



Tuesday, 11 December 2012

AUDIT COMMITTEE

A meeting of **Audit Committee** will be held on

Wednesday, 19 December 2012

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Hill (Chairman)

Councillor Addis

Councillor Bent

Councillor Brooksbank

Councillor Stocks

Councillor Pountney (Vice-Chair)

Working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:

Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207026

Email: governance.support@torbay.gov.uk



AUDIT COMMITTEE AGENDA

- 1. Apologies**
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.

- 2. Minutes** (Pages 1 - 2)
To confirm as a correct record the Minutes of the meeting of the Audit Committee held on 19 September 2012.

- 3. Declarations of interests**

 - (a)** To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

 - (b)** To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

- 4. Urgent Items**
To consider any other items that the Chairman decides are urgent.

- 5. Torbay Council Audit Fees 2012/2013** (Pages 3 - 8)
To advise members that the Audit Commission has set Grant Thornton a proposed work programme and scale of fees for 2012/13.

- 6. Torbay Council Certification Report 2011/12** (Pages 9 - 16)
To consider the above report.

- 7. Interim Change to Torbay Council's Whistleblowing Policy** (Pages 17 - 30)
A report to inform the Audit Committee about an interim change and that a new, amended policy is expected to be put forward for approval at the Audit Committee meeting in March 2013.

8. **Treasury Management Strategy** To Follow
To consider a report on the above.
9. **Exclusion of the Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
10. **Head of Internal Audit's Six Month Audit Progress Report 2012/13** (Pages 31 - 53)
To note a report which summarises the work undertaken by the Devon Audit Partnership, during the first six months of 2012/13 and reviews the performance and effectiveness of the Internal Audit Service.



Minutes of the Audit Committee

27 June 2012

-: Present :-

Councillors Addis, Bent, Brooksbank, Hill, Pountney and Stocks

1. Election of Chairman/Woman

Councillor Hill was elected as the Chairman for the 2012/13 Municipal Year.

Councillor Hill in the Chair.

2. Election of Vice Chairman/Woman

Councillor Pountney was elected as the Vice-Chairman for the 2012/13 Municipal Year.

3. Minutes

The Minutes of the meeting of the Audit Committee held on 28 March 2012 were confirmed as a correct record and signed by the Chairman.

4. Audit Committee Terms of Reference

Members received and noted the Terms of Reference for the Audit Committee as set out in the submitted report.

5. Audit Committee Update

The Committee noted the submitted report which set out the audit work that the Audit Commission proposed on the Council's 2011/12 financial statements and that a progress report would be brought back to the Audit Committee on 19 September 2012.

6. Interim Audit Report

The Committee noted the submitted report which set out the interim findings and the audit work that the Audit Commission proposed to undertake for the audit of financial statements, details of the audit process, key milestones and deadlines, contacts and major reports that would be issued and reported back to the Audit Committee on 19 September 2012.

7. Torbay Council Annual IA Report

Members noted the submitted report which summarised the work undertaken by Devon Audit Partnership during 2011/12 and reviewed the performance and effectiveness of the Audit Service.

8. Treasury Management Outturn 2011/12

The Committee considered the submitted report which set out the performance of the Treasury Management function in supporting the provision of Council services in 2011/12 through the management of cash flow, debt and investment operations and the effective control of the associated risks.

Resolved:

- (i) that the Treasury Management decisions made during 2011/12 as detailed in the submitted report be endorsed; and
- (ii) that the Council be recommended to approve the Prudential and Treasury Indicators as set out at Annex 1 to the submitted report.

9. Annual Governance Statement 2011/12

Members received the submitted report which set out the Annual Governance Statement (AGS) 2011/12. The AGS provided an opportunity for the organisation to review its processes, controls and objectives and to provide assurance to Members, Senior Officers and Stakeholders as to the reliability of its statement of accounts and the probity of its operations.

Resolved:

- (i) that the proposed amended Annual Governance Statement 2011/12 set out at Appendix 1 to the submitted report be approved;
- (ii) that the Mayor and Chief Executive be recommended to sign off the Annual Governance Statement and append the Statement to the Statement of Accounts to be approved by Council in September; and
- (iii) that following the review of the Annual Governance Statement by the External Auditors, Officers present an action plan to a future meeting of the Audit Committee; and
- (iv) that in light of the possible dissolution of the Torbay Strategic Partnership and the implementation of the Health and Wellbeing Boards Members be given the opportunity to be involved in the development of any new arrangements to ensure that they remain open and transparent.

Chairman

Agenda Item 5



Ms Caroline Taylor
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19 November 2012

Dear Caroline

Planned audit fee for 2012/13

We are delighted to have been appointed by the Audit Commission as auditors to the Council and look forward to providing you with a high quality external audit service for at least the next five years. We look forward to developing our relationship with you over the coming months, ensuring that you receive the quality of external audit you expect and have access to a broad range of specialist skills where you would like our support.

The Audit Commission has set its proposed work programme and scales of fees for 2012/13. In this letter we set out details of the audit fee for the Council along with the scope and timing of our work and details of our team.

Scale fee

The Audit Commission defines the scale audit fee as “the fee required by auditors to carry out the work necessary to meet their statutory responsibilities in accordance with the Code of Audit Practice. It represents the best estimate of the fee required to complete an audit where the audited body has no significant audit risks and it has in place a sound control environment that ensures the auditor is provided with complete and materially accurate financial statements with supporting working papers within agreed timeframes.”

For 2012/13, the Commission has independently set the scale fee for all bodies. The Council's scale fee for 2012/13 is £135,000 which compares to the audit fee of £225,000 for 2011/12, a reduction of 40%.

Further details of the work programme and individual scale fees for all audited bodies are set out on the Audit Commission's website at: www.audit-commission.gov.uk/scaleoffees1213.

The audit planning process for 2012/13, including the risk assessment, will continue as the year progresses and fees will be reviewed and updated as necessary as our work progresses.

Scope of the audit fee

Our fee is based on the risk based approach to audit planning as set out in the Code of Audit Practice and work mandated by the Audit Commission for 2012/13. It covers:

- our audit of your financial statements
- our work to reach a conclusion on the economy, efficiency and effectiveness in your use of resources (the value for money conclusion)
- our work on your whole of government accounts return.

Value for money conclusion

Under the Audit Commission Act, we must be satisfied that the Council has adequate arrangements in place to secure economy, efficiency and effectiveness in its use of resources, focusing on the arrangements for:

- securing financial resilience; and
- prioritising resources within tighter budgets.

We undertake a risk assessment to identify any significant risks which we will need to address before reaching our value for money conclusion. We will assess the Council's financial resilience as part of our work on the VFM conclusion and a separate report of our findings will be provided.

Certification of grant claims and returns

The Audit Commission has replaced the previous schedule of hourly rates for certification work with a composite indicative fee. This composite fee, which is set by the Audit Commission, is based on actual 2010/11 fees adjusted to reflect a reduction in the number of schemes which require auditor certification and incorporating a 40% fee reduction. The composite indicative fee grant certification for the Council is £18,650.

Billing schedule

Our fees are billed quarterly in advance. Given the timing of our appointment we will raise a bill for two quarters in December 2012 with normal quarterly billing thereafter. Our fees will be billed as follows:

Main Audit fee	£
December 2012	67,500
January 2013	33,750
March 2013	33,750
Grant Certification	
June 2013	18,650
Total	153,650

Outline audit timetable

We will undertake our audit planning and interim audit between January and March 2013. Upon completion of this phase of our work we will issue our detailed audit plan setting out our findings and details of our audit approach. Our final accounts audit and work on the VFM conclusion will be completed in September 2013 and work on the whole of government accounts return in September 2013.

Phase of work	Timing	Outputs	Comments
Audit planning and interim audit	January to March 2013	Audit plan	The plan summarises the findings of our audit planning and our approach to the audit of the Council's accounts and VFM.
Final accounts audit	July to September 2013	Report to those charged with governance	This report will set out the findings of our accounts audit and VFM work for the consideration of those charged with governance.
VFM conclusion	January to September 2013	Report to those charged with governance	As above
Financial resilience	January to September 2013	Financial resilience report	Report summarising the outcome of our work.
Whole of government accounts	September 2013	Opinion on the WGA return	This work will be completed alongside the accounts audit.
Annual audit letter	October 2013	Annual audit letter to the Council	The letter will summarise the findings of all aspects of our work.
Grant certification	June to November 2013	Grant certification report	A report summarising the findings of our grant certification work

Our team

The key members of the audit team for 2012/13 are as follows:

	Name	Phone Number	E-mail
Engagement Lead	Alun Williams	0117 305 7797	alun.g.williams@uk.gt.com
Engagement Manager	Sue Hick	0117 305 7872	sue.hick@uk.gt.com
Audit Executive	Stuart Holmes	0117 305 7871	stuart.m.holmes@uk.gt.com

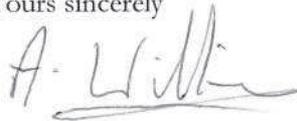
Additional work

The scale fee excludes any work requested by the Council that we may agree to undertake outside of our Code audit. Each additional piece of work will be separately agreed and a detailed project specification and fee agreed with the Council.

Quality assurance

We are committed to providing you with a high quality service. If you are in any way dissatisfied, or would like to discuss how we can improve our service, please contact me in the first instance. Alternatively you may wish to contact John Golding, our Public Sector Assurance regional lead partner (john.golding@uk.gt.com).

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Williams', with a horizontal line underneath.

Alun Williams
Director
For Grant Thornton UK LLP

Torbay Council

Certification work report 2011/12

December 2012

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1 Executive Summary

Introduction

- 1.1 Grant Thornton, as the Council's auditors and acting as agents of the Audit Commission, are required to certify the claims submitted by the Council. This certification typically takes place some 6-12 months after the claim period and represents a final but important part of the process to confirm the Council's entitlement to funding.
- 1.2 We have certified 3 claims and returns for the financial year 2011/12 relating to expenditure of £123 million.
- 1.3 This report summarises our overall assessment of the Council's management arrangements in respect of the certification process and draws attention to significant matters in relation to individual claims.

Approach and context to certification

- 1.4 We provide a certificate on the accuracy of grant claims and returns to various government departments and other agencies. Arrangements for certification are prescribed by the Audit Commission, which agrees the scope of the work with each relevant government department or agency, and issues auditors with a Certification Instruction (CI) for each specific claim or return.
- 1.5 Appendix A sets out an overview of the approach to certification work, the roles and responsibilities of the various parties involved and the scope of the work we perform.

Key messages

- 1.6 It should be noted that all work reported in this certification report was completed by the Audit Commission prior to our appointment as the Council's auditors. The findings set out in this report therefore represent the results of your previous auditors work.
- 1.7 A summary of all claims and returns subject to certification and details of our certification fee is provided at Appendix B. The key messages from our review are summarised in Exhibit One, and are set out in detail in the next section of the report.

Arrangements for certification for claims and returns:

- below £125,000 - no certification
- above £125,000 and below £500,000 - agreement to underlying records
- over £500,000 - agreement to underlying records and assessment of control environment. Where full reliance cannot be placed, detailed testing.

Exhibit One: Summary of Council performance

Aspect of certification arrangements	Key Message
--------------------------------------	-------------

Submission and certification	All claims were submitted on time to audit and all claims were certified within the required deadline.
Accuracy of claim forms submitted to the auditor	Overall the Council is performing well and there are no significant matters arising from our certification of claims and returns.
Amendments and qualifications	The Council's housing and council tax benefit claim was qualified, as due to a software issue the Council were unable to provide adequate information to support one of the cells within the claim.
Supporting working papers	All claims and returns were supported by a detailed audit trail, which enabled certification within the deadlines.

Acknowledgements

- 1.10 We would like to take this opportunity to thank the Council officers for their assistance and co-operation during the course of the certification process.

Grant Thornton UK LLP

December 2012

2 Results of our certification work

Key messages

- 2.1 We have certified 3 claims and returns for the financial year 2011/12 relating to expenditure of £123 million.
- 2.2 The Council's performance in preparing claims and returns is summarised in Exhibit Two.

Exhibit Two: Performance against key certification targets

Performance measure	Target	Achievement in 2011-12		Achievement in 2010-11		Direction of travel
		No.	%	No.	%	
Total claims/returns		3		5		
Number of claims submitted on time	100%	3	100%	5	100%	→
Number of claims certified on time	100%	3	100%	5	100%	→
Number of claims certified with amendment	0%	*1	33.33%	0	0%	↓
Number of claims certified with qualification	0%	1	33.33%	1	20%	→

*amendment of £1,466 was very minor as total value of the claim was £82,690,735.

- 2.3 Details on the certification of all claims and returns are included at Appendix B.
- 2.4 Your previous auditors, the Audit Commission, charged a total fee of £23,310 against an indicative budget of £36,000 for the certification of claims and returns in 2011-12. Details of fees charged for specific claims and returns are included at Appendix B.

Significant findings

- 2.5 No significant findings were identified in relation to the management arrangements and certification of individual grant claims and returns.

A Approach and context to certification

Introduction

In addition to our responsibilities under the Code of Audit Practice, we also act as agents for the Audit Commission in reviewing and providing a certificate on the accuracy of grant claims and returns to various government departments and other agencies.

The Audit Commission agrees with the relevant grant paying body the work and level of testing which should be completed for each grant claim and return, and set this out in a grant Certification Instruction (CI). Each programme of work is split into two parts, firstly an assessment of the control environment relating to the claim or return and secondly, a series of detailed tests.

In summary the arrangements are:

- for amounts claimed below £125,000 - no certification required
- for amounts claimed above £125,000 but below £500,000 - work is limited to certifying that the claim agrees to underlying records of the Council
- for amounts claimed over £500,000 - an assessment of the control environment and certifying that the claim agrees to underlying records of the Council. Where reliance is not placed on the control environment, detailed testing is performed.

Our certificate

Following our work on each claim or return, we issue our certificate. The wording of this depends on the level of work performed as set out above, stating either the claim or return is in accordance with the underlying records, or the claim or return is fairly stated and in accordance with the relevant terms and conditions. Our certificate also states that the claim has been certified:

- without qualification;
- without qualification but with agreed amendments incorporated by the authority; or
- with a qualification letter (with or without agreed amendments incorporated by the authority).

Where a claim is qualified because the authority has not complied with the strict requirements set out in the certification instruction, there is a risk that grant-paying bodies will retain funding claimed by the authority, or claw back funding which has already been provided or has not been returned. In addition, where claims or returns require amendment or are qualified, this increases the time taken to undertake this work, which impacts on the certification fee.

B Details of claims and returns certified for 2011-12

Claim or return	Value (£)	Amended?	Amendment Amount (£)	Qualified?	Fee 2010/11 (£)	Fee 2011/12 (£)	Comments
Housing and council tax benefit scheme	82,690,735	Yes	(1,466)	Yes	22,959	19,740	Fewer issues identified in 2011/12.
National non-domestic rates return	34,522,817	No	N/A	No	3,876	1,379	PART A testing only required in 2011/12.
Teachers' pensions return	5,966,450	No	N/A	No	2,046	1,718	PART A testing only required in 2011/12.
Sure start, early years and childcare grant and aiming high for disabled children grants	N/A	N/A	N/A	N/A	1,190	N/A	Certification not required in 2011/12.
Disabled facilities grant	N/A	N/A	N/A	N/A	595	N/A	Certification not required in 2011/12.
Reporting to those charged with Governance					N/A	473	This is the first year that this has been reported to you separately.
Total	123,180,002		(1,466)		30,666	23,310	

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Agenda Item 7



Title: **Torbay Council's Whistleblowing Policy**

Wards Affected: **None**

To: **Audit Committee** On: **19th December 2012**

Contact Officer: **Jo Sandbrook, HR Advisor**

☎ Telephone: **01803 207366**

✉ E.mail: **Jo.sandbrook@torbay.gov.uk**

1. **Key points and Summary**

Changes to Torbay Council's Whistleblowing Policy are required to clarify process and accountability for action. An interim change to the policy is required until the policy has been fully reviewed and amended.

This report is intended to inform the Audit Committee about this interim change and that a new, amended policy is expected to be put forward for approval at the next Committee meeting in March 2013.

2. **Introduction**

The Council's Whistleblowing Policy is due for review as it was last reviewed and amended in October 2008. Recent whistleblowing cases have also brought to light ineffectiveness with the process and accountability within the policy, therefore, it must be changed to ensure that the policy is effective and fit for purpose.

3. **Interim Changes to the Policy**

Within the Council's current whistleblowing policy at Stage 1 the individual is advised to raise their concern with their manager, Executive Head or Commissioner (Director), alternative contacts are also suggested to ensure enough options are available.

The following stages of the policy are not clear in regard to who then takes responsibility for taking the matter forward and responding appropriately to the complaint:-

Stage 2 – How the Complaint will be dealt with

Step 3 – Investigation Process

Step 4 – Responding to Concerns Raised

The policy is to be reviewed by Human Resources, Devon Audit Partnership and Legal Services in light of the current and previous whistleblowing cases that have occurred. The Finance, Ethics and Property Group will oversee this review.

A whistleblowing case is currently ongoing and once concluded it will also form part of the review. The Council is also undergoing a change process, which may also have an impact upon the job titles and responsibilities referred to within the policy.

Until the current case is concluded and a full review has taken place, an interim change to the current Whistleblowing policy has been necessary to ensure accountability for action. The change has been added to the existing policy at Stage 2, as follows:-

Step 2: How the complaint will be dealt with

“This policy is currently under review and is subject to the following interim change with effect from 1st December 2012:-

Once a complaint is raised, it must be referred to the Chief Operating Officer by the recipient of the complaint. The Chief Operating Officer will notify the Finance, Ethics and Proberty Group of the matter in order for initial investigations to take place and recommendations for action. The Finance, Ethics and Proberty Group is made-up of members from the Council’s Finance, Human Resources, Audit and Legal Services departments, including the Council’s Monitoring Officer.

The Chief Operating Officer will take overall responsibility for action in regard to the complaint, including the Council’s formal written response to the matter”.

4. Conclusion

The above change will provide clear accountability for action whilst the current policy is subject to review. The amended policy is expected to be submitted to the Audit Committee in March 2013.

Name of Head of Business Unit

Mark Bennett

Title of Head of Business Unit

Executive Head of Business Services

Appendices

Appendix 1

Current Whistleblowing Policy.



Torbay Council

Council Policy document

Whistle-blowing

This Whistle-blowing Policy has been formally agreed by the Scrutiny Committee in August, 1999 and reviewed in October 2006 and October 2008.

PLEASE NOTE: AN INTERIM CHANGE HAS BEEN ADDED TO THIS POLICY AT STEP 2 ON PAGE 6 WITH IMMEDIATE EFFECT FROM 1ST DECEMBER 2012

WHISTLE BLOWING (Speak Up)

The Policy

Any employee who has a concern about any aspect of Torbay Council's work or the actions of its employees should feel able to raise their concerns through established internal channels, without fear of harassment or victimisation.

Torbay Council aims to encourage all its employees to feel confident in raising serious concerns and provide appropriate avenues for dealing with them. It aims to ensure that employees are protected from possible reprisals or disadvantage where they have raised a concern or disclosed information in good faith.

1. AIMS AND SCOPE OF THE POLICY

(a) This policy aims to:-

- Provide clearly defined channels for staff to raise concerns and receive feedback on any action taken;
- Inform staff on how to take the matter further if they are dissatisfied with the response; and
- Reassure staff that they will be protected from reprisals or victimisation for 'Whistle-blowing' in good faith.

(b) There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This 'Whistle-blowing Policy' is intended to cover concerns that fall outside the scope of other procedures. That concern may relate to:-

- A criminal offence that has been, is being, or is likely to be committed;
- A failure to comply with a legal obligation;
- Child Protection and abuse of vulnerable adults
- A miscarriage of justice;
- A damage to the environment;
- Actions that are contrary to the Council's Standing Orders, Financial Regulations or any other approved policies;
- Actions or behaviour that falls below established standards of good practice;
- Abuse or welfare of clients and/or staff;
- Harassment or victimisation of either staff or clients;
- Any actions or concerns regarding practice that could result in a financial loss to the Authority;
- Areas where efficiency or effectiveness could be improved through initiating changes;
- Health and safety risks (whether to employees or members of the public);
- The deliberate concealment of information relating to any of the above matters.
- Other unethical or improper conduct.

The purpose of this policy is to: -

- Encourage individuals to feel confident in raising concerns and to question and act upon concerns about practice;
- Provide clear avenues for individuals to raise concerns and receive feedback on any action taken. (It is not for the individual, however, to say whether that action was appropriate or sufficient);
- Reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have raised a concern in good faith; and
Protect the confidentiality of the individual and consider the needs and concerns of the individual, wherever reasonable, when initiating action

2. GENERAL PRINCIPLES

Employees are often the first to realise that there may be something seriously wrong within an organisation, or the way in which its employees are addressing certain issues. However, they may be reluctant to express these concerns for a number of reasons, such as feeling disloyal to colleagues, fearing discrimination or harassment, or believing their concerns would not be acted upon.

Legislation (the Public Interest Disclosure Act 1998) provides legal protection for employees in certain circumstances who “blow the whistle” on poor or corrupt practice within organisations. The Council is seeking through this policy to build on this existing protection.

Individuals are encouraged to raise **any** concerns that they might have about practice – not just restricting those concerns to those relating to possible fraud or malpractice. In addition all staff have a legal responsibility to raise any issues that involve the welfare of children and vulnerable adults.

This policy applies to all employees of Torbay Council (and workers who are not directly employed by the Council but who provide a service to the Council, e.g. contractors, agency workers,). Those staff employed by the Direct Services and Waste JVC or other partner or contracting organisations can also use this policy to raise any concerns about work undertaken on behalf of Torbay Council. Other concerns should be raised through the host organisations processes. The policy has been discussed with recognised Trade Unions and has their support.

All concerns raised will be treated in confidence and every reasonable effort will be made not to reveal the identity of the individual raising the concern if they so wish. Where a concern is raised anonymously, it will be considered (at the discretion of the Council), taking into account the seriousness of the issue raised, the credibility of the concern and the likelihood of confirming the allegation from other sources.

If an individual makes an allegation or raises a concern **in good faith**, no action will be taken against that individual, even if the allegation is not confirmed by any subsequent investigation.

If, however, there is reasonable evidence that an allegation has been made maliciously, or with the primary intent of personal gain, action may be taken in line with the Council's Disciplinary procedure which can be found on HR pages of the intranet:-

<http://insight/index/information/humanresources/conduct-perf-man/disciplinaryprocedure.htm>

3. SAFEGUARDS

Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for, or suspected of, the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. This does not mean that if a member of staff is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of their raising a concern". Any one who feels they are being victimised or harassed as a result of speaking up should contact Internal Audit, HR or the Executive Head of Governance (or the Chief Executive if referral involved the Executive Head of Governance). Employees have the right to raise any concerns of harassment via the Council's Acceptable Behaviour policy, available from Human Resources and from the Council's intranet site as follows:-

<http://insight/index/information/humanresources/welfareandequality.htm>

Employees can also contact the Council's Confidential Counselling Service. This protection applies to all staff whether or not their names are disclosed to third parties as part of the investigation.

Confidentiality

The Council will do its utmost to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be realised and appreciated, however, that the investigation process itself may well reveal the source of the information, and, depending on the outcome, a formal statement by the individual may be required as part of the evidence. However staff will be covered by the protection regardless of whether their names have to be disclosed.

Documents obtained and notes of any interviews or other discussions during the course of an investigation will be kept securely at all times within the Internal Audit Office and retained for a period of 3 years before being destroyed (unless required for prosecution or other legal purpose when they will be retained for 6 years).

Anonymous Allegations

This policy is designed to encourage staff to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:-

- The seriousness of the issue(s) raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

Untrue Allegations

If a member of staff makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

Responsibility of the Head of Business Services/Legal??

To support these principles, the **Executive Head of Governance** will undertake an overview of Whistle-blowing referrals and will act to ensure staff are protected and kept informed throughout the process and subsequently.

4. WHISTLE-BLOWING PROCESS

STEP 1: Raising a Concern

Employees are encouraged to raise any concerns they have to one of the following people. They are listed in order of preference. If the employee believes that any of the people listed below are implicated in the concern, they should raise the concern with the next most preferred person:-

1. Line Manager
2. Executive Head
3. Director
4. Chief Operating Officer

Trade Union representatives may also be contacted, contact details for Torbay Council's recognised Trade Unions are as follows:-

Unison – please insert TU main office contact details

GMB – as above

Unite – as above

Concerns should be raised in writing providing the reason together with the background and history of the concern, giving names, dates and places if available. There is a duty on an individual to disclose and provide supporting evidence on cases of abuse. Employees can e-mail Internal Audit – whistle.blowing@torbay.gov.uk if they prefer to do so.

Those who do not feel able to put their concerns in writing can telephone the 'Whistle-blowing Hot Line'- The number is 01803 207407. This is operated by the Internal Audit Service and is available 24 hours a day, with an answer phone recording messages left outside normal office working hours. A meeting with the appropriate officer can also be arranged, if desired or required by the individual raising the concern. The earlier the concern is expressed, the easier it is to take action.

In some circumstances, an individual will not want to raise their concerns through any internal route. The Council has, therefore, subscribed to an external hotline, run by a registered charity, Public Concern At Work, who specialise in this area. Employees can contact this organisation at no charge, on a strictly confidential basis, 24 hours a day, 7 days a week. Their telephone number is 020 7404 6609 or, alternatively, by e-mail on whistle@pcaw.co.uk.

Although employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for reasonable concern.

Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit team or the HR team. Individuals may invite their Trade Union or professional association to raise a matter on their behalf.

Should the complaint be found by the relevant Executive Head to warrant further investigation, he or she will consult with the Chief Internal Auditor & Executive Head of Governance if appropriate on referring it to the appropriate body.

All staff are entitled to raise concerns directly with the Council's external auditors or Local Government Ombudsman should they be unhappy with the internal investigation in terms of the way it has been undertaken.

Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit team or the HR team. Individuals may invite their Trade Union or professional association to raise a matter on their behalf.

STEP 2: How the Complaint will be Dealt With

This policy is currently under review and is subject to the following interim change with effect from 1st December 2012:-

Once a complaint is raised, it must be referred to the Chief Operating Officer by the recipient of the complaint. The Chief Operating Officer will notify the Finance, Ethics and Property Group of the matter in order for initial investigations to take place and recommendations for action. The Finance, Ethics and Property Group is made-up of members from the Council's Finance, Human Resources, Audit and Legal Services departments, including the Council's Monitoring Officer.

The Chief Operating Officer will take overall responsibility for action in regard to the complaint, including the Council's formal written response to the matter.

The action taken by the Council will depend on the nature of the concern. The issues raised may be dealt with in one or more of the following ways:-

- Be investigated internally;
- Be referred to the Police;
- Be referred to the External Auditors;
- Form the subject of an independent inquiry by the Ombudsman.

Initial enquiries will be made by Devon Audit Partnership to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other procedures (e.g. child protection or discrimination issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for further investigation.

Usually within ten working days of a concern being received, ?? the Head of Legal Services or Head of Business Services will write to the individual:-

- Acknowledging that the concern has been received;
- Indicating how it proposes to deal with the matter;
- Giving an estimate of how long it is likely to take to provide a final response;
- Telling him/her whether any initial enquiries have been made;
- Telling him/her whether further investigations will take place, and if not, why not.
- Thanking him/her for raising their concerns and advising them of this policy and the protection and support it provides to Whistleblowers, and
- Advising them not to discuss their concerns with others so as not to prejudice any investigation.

If it is not possible for further information is required a meeting may need to be arranged. At such a meeting employees have the right to be accompanied by a Trade Union or professional association representative or a friend or colleague who is not involved in the area of work to which the concern relates.

STEP 3: Investigation Process

Effective communication and support systems are fundamental to the success of the policy and ensuring employees are confident that issues which they raise will be thoroughly and conscientiously investigated. In order to protect individuals and any person(s) accused, initial inquiries will be made to establish whether a formal investigation is appropriate and, if so, what form it should take.

Managers or trade union representatives who have concerns raised with them should normally notify Internal Audit immediately, if the concern / allegation involves either potential fraudulent practice or activity that could result in a financial loss to the Council. The integrity and confidentiality of the originating source must normally be maintained throughout.

Similarly, if a concern raises issues relating to employee or client(?) welfare, Human Resources should be notified at the earliest possible opportunity.

Concerns raised via the external hotline will not be fed back to the Council without the express permission of the individual concerned. Where any concerns are fed back and in any other cases where issues arise, Devon Audit Partnership will act as the filter for receiving and recording concerns. They will not necessarily conduct investigations in all these cases, but they have the responsibility for contacting the most appropriate team/officer to action any required follow-up or investigation.

The role of Councillors(/) and union representatives in this process will be to act as an independent contact point, receiving and passing on relevant information to Internal

Audit. It is not envisaged that Councillors or union representatives will either lead, or be involved, in actual investigations, although they will be kept appropriately informed in respect of relevant progress made in respect of specific allegations.

Some concerns will be resolved without the need for a formal investigation, however, where a formal investigation is required, it is likely to take the form of an investigation by a senior manager or the Devon Audit Partnership. . In certain cases, the matters raised may be referred to the Police or the Council's external auditors for investigation or an independent inquiry could be set up.

The overriding principle that the Council will consider in investigating any issue is the public interest. Concerns or allegations that fall within the scope of existing Council procedures, such as disciplinary matters or child protection, will normally be referred for consideration under those procedures.

STEP 4: Responding to Concerns Raised

Following the investigation process, The Head of Legal Services or Head of Business Services will provide a formal written response to the individual thanking them for raising the concern and advising them, subject to any legal constraints, of the actions taken and the outcomes of any investigations. If possible, copies of reports and other appropriate documentation will also be made available to them (if appropriate in a redacted form). The Whistleblower will be offered a meeting with the investigator or the Executive Head of Governance if further briefing is required

The individual is not entitled to be able to determine the outcome of the investigation process or to insist that disciplinary action must be taken or a prosecution instigated. Equally, however, they are entitled to be given the opportunity to express their views to the investigator and the Executive Head of Governance as to whether or not they are satisfied with the manner in which their concerns have been addressed.

If the individual is not satisfied with the outcome they can raise their concerns at a further meeting as outlined above and if they remain unsatisfied following this they can write to the Chief Operating Officer, or to the Chairman of the Audit Committee. If they still feel that their concerns have not been investigated thoroughly, there are other means of raising those concerns more widely to the Council's External Auditors or other regulatory bodies.

5. ALTERNATIVE METHODS OF TAKING FORWARD A CONCERN

This policy is intended to provide staff with a process to raise concerns with the Council. However, If an individual feels it is right to take the matter outside this process, the following are possible contact points:-

- The local Council member (if you live in the area of the Council);
- The Chief Operating Officer;
- The External Auditor;
- Relevant professional bodies or regulatory organisations;
- Individuals' solicitors;
- Public Concern at Work;

- The Police.
- The Local Government Ombudsman

If an employee does take the matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. This can be checked with the Ombudsman who will also advise on ways to proceed.

The address and contact details are as follows: -

Local Government Ombudsman
The Oaks No2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB

Local Government Ombudsman Advice line:- 0300 061 0614

Email: lgo.org.uk

6. SUPPORT & GUIDANCE

The Council is committed to ensuring that individuals who raise concerns feel valued and respected within the organisation, therefore every endeavour will be made to ensure that they are offered appropriate guidance and support throughout the process and protection from harassment or victimisation as a result of their action.

In supporting this, the Executive Head of Governance may encourage the appointment of a “buddy” to support the individual during and after the investigation of their concern. This “buddy” may be a Council Officer or a person suggested by the individual (or their Trade Union).

Due regard and sensitivity will be exercised by all involved in the process to ensure that the employee raising the concern does not suffer detrimental treatment as a result of raising a complaint.

Further support can be obtained through the Council’s Confidential Counselling Service, Tel: 01803 207347 or the 24-hour answer phone 01803 207349)

The Public Concern At Work Hotline is also available on a confidential basis by contacting Tel: 020 7404 6609 or, alternatively, by e-mail on whistle@pcaw.co.uk.

The Council will take steps to minimise any difficulties which employees may experience as a result of raising a concern. For instance, if members of staff are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure and offer appropriate support. In addition staff will be supported throughout the process including dealing with the media as appropriate

7. MONITORING OF THE POLICY

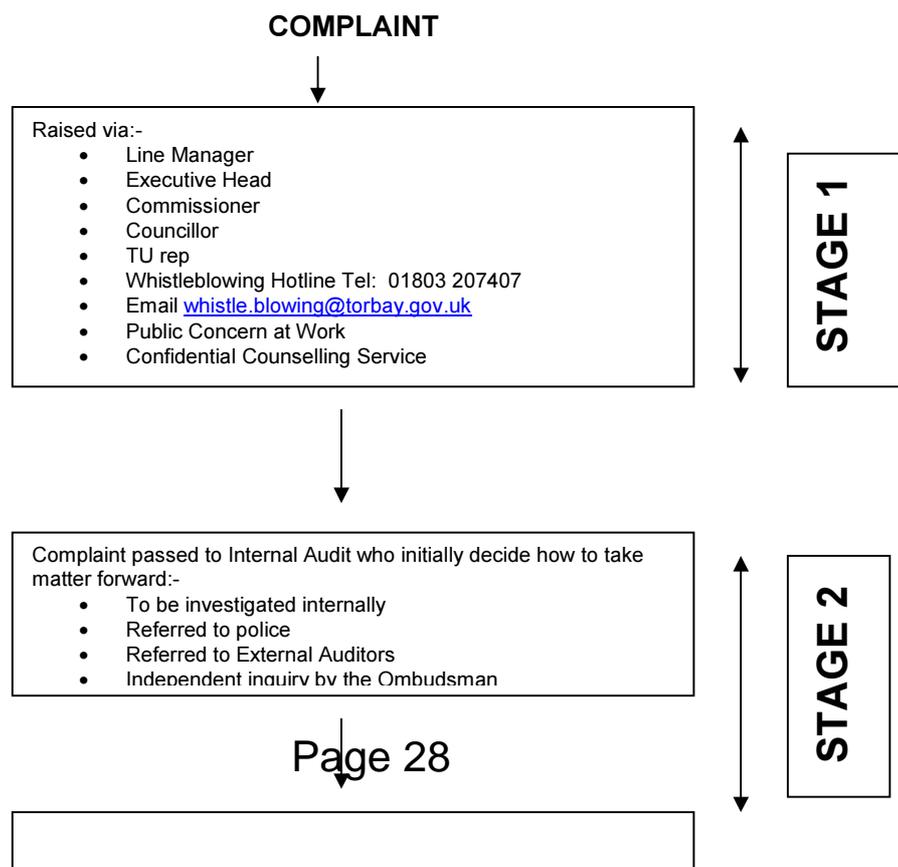
The Executive Head of Governance and Chief Internal Auditor have overall responsibility for the maintenance and operation of this policy. The Chief Internal Auditor maintains a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the Audit Committee, Overview & Scrutiny Board, Standards Committee and Council.

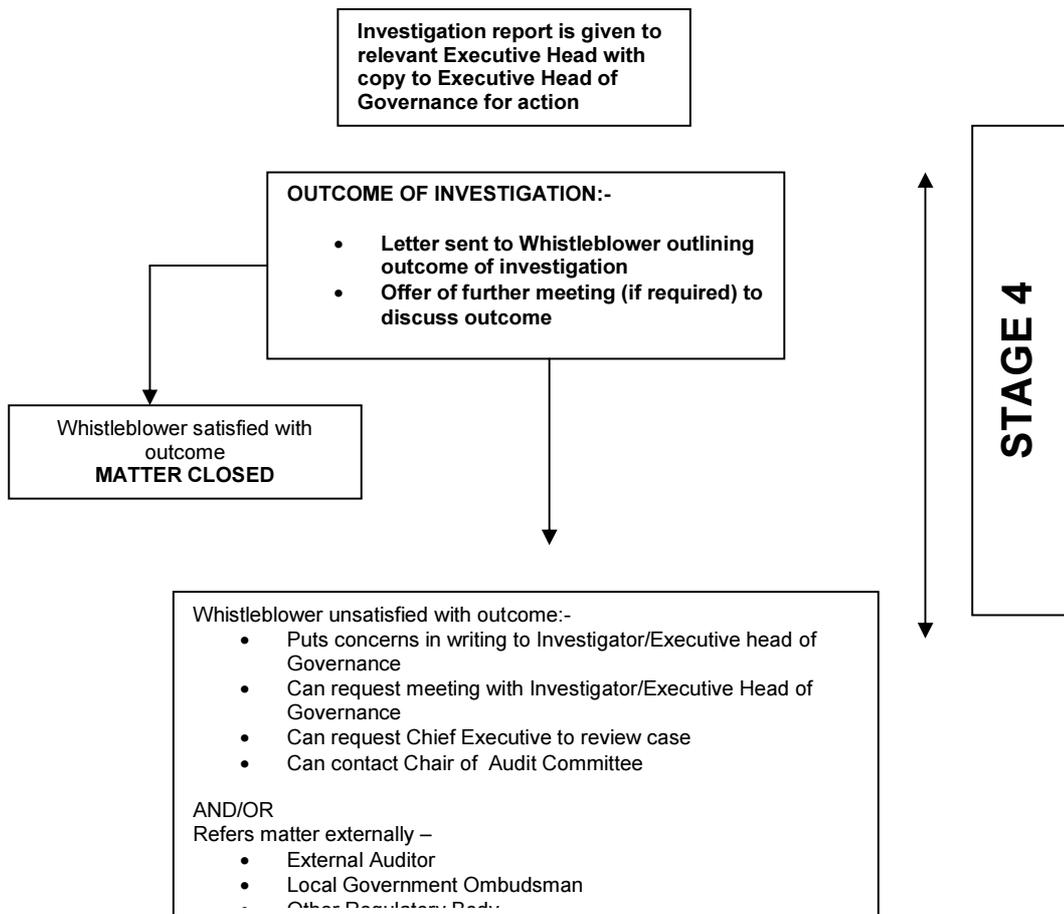
8. CONCLUSION

This policy has been developed as part of the Council's commitment to ensuring the highest possible standards of openness, probity and accountability in all its activities and services.

Procedures have been established to ensure that there are appropriate channels available to employees to raise any concerns they have about the Council's work or the actions of individual employees. Any employee who has any concern is strongly encouraged to raise it through one of the mechanisms outlined in this policy.

WHISTLE-BLOWING PROCESS





By virtue of paragraph(s) 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted