;
 - Stipulations around the future behaviour and conduct of the Respondent;
 - Additional support and/or training for the Respondent;
 - The application of the restorative approach (link)
 - Mediation between the Complainant and the Respondent providing both parties are in agreement to participating;
 - Refer the matter to a disciplinary process.

Any disciplinary proceedings will not begin until the bullying and harassment procedure has been completed and cannot overturn its findings and recommendations. Please note that a disciplinary investigation may not require all parties and witnesses to be re-interviewed.
 - Failure to co-operate with recommended outcomes may be considered to be a failure to follow reasonable management instructions, and may be subject to disciplinary action.
- 17.12 . The complainant(s) will be notified that appropriate action has been taken.
- 17.13 The Investigation Manager should ensure all relevant documentation is sent to HR at the same time it is sent to the Complainant and Respondent. A copy of the decision will be held

on the Complainant's file. If the complaint is upheld a copy will also be held on the Respondent's file.

- 17.14 Should the Complainant remain dissatisfied with the outcome from Stage 1 they may proceed to Stage 2.
- 16.12 The Respondent is not entitled to appeal the outcome of a bullying and harassment complaint raised against them. If the matter is referred to a disciplinary process the Respondent has the rights of appeal set out in the disciplinary procedure.

18 Stage 2 – Appeal

- 18.1 A Complainant who is not satisfied with the outcome of their complaint at Stage 1 may appeal in writing to Human Resources as set out in the Stage 1 outcome letter. The appeal should be submitted within ten working days of receipt of the outcome of Stage 1.
- 18.2 Complainants must be specific about the grounds of the appeal, including the basis on which they think that the outcome was wrong or inappropriate, as these will form the agenda for the Appeal Hearing and may determine who should be present. Appeals may be raised on any grounds including:
- a failure to follow procedure;
 - a manifestly unreasonable decision not supported by the evidence;
 - any proposed recommendations from Stage 1 were inappropriate given the circumstances of the case;
 - alleged bias in the original procedure.

The appeal should also include the remedy or outcome sought by the Complainant. The appeal will be heard by a manager more senior than the Investigation Manager where possible.

- 18.3 Where possible a hearing will be held within ten working days of receipt of the Stage 2 notification, or at a mutually agreed date.
- 18.4 A member of HR will attend as an adviser. The purpose of the appeal hearing is not to re-hear the complaint. The Investigation Manager at Stage 1 will also be present to explain the details of the investigation and the reasoning behind the outcome. The Complainant will be given the opportunity to explain their grounds for appeal. They may be accompanied by a trade union representative or work colleague. A record of the meeting will be made.
- 18.5 Where possible the Complainant and Respondent will be notified of the outcome of their appeal and reasons for the decision in writing within ten working days of the appeal hearing. A copy of the decision will be held on the Complainant's file.
- 18.6 The Respondent is not entitled to appeal against an outcome of a Stage 2 complaint raised against them.
- 18.7 This is the last stage of the procedure and there is no further right of appeal.

19 Support for Complainant and Respondent

- 19.1 It is acknowledged that raising a complaint or being accused of bullying or harassment may be difficult and stressful.
- 19.2 The line manager (or their manager if the complaint involves them) will talk to the Complainant and Respondent to ascertain what support they need.
- 19.3 Support is available via Occupational Health or the confidential Counselling helpline service. Staff counselling, information and advice service
- 19.4 Support may also be available through the appropriate staff forum or trade union if the employee is a member

20 What to do if you are accused formally of bullying or harassment

- 20.1 If a formal complaint is made about your behaviour it will be fully investigated and dealt with in accordance with the Bullying and Harassment policy and procedure, which may result in a disciplinary investigation and disciplinary action.
- 20.2 Both parties are expected to engage fully in any investigation.
- 20.3 You must not victimise a person who has made a complaint against you or anyone who has supported them in making the complaint, or given evidence in relation to such a complaint. Disciplinary action may be taken against you if the Council has good reason to think that you may have victimised the Complainant or someone else related to the complaint.

21. Raising a Complaint anonymously

You are encouraged to raise your complaint openly as this enables us to address issues and make necessary changes to organisational culture and practice. However if you do not feel comfortable/safe doing so you can raise it anonymously **add details and link to anon reporting system**. Reporting anonymously may mean a full investigation and appropriate action are not possible There is an opportunity within the anonymous reporting system for a two way conversation to take place while anonymity of the complainant is maintained

Brighton & Hove City Council

Audit, Standards & General Purposes Committee

Agenda Item 25

Subject: Standards Update

Date of meeting: Tuesday 10th September 2024

Report of: Corporate Director – Corporate Services

Contact Officer: Victoria Simpson, Senior Lawyer – Corporate Law, on behalf of the Council’s Acting Monitoring Officer
Tel: 01273 294687
Email: Victoria.Simpson@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1 Purpose of the report and policy context

- 1.1 To provide an update on standards-related matters, including on the progress of complaints alleging that Members have breached the Council’s Code of Conduct for Members.
- 1.2 To propose an update to the procedure for dealing with allegations of breaches of the Code of Conduct for Members’ (attached as Appendix 2).

2 Recommendations

- 2.1 That Committee note the contents of this report, including the data provided on member complaints at Appendix 1.
- 2.2 That Committee approve the proposed changes to the initial tests against which member complaints are assessed as set out in Appendix 2 and give the Monitoring Officer delegated authority to update the Council’s Constitution to incorporate those changes, including by making any changes considered necessary or incidental to give effect to the proposal.

3 Context and background information

- 3.1 The Council is required by the Localism Act 2011 to have in place arrangements for dealing with complaints against elected and co-opted Members. Brighton & Hove City Council regularly reviews its arrangements, including its Code of Conduct for Members and related procedures and guidance. The Council publishes the arrangements for complaints against members on [its website](#).
- 3.2 At Brighton & Hove City Council, the Audit, Standards & General Purposes Committee has been given delegated authority for the function of maintaining and promoting high standards of conduct by Members, including reviewing and updating the Council’s policies and procedures which relate to complaints

against members. This Committee receives quarterly reports on complaints against members, including data on outstanding complaints and new complaints received in since the time of the last report.

4 Update on Current Complaints

- 4.1 Updated data on complaints that have been previously reported to Committee is set out in Table 1, [Appendix 1](#). New complaints that have been received since the June 2024 Committee meeting, are set out at Table 2, [Appendix 1](#).
- 4.2 All of the complaints referred to in this paragraph are being progressed by the office of the Monitoring Officer in accordance with the Procedure which governs member complaints.

5 Review of the test applied to member complaints at preliminary assessment stage

- 5.1 The Council's arrangements for dealing with member conduct issues were last reviewed in 2021, when key elements from the Local Government Association's model Code of Conduct were incorporated to achieve greater clarity. At that time, associated arrangements – including [the Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members](#) ('the Procedure') - were also comprehensively reviewed.
- 5.2 It is proposed that consideration be given to further updating the test against which member complaints are initially assessed, as shown as tracked changes in [Appendix 2](#). These changes have been developed with input from the Chair of this Committee and the lead administration Member for this area. The proposals have benefitted from detailed input from two of the Council's three Independent Persons ('the IPs'). It is a requirement that the IPs be consulted in relation to member complaints. As a result, the IPs are very familiar with this test, which they apply each and every time a new complaint is received in.
- 5.3 The proposals aim to emphasise the importance of the assessment of the public interest when considering whether or not to progress a complaint to formal investigation. It is proposed that express reference be made to the seriousness of the complaint and that the initial test is framed more clearly. Reference to whether it is 'possible' to investigate a complaint is removed, as this is not a helpful criteria.
- 5.4 It is considered that the proposed changes are consistent with [the principles which underpin the procedure](#), including that complaints are only referred for formal investigation (and thereafter if relevant for determination by a Standards Panel) where doing so is considered to be proportionate and necessary in the public interest. The proposed refinements aim to provide a clearer and more nuanced test to be applied in those situations where a decision not to progress a complaint to the next stage is being contemplated. The objective is to provide maximum clarity to stakeholders, including where the Council decides to take no action in a complaint at preliminary assessment stage.

6 Member Training

- 6.1 To assist Committee in discharging its role in promoting and maintaining high standards of conduct by councillors, training on standards-related matters is

offered to all members. This includes a session on the Council's conduct arrangements which is considered to be key in developing member understanding of this Council's expectations and arrangements, so that they can carry out their roles within the Code. This training is a requirement for all members, and is offered very regularly.

- 6.2 A session was offered to members of this Committee on some of the Committee's key functions last week, as part of the ongoing commitment to providing helpful input to members. In addition, Standards Panel training (mandatory for any member seeking to be appointed to a Standards Panel) will be offered as or when needed.

7 Analysis and consideration of alternative options

- 7.1 The Council is obliged under the Localism Act to make arrangements for maintaining high standards of conduct among members and for the investigation of complaints and it is therefore appropriate to keep the arrangements under review. While it is an option not to update the procedure and to retain the existing wording, the proposed new wording is recommended on the basis that it will provide greater clarity for those using the procedure.

8 Community engagement and consultation

- 8.1 All reviews of the Council's Standards arrangements are carried out by its elected Members and the Council's Independent Persons, supported by officers.

9 Conclusion

- 9.1 Members are asked to note the contents of this report, which aims to assist the Council in discharging its responsibilities for overseeing that high standards of conduct are maintained in a way which is compliant with local requirements.

10 Financial implications

- 10.1 There are no additional financial implications arising from the recommendations in this Report. All activity referred to has been, or will be, met from existing budgets.

Finance officer consulted: Nigel Manvell Date consulted: 28/8/24

11 Legal implications

- 11.1 These are covered in the body of the Report.

Lawyer consulted: Victoria Simpson Date consulted 20/08/2024

12 Equalities implications

- 12.1 There are no equalities implications arising from this Report. It provides reassurance on the arrangements which have been developed with the need to ensure the Council and its members discharge their responsibilities with appropriate regard for equalities considerations in mind.

13 Sustainability implications

13.1 No sustainability implications have been identified.

Supporting Documentation

Appendices

Appendix 1 – data on member complaints

Appendix 2 – tracked changes excerpt from [the Procedure for Allegations of Breaches of the Code of Conduct for Member Complaints](#)

Appendix 1: Complaint data previously reported to the [June 2024 meeting of the Audit, Standards & General Purposes Committee](#)

Table 1 - Complaints previously reported to this Committee (at its June 2024 meeting)

	Date received	Date determined	If concluded, basis on which decision was taken	Complaint Topic	Additional notes
R2024	14 April 2024	Determined by decision to take no action at preliminary assessment stage on 4 July 2024.	Formal investigation considered neither necessary nor proportionate in the public interest, having taken the view that there was insufficient evidence of a breach of the Code.	C	Complaint about member's comments via social media regarding another political Group's petition.
S2024	22 April 2024	Determined by decision to take no action at preliminary assessment stage on 4 July 2024.	Insufficient evidence of a breach of the Code provided to merit progressing the complaint to formal investigation.	B	Complaint against member alleging misconduct at a Full Council meeting in response to concerns expressed as child safeguarding concerns.

Table 2: Complaints received in since 1st June 2024

Case No	Date	Status of complaint	If concluded, basis on which decision was taken	Complaint Topic	Additional notes
T2024	16 June 2024	Determined by decision to take no action at preliminary assessment stage on 22 August 2024.	Formal investigation considered neither necessary nor proportionate in the public interest, having taken the view that there was insufficient evidence of a breach of the Code.	A	Complaint concerned the registration of a neighbourhood forum being registered as a private company on Companies House: a set of facts not considered of itself to give rise to a breach of the Code.
U2024 to Y2024 inclusive	On or about 28 June 2024	Determined by decision to take no action at preliminary assessment stage on 28 August 2024.	Formal investigation considered neither necessary nor proportionate in the public interest, the complaint having been resolved informally by the member concerned issuing an apology to the opposition party leader.	C	Five separate complaints raising concerns about a post by the member on X about views expressed regarding the democratic process and the role of the opposition.
Z2024	1 July 2024	Determined by decision to take no action at preliminary assessment stage on 21 August 2024.	Insufficient evidence of a breach of the Code was provided to merit progressing the complaint to formal investigation.	C	Complaint about a member's comments on a local news platform during the recent election period.
AA2024	21 July 2024	Remains at Preliminary Assessment stage.	N/A	C	Complaint regarding a statement made by a member to the media regarding a Council project.

BB2024	15 July 2024	Determined by decision to take no action at preliminary assessment stage on 28 August 2024.	Insufficient evidence of a breach of the Code was provided to merit progressing the complaint to formal investigation.	B	Complaint about the decisions made by two members in their respective capacities as Chairs of two separate Council meetings in relation to the rules on deputations.
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Key to Complaint topics

Code	Description of type of conduct complained about
A	<i>Complaints about members' conduct in their wards, including when discharging their ward responsibilities or otherwise communicating with constituents or other stakeholders.</i>
B	<i>Complaints about comments or conduct either at council meetings, or at meetings at which members are representing BHCC</i>
C	<i>Complaints about conduct relating to council business or other members made outside council meetings, including on social media</i>
D	<i>Complaints about a member's conduct or position on an issue which is not council business or a ward matter, including conduct or a statement reported in the press or made on social media</i>

Appendix 2: tracked changes excerpt from the Procedure for Allegations of Breaches of the Code of Conduct for Member Complaints
(insertions underlined: deleted text ~~struck through~~)

5 Preliminary assessment

5.1 Subject to paragraph 5.2, the Monitoring Officer will, in consultation with one of the Independent Persons, carry out a preliminary assessment in order to determine what action should be taken.

5.2 The Monitoring Officer reserves the right to refer the preliminary assessment to the Standards Panel in respect of any complaint.

5.3 The Monitoring Officer will seek to complete their preliminary assessment promptly and in any event within 28 days of receiving a valid complaint. This process may on occasion take longer if additional information is required from the complainant or subject member (or both) for a proper assessment to be made.

5.4 Pursuant to paragraph 5.3, the Monitoring Officer may – having regard to the views of the relevant Independent Person – undertake preliminary enquiries directly related to the complaint to help determine whether a formal investigation is required.

5.5 In the course of the preliminary assessment, the Monitoring Officer may decide **not** to progress the complaint, having first consulted with one of the Independent Persons and having applied the following two-part tests:

a) can we investigate the complaint?

- is the person being complained about currently a councillor?
- ~~Did the conduct occur within the last six months?~~
- Is the conduct that is the subject of the complaint something that is covered by the Code?

If, having applied a), the Monitoring Officer considers there to be a potential basis on which to progress the complaint, then they shall apply b):

b) should we investigate the complaint?

- Did the conduct occur within the last six months?
- Is the substance of the complaint of ongoing relevance to the public interest?
- Is there sufficient evidence to support the complaint?
- ~~Is the conduct something which it is possible to investigate?~~
- Is the complaint sufficiently serious to merit investigation?
- Would a formal investigation be proportionate and necessary in the public interest, bearing in mind all of the circumstances, including the nature of the complaint, the resource potentially involved and its impact on the public purse?

