

Internal Audit Report

Implementation of Historic Whistleblowing Recommendations

12 July 2022

CW2106

Overall Assessment	Some improvement required
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Contents

Executive Summary 3

Background and Scope 5

Findings and Management Action Plan 7

Appendix 1 – Assurance Definitions 14

This Internal Audit review is conducted for the City of Edinburgh Council under the auspices of the 2021/22 internal audit plan approved by the Governance, Risk and Best Value Committee in March 2021. The review is designed to help the City of Edinburgh Council assess and refine its internal control environment. It is not designed or intended to be suitable for any other purpose and should not be relied upon for any other purpose. The City of Edinburgh Council accepts no responsibility for any such reliance and disclaims all liability in relation thereto.

The internal audit work and reporting has been performed in line with the requirements of the Public Sector Internal Audit Standards (PSIAS) and as a result is not designed or intended to comply with any other auditing standards.

Although there are specific recommendations included in this report to strengthen internal control, it is management’s responsibility to design, implement and maintain an effective control framework, and for the prevention and detection of irregularities and fraud. This is an essential part of the efficient management of the City of Edinburgh Council. Communication of the issues and weaknesses arising from this audit does not absolve management of this responsibility. High and Critical risk findings will be raised with senior management and elected members as appropriate.

Executive Summary

Overall
Assessment

Some
improvement
required

Overall opinion and summary of findings

Whilst processes for coordinating and reporting on whistleblowing investigation outcomes are generally operating effectively, we identified some minor weaknesses in the design and operating effectiveness of the supporting control framework operated by the Governance Team.

In addition, we identified some significant weaknesses in the design and operating effectiveness of directorate level controls for monitoring and evidencing progress and implementation of whistleblowing recommendations.

Consequently, one Low rated and one High rated finding has been raised.

The Low rated finding highlights opportunities to improve the content of the whistleblowing policy and to enhance the supporting second line operational processes to ensure:

- formalisation of roles and responsibilities;
- SMART recommendations are made;
- reports provided to committees are fully complete and accurate; and
- the Council's online records retention schedule is updated to reflect established arrangements for whistleblowing disclosures.

The High rated finding highlights the need for all directorates to establish consistent processes to ensure there is adequate oversight of whistleblowing action implementation progress and reporting in line with the previously agreed actions arising from the "Implementation of Assurance Actions and Linkage to Annual Governance Statements" audit completed in July 2020.

Specific improvements are required to ensure that:

- action owners and target dates are identified for whistleblowing management actions at the outset and appropriate handover processes are in place where action owners leave their roles;
- implementation progress is monitored by directorates to ensure actions are fully complete within agreed timescales, with regular updates provided to the whistleblowing team where appropriate;
- evidence to support implementation is retained centrally within directorates and securely for an appropriate period;
- consistent and accurate reporting of actions plans to senior officers and Committee including providing updated where actions are incomplete or delayed in line with previously reported timescales; and
- reporting arrangements are reviewed to ensure that where a previously agreed and reported action is deemed to be inappropriate or no longer applicable the service, these are reported to Committee to ensure transparent Committee review and oversight.

Implementation of these recommendations, together with the recommendations raised in the Tanner review, should support consistent achievement of the Council's objectives to ensure that recommendations raised in historic whistleblowing cases have been effectively implemented and sustained.

Alignment with the December 2021 Culture Review

Our work commenced in August 2021, prior to publication of the [Independent Review of Whistleblowing and Organisational Culture report](#) by Susanne Tanner in December 2021, and included review of a sample of

whistleblowing recommendations. In addition to the findings included in this report our review highlighted a number of themes that are aligned with the recommendations included in the December 2021 report and actions detailed in the Council's approved implementation plan.

To minimise duplication, no audit recommendations on these areas are included in this report, however the outcomes of our work have been mapped to the relevant Tanner report recommendations and the Council's implementation plan. Further detail has been shared with the Inquiry and Review Programme Manager for consideration when progressing similar agreed actions within the Tanner report.

Audit Assessment

Audit Areas	Findings	Priority Rating	Areas of good practice
<ul style="list-style-type: none"> Whistleblowing - Legal and Assurance 	1. Corporate Whistleblowing policy and procedures	Low	<ul style="list-style-type: none"> A central register is held by the Council's Whistleblowing Team to record all whistleblowing disclosures made and any associated recommendations arising from closed investigations. The Whistleblowing Team communicate regularly with service areas to obtain updates on the status of whistleblowing recommendations made. A review of thematic areas for improvement identified from a historic child protection complaint in schools confirmed a comprehensive approach has been developed to address all issues raised.
<ul style="list-style-type: none"> Implementation of Whistleblowing recommendations - Directorates 	2. Directorate Whistleblowing monitoring and reporting processes	High	

Background and Scope

The City of Edinburgh Council (the Council) must uphold the highest standard of conduct and ethics in all areas of its work. [The Public Interest Disclosure Act 1998](#) is an amendment to the [Employment Rights Act 1996](#) and is specifically designed to protect individuals or whistle-blowers, who disclose information in the public interest where they have concerns about any aspect of their employer's activities.

Council Whistleblowing policy and procedures

The Council's current [Whistleblowing policy](#) was introduced in May 2014. The policy was last reviewed and approved by the Council's Finance and Resources Committee in May 2019. A further review was undertaken in 2020 with a number of draft changes and improvements proposed. However, adoption of the policy was paused to enable further revision following conclusion of the Council's Independent review of Whistleblowing and Organisational Culture in December 2021.

The main way to disclose concerns is through the Council's independent and confidential whistleblowing service operated by Safecall. Disclosures can also be made directly to a Manager within the Council, who must then refer the disclosure to Safecall.

When a new disclosure is received, Safecall decide if the matter is minor/operational or major/significant (the current classifications) and will liaise with the Council to confirm investigation and reporting arrangements. This can include instructing Council Officers to complete investigations where appropriate.

Whistleblowing investigation report recommendations

Whistleblowing investigation reports detail investigation outcomes and where appropriate include recommendations to address any issues identified and are provided to relevant Council directorates to implement following scrutiny

by GRBV Committee. Directorates should then allocate owners to implement the recommendations.

Quarterly and annual reports are provided to the Council's Governance, Risk and Best Value committee on whistleblowing activity and outcomes.

Recent internal audit reviews

The "Implementation of Assurance Actions and Linkage to Annual Governance Statements" audit completed in July 2020 highlighted the need for Directorates to establish frameworks to support recording, monitoring and oversight of assurance actions (including Monitoring Officer and whistleblowing actions). The related management actions were closed in August 2021 as Directorates confirmed they would implement supporting processes which would include actions arising from monitoring officer and whistleblowing reporting.

Independent Review of Whistleblowing and Organisational Culture

In October 2020, Councillors commissioned Susanne Tanner QC to undertake an independent inquiry into Whistleblowing and Organisational Culture. The review considered how the Council deals with complaints of wrongdoing, focusing on the period from May 2014, when the current Whistleblowing Policy was introduced. The outcomes of the review were presented at the full council meeting on [16 December 2021](#).

On 10 February 2022, the Council approved [an implementation plan](#) in response to Ms Tanner's recommendations. The plan covers a number of areas for improvement including policy development and review, the Council's approach to investigations, training and development, and systems and processes.

Scope

The objective of this review was to assess the adequacy of design and operating effectiveness of the key controls established to ensure that recommendations raised in historic whistleblowing cases have been effectively implemented and sustained.

This includes an assessment on whether the design and effectiveness of the control environment supports achievement of the following Council Business Plan objectives:

- Wellbeing and equalities – focus on child and adult support and protection.

Risks

The review will also provide assurance in relation to the following risks recorded in the CLT risk register:

- Health and Safety (including public safety)
- Governance and Decision Making
- Service Delivery
- Regulatory and Legislative Compliance
- Reputational Risk

Audit Approach

Testing was performed on major and minor whistleblowing cases closed between June 2018 and June 2021. Sampling covered all Directorates including the Edinburgh Health and Social Care Partnership, and all whistleblowing cases involving child protection which were closed between May 2014 to June 2021.

Limitations of Scope

It is acknowledged that, due to their nature, recommendations from child protection reviews often require a multi-agency response or action by an external agency. The scope of this review will be limited to processes established by the Council to implement, monitor and report on recommendations made regarding Council services.

Reporting Date

Our audit work concluded on 02 May 2022, and our findings and opinion are based on the conclusion of our work as at that date.

Findings and Management Action Plan

Finding 1 – Corporate Whistleblowing policy and procedures

Finding Rating

Low
Priority

1. Whistleblowing policy

Review of the current Corporate Whistleblowing policy highlighted the following:

- a) Chief Social Work Officer engagement - sections 4.2.13 and 4.2.14 of the current policy notes that the Whistleblowing hotline provider may determine that issues fall under the scope of other Council policies such as Child Protection and will liaise with council officers as necessary in order to progress their investigation.

The whistleblowing policy does not specifically mention the need to engage with the Chief Social Work Officer, where required, although it is noted that this happens in practice through officer referrals. The policy does include other roles that should be engaged such as the Monitoring Officer, Chief Executive and Executive Directors.

- b) Implementation progress monitoring - GRBV has requested that implementation progress for recommendations arising from whistleblowing investigations is monitored, with Internal Audit reviewing a sample of completed actions on a periodic basis as part of the Internal Audit rolling cycle.

Roles and responsibilities for ensuring that whistleblowing recommendations are allocated and implemented, and ongoing implementation monitoring are not formally detailed in the current Whistleblowing policy.

Executive Director's responsibility to monitor the completion of management actions/recommendations arising from investigations and

provide confirmation of closure to the Monitoring Officer is included at section 4.8.5 of the draft Whistleblowing policy (as at 2020). Publication of the revised draft was paused pending the conclusion of the Council's Independent review of Whistleblowing and Organisational Culture. However, in order to support this process, custom and practice since introduction in 2014 has been for the Whistleblowing team issue standard template emails setting out requirements for Executive Directors to notify the Whistleblowing team of a responsible officer and also when management actions have been completed.

- c) Record retention - Section 10.3 of the current Whistleblowing policy states details of all whistleblowing concerns and investigations will be retained in for 6 years from the close of investigation. However, the Council's [online record retention schedule](#) does not specifically reference retention timeframes for whistleblowing disclosure / investigation papers.

Officers have confirmed that retention requirements were agreed with the Council's Information Governance Unit in June 2019, however, these have not yet been published within the online retention schedule.

2. Reporting inconsistencies

Review of whistleblowing investigation reports and associated committee reporting identified the following:

- a) Report dates - examples of a small number of undated investigation and committee reports, and instances of inaccurate report dates were identified. Instances were also noted where date fields in standard reporting templates were blank. It is however acknowledged that the correct date can be traced by other references.

- b) Internal Audit also encountered challenges following progress with one child protection whistleblowing disclosure raised in 2014, due to information on related individual disclosures (in this case an establishment) being consolidated and summarised at a high-level; involved officers no longer in post, and linked disclosures concerning senior officers being dealt with outwith the Whistleblowing team and central recording processes. Despite these challenges in identifying the information, we were able to confirm that the majority of management actions had been implemented.
- c) Recommendations made in one investigation report were vague and did not clearly set out a course of [SMART](#) (Specific, Measurable, Achievable, Relevant and Time-bound) actions.

Risks

Regulatory and Legislative Compliance / Reputational Risk

- Lack of appropriate oversight on whistleblowing disclosures involving child protection.
- Limited assurance whistleblowing actions are completed in a timely manner.
- Records relating to whistleblowing disclosures may not be retained in line with retention requirements.
- Inaccurate / incomplete reporting to committee and citizens on whistleblowing disclosures.
- Recommendations made may not address root cause or prevent similar issues occurring.

Recommendations and Management Action Plan – Corporate Whistleblowing policy and procedures

Ref.	Recommendation	Agreed Management Action	Action Owner	Contributors	Timeframe
1.1	<p>Review of the Council’s Whistleblowing policy and procedures should consider inclusion of the following as appropriate:</p> <p>a) Requirement for the Whistleblowing hotline provider to liaise with the Chief Social Work Officer and other parties as appropriate where it is unclear whether issues raised within whistleblowing disclosures fall under the scope of Child/Adult Protection procedures, and for such cases to be recorded within the central whistleblowing register and by Safecall as per the Tanner report.</p> <p>b) Formalising Executive Director roles and responsibilities for monitoring management actions arising from whistleblowing investigations; including notifying the Whistleblowing team of responsible officer allocation; target dates for implementing</p>	The Whistleblowing Policy is being updated following the Tanner reviews and these changes will be implemented as part of this.	Richard Carr, Interim Executive Director of Corporate Services	<p>Nick Smith, Service Director - Legal and Assurance</p> <p>Laura Callender, Governance Manager</p>	31/03/2023

Ref.	Recommendation	Agreed Management Action	Action Owner	Contributors	Timeframe
	<p>actions; and when the Directorate action is complete. This should include a requirement to ensure adequate processes are in place to manage handover of outstanding actions when an action owner moves post or leaves employment with the Council.</p> <p>c) Quality assurance processes for investigation reports and associated committee reporting to ensure accuracy and consistency, including ensuring accurate dates are provided on all reports.</p> <p>d) Provision of guidance to investigating officers to support them making recommendations including ensuring recommendations are SMART (Specific, Measurable, Achievable, Relevant and Time-bound) and discussion with Directorates/Services to ensure recommendations are appropriate to the service.</p> <p>e) A standard reporting approach for whistleblowing action plans should be developed and communicated across all Directorates to ensure consistency and transparency in Committee reporting.</p>			Nancy Brown, Programme Manager	
1.2	The Council's records retention schedule should be updated to include records retention requirements for whistleblowing disclosure and investigations records in line with those set out in the Whistleblowing policy.	Retention requirements will be included in the next version of the retention schedule due to be presented to the Corporate Leadership Team in October 2022 for approval.	Richard Carr, Interim Executive Director of Corporate Services	Nick Smith, Service Director - Legal and Assurance Kevin Wilbraham, Information Governance Manager Laura Callender, Governance Manager	31/12/2022

Finding 2 – Directorate Whistleblowing monitoring and reporting processes

Finding Rating

High
Priority

1. Directorate monitoring processes

Review of processes established within directorates for monitoring progress with implementing whistleblowing recommendations highlighted the following:

- a) Custom and practice has been for the Whistleblowing team to advise Directors of the recommendations and the proposed management actions following Committee, with the expectation and understanding that Directorates will implement them timeously.
- b) Responsibility for ensuring actions are implemented and sustained is delegated to action owners within services, however, there is limited consolidated review and oversight of progress at Directorate level. Some Directorates advised that they considered this to be the role of the Whistleblowing Team.
- c) Instructions outlined in emails sent by the Whistleblowing team are not consistently followed, with limited evidence that Directorates are proactive in confirming responsible officer details, or whether an action is complete, unless prompted by the Whistleblowing Team.
- d) Implementation evidence is not routinely retained or held centrally. Obtaining sufficient evidence to demonstrate completion of actions for the audit sample took a number of weeks as it was provided by several different officers, and in some instances could not be provided as the action owner was no longer a Council employee.

Outcomes of previous internal audit reviews

A similar finding concerning the lack of clearly established processes for responsibility for completion of, and retention of evidence to support completion of, assurance actions was raised in the 'Implementation of Assurance Actions and Linkage to Annual Governance Statements' Internal Audit completed in July 2020. In August 2021, Directorates confirmed they would implement supporting processes which would include actions arising from monitoring officer reporting.

The findings in point 1 indicate that the design of processes established are inadequate and/or not operating effectively.

2. Directorate implementation of actions

Review of a sample of whistleblowing recommendations across all Directorates highlighted the following:

- a) No progress on four recommendations for one whistleblowing disclosure from December 2020 to November 2021. The Whistleblowing team issued reminders; however, action owners were not identified by the service until prompted as part of this review in November 2021.
- b) 13 actions for a further disclosure were reported as complete in December 2021, however further information or supporting evidence is required on 6 actions to adequately demonstrate these are fully complete in line with the investigating officer recommendations.
- c) Action required for one recommendation was due to complete in Summer 2021, however, management advised this has since been delayed due to Covid-19. No further update has been provided to committee advising that completion of the action is delayed.
- d) Three separate disclosures required action on disciplinary investigations, however, Learning and Development have no record of the action owners completing the Council's mandatory disciplinary learning modules.

3. Directorate reporting processes

Review of reporting processes highlighted the following inconsistencies in the use of action plans to monitor and report on whistleblowing related actions:

- a) For one disclosure, an action plan was initially created by the Directorate and reported to Governance, Risk and Best Value Committee, as well as being tracked via the whistleblowing register in terms of closure of actions. It was noted however, that there has been no reporting to Committee by the Directorate on action plan progress since August 2020.
- b) In contrast, for another disclosure an action plan was created by the Directorate and was monitored by an Executive Committee on a six-monthly basis. However, the actions were not tracked via the Council’s whistleblowing register.
- c) One instance was noted where the whistleblowing register, and summary table reported to the GRBV Committee omitted some wording from the original investigating officer’s recommendation. Whilst the original recommendations were made available to the GRBV Committee when the investigation concluded, the officer revisions meant some context from the original recommendation was not tracked through to completion following Committee. The Whistleblowing team advise the wording was changed by the Service Director responsible for completion of the recommendations, and to prevent further occurrence, quality assurance processes were implemented to review accuracy of actions.

In addition, one instance was identified where an action owner, when prompted by Internal Audit for an update of progress, advised upon further consideration, that the investigating officer’s recommendation was not appropriate for the service. This had not been communicated to the Whistleblowing Team or Committee.

Risks

The potential risks associated with our findings are:

Regulatory and Legislative Compliance / Reputational Risk

- Lack of clarity and understanding on roles and responsibilities at Directorate and service level.
- Limited assurance that management actions resulting from whistleblowing disclosures are fully implemented on a both a Directorate and Council wide level.
- Supporting evidence is not available to demonstrate completion of actions for related or further requirements.
- Inaccurate / incomplete reporting to committee and citizens on whistleblowing disclosures.

Recommendations and Management Action Plan – Directorate Whistleblowing monitoring and reporting processes

Ref.	Recommendation	Agreed Management Action	Action Owner	Contributors	Timeframe
2.1	<ul style="list-style-type: none"> • Directorates should review the design and effectiveness of directorate level assurance monitoring processes established to ensure 	Directorates will annotate the Whistleblowing Actions extract provided by the Governance Team with details of current action owners and target completion	Paul Lawrence, Executive Director of Place	All Place Service Directors	31/03/2023

	<p>they include allocating, monitoring and reporting on whistleblowing actions. This should include recording all relevant disclosures and management actions within a central directorate register; and a requirement for action owners to provide regular updates on progress and supporting evidence to demonstrate actions are fully implemented.</p> <ul style="list-style-type: none"> • Directorates should ensure they obtain sufficient assurance from action owners that actions are fully complete. It is recommended that Directorates retain supporting information and evidence for whistleblowing disclosures within a central file location or system (with adequate security settings to ensure confidentiality) to enable completeness and accuracy of records for reference/reporting, and for provision to Internal Audit in line with any further validation in line with GRBV requirements. • Handover arrangements should also be implemented and communicated to ensure a corporate history of the disclosure can be maintained when action owners leave employment with the Council. • Where disciplinary investigations are required as a result of whistleblowing disclosure recommendations, directorates should ensure Investigating Officers have completed the Council's mandatory disciplinary learning modules. 	<p>dates. This will be maintained on an ongoing basis and updated when individual action owners depart the organisation.</p> <p>Assurance will be sought from action owners as to completion of actions, with supporting information stored in a secure file location. This will be available on request to the IA team for the purposes of GRBV agreed implementation progress monitoring.</p> <p>Where disciplinary investigations are required as a result of whistleblowing disclosure recommendations, Investigating Officers will be required to complete the Council's mandatory disciplinary learning modules.</p>	<p>Richard Carr, Executive Director of Corporate Services</p> <p>Amanda Hatton, Executive Director of Education and Children's Services</p> <p>Judith Proctor, Chief Officer, Edinburgh Health and Social Care Partnership</p>	<p>Ross Murray, Operations Manager</p> <p>All Corporate Services Service Directors Layla Smith, Operations Manager</p> <p>Education and Children's Services Service Directors Gillian Tracey, Operations Manager</p> <p>All HSCP Service Directors Angela Brydon, Operations Manager</p>	<p>30/06/2023</p> <p>31/03/2023</p> <p>31/03/2023</p>
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2.2	<ul style="list-style-type: none"> • Directorates should adopt the standard reporting approach for whistleblowing action plans (refer recommendation 1.1e) to ensure consistency and transparency in Committee reporting. • Directorates should ensure the wording of investigating officer recommendations are not amended within reports/and or action plans, and where revisions are considered to be required these are reported to and approved by the Council's Whistleblowing team and GRBV Committee. • Directorates should establish arrangements to ensure that where a Service deems a previously agreed management action to be inappropriate or no longer relevant, this is reported to senior management, the Council's Whistleblowing team and GRBV Committee for transparency. 	<p>Directorates will implement the standard corporate reporting approach to whistleblowing action plans once this has been implemented and cascaded.</p> <p>Communications will be issued by Executive Directors to remind officers that the wording of recommendations should not be amended, and that where revisions are considered to be required or if an action is considered no longer appropriate, these are discussed with the Directorate Operations Manager and Whistleblowing Team and reported to GRBV as required.</p>	Paul Lawrence, Executive Director of Place	All Place Service Directors Ross Murray, Operations Manager	31/03/2024
			Richard Carr, Executive Director of Corporate Services	All Corporate Services Service Directors Layla Smith, Operations Manager	31/12/2023
			Amanda Hatton, Executive Director of Education and Children's Services	Education and Children's Services Service Directors Gillian Tracey, Operations Manager	31/03/2024
			Judith Proctor, Chief Officer, Edinburgh Health and Social Care Partnership	All HSCP Service Directors Angela Brydon, Operations Manager	31/03/2024

Appendix 1 – Assurance Definitions

Overall Assurance Ratings	
Effective	The control environment and governance and risk management frameworks have been adequately designed and are operating effectively, providing assurance that risks are being effectively managed, and the Council's objectives should be achieved.
Some improvement required	Whilst some control weaknesses were identified, in the design and / or effectiveness of the control environment and / or governance and risk management frameworks, they provide reasonable assurance that risks are being managed, and the Council's objectives should be achieved.
Significant improvement required	Significant and / or numerous control weaknesses were identified, in the design and / or effectiveness of the control environment and / or governance and risk management frameworks. Consequently, only limited assurance can be provided that risks are being managed and that the Council's objectives should be achieved.
Inadequate	The design and / or operating effectiveness of the control environment and / or governance and risk management frameworks is inadequate, with a number of significant and systemic control weaknesses identified, resulting in substantial risk of operational failure and the strong likelihood that the Council's objectives will not be achieved.

Finding Priority Ratings	
Advisory	A finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice.
Low Priority	An issue that results in a small impact to the achievement of objectives in the area audited.
Medium Priority	An issue that results in a moderate impact to the achievement of objectives in the area audited.
High Priority	An issue that results in a severe impact to the achievement of objectives in the area audited.
Critical Priority	An issue that results in a critical impact to the achievement of objectives in the area audited. The issue needs to be resolved as a matter of urgency.