

REPORT BY AILEEN MCCOLGAN KC FOR BRIGHTON & HOVE COUNCIL, 13 NOVEMBER 2023

Executive Summary

1. I have been instructed by Brighton & Hove City Council (“the Council”) to conduct an independent investigation into complaints about behaviours and activity within the Council’s waste service (“City Clean”). The complaints, which I have concluded raised cases to answer under the Council’s disciplinary processes, contained multiple allegations of sexual harassment, race discrimination, discrimination based on disability, bullying and intimidation.
2. During the course of my investigations I spoke to over 70 witnesses who came forward in response to the Council’s invitation to approach me directly. Face-to-face interviews were conducted under conditions of secrecy because of the level of fear expressed by some potential witnesses about potential retaliation. In view of the matters discussed in this report I regarded that fear as well founded. I was provided with extensive documentary evidence from a number of sources, both unsolicited and at my request. I heard numerous accounts of appalling behaviour faced by staff and managers at City Clean including accounts of individuals:
 - 2.1. shouting and/or swearing at and/or threatening staff;
 - 2.2. acting in a physically aggressive way, making implicit and explicit threats to use physical violence and in fact using such violence;
 - 2.3. referring to managers as ‘cunts’, ‘wankers’, ‘a fucking bitch pulling the strings’;
 - 2.4. racially harassing members of staff including by racist name calling and graffiti;
 - 2.5. sexually harassing women staff and managers;
 - 2.6. harassing gay staff including by ‘catfishing’ them.
3. Many of the individuals accused of these and other inappropriate behaviours are either GMB reps within the Council, or are among a group of around 10 white men who were described to me by witnesses as having been particularly protected by the GMB reps within the Council. It is important to stress that those individuals, most of whom did not come forward to speak to me, have not yet been given the opportunity to answer any of these allegations. This being the case, I have made every effort to avoid the identification in this report of individuals accused of wrongdoing.
4. I am satisfied that managers at City Clean and elsewhere in the Council have, until recently, been unable to respond appropriately to the behaviour discussed in my report by reason of the threat of industrial action and a (reasonably) anticipated absence of political support.
5. I found no evidence that any of the managers I spoke to were hostile to trade unions. Many, perhaps a majority, identified themselves to me as trade union members.

1. Introduction

6. I have been instructed by Brighton & Hove City Council ('the Council') to conduct an independent investigation into allegations concerning behaviours and activity within the waste service. The Council issued a call for witnesses which extended to 'any member of staff at City Clean or ... employed by the council who have been in roles significantly associated with City Clean, or ex-employees in these categories'. I have been provided with statements from a number of individuals and was contacted by numerous others as a result of the Council's call for witnesses. Many worked at City Clean. Others had done so in the past or were or had been significantly involved with City Clean as a result of their work for the Council.
7. During the course of my investigations, which took place over 8 weeks, I spoke to over 70 witnesses who provided their evidence to me on the basis that it would not be attributed to them in any report and that it would not be passed on to the Council without express written permission. I spoke to the vast majority of these people face-to-face or on Teams. Face-to-face interviews were conducted under conditions of secrecy because of the level of fear expressed by some potential witnesses about potential retaliation. In view of the matters discussed in this report I regarded that fear as well founded. I was provided with extensive documentary evidence from a number of sources, both unsolicited and at my request.
8. I have provided the Council with a report containing my full findings in which I made a number of recommendations, including recommendations that disciplinary action be considered against persons named in the report. Those recommendations are included below to the extent that they are appropriate for broader publication. The full findings and recommendations contain confidential information unsuitable for such publication.
9. The Council regards publication of a report into my findings as necessary in the interests of transparency because the issues I have investigated concern a publicly funded major Council service which is universally used by residents and are, accordingly, of significant public interest. The Council is committed to transparency and the need to ensure that residents are aware of any major developments that may affect the service they receive.
10. Given the nature of my investigation it is inevitable that much of the discussion in this report is of the alleged behaviour of individuals. Many of these individuals are either GMB reps within the Council, or are among a group of around 10 white men who were described to me by witnesses as having been particularly protected by GMB reps within the Council. It is important to stress that those individuals, most of whom I have not spoken to, have not yet been given the opportunity to answer any of these allegations. This being the case, I have made every effort to avoid the identification in this report of individuals accused of wrongdoing.¹
11. During the Maxwellisation process the Southern Region of the GMB, which was sent extracts of a draft version of this report, made a number of comments. Among these was that no complaints had been received by the Region about the type of conduct described in this report and that it had not been provided with information which would permit the Region to carry

¹ This includes referring on occasion to 'GMB reps' below to include the singular. I should stress that references to 'GMB reps' do not include all GMB reps at the Council.

out any investigations into alleged wrongdoing. The Region also stressed in its response that the GMB ‘condemns bullying, harassment, racism and homophobia, and does not condone such behaviour’, further that ‘If - after a full and fair investigation - GMB members, officials or employees are found to have acted in such ways, they will be dealt with under the GMB Rule Book and disciplinary procedure’.

12. I make no findings in my report of any failure on the part of the GMB regionally or nationally to investigate alleged wrongdoing, and references to GMB reps and/or to individuals described to me as being particularly protected by the GMB reps within the Council should not be taken to imply that national or regional GMB condoned the actions of such individuals. I am satisfied, however, that GMB Southern Region was aware of allegations of misconduct by the GMB rep discussed at paragraph 17 below. It was also aware of the allegations of misconduct discussed in the Doherty report referred to below.

2. Background

13. City Clean is a department of the Council with responsibility for waste and recycling collection, street and beach cleaning. It incorporates Customer Services and Projects and contracts teams as well as Operations and is based at Hollingdean Depot (hereafter ‘the Depot’), which also accommodates environmental enforcement services.
14. Brighton & Hove City presents particular challenges as regards waste collection. It has narrow streets which pose difficulties of access for refuse and recycling trucks. Many properties lack space to store bins etc, which are therefore on the street. These difficulties have also resulted in an unusually high level of dependence on communal waste disposal in large street-based bins. The city has high numbers of multiple occupancy premises with shared bins in basements and similar, which can quickly become fire hazards. It is also highly dependent on visitors who create additional waste and impose additional expectations. The result is that interruptions in waste collection can very quickly create very significant difficulties for residents, visitors and the Council. This means that the threat of industrial action by waste/ recycling staff carries enormous weight within the City.
15. Also important by way of background is the political context; Brighton & Hove City Council was created in 1997. After a period of 6 years in which the Labour Party was in control of the Council there was a 20 year period of no overall political control, the Council moving between Labour, Conservative and Green minority leaderships between 2003 and 2023 (when a majority Labour administration was elected).² Further, the Council operated a committee system from 2012 to 2023, which meant that Council leaders of minority administration had limited powers. Many of those I spoke to told me that this factor made administrations particularly vulnerable to the threat of industrial action, particularly when the threat occurred just prior to elections.
16. Many staff at City Clean are unionised, with the vast majority being members of the GMB. The Council recognises the GMB and UNISON for the purpose of collective bargaining. The

² This administration is responsible for the decision to commission my investigation.

GMB has a Branch Secretary at the Council who is employed for that purpose, having TUPE transferred into the council following the 2001 transfer in-house of waste services (previously run by a private contractor). The UNISON Branch Secretary role is shared by two individuals who have full time release for that purpose. The GMB has an office and a full-time release union rep at City Clean (not, I understand, anywhere else in the Council) and a significant number of additional union reps all of whom have some release time for union duties. UNISON has for a short time had a union rep at City Clean but this person is at present absent from the Depot for reasons discussed below. GMB reps participate in CCG (City Clean Consultative Group meetings) meetings every six weeks with management at City Clean. I have been told that UNISON has been excluded from those meetings at the insistence of GMB reps within the Council.

17. I have been provided with evidence which suggests that, by 2017, bullying behaviours had become normalised at City Clean. This included bullying by GMB reps within the Council. There was a change of management at City Clean in 2017 and a transformation programme was initiated to address performance, regulatory compliance and cultural issues at the Depot. Concerns about criminality, intimidation, bullying and harassment were raised with senior management. Many of the concerns related to the alleged behaviour of a GMB rep. The investigations which were initiated in response resulted in escalating tensions between the GMB and the Council and to allegations by the GMB that management at City Clean were anti-union. This resulted in threats of industrial action in 2019. ACAS became involved and an external investigation was commissioned from Gerry Doherty, a former TSSA General Secretary. Mr Doherty's death was reported at the time of drafting. According to his report, Mr Doherty was a long-standing and currently retired member of the GMB union'.
18. Mr Doherty reported in August 2019 that he had not been provided with 'definitive evidence' of 'anti-trade union behaviour from management', though he could 'fully understand how the GMB union came to the conclusion that management actions in [dealing with allegations that the GMB rep referred to above had physically assaulted a staff member] lead [sic] them to conclude that that there was inherent anti-trade union bias in the paid services hierarchy of the Council'. I am satisfied on the evidence which I have seen that the matters investigated by Mr Doherty did not involve anti-trade union behaviour from management, further that allegations he investigated of witness intimidation by a City Clean manager were without foundation.
19. Meanwhile, in May 2019 a minority Labour administration was returned to power. ACAS negotiations failed to avert notice of industrial action by the GMB in relation to alleged anti-trade union activities within City Clean. A number of witnesses indicated that there were close links between the Labour administration and GMB reps within the Council and concerns were expressed to me that highly confidential information passed between the administration and GMB reps within the Council.³ Witnesses also described a high degree of interference from politicians in disciplinary processes at City Clean.

³ I am happy to confirm, in response to a request by the GMB Southern Region, that I have made no findings that any Labour councillor in the Council failed to comply with the obligation to disclose their membership of the GMB.

20. I was told that the Council failed to respond publicly to a GMB press campaign alleging anti-union management at City Clean. The Council and Policy & Resources Committee prevented the suspension of the GMB rep referred to in paragraph 17 above, and permitted his return to the Depot in the face of threatened industrial action over the Pride weekend. By contrast, a manager who had been involved in disciplinary investigations into the GMB rep left the Council with a settlement agreement because, I was told, GMB reps within the Council had made it clear that industrial action would ensue if he was returned to City Clean. The message this sent out was that managers at City Clean were powerless to impose disciplinary sanctions on GMB reps within the Council or individuals perceived to be particularly protected by them.
21. Mr Doherty's report, *Independent Review re: Anti-TU Activities*, suggested minor amendments to the language of Council policies and the range of disciplinary sanctions and made various, fairly minor, criticisms of the Council's approach to disciplinaries. It remarked that there appeared to be no basis for the existence of a full-time union release GMB position at City Clean. Mr Doherty was critical of the fact, further discussed below, that GMB reps frequently made reference to agreements which were alleged to exist between the union and the Council but which were not made available to him despite his request. He further remarked on the irony that 'the location where the most generous facility arrangements are dedicated [City Clean] is the location where there are the most problems with regard to industrial relations.' Mr Doherty recommended an urgent review of the Facilities Agreement. I saw no evidence that any such review took place.
22. Mr Doherty provided an Addendum to his report in which he referred to the fact that, following a Local Government Association ('LGA') report into the Council in April 2017 which concluded that a reset of 'dysfunctional' trade union relations was required, the Council's CEO had met with UNISON's and GMB's Branch Secretaries and that, while the former had been positive about moving forward, the latter said he was not interested:
- 'I find that disappointing... the whole issue of trust and mutual respect ... has completely broken down and has led to the current threat of industrial action on the part of GMB'.
23. Mr Doherty referred to a recommendation made by the LGA Report that 'Elected member involvement in HR operational matters should cease', the 'role of elected members [being] to set policy [and] to provide a climate that allows managers to manage ... Blurring of respective roles and accountabilities is unhelpful'. He remarked in 2019 that 'This recommendation, dating back to April 2017 does not appear to have been acted upon' and suggested that 'all parties might wish to reflect on this'. I heard concerns about individuals dismissed for gross misconduct having been reinstated by Member Appeal Panels. Such panels are provided for by Council procedures and are available to employees irrespective of union membership but concerns were raised with me about the propriety of allowing panels whose members may have received (and declared) GMB funding, to 'completely, unashamedly just reverse officer decisions' relating to GMB reps and/or individuals described to me as being particularly protected by the GMB reps within the Council. Another witness told me that having politicians sitting on the panels for collective disputes and dismissal cases 'further enhances the GMB

power to subvert normal council processes'. I have made recommendations in relation to this matter.

24. The Doherty report went to the Council's Policy & Resources Committee in December 2019. The Committee noted that agreement had been reached during the ACAS negotiations that the Council and the GMB would 'work ... to identify all known local agreements and create a definitive log' thereof. I saw no evidence that this has happened.
25. Many witnesses told me that the result of the 2019 dispute was that GMB reps within the Council and/or individuals described to me as being particularly protected by them were regarded as untouchable and that management with responsibility for City Clean felt powerless to manage. I was told that the message which had been conveyed to managers at City Clean by these events was that attempts to subject any such individual to disciplinary action in connection with bullying, harassment, and/or threatening behaviour would result in the departure of the relevant manager rather than the individual. This message has continued to be felt at City Clean and it is only recently that that position has begun to shift. I am satisfied that the outcome of the 2019 dispute, rather than any general lack of competence on the part of City Clean managers, has been responsible for subsequent shortcomings in the disciplinary and performance management of staff at the Depot.
26. UNISON filed a collective dispute in 2019 about alleged bullying and harassment of UNISON members at City Clean by GMB members. Allegations included long term agency staff being told that 'they would never get a permanent job at the depot unless they supported all GMB actions, including unofficial strikes', threats of violence by one GMB rep and statements by another that 'If you fuck with me, I will make sure you never fucking work again'. Individuals impacted by the behaviour reported panic attacks, depression and suicidal thoughts.⁴ The Council's Personnel Appeals Panel accepted in October 2019 that impacted individuals had been 'feeling under threat or unsafe, suffering from stress, anxiety and upset because of action that had been taken by GMB representatives or because of action that it was feared would be taken' and that this was ongoing. I was told that no meaningful action was taken on the Panel's decision.
27. In 2020 Labour lost control to the Greens who formed a minority administration. The GMB took industrial action in 2021. A number of witnesses told me that this was triggered by attempts by City Clean management to performance manage a driver who was perceived as being strongly protected by GMB reps within the Council. Witnesses also told me that false claims were made that the driver involved had had a heart attack. The GMB Southern Region has advised that the formal notification relating to the dispute 'did not relate to the (attempted or actual) performance management of one driver'. The ballot paper summarised the issues in dispute as relating to the Council's alleged failure to follow policies and procedures 'regarding HGV holding drivers, and resulting decision making around variations of duties, crew changes,

⁴ The GMB Southern Region has advised that 'It does not appear that complaints of the nature identified herein were raised with the GMB regional or national offices'.

planning for collecting of dropped work...’, a summary which is in my view consistent with the accounts of the witnesses referred to above.

28. One of the outcomes of the industrial action was an agreement between the Council and the GMB which further reduced management’s ability to manage City Clean staff. That agreement is discussed below.

3. The environment at City Clean

I. General

29. One witness described City Clean as being like *Animal Farm*. Others described the environment as ‘toxic’.
30. I was told, and I accept, that there are many issues with working arrangements at City Clean that impact the level of service to residents. One manager told me that he came into work every day with a bad taste in his mouth because he knew that he would be shouted, pointed and yelled at and people would be storming off and slamming doors. What should be straightforward managerial decisions on the utilisation of staff when, for example, people are off sick escalate into morning-long events with members of staff storming off and crews going out hours late. This witness told me that managers have to run everything through the GMB reps to avert threats of strike, that GMB reps referred to alleged agreements between the Union and the Council but failed to produce evidence of such, and that the addition even of a single property to a round required a consultation process with the GMB reps lasting weeks.
31. One manager talked about the fear of physical violence and of not being backed up. I was told that senior managers have not been able to assure those for whom they are responsible that they will be protected from retaliation in the event that they complain about the behaviour of GMB reps within the Council or individuals perceived as being particularly protected by those reps, because those senior managers had no confidence that they would be supported by more senior managers, who in turn had no confidence that they would be supported by the politicians. I was told that managers at the Depot were subject to daily abuse from drivers whose behaviour was modelled on that of some GMB reps, and that managers were routinely sworn at and (publicly) about.
32. Another aspect of the culture at City Clean is the tendency of staff to characterise as bullying and/or harassment managerial conduct which is entirely appropriate and reasonable. I was provided with one example of a GMB rep going off sick with stress when challenged about demanding of a manager who was a few minutes late for work ‘What fucking time do you call this?’. Efforts by managers to require drivers to use tachograph cards to ensure compliance with rules about breaks etc were characterised as bullying. Operatives who were challenged for dropping work on their rounds complained that they were being treated less favourably than other crews.
33. Attempts to discipline individuals described to me as being particularly protected by GMB reps within the Council regularly result in threats of industrial action. There have been also cases in which disciplinary dismissals have been overturned on appeal to panels of Councillors. One

manager told me that, until recently, City Clean management expected their decisions to be overturned, to be punished by the GMB reps for having made these decisions, and for the Council to fail to protect them from the punishment. The same was true, the manager suggested, for anyone who came forward to raise a concern or provide evidence as a witness.

II. Racist/ sexist/ other discriminatory abuse

34. A number of witnesses expressed concern about racism at the Depot. I heard that Black staff had to put up with name calling because they wanted to get accepted by GMB members who were in positions of power, so they could get jobs and preferred shifts.⁵ I was told that a number of City Clean staff had been subject to racist name calling by their colleagues and that a truck had been regularly defaced with racist graffiti while parked in the Depot.
35. A number of witnesses referred to misogyny and sexism at the depot. I heard that the word ‘cunt’ was regularly used to and about managers. One operative told me that she had been subject to overwhelming sexual ‘banter’ daily by men in the smoking area of the yard. Another spoke about the very misogynistic culture at the depot which she told me she had to put up with most of the time because of the potential risks of challenging it. A number of witnesses said that much of the criticism aimed at women in senior management was related to the fact that they were women.
36. One manager described very personal comments having been made about her appearance. Another, who referred to the Depot as being almost like a zoo, described being called names like ‘darling’, ‘honey’, and ‘doll’ despite making it clear that she did not like this terminology. A third told me about low levels of misogyny across the whole depot. She got winked at constantly by men of a ‘certain generation’, and called ‘love’ and ‘dear’.
37. One witness spoke of a culture of racism, homophobia and sexism and told me that a group of loaders ‘catfished’ gay staff on Grindr. One witness, who told me that he was gay, found himself the subject of homophobic ‘banter’ while another said that a lot of people on refuse had refused to work with him because he was gay.

4. ‘Agreements’

38. A number of witnesses referred to difficulties caused by various agreements which had been made, or which were claimed to have been made, between the Council and the GMB. One witness referred to restrictive working practices within City Clean which had been agreed to under threat of strike and which make it:

‘impossible for managers to performance manage or deliver the service. For example ... they cannot require staff to pick up work that has been dropped; they cannot require a member of staff to cover another round for operational reasons... There are also several restrictive working practices that are produced randomly ... with no written

⁵ The GMB Southern Region advised me that the GMB had not received any reports of racism in the depot since approximately 2005, when an incident of racist graffiti led to disciplinary action, and that the GMB ‘do not condone, hide or excuse racism’.

documentation to support them but threats of strike are issued if they are not complied with’.

39. I requested all agreements between the Council and the GMB which are applicable to City Clean. I was provided with a City Clean Service Re-Design Agreement 2013 as amended in December 2017 and with the associated Residential Services Guarantee 2013, also amended in 2017. I was also provided with a Trade Union Recognition Agreement dated 2017 which was reached with both the GMB and UNISON, a 2020 ACAS agreement and a Policy & Resources Committee agenda item from October 2021 which set out an agreement between the Council and the GMB in settlement of the 2021 dispute.
40. Neither the 2013 nor the 2017 agreements in my view contain anything which would entitle staff at City Clean to act in the ways described in this report.
41. The 2020 ACAS agreement states, so far as relevant for the purposes of this report, that CCG meetings should continue as before and that managers should ‘deal with and respond to issues raised by union representatives in accordance with the constitution rather than the same items needing to be raised repeatedly without resolution’. It stated that managers should deal with health and safety issues when they are raised and ‘ensure that performance and conduct issues are consistently managed in line with agreed council processes and procedures’. It also provided that the Council and the GMB would ‘work ... to identify all known local agreements and create a definitive log:
- ‘Any future proposals to change agreements would require consultation. In the meantime, local management want to build on the increased liaison with trade union representatives at the depot, e.g. through CCG meetings. There is no intention to erode terms and conditions. Meanwhile, any documented local agreements will be adhered to’.
42. I was told that CCG meetings take three hours every six weeks and are attended by all GMB reps (but no one from UNISON). It was made clear to me that they are regarded by managers as an ordeal. I was told that one GMB rep encouraged others to store up allegations to bombard managers with at these meetings, rather than addressing them at a time when they could readily be investigated and remedied.⁶ I have also been told that the impact of the meetings, which take place between 9 am and noon, is to take the GMB reps away from their rounds which then creates logistical difficulties for City Clean.
43. One manager told me that CCGs were unique to City Clean and that no other department ‘has mandatory 6 weekly meetings to be hauled over the coals by one of the Unions’. As to the other elements of the ACAS agreement extracted above, I have seen no evidence that City Clean managers have failed to deal with health and safety issues though I have been provided with evidence of GMB reps obstructing actions designed to protect health and safety. I have also heard evidence of one GMB rep seeking to weaponise health and safety as an excuse for unofficial industrial action. I have dealt above with the obstacles which management at City

⁶ The GMB Southern Region told me that ‘on occasion when representatives approached managers they were asked to “hold onto” the issue for the CCG’.

Clean face in attempting to ensure that performance and conduct issues are consistently managed in line with agreed council processes and procedures.

44. It seems clear to me that GMB reps within the Council have failed to cooperate in any attempt to achieve clarity as to what agreements exist. When the existence of other agreements is questioned, a number of witnesses told me that the stock response is that 'if you haven't got them that's your problem. You should have kept them', or words to that effect, and a refusal to share them. One witness told me that when people have persisted, having formed the opinion that there was no agreement, 'all hell breaks loose' and there will be a threat of industrial action.
45. The Gerry Doherty report concluded, and I agree, that the situation was 'most unsatisfactory':

'I cannot understand how any manager can be expected to manage effectively and efficiently if they are not in full possession of all of the applicable agreements. This is particularly relevant given the large turnover in managerial staff at Hollingdean Depot. I would have thought it in everyone's interest to place on the table what they consider to be local agreements, for those agreements to be agreed between the parties and for them to be collated into a handbook which everyone can refer to when an issue in dispute arises. It would make sense for that handbook to be reviewed on a regular basis to ensure that all agreements therein are still relevant and fit for purpose.'
46. Finally, as to the 2021 agreement, it has been suggested to me that the provisions dealing with round changes, in particular, impose disproportionate complexity and delay into what should be a simple process of collecting refuse and recycling through the efficient management of resources.

5. Managers

47. Many staff to whom I spoke were highly critical of managers (a term I use here to include senior supervisors). Some suggested that they did not have appropriate experience and failed to listen to staff who did have experience. A number of people told me that communication at City Clean was poor and that operatives would be given different instructions by different managers. Another told me that staff at City Clean were not happy because they feel they are not being heard by managers.
48. Some frontline workers told me that staff were overworked. One driver said that the job of loading is particularly physically difficult, with loaders walking 10 miles a day.
49. A number of operatives complained about the state of repair and reliability of lorries. Others told me that the problem was with drivers who drove too fast, failed to clean or otherwise look after their vehicles and failed to carry out vehicle checks.
50. I heard specific complaints about the alleged behaviour of a small number of managers including allegations of inappropriate collusion between such staff and GMB reps within the Council, and isolated complaints of sexualised 'banter', sexual and racist harassment, bullying and related behaviour. A number of witnesses alleged unfair processes relating to recruitment

and to the deployment of agency staff. I have made some recommendations in relation to these matters including in respect of disciplinary action taken against an individual who raised concerns about bullying with me.

51. A significant number of witnesses reported serious concerns about the behaviour of a former manager about whom I heard allegations of violent aggression, drug use and drunkenness at work. I was also told that the individual would talk publicly all the time about their sexual behaviour.

6. GMB representation

I. General

52. The GMB is by far the strongest union at City Clean and has a much more significant impact on the environment at the depot than does UNISON.
53. Many witnesses, including GMB members, expressed the view that the GMB⁷ had its 'favourites'.⁸ A loader who worked on recycling told me that it did not feel as if the GMB 'has people's backs'. Even witnesses who were more critical of management than of the GMB suggested that refuse staff could 'do what they want'. A number of witnesses told me that the GMB was much more interested in protecting refuse and recycling staff, in particular drivers, and that it had little interest in streets.
54. One witness told me that there were 'particular individuals that the GMB will protect to the hilt but this doesn't get extended out to other groups of members of theirs, large groups of female workers elsewhere in the Council'. A second referred to people at the 'top table', GMB members at the depot who had been drivers for a long time and were all older white men. A third witness referred to a definite group of people who were 'more untouchable' and a fourth stated that there were a number of staff and reps who had exceptional levels of protection from the GMB but that there was then a kind of pecking order of the staff of how much effort GMB would put in.
55. One witness described contact centre GMB members as being at the bottom of the GMB 'food chain' when it came to the power struggle at City Clean and said that the GMB did not think about the impact on such members of its behaviour in refuse and recycling. Other witnesses told me that staff on streets ended up having to do the work that refuse and recycling dropped, which resulted in overflowing bins.
56. One operative described being placed under significant pressure by individuals within the Council to join GMB even before they had their induction. I was informed by another witness that staff were told by GMB reps within the Council and/or individuals described as being particularly protected by them that the GMB was the only union at City Clean and that they must join GMB if they wanted to get shifts and be accepted. The witness did not know if such

⁷ I understood this to mean GMB reps within the Council and use 'the GMB' in that sense in this and the following two paragraphs.

⁸ GMB Southern Region told me that the GMB 'support all members, and the allegations of favoritism or pressure are matters of which there are no records of having been raised within the GMB, as it would have expected'.

threats could be implemented but was satisfied that this was the impression given to new starters. The individual told me that it was only later that new joiners would know whether or not the GMB had the suggested level of influence.

57. A number of witnesses told me that some GMB reps within the Council and/or others described as being particularly protected by them pressurised crews to refuse to work with staff members who were disliked by the reps/ individuals perceived as protected. I also heard accounts of some GMB reps within the Council and/or others described as being particularly protected by them imposing pressure on operatives not to cooperate with management even if they wished to do so. Another operative described City Clean as GMB-dominated, and said that anyone in UNISON was looked down upon and treated differently by the workforce.
58. One witness told me that GMB reps within City Clean issued grievances by having people sign pieces of paper without even knowing what the complaint was, being told that they would be filled in later and misled about the subject matter.⁹
59. Serious concerns were raised about the treatment of people who resigned from the GMB and, in particular, about an operative who was elected UNISON rep at City Clean and who subsequently found themselves the subject of various grievances in respect of which there was evidence of collusion. Those grievances were concluded in December 2022 without sanction to the individual who has, however, been unable to return to work since because of concerns about how they would be treated by GMB members/ reps on their return.
60. One manager told me that they had resigned from the GMB having been threatened by three GMB reps in connection with a disciplinary hearing while working alone in the evening. A number of people told me that behaviours at City Clean of GMB reps and others regarded as particularly protected by such reps are replicated elsewhere at the Council.

II. Allegations of misconduct by GMB reps and those described as particularly protected by them

61. I heard many accounts of bullying and intimidation by a number of GMB reps within the Council and other individuals described as being particularly protected by them. One rep described as becoming angry, shouting and banging his fist at meetings. A witness described the rep's behaviour as hectoring, sarcastic, patronising and misogynistic. Another witness stated that the rep was 'very, very aggressive' and would talk at length at meetings and, when anyone attempted to intervene, would start shouting about being interrupted. I was told that managers felt powerless to deal with this behaviour because of the threat of industrial action.
62. I have heard accounts of GMB reps within the Council:
 - 62.1. Shouting and/or swearing at and/or threatening staff, including by telling them that if they acted, or failed to act, in a particular way they were 'fucking finished'. An example of behaviour said to be typical from one GMB rep consisted in the following (said to manager): 'You're a fucking shambles. This is disgusting ... you don't know what you're

⁹ Gerry Doherty described similar accounts of GMB members not realising what they were voting for as 'anecdotal'.

- fucking doing'. Some GMB reps were said to engage in 'effing and blinding on a daily basis' in the City Clean operations room;
- 62.2. Accusing managers of lying, and implying that the GMB rep could get another individual dismissed;
 - 62.3. Banging on walls and tables and storming out of meetings;
 - 62.4. Acting in a physically aggressive way including by approaching and pointing in managers' faces while shouting, making implicit and explicit threats to use physical violence and in fact using such violence;
 - 62.5. Threatening to stab people;
 - 62.6. Bringing weapons into the Depot and showing them to staff;
 - 62.7. Ordering individuals out of meetings: 'you two get out or I'm leaving. Get out, get out. Go on, get out or I'm going';
 - 62.8. Reacting to being challenged by the chair of a meeting for bullying a witness by immediately stopping the meeting, refusing to continue, and accusing the manager of bullying the GMB rep;
 - 62.9. Being extremely rude to women managers in meetings, including by saying to a male manager 'if you can't keep her quiet, I'm going to leave' and by accusing another woman manager, without any evidence, of lying;
 - 62.10. Making inappropriate sexual comments to and about women, including stating 'who would wanna fuck that?' as one woman walked past;
 - 62.11. Publicly saying that women managers 'don't have a fucking clue. They're female. They don't know what they're doing' and describing a woman manager as 'a fucking bitch pulling the strings';
 - 62.12. Orchestrating the ostracisation of a senior woman manager by GMB members;
 - 62.13. Behaving with extreme aggression when challenged about using offensive language to refer to a Black member of staff;
 - 62.14. Characterising questions about inclusion and diversity at interview stage as 'asking if people would grass up racists';
 - 62.15. Responding to training on the behaviour framework by protesting that staff were 'not dogs, why are you trying to teach them good behaviour?';
 - 62.16. Derailing diversity training by going into an 'anti-management rant';
 - 62.17. Telling staff that they did not need to attend mandatory diversity training;
 - 62.18. Indicating that the GMB rep possessed very personal knowledge pertaining to a manager which the manager thought could have been construed as a threat;
 - 62.19. Engaging in email and telephone correspondence whose tone and frequency at times amounted to harassment;
 - 62.20. Suggesting to managers that the GMB rep knew where their skeletons were buried;

- 62.21. Telling a manager that even if they left the Council the GMB rep would follow them, find them and make sure they never got another job;
 - 62.22. Threatening unlawful industrial action and taking such action by calling collections teams back to the City Clean depot and being involved in sit-ins, sometimes using the pretext of health and safety concerns;
 - 62.23. Stating that staff who had not been balloted in relation to proposed industrial action would not be allowed to cross the picket line;
 - 62.24. Refusing to agree the adoption of new standardised PPE because the GMB rep had a personal objection to the colour of the PPE (which is mandatory for work on highways).
- 63. The behaviour of one GMB rep is such that, I was told by witnesses, managers routinely have to adjourn meetings with the rep so that they could go and calm down.
 - 64. Some witnesses expressed concerns about alleged corruption on the part of at least one GMB rep. I have no way of determining whether these allegations were correct.
 - 65. I have also heard accounts of an individual universally described to me as subject to particular protection by individuals associated with the GMB:
 - 65.1. Calling a member of staff a 'Black cunt';
 - 65.2. Referring to managers as 'a bunch of wankers';
 - 65.3. Referring to two senior women manager as 'a pair of effing cunts';
 - 65.4. Threatening to stab a member of staff.
 - 66. As above, I am satisfied that managers at City Clean and elsewhere in the Council have, until recently, been unable to respond appropriately to such behaviour by reason of the threat of industrial action and a (reasonably) anticipated absence of political support. Behaviour of the sort described above became normalised as behaviour such as that outlined above has been emulated by other personnel within City Clean. One witness told me that 'Aggression has become culturally engrained'.
 - 67. A combination of agreements reached between the Council and the GMB and other (possibly fictional) agreements upon which GMB reps seek to rely has resulted in a situation at City Clean in the expectation that GMB reps are involved in decisions such as temporary allocation of staff to particular teams or of a lorry to a team, and minor amendments to rounds, which would normally be a matter of managerial discretion. The effect of this is to produce delays, opportunities for some of the behaviours described above, and significant impact on service provision. The situation has been exacerbated by the fact that there is a GMB office at City Clean in which staff regularly congregate and which provides a focal point for resistance to management. Also problematic is the fact that GMB reps, in common with other City Clean staff, appear to have free access to City Clean offices, including those in which managers work.
 - 68. I was provided with evidence of obstructive conduct by various GMB reps in relation to disciplinary/grievance meetings. This included, in particular, prolonging processes by being

repeatedly unavailable for meetings and, when meetings have been arranged to accommodate the GMB rep, cancelling them at short notice. I was provided with evidence of 5 month delays between the initiation of one disciplinary process and the first meeting, and a similar delay between the initiation of another process and the decision that there was a case to answer. Not all of the delay was attributable to the behaviour of the GMB rep in these cases but a substantial amount of it was. One of these cases concerned allegations of serious sexual harassment and I am satisfied that the delays impacted very significantly on the complainants. I was also provided with evidence of occasions on which such delaying tactics impacted unfavourably on the individual being represented by the GMB, in particular one case in which the GMB rep's refusal to make themselves available resulted in the individual being informed of their eventual suspension by email rather than in person.

69. I was also provided with evidence of unacceptable conduct by GMB reps in grievance and disciplinary meetings including in the form of refusal to accept the Council's behavioural framework; extreme rudeness; seeking to control processes by, for example, telling people how long they could talk for and telling individuals under disciplinary investigation not to answer questions; and constant interruptions. One manager described themselves as having been bullied by a GMB rep who accused them of being 'out of [their] depth' and not knowing what they were doing. I heard that a GMB rep had boasted of having 'got rid' of one member of HR staff, a statement interpreted by my witness as a threat. I was also told about a grievance process having been concluded in writing because of the GMB rep's allegedly aggressive behaviour and their refusal to comply with the Council's behavioural framework.
70. Concerns were raised with me by a number of witnesses as to the GMB's allocation of representatives to the respective parties in grievances, it being suggested in particular that sexual harassment complainants were not served as well as those accused of such conduct. I was also provided with evidence suggestive of a dismissive attitude to sexual harassment by a GMB rep who referred to a complaint by a member of the public about alleged sexual harassment by a member of staff as 'spurious' prior to the complaint having been investigated. The same GMB rep sought to ensure that another sexual harassment complaint was dealt with by an exclusively male panel.
71. GMB reps recently refused to engage in consultation on the Council's draft Bullying and Harassment policy which one witness told me was long overdue, stating that they did not have capacity and did 'not agree to anything at this stage' and threatening that if the Council 'imposes this policy, then the GMB will challenge it at all levels'.
72. I heard a very disturbing account of pressure said to have been imposed by a GMB rep on a vulnerable member of staff to withdraw a complaint about bullying by two staff members who were described to me as being 'very close to the GMB'. The vulnerable individual, who later committed suicide, proceeded with the complaint. When they later expressed a wish to return to City Clean after a period of sickness leave and a temporary secondment, I was informed that another GMB rep made it clear that such return would not be tolerated.
73. The evidence suggests that GMB reps insist on being present at, and/or consulted about, meetings between managers and GMB members irrespective of whether the Council's

procedures allow for representation or accompaniment in the particular circumstances. There is, I am satisfied, a practice on the part of GMB reps of routinely escalating matters upwards through the Council including (at least historically) to politicians who had no proper role in the relevant matters.

74. I heard from a number of people about the death of a driver who tragically suffered a heart attack after returning home from a disciplinary meeting. I am satisfied that the approach taken by the Council to the driver had been fair and reasonable and that those in attendance at the meeting after which he died had, with the exception of the GMB rep, been calm. I heard from a number of witnesses who nevertheless attributed this unfortunate death to the driver's having been hounded by managers. I am satisfied that this impression was created by some of the GMB reps, one of whom called a senior manager at 7am the day after the death to accuse the manager of killing the driver. Despite this allegation having, I understand, been withdrawn,¹⁰ I heard evidence of subsequent such allegations against managers, including from another GMB rep. The evidence suggests that one GMB rep, in particular, sought to weaponise the driver's death against City Clean management.
75. I have made a number of recommendations in relation to these matters.

7. Summary

76. I am satisfied that the working environment at City Clean can fairly be described as toxic.
77. I am satisfied that some GMB reps within the Council operate to protect some GMB members at City Clean (drivers, the majority of them white men, and operatives on refuse and recycling) while displaying significantly less interest in other members. I have been provided with credible evidence that the nature of that protection appears to extend well beyond the normal stuff of trade unions to include:
- 77.1. Providing effective immunity from sanction for individuals protected by GMB reps within the Council;
 - 77.2. Routine sabotage of investigatory and disciplinary processes by some GMB reps by delaying tactics, use of strategic counter-allegations and unacceptable behaviour by reps in correspondence and interviews;
 - 77.3. Retaliatory action against managers who are involved in disciplinary action against individuals protected by GMB reps within the Council;
 - 77.4. The use of intimidation to encourage GMB membership and participation in GMB industrial action.
78. I am satisfied that some GMB reps have encouraged staff to regard entirely reasonable management orders as tantamount to harassment or bullying, and/or as breaching agreements which do not exist. This has had the effect of making City Clean exceptionally difficult to

¹⁰ GMB Southern Region told me that 'the GMB branch were very clear that the disciplinary could not be blamed for what happened thereafter'. I accept that there may have been a statement to this effect but the evidence suggests that the contrary continued to be suggested including by at least one GMB rep.

manage, and of encouraging staff to regard even the most benign managers as the enemy. The tendency to characterise as bullying or harassment entirely reasonable attempts to engage in performance management or even to make entirely reasonable requests of staff has resulted in a situation in which members of staff are unable or unwilling to distinguish between management and abuse. I have discussed various examples above.

79. It is important to say that few of those against whom allegations of misconduct were made came forward to speak to me, and that I have not put such allegations to the individuals concerned. I have heard numerous credible accounts, however, that some GMB reps and individuals described to me as particularly protected by them have routinely demonstrated behaviour which has no proper place in a working environment. This behaviour has included:

79.1. Shouting, screaming and swearing at managers;

79.2. Issuing threats;

79.3. Sexual harassment of women workers;

79.4. Use of racist language;

79.5. Undermining training including by informing staff that they did not have to attend it.

80. Again without making any findings that particular individuals have been guilty of the behaviours discussed in section 6.II and paragraphs 77-79 above, I am satisfied that this type of behaviour has occurred. I am also satisfied that it has not only impacted on managers who have been the predominant targets of such behaviour, but that it has created a stressful and damaging working environment for many who have witnessed it. It has also served as a model for staff. I set out above examples of the difficulties which result from what should be routine managerial requests/ instructions. Where efforts have been made to respond to such behaviour via appropriate disciplinary processes, some GMB reps have reacted by threatening and in some cases initiating industrial action, lawful and otherwise.

81. Management has, at least until very recently, been powerless to proceed with disciplinary action for reasons discussed above.

82. I have referred in Section 5 above to some allegations against managers and I have made some recommendations relating to these allegations. I emphasise, however, that potentially well-founded allegations against City Clean managers have been very much the exception rather than the rule. I been very impressed by the commitment of managers to whom I have spoken to at City Clean, to the public it serves and, especially, to its staff. I have been particularly struck by the fact that some managers at City Clean started work there in entry-level jobs and have progressed as a result of their efforts and of the ability of other managers within the organisation to achieve their potential. I make no finding that the many difficulties currently experienced at City Clean or, in particular, the failures over time to enforce appropriate standards of behaviour or to require staff to comply with their contractual obligations, can fairly be attributed to City Clean managers.

83. One manager told me that, in many ways, City Clean was similar to many other waste and refuse and recycling services in that there was a typical predominantly male manual work force

in which issues such as sexism, homophobia and racism were prevalent. The real differences in Brighton and Hove were what happened when management tried to deal with those problems. I have found no reason to disagree with this analysis.

84. I found no evidence that any of the managers I spoke to were hostile to trade unions. Many, perhaps a majority, identified themselves to me as trade union members.

8. Recommendations

85. A number of the recommendations in my full report relate to individuals or small groups of individuals and are not suitable for inclusion here. Others relate to matters properly regarded as confidential. I include summaries of those recommendations below as well as the full text of recommendations which are in my view suitable for publication.

I. Member Appeal Panels

86. I recommend that the Council ceases to operate Member Appeal Panels.

II. Agreements

87. I recommend that it should be made clear to the GMB that no account will be taken of alleged agreements other than those which are discussed above, unless and to the extent that the GMB can provide cogent evidence, by a pre-determined date, of any other agreements that are said to exist. In the event that there are any such agreements, their terms should be reviewed as part of the wider review I also recommend;

III. Consultation

88. I recommend that a review is undertaken of the extent to which provisions in the 2020 ACAS agreement (in particular as regards CCG meetings) and in the 2021 agreement are consistent with effective management. If (as I suspect) elements of those agreements are not consistent, I recommend that serious consideration is given to providing the GMB with notice of change. In particular:

88.1. Consideration should be given to doing away with the CCG meetings which I understand are unique to City Clean. To the extent that periodic meetings are regarded as being of value I recommend that they are held between management and each union's senior rep at City Clean or their designated representative;

88.2. Serious consideration ought to be given to removing any requirement for consultation with the GMB about proposed route changes, at least where they are of a relatively minor nature. It also appears to me that the 2021 agreement is internally contradictory or at least unclear in some respects;

89. I recommend that consideration be given to defining consultation obligations regarding (for example) draft policies or changes in practice in such a way that they cannot be blocked by non-cooperation on the part of the GMB;

IV. Disciplinary/ Grievance procedures

90. I recommend that time limits be initiated and adhered to in relation to the early stages of disciplinary /grievance procedures so that delays such as that which have occurred in [cases discussed in the report] cannot happen again. It is not appropriate for me to re-draft procedures but I would recommend that particular consideration is given (1) to the ability of managers to proceed with meetings where there is no right to representation and/or where reasonable efforts have been made to accommodate a representative of first choice; and (2) to the adoption of an approach which will ensure that regular progress reports are provided to those involved;

V. Recruitment

91. I recommend that appropriate steps be taken to investigate concerns raised about recruitment practices at City Clean in light of the concerns raised [in the report].

VI. Other recommendations

92. In addition to the recommendations above I made recommendations relating to:

92.1. **The City Clean environment:** in short summary I recommended changes to the working relationship between the Council and the GMB in City Clean as well as some changes of an operational nature;

92.2. **Behaviour:** I made a number of recommendations including that union reps be required to confirm their agreement to comply with the Council's behavioural framework as a pre-condition of involvement in any disciplinary, grievance or similar processes, and that standards of appropriate behaviour be imposed in all meetings;

92.3. **Disciplinary action:** I made recommendations that consideration be given to disciplinary action against a number of named individuals;

92.4. **Equality matters:** I made a number of recommendations supportive of the BME Workers Forum, reasonable adjustments for disabled staff and equity of treatment between GMB and UNISON at City Clean including that the Council ceases to provide a GMB office and a parking space for the exclusive use of the GMB at City Clean.

93. I made other recommendations of a confidential nature unsuitable for inclusion in this public report.

