The HR Lounge Ltd

Strictly Confidential

States of Jersey Employment Board

Review of Bullying Cases

Final Report - 21 February 2018

The HR Lounge Ltd
Final 7 - 21 February 2018

Contents

Introduction

1. The HR Lounge was appointed on 18 October 2017 to undertake a review of bullying and harassment and propose changes that enable you to maintain your position as a good and caring employer.

2. The proposals contained in this report have been discussed with the Executive Team and others charged with overseeing this aspect of your work.

3. The report outlines options for your consideration and is the outcome of fieldwork based on interviews and focus groups with your staff, discussions with your commissioning and HR staff and professional and research work undertaken by The HR Lounge.

4. Some work remains to be done in order to support you with further guidance, fine tuning of the proposals as well as implementation arrangements. We believe that we have a good insight into your organisation and hope that we might be commissioned to assist and support you to undertake such work.

5. The States of Jersey Employment Board - at its meeting held on 27 July 2017 - directed that a States wide review of the issue of bullying and harassment in the workplace should be undertaken in the light of concerns expressed from individuals, trade union representatives and States members.

6. An extract from the Boards minute states that The Board *'agreed that bullying and harassment could never be considered acceptable in the workplace, but acknowledged the difference between unacceptable behaviour and fair, legitimate criticism of an individual's performance, which could be used as a management tool to improve effectiveness within the organisation. The Board remained mindful that any strategies employed by management to change or improve the performance of an individual employee should always include appropriate levels of support and training.*

   The Board recalled that guidelines relating to bullying and harassment, supported by codes of practice for employees, had been in place since July 2016, and considered a review at this juncture would be appropriate.

   The Director of Employment Relations advised that his Department had already considered the matter and recommended that an independent review of bullying and harassment should be commissioned. It was envisaged that the review would be carried out by an externally appointed consultant, and overseen by ▉▉▉▉▉▉▉▉▉ Article *Independent Advisor to the Board. The terms of reference include, inter alia:* 25

   a. *a review of existing policies and procedures relating to bullying and harassment; and*

   b. *an assessment of the effectiveness of current processes; and*

   c. *consideration of the current whistleblowing policy, its rate of use and the suitability of the 'designated persons' nominated therein to receive reports from whistle blowers; and*

   d. *the use of employee focus groups; and*

   e. *a review of current training around issues such as bullying and harassment'.*

7. For the purposes of the review, we were instructed to adopt the ACAS approved definition of bullying and harassment as follows *'Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'.*

8. We were invited to consider and report on:

   a. Bullying and harassment cases, across all departments, in the last two years - looking at both outcomes and process; and

   b. A review of existing policies and procedures relating to bullying and harassment; and

   c. An assessment of current practice in Jersey and evaluate with reference to recognised good practice elsewhere; and

   d. A review of training which supports effective bullying and harassment management, for both managers and investigators; and

   e. To consider the whistleblowing policy and its effectiveness within the bullying and harassment context.

9. You issued new guidelines and a revised code for dealing with bullying and harassment cases on Jersey in July 2016 and a review of those is now considered timely. Regrettably, you have experienced some difficult instances of bullying and harassment and as a consequence, the adequacy of your procedures and the reputation of the organisation have been in high profile and put to the test.

10. As such, this prompted the need for a timely and deep review into the adequacy and applicability of your procedures in order to secure reassurance that processes were fit for purpose.

11. The need to have a robust and committed response to such matters is really important in the modern workplace not least because of the reputational and financial consequences to you if good procedures are not in place or followed but because your approach to inclusivity, diversity and the upkeep of your reputation as a good employer is majorly derived from protecting victims of such matters as well as dealing robustly, swiftly and firmly with complaints when they arise. It is an expensive matter to get wrong and there is a lot of Employment Tribunal evidence to confirm costly and embarrassing payouts - both financially and to reputation - when successful claims have been made.

12. For any large employer, it is inevitable that such complaints will be received. But what really counts is how they and in this case, The States of Jersey as the employer, deals with them, the level of seriousness applied and the way that you deal with consequences and outcomes.

13. It is this latter point upon which you will be adjudged in terms of the level and depth of your commitment to eradicating bullying and harassment from your workplaces. As a public service, your response is perhaps, even more prominent and under the microscope than it is for other employers. For a community such as that on Jersey, it is really important - in order to sustain your authority and

influence as well as competitiveness in the recruitment market place - that the issue is taken seriously.

14. In our view, you have a duty as a public authority to set an example for other organisations to follow. We would suggest that this is particularly pertinent in respect of a tightly knit community such as that exists on Jersey.

15. Our experience in carrying out this type of work elsewhere is the way that you deal with bullying and harassment is one of the main and central aspects and indicators of how your values and behaviours as an organisation stacks up and how you may be regarded as a good employer.

16. Our assessment is that you have a level of bullying and harassment complaints that is significant and requires attention. We observed aspects of good and supportive management, though we were also struck by parts of your organisation where this is not the case. We do not believe that the level of your bullying complaints is the result of a deliberate policy to encourage heavy-handed management but instead is the symptom of a style of leadership that exists in some parts of your organisation.

17. In general terms, we believe that you should be altogether less tolerant of bad managerial behaviour and rather more sensitive and supportive to recipients of aspects of that managerial style. Bullying and harassment has no position in the workplace and there are many instances in other organisations of large claims and payouts where such matters have been pursued successfully which are costly to the employer both financially and in terms of ongoing reputation.

18. Our assessment is that you have opportunity with new leadership – with a clear mandate based on this analysis - to now introduce measures to deal more satisfactorily with instances of bullying when they are reported and to enhance your reputation as an employer in doing so.

19. We are encouraged that recent changes in leadership have generated new endeavours to refresh organisational culture and values. This provides real opportunity to alter the current response to bullying and whistleblowing complaints as part of that redefined organisational definition and set of values and behaviours.

20. Our fieldwork to assess the position was extensive. Several focus groups were staged - all of which comprised a good cross section of your staff and generated balanced and wide reaching discussions. All participated constructively and helped us to form our views. In addition, we carried out one-on-one interviews, received many individual responses (and followed some up by way of telephonic interview), met with senior managers on a one-to-one basis, and staged conversations with trades unions.

21. We carried out an extensive desktop review of over 30 cases reviewing the issue, quality of response, documentation, depth of investigation, resolution et al. And we benchmarked your policy and arrangements alongside other major employers. We believe that our views are well researched and evidenced.

22. Our report details the outcomes of our desktop analysis and other fieldwork and makes recommendations accordingly. We believe that there is now a second stage of work to do in drafting new processes and guidance, consulting upon all this and putting in place a proper implementation plan including training and briefing.

23. In particular, we have proposed a refreshing and relaunch of your values and behaviours. In terms of your recent leadership changes, this is an opportune moment to undertake such a requirement and to restate to staff what standards of behaviour should exist. Such relaunch need not be extensive or expensive - but impactive and straightforward with leadership and staff requirements clearly articulated. The programme requires your top-level executive and political support.

24. We believe that the programme should be launched via an organisation-wide training programme utilising the work undertaken in H and SC.

25. As stated, we believe that the level of alleged instances of bullying and harassment is high and conclude that new *Bullying and Harassment* and *Whistleblowing* policies are required, based on your values and standards as well as publication of management guidance and clear statements that outline the expectations of your managers. We propose that you should launch a new independent *whistleblowing hotline.*

26. We conclude that you need to embark upon a programme of *training* - spread over a period of up to three years - so that all managers are briefed on dealing with such incidents as well as understanding your own expectations and requirements.

27. We feel that such guidance and training should make clear a specific provision of *nil tolerance of issues of bullying and harassment* and the action to be taken when such cases are evidenced.

28. We think that the quality of your *investigation* resources require upgrade both in the sense of creating a pool of properly trained investigators amongst your workforce as a new standard of investigation. We propose that a small cartel of investigative resources be established by way of a small team made up of 'seconded 'Jersey staff working on secondment for a period of say, two years as well as a relationship with externally sourced investigators for particularly difficult, senior or sensitive cases.

29. We have a view that the *Case Management Unit (CMU)* should not ordinarily be directly involved in investigation but instead be responsible for operating a case triage system, overseeing the quality, speed and emphasis of investigation, early resolution and policing the progress of such complaints as well as the provision of advice and guidance more generally. We have a view that the resources of the unit should be temporarily increased to enable a backlog of cases to be cleared and some further work carried out to introduce new tracking systems.

30. We have a strong view that you should introduce a 14-day *managerial intervention period* before any other process is triggered to enable local resolution to be discovered. Such should have a number of conflict resolution tools available to it including mediation. We believe that *mediation* could be offered, in common with other organisations, by Jersey staff trained for the purpose.

31. We believe that you require a new *case-tracking system*. Such systems are readily available at relatively low cost. Such will enable you to progress chase, track and report more easily.

32. Similarly, we believe that the CMU should publish a *regular report* to be considered by both departmental and central leadership outlining case progress and enabling you to properly oversight the resolution of these issues. Part of this report should be the outcome of a new post-incident debriefing and organisational learning process.

33. Introduce a new *'friend' system* with the appointment in each confirmed case of bullying under investigation of a friend to both complainant and respondent. The role is not one of representative but as an organisational advocate that assists the understanding about what is taking place, offers an objective and balanced opinion and generally helps to find and support resolution. A similar and scaled down programme led within HR should be introduced that offers broadly the same type of support for witnesses.

34. We conclude that with the introduction of these measures and others detailed in the recommendations section that you will better project and represent your status as an employer of choice and be able to maintain a stronger and more contemporary organisational culture.

35. Most of our recommendations are inexpensive or nil-cost and require costing and the like. We can assist you in this task - though in doing so, you need to provide a broad indication of your direction of travel as options exist within options especially in terms of training.

36. On a general level, we would be delighted to assist you with the formulation and delivery of plans to introduce any new arrangements.

Methodology

37. We undertook *seven* approaches to our information gathering, namely:

    a. Structured interviews with selected members of your management leadership, selected complainants and respondents, HR team and trades union officials; and

    b. Desktop analysis of your policies and processes as well as case papers and documents in order to understand the nature and causation of underlying complaints as well as the quality of investigation and follow-up action, regardless of fault; and

    c. Invitation to all employees to make written submissions; and

    d. Follow up interviews with selected respondents who submitted written responses; and

    e. Interviews with selected complainants and respondents; and

    f. Focus groups with your employees; and

    g. Assessment of your processes alongside other comparator organisations.

38. Originally, we anticipated carrying out a survey using Survey Monkey but the scale of email responses and the richness of the data was such that this became superfluous and unlikely to generate new themes of inquiry to assist us further.

39. We were struck by the sheer volume and detail of the information received in focus groups, interviews and email responses. It was considerable and the view that we expressed to you and with which you agreed, was that we had so much data and information that little would be added by way of undertaking a survey.

40. We familiarised ourselves well with your existing policies and procedures in relation to bullying, harassment and whistleblowing, identifying key procedural components in relation to timelines, responsibility, and deliverables, as well as confirming management and employee expectations.

41. Our desktop analysis was detailed and forensic, reviewing all cases of bullying and harassment over the last two years and such other cases as you handed over to us. We evaluated each component in order to establish common themes and produce and present analytical data whilst looking for evidence of traits, trends, and other key measurements.

42. These included issues of independence, natural justice, transparency, best practice, diversity, organisational climate and culture of fear of reprisal,

normalising of bullying, trust and confidence in management, low moral indicators, zero tolerance of bullying and harassment, bureaucracy, correlation between complainant and poor performance, absence and resignations, including impact on service delivery and costs, exit interview data, tribunal data including costs and outcomes and reputational damage.

43. We reviewed the adequacy and coverage of your training and development practices in relation to:

    a. HR employees providing line management advice; and

    b. Managers understanding of responding to complaints, recognising the cause and signs, as well as adopting preventative measures before the situation escalates; and

    c. Panel members' skill set, perceived independence and impartiality; and

    d. Employees' understanding of the policy, its application and in the context of performance management; and

    e. Organisational impact of bullying and harassment cases in relation to the States of Jersey Employment Board.

44. We published a note on your Intranet and invited written responses. We ran several focus groups involving over 100 employees. We carried out individual structured interviews with members of your executive and had detailed meetings with your trades unions. All in all, we believe that we have had contact with around 200 employees. A technical oversight within your communications team meant that Education Staff were originally omitted from the initial invitation to provide written response though this was immediately corrected once discovered. That said, very few responses were received from Education Staff.

45. We have taken account of staff survey information carried out in 2016/7 and we are satisfied that we have secured good all round information. That said, you might wish to consider whether any other work in Education is necessary or information likely to be generated that is different from that gathered elsewhere.

46. Overall, we believe that we have gathered a good level of evidence and engaged with a good proportion of the workforce to enable us to formulate a good picture and develop a good understanding of the position.

47. We maintained close liaison with the Case Management Unit throughout the period of our fieldwork.

Fieldwork – Desktop analysis and individual responses

Summary of issues observed from the desktop analysis and individual responses

- Inconsistent application of procedures
- HR lead and managers role is inconsistent and unclear
- Managers are sometimes insufficiently skilled or equipped to manage complex cases
- Low quality of investigation - including taking witness statements in many instances
- Investigations take too long (in one case 17 months), are insufficiently partial and appear to lack effective communication with affected parties. There is a sense that outcome is sometimes pre-determined
- No obvious welfare support for complainant, respondent, witnesses or staff indirectly affected
- Complainant feels exposed and vulnerable and in fear of reprisal
- Low quality of performance of panel members
- Outcome not always explained to complainant (in one case, no outcome fed back at all) Complainant does not always understand how decisions are reached
- Breaches of confidentiality
- People Hub – do not always understand questions and often appear ill equipped to deal with basic matters

48. A key part of the assignment was to undertake a review of key cases of bullying and harassment managed by the CMU over the last two years. This entailed:

   a. review of case folders uploaded onto a secure server; and

   b. face-to-face interviews conducted with two complainants and two respondents; and

   c. consideration of responses to an all staff email; and

   d. follow up via telephone interviews of emails received.

49. Over 30 case folders were uploaded onto a specially commissioned portal. Some folders contained rather more information than others.

50. Despite the fact that some data was missing, we had sufficient information upon which to undertake assessment and form judgement.

51. HR selected four individuals - two complainants and two respondents - for us to interview. These were meaningful and emotional sessions. Each interview was over an hour in duration, conducted in a confidential setting, with an assurance of anonymity and confidentiality.

52. The employee shared substantial information about their experiences, and details of both long and short-term impacts. Of the four interviews conducted, three commented that the process of being interviewed by an external consultant was in itself *'cathartic'* and expressed a view that *'for the first time I felt heard'*. The four individuals interviewed were derived from four separate cases reviewed.

53. An email invitation to submit written responses was posted on the Intranet. As mentioned earlier, the first posting erroneously omitted education staff though this was subsequently corrected upon discovery and separate invitation dispatched. The response to the initial invitation has been positive and good.

54. We did not set a specific criteria or questions to be addressed. Rather, we wanted to hear first hand an employee's unfettered account of personal experience and the like. Responses were varied and expressed from the heart. Some asked for telephone conversations, some shared observational views of others' experiences, some were from a managerial background, and some with direct knowledge and exposure to the process both from a complainant and respondent perspective.

55. From the replies received, 10 were invited to participate in a subsequent telephone interview. Of those, a few declined to cooperate citing worries about personal exposure, risk of retribution and the like as reasons.

56. Each interviewee provided candid and detailed account of personal experience, sharing the impact felt both personally and emotionally, the effect the issue had on colleagues, workload issues and the wider team in which s/he belonged. Views were expressed about individual managers, policies, processes and HR.

57. Some issues arose frequently during the course of the review, and form the basis of the data analysis described below. The analysis highlights common themes and issues that in our view require your consideration.

58. Worthy of note is the correlation between the benchmarking exercise in terms of how you compare with other organisations, with practical application of your policies and employee's first hand experience of having those policies applied.

59. The analysis highlighted the following issues:

    a. It does not appear that your values and how these impact your behaviours and inform acceptable and unacceptable behaviour is fully understood by managerial staff. Clearly, some managers have worked hard to embed them into your day-to-day activity and there is some evidence of good values driven leadership. But this is not widespread and we were struck by parts of the organisation that have little or no discernable understanding of your organisational or managerial values. It is important to articulate behaviours that are acceptable and unacceptable as well as the organisation's response to breaches when they occur. This is critical in setting the scene and creating an organisational culture in which employees understand the standards expected; and

    b. There is always likely to be delay in dealing with complaints as there are so many aspects that impact lapses in time - whether they be about sickness absence, enquiries from representatives, cooperation and

availability of witnesses et al. Often, these are not matters under the direct control of the employer though that is not how such matters are likely to be represented in any later claims or discussions. That said, it is our assessment that there are many instances when there has been avoidable drift in timelines that has, in turn, contributed considerably to the level of individual stress and disquiet; and

c. Mechanisms for informal action are not especially well articulated or understood, readily available, or exploited. As a consequence, most matters are pushed into a formal process and dealt with as such. Your Police Service has recorded few cases of bullying and harassment preferring to deal with cases in an informal way, perhaps even when in some instances; matters should have been dealt with more formally. Our belief is that informal resolution represents a very good and speedy way of dealing with many concerns; and

d. We do not believe that managers are especially well -equipped or confident in handling these issues and as a result responses are often ill-considered, inadequate, ill-timed or heavy handed. We are unsure whether this is to do with a lack of confidence in dealing with such matters, issues of importance and priority, views about process or for some other reason. But the effect is the same and matters appear to be handled without due care that in some instances has exacerbated the sense of injustice and wrongdoing; and

e. Policies and the processes contained within them, including timelines, are not regarded sufficiently seriously or adhered to. Nor is deviation from them occurring with any sense of agreement, discussion or consultation with the complainant or respondent. There needs to be far more focus on resolution and the existence of process as a way of achieving this. We heard many stories of unexplained delays or the use of a process as a way of justifying time being taken to bring about resolution; and

f. We believe that there is insufficient level of priority or urgency given to such matters, with managers squeezing investigation and resolution work in with other demands. It does not strike us that resolution of these matters is regarded as a high enough priority by your managers. Rather, it is often regarded as 'chore-some' and with a mindset of inconvenience; and

g. Investigations are not always seen as independent, impartial or neutral. Investigators must be beyond reproach, and most importantly, the work product must be delivered within a specified and agreed timeframe and with an independence of mind and level of objectivity that is undeniable and apparent. This is not the situation in all cases reviewed but it is a fact in many of them. In some instances, we have evidence of
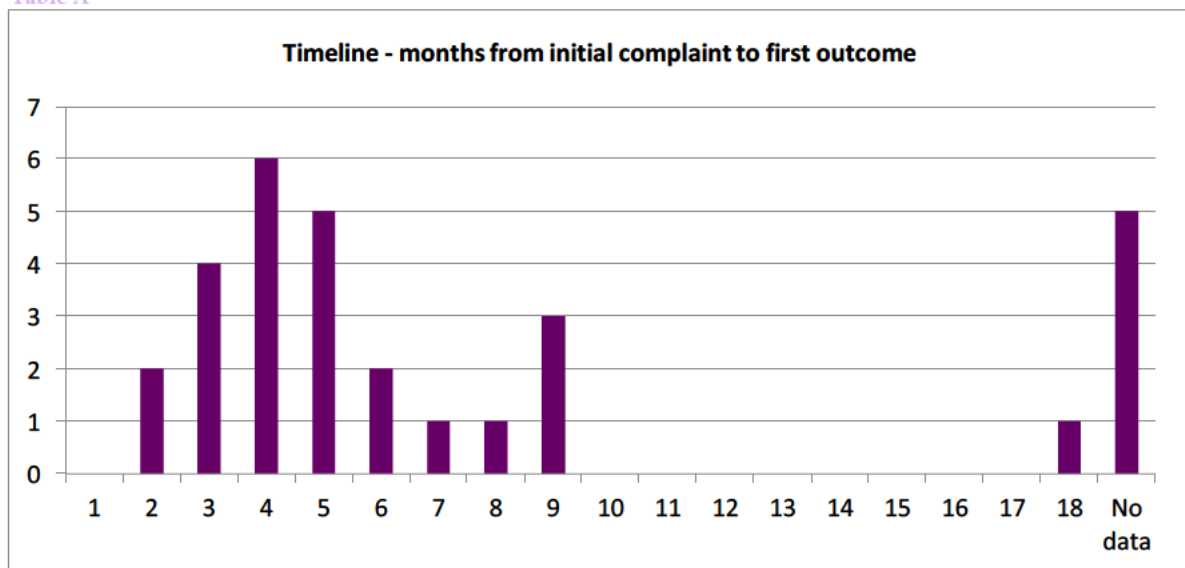
inadequate and low level investigations that neither addressed the issues nor was carried out in a way that can be regarded as impartial.

60. Clear communication is crucial for all of the above, and which enables proper management of expectations including delays, and which instills confidence and trust for those embroiled in cases of this nature. Clear and timely communication contributes to a better understanding of the support that each individual requires to be able to manage the process, helps them to remain productive in the workplace, and prevents them from feeling judged before outcomes are reached.

61. **Timeline**

The following chart is based upon our analysis of the case files

Table A

Timeline - months from initial complaint to first outcome

| Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	No data
Count	0	2	4	6	5	2	1	1	3	0	0	0	0	0	0	0	0	1	5

62. Whilst this shows that some cases are resolved reasonably speedily, the majority is not. Of course, there are always good and justifiable reasons for delay, sometimes to do with the availability of witnesses or even the complainant. But that was not always the case. Rather, the majority of delays were to do with delayed investigation due in the main to heavy workloads and other priorities as well as the time given to your subsequent consideration of the issues.

63. **Issues with policies and procedures**

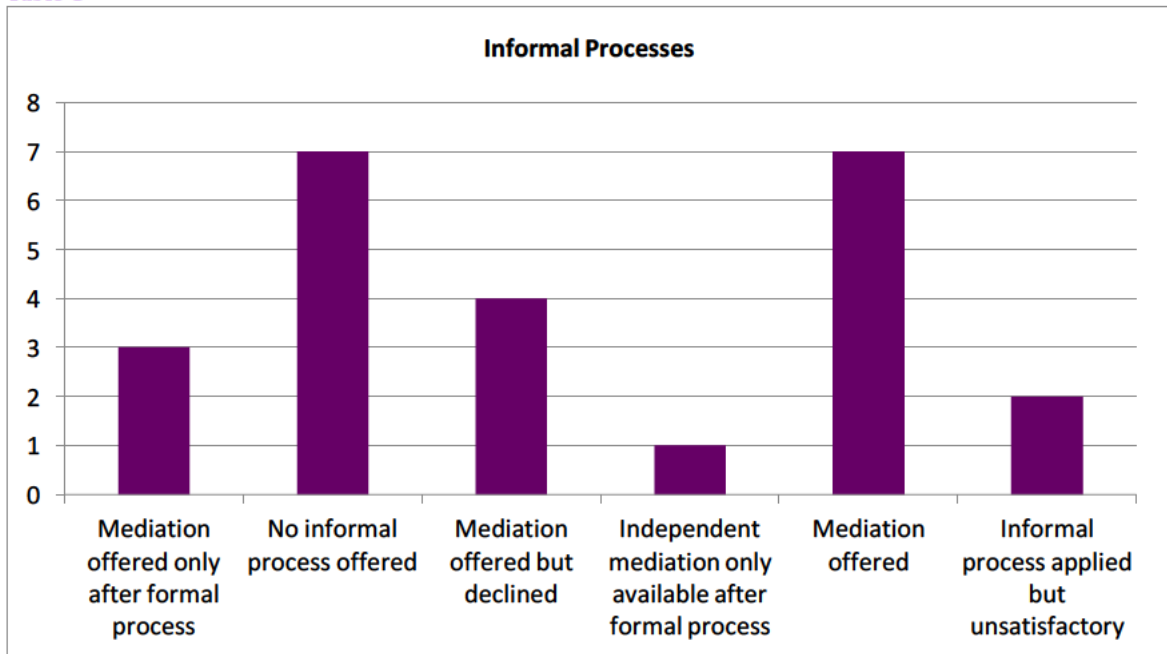The following chart is based upon telephone interviews, email responses, and case files:

Issues with policies and procedures
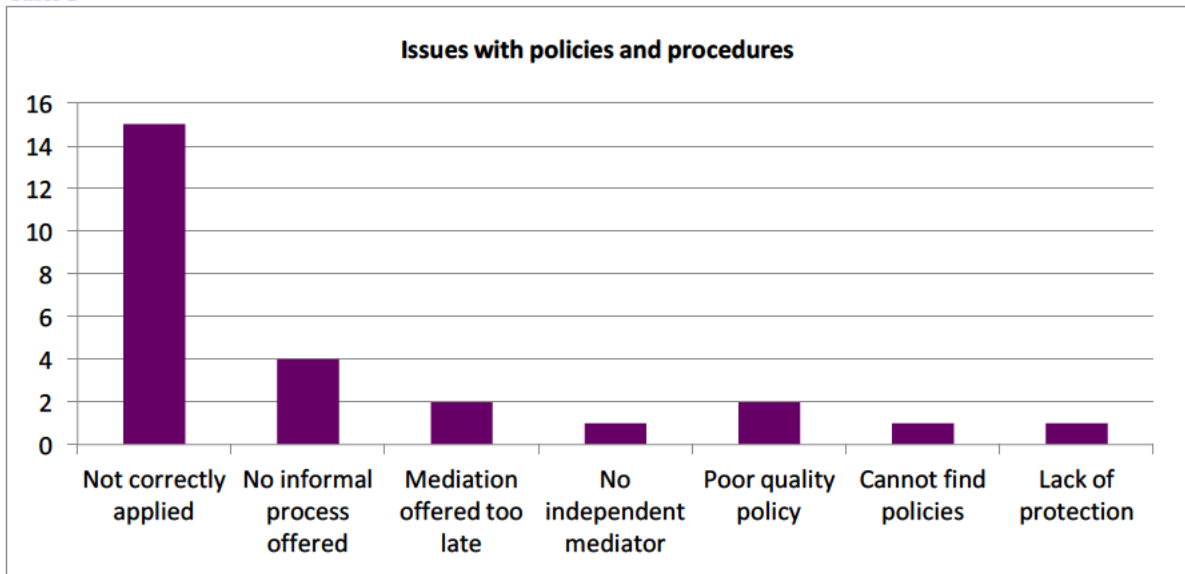
64. **Informal processes**

The following chart is based upon our analysis of telephone interviews, email responses, and case files. Email and telephone respondents were complainants, respondents and witnesses:
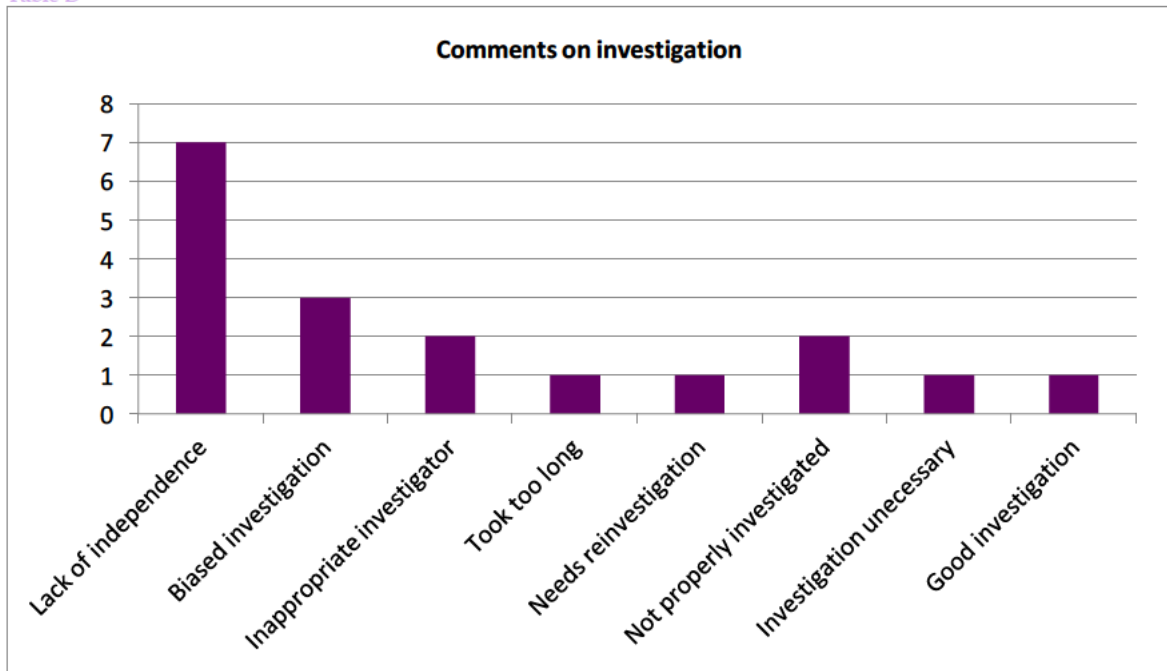
Table C

Informal Processes

65. **Quality of Investigation**

The following chart is based upon analysis of telephone interviews, case files and email responses. Respondents were complainants, respondents and witnesses:
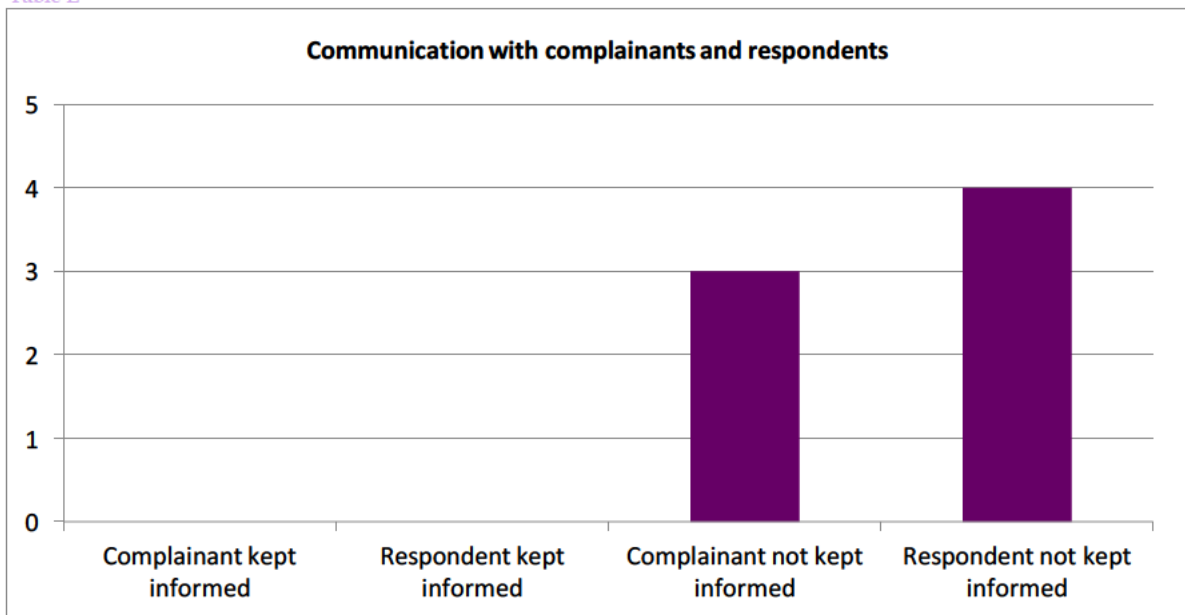
Comments on investigation

Category	Count
Lack of independence	7
Biased investigation	3
Inappropriate investigator	2
Took too long	1
Needs reinvestigation	1
Not properly investigated	2
Investigation unecessary	1
Good investigation	1

66. **Communication with complainants and respondents**

The following chart is based upon analysis of telephone interviews, email responses, and case files. Email and telephone respondents were complainants, respondents and witnesses:

Communication with complainants and respondents

Category	Count
Complainant kept informed	0
Respondent kept informed	0
Complainant not kept informed	3
Respondent not kept informed	4

67. Support, wellbeing, mental health and vulnerability

The following chart is based upon analysis of telephone interviews, email responses, as well as case files. Email and telephone respondents were complainants, respondents and witnesses:

Support, wellbeing, mental health and vulnerability
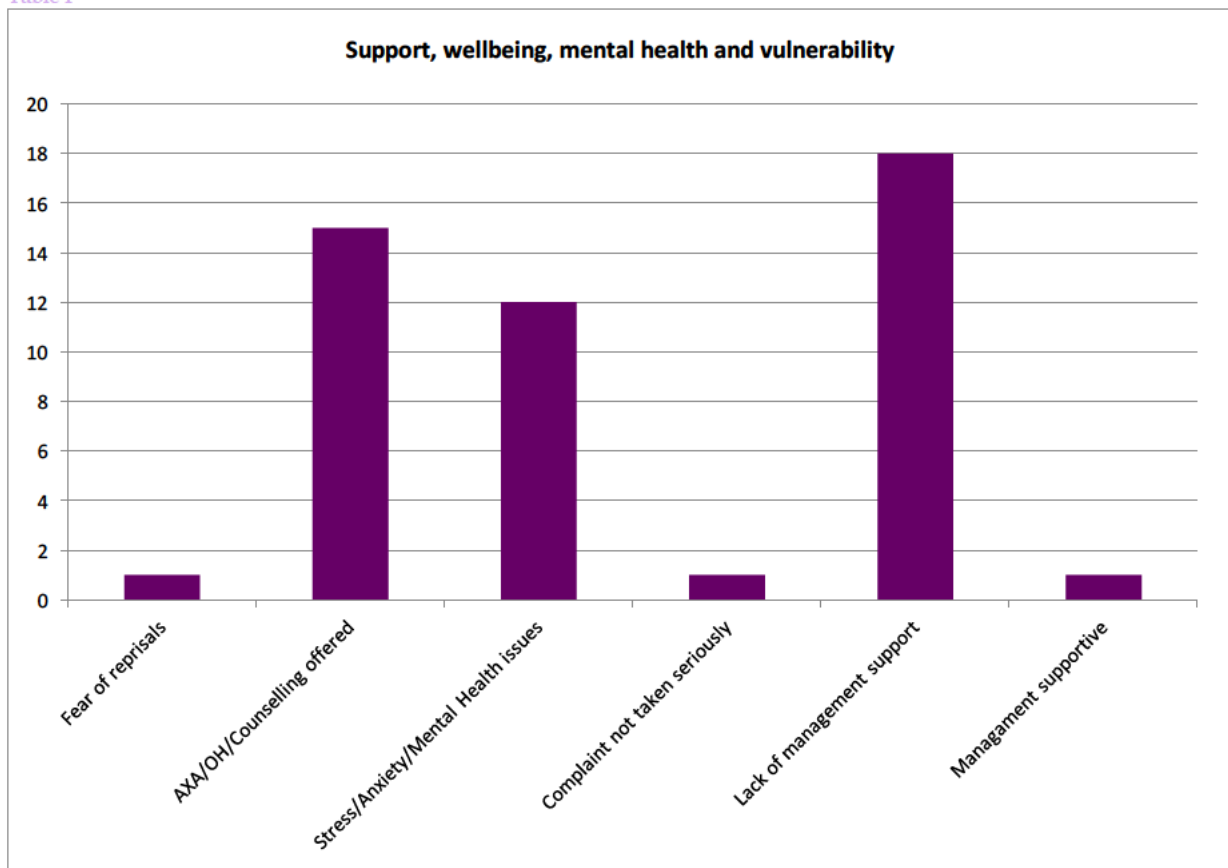
68. A detailed spreadsheet of the analysis is at Annex B.

Fieldwork – focus groups and interviews

Summary of issues that arose in the focus groups

Culture
- Low awareness of values and behaviours
- Good work in HSC
- Culture of discouragement of complaints in many quarters and consequential fear factor
- Reluctance of managers to intervene and deal. Scaredness on the part of managers to confront
- Reluctance and fear of complainants to come forward
- No awareness of whistleblowing policy and no use of it
- Appear to lose sight of complainant and point of investigation
- Some loose talk and gossip about individual complainants

Confusion
- Muddled with performance and sometimes used to delay
- Lack of understanding of process in some quarters and hiding behind it in others
- Deference to HR. Confused role between advice and direct management of cases

Policy and Procedure
- Too formal and inaccessible - not produced in a way that assists
- Processed - used to early and willingly
- Process does not support complainant
- No positive encouragement for individuals to come forward and raise issues
- Description on how to take a complaint forward by complainant is not user friendly
- No reference to Jersey values
- Restorative and resolution options perfunctory
- Unclear about who has authority to take decisions
- No guidelines regarding protection from bullying and harassment
- Unclear timelines
- How decisions are communicated
- No information about the appeal process, its stages and potential outcomes

Investigation
- Elongated, unwieldy, subjective and inconsistent
- Case Management Unit carries out investigation
- Time taken to deal with investigation
- Investigators - rather than chair of process - sometimes decide outcome

Resolution
- Matters not always closed down and allowed to linger
- Final response not always sent
- Hearings sometimes preclude complainant being present
- Commitment to and means to repair working relationships is unspecified
- Matter often ends with written response and then not followed up

Training / learning and follow up
- Some training was given but not continued or topped up
- No investigative practice training since 2014
- No post-case review or process to take and implement learning
- No complainant or respondent follow up

69. Several focus groups were held and attended by staff drawn from various departments and directorates, at various levels and grades and with vastly different and broad backgrounds. Some had experienced bullying, some had not. Some had witnessed bullying incidents and some had managed or investigated instances of bullying in their departments.

70. Generally, all had observed at least one incident during their tenure. Some stories were extreme and more serious - others were more predictable and altogether less controversial. Some related to more standard grievances rather then bullying but the overwhelming majority of attendees had a story to tell and we heard many first hand accounts of negative experiences whether on the part of a complainant, respondent, investigator, manager or work colleague. By contrast, accounts acknowledging a good response from the employer to these matters were sparing and all too few in number.

71. It was a most effective way of drawing information. We started by asking people to describe their leadership and then went on to discuss one aspect of the bullying and harassment policy that should be kept, destroyed or introduced and reasons why. It enabled a most rich discussion, took us deep into the territory and our proposals later reflect much of what we heard in these sessions, that were repeated time and again.

72. To set the same backdrop for this report as created for the focus groups, I set out below the words used to describe the management, not because they are directly pertinent to this report but because they set the scene and context for what we propose.

73. The main issues that arose are summarised - for ease of reference - above but are described in a little more detail in the following paragraphs.

74. **Culture**

We were struck by how little awareness there was about your values and behaviours. Staff knew they existed but there appeared to be little impact about how they instructed behaviours or informed your systems. Rather, it felt that they were regarded as a peripheral management tool that had little impact on how roles were performed, standards were maintained, or matters such as bullying and harassment should be regarded.

75. We sensed a strong level of discouragement to staff to complain. In one part of the organisation, we felt that staff were positively discouraged and strong emphasis was placed on the need for managers to intervene quickly and decisively. In one respect this was a good initiative but perhaps was a little overdone in the sense that it had prevented any complaint coming forward at all. Those that we heard from commented that *'the climate was a strong deterrent from rattling cages'*.

76. Similarly, we established a significant fear factor. Fear in making a complaint as it could be *'career wrecking'*. We know that this is not a mood that is encouraged from the centre quite to the contrary, but it is a strong emotion stated in every focus group when we heard tales of curtailed careers, demotions and heavy-handed management.

77. Some put this down to a feature of working in a close community such as that on Jersey. By this, we took it to mean the impact of a community that lives and works together and in which complaints in a workplace can have unintended consequences in terms of families and friendships in a way that may not exist in other environments.

78. We encountered this similarly in ███████ when we undertook a major behavioural investigation there and encountered witness and complainant issues regarding participation and a reticence to come forward that were not, in our experience, encountered to the same extent elsewhere. Our assessment is that you share many of the same issues in this respect. Article 26

79. It is the responsibility of your leadership to make clear that staff should not operate in fear. The only way to clear this mood is to articulate strong denouncement of it and to deal with instances when it occurs in a decisive and non-compromising way. At the moment, we sense that staff in general, are fearful of making complaint and if in doubt, not to at all. This, we think, is suppressing an issue that exists in your organisation, which relates to an informal culture of bullying.

80. A consequence of this mood was to either encourage quick fixes to more strategic issues or to push matters into a formal process in order to enable resolution.

Often, management can give an impression of strong and decisive action when pushing complaints into a formal process.

81. The reality is such cases can sometimes be the opposite and is just as likely to be a cover up for dealing with a matter when there is no obvious or easy solution or a manager simply does not know what to do. The desire to handle matters formally is a strong one in your organisation but we are of the view that formal grievances and the like, often do not find a lasting solution. We make proposals later about how this might be overcome.

82. The desire to push matters into a formal process rather than find more immediate solutions conceals, we think, a 'scaredness' on the part of your managers. Certainly, this is how it was described in the focus groups. One described it as *'a way of taking action when no action was actually being taken at all'*.

83. We did not research in any depth whether this was true but we did hear evidence of managers worn down by complaints and worried about consequences so an easy option was to allow formal review. For example, one manager confessed to being dragged down by the weight of complaints and simply pushing them into a formal process to *'get them off my desk and try and move them forward even though I have no confidence that they will be resolved. I am sure that I could resolve matters if I had the time to do so'*.

84. We were surprised to hear from one or two managers who stated that the whole issue of bullying had been overstated and was simply a counter measure to issues of poor performance. We do not doubt that for some, the prospect to obfuscate, effectively desist performance checks or delay capability proceedings does arise by an individual claiming bullying. But we do not believe this to be a sophisticated view and the opposite is more likely to be the case.

85. We heard some tales of personal circumstances being shared with people uninvolved in the complaint. Even a little information shared wrongly by a manager with an uninvolved party can be harmful as well as your reputation as an employer. A duty of care and confidentiality is owed to every employee, whatever their circumstances, and we would hope in any new draft and subsequent roll out of your policy, that this point would be made specially clearly. It is a risk to any defence you may have in desisting a claim that confidentiality breaches will score against you.

86. We are concerned that the quality of record keeping should be stepped up. Putting aside the gaps in the data we reviewed, we were concerned by a fairly lax response to the view that good records and the like, were appropriate to the resolution of complaints. Apart from the inevitable issues of defence and the need to present good record keeping, we would have expected that the existence of good quality records would help ensure longer-term change is secured and evaluated.

87. This is an area that will become even more important when the Information Commissioner requirements in terms of GPDR are introduced in May 2018. We believe that the need for quality record keeping speaks for itself and is entirely self-financing. But we also think that you have substantial work to do to bring staff and personnel records up to date, regularly updated and redundant data removed and generally made 'fit for purpose' for the new requirements.

88. **Confusion**
We were impressed by some of the managers that we met and their desire to *'do things properly'*. There are some busy roles in your organisation but we sensed a loyalty and level of conscientiousness to treat staff with respect and dignity. That said, there was a lack of procedural understanding in terms of context and application.

89. However, much that individuals want to do the right thing, whether because of 'busyness' or other matters, there was not a high level of knowledge of your processes to inform and guide responses. Many deferred to HR to take managers through the process when matters arise.

90. As part of this, the procedures are not written in an easily accessible format and we believe that there are ways that this could be improved especially if the guidance is drafted in *Q* and *A* format.

91. The shortage of procedure knowledge referred to above is compounded by the fact that there are a number of partly overlapping procedures, guidance notes, et al that are not always discoverable in a single place. We think the whole release could be simplified and shortened at the same time.

92. Roles and responsibilities must be more clearly defined. In particular, the role of HR in managing these cases must be clear and understood as one of advice and guidance, policing of process, and expert centre for checking solutions and the like, as well as a back-stop for matters going awry.

93. **Policy and procedure**
The focus groups waxed lyrically about process, its complexity and tardiness in reaching solutions. There is confusion about who should do what and who takes decisions. There were several descriptions of cases that, in some eyes, had been formalised too quickly with the suggestion of '*a pedestrian and literal interpretation of the procedure when all I wanted was for my manger to stop speaking to me in this way*'.

94. We heard stories of the process becoming *'more important to conclude than listening to the problem'* and of managers *'hiding behind the process'*, the effect of which was to make the complainant feel awkward and inadequate.

95. Staff that we met viewed the policy and procedure as inaccessible and difficult to understand. They did not feel that it encouraged or supported an individual to complain and even suggested (in more than one focus group) that it was

'insensitive' and 'back covered the management'. We do not agree with the viewpoint but the fact that it was expressed, with some vigour by some, does give it respect as a point of view.

96. Commonly, the view was expressed that the policy was impregnable, did not set timelines and that breaches of it were ignored.

97. We have a view that the policy could be more appropriately addressed and promoted and responsibilities and timelines made altogether clearer.

98. Investigation
In general, this was consistently described as unwieldy, elongated and inconsistent. The quality of investigation was roundly commented upon as being inconsistent and of mixed calibre. There was even a suggestion that the investigator sometimes determined the outcome.

99. Questions arose about witness statements and how they were confirmed with the witness - with the suggestion made that they were not. Some of those that we met were critical of the way that witnesses were regarded with the consequence that, like the complainant, there was a reluctance to come forward in fear of the consequences of doing so and retribution from management.

100. We heard information about witnesses who had been criticised for their involvement and in one case; we heard information first hand about a witness who had been disciplined for involvement.

101. During the period of our work, we heard a suggestion that an altogether tougher stance might be taken with witnesses and that they should be instructed to cooperate. Much that we support the intention behind this - we believe that such instruction would be enforceable and counter productive. We do not think that it would serve you well. It would be entirely right to express your expectation that you require witnesses to speak out and to cooperate. But in doing so, we believe that this must be a voluntary action and one in which an individual witness exercises personal choice.

102. Your role, we believe, is to protect witnesses and ensure that they do not encounter or suffer personal damage and detriment to themselves in terms of their own reputation and advancement.

103. Resolution
We heard about the need for matters to be formally closed down. We heard from one complainant who reported that s/he had not received a letter formalising the outcome of an investigation, which had been allowed to fester. We heard information about one person who had successfully brought a complaint and the respondent made to apologise. ▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮ Article
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104. We were not impressed by the quality of follow up to complaints in order to track and report on progress and to check whether actions had been put in place. We believe that it is the role of managers and the CMU to ensure that actions are put in hand and over time reviewed in order to ensure that the underlying complaint has been resolved, a position has improved or resolved and that there is no on going effect. In doing so, it is possible for you to take organisational learning and to bring about change that might avoid further complaint.

105. **Training and learning**

Focus groups reported that some training had been given - in 2014 - but never followed up. They reported that there had been no further investigation training since 2014. Several training gaps were discussed and highlighted including one about general HR policy and process.

106. Comments were made about the absence of information about complaints. Some were aware of individual complaints, and their outcomes and reported that changes to procedure and such like, was proposed. But they commented that they were unaware of such changes being made. There was a general understanding that an individual complaint was confidential but there was a plea that the learning from these events is published both to alert staff but also to publish the willingness of the organisation to adapt and respond and encourage others to come forward rather than be deterred.

107. **Organisation**

We heard criticism about the relatively new *People Hub*. Much that managers and others understood the principles underlying its introduction - the service was described as *'inconsistent, low level and dependent on who one speaks to'*. We have not studied the *People Hub* at all and can offer no informed comment about it other than to say that it featured high as an issue for many of those with whom we spoke.

108. Apart from the suggestion that the *HR People Hub* allegedly provides inconsistent advice - does not always assist the resolution of issues, there was suggestion that the response was often ignorant of detailed procedures and uninformed and unaware of the content of relevant procedures.

109. This is a common complaint about call centres but we were slightly concerned that there do not appear to be advice scripts (that are iterative and developed as new queries get raised) and which call centre staff use or apply and are trained in how they work in practice. This is a common requirement in call centres and enables consistent advice to be given.

110. We believe that you should commission work to prepare such scripts and put in place a strong training programme and communications process that ensure *People Hub* staff are knowledgeable about your processes, are confident in giving advice about them and know where to draw a line to secure more specialist help. Without this, we have a view that the *People Hub* is not actually providing what is required.

111. There was a generally high regard for the CMU with several good comments about the individuals working in there and the quality of the work undertaken. But this was tinged with occasional comment about the Unit taking charge and influencing outcomes more than they should as well as comment that they sometimes contributed to the perception of bullying via their application of the policy. For example, some employees commented that they felt investigators from CMU predetermined an outcome or had given impression that they were not acting impartially and appeared to side with management in order to close a complaint down. Partly, this is an inevitable perception especially when an investigation does not find in a complainants favour but it is worthy of mention.

112. There were many comments about the high workload of the CMU and from our own inquiries and work with them; it is obvious that there is a disproportionately high workload that they face.

113. Generally, we were impressed with the quality of the work undertaken in the CMU but retain a view that they take too much direct responsibility for cases when actually they should, in our opinion, be empowering and supporting line managers more to manage cases in their own service areas.

114. We are concerned that trend and other HR data may not always be extracted from cases in order to pinpoint issues that may merit strategic rather than individual consideration or to inform on where the CMU might direct its resources or enable learning within the CMU itself.

115. We believe that the CMU should fulfil a different role from that currently performed. It should be a centre of expertise in terms of policies and procedures and control the overall management of cases.

116. **Whistleblowing**
Our questioning about whistleblowing fell on deaf ears. Put simply, there appears to be the vaguest of awareness about the policy. Views expressed to us that there have been no whistle blows in three years are unconvincing and almost certainly unlikely to be the case. But they appear not to have not been received or dealt with as whistleblowing matters.

117. For the sake of ease of reference, I spell out below the provisions of the Public Disclosure Act 1998. For ease of reference, the provisions are summarised in the paragraphs below.

118. **Complaints that count as whistleblowing**
Qualifying disclosures are where an individual reasonably believes - and it is in the public interest - that one or more of the following matters is either happening, has taken place, or is likely to occur in the future:

- A criminal offence
- The breach of a legal obligation

- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above.

119. **Complaints that do not ordinarily count as whistleblowing**
It is not normally the case that personal grievances (e.g. bullying, harassment, discrimination et al) are ordinarily covered by whistleblowing law unless the particular case is regarded to be in the public interest.

120. There is no evidence that complaints received are distinguished in this way or the provisions of the Act to protect the whistle blower are obviously applied. We do not have evidence to confirm that the whistle blower is not protected, as we have not examined this to any extent. But evidence that we heard from complainants or people who came forward suggest that this is the case.

121. In addition to interviews and staff focus groups, we held separate sessions with the trades unions. These were informative sessions and the main themes largely reflected what we heard elsewhere. The trades unions were dismissive of the current whistleblowing arrangements.

122. The trades unions expressed a desire to see changes and improvements in this area and to support management in the delivery of a change programme. The main strands are summarised below.

Table G – Trade Union views

The concern	The experience
Culture	• Lack of trust in management • Zero tolerance of harassment from customers • Culture of fear is prevalent • Employees made to feel responsible for the problem • HR are very 'powerful'. They are 'judge and jury' • Incidents of bullying and harassment are growing • Employees shouted at and belittled • Management style is combative • The whole process is hugely expensive • Feels like working with 1970's style law on discrimination
Policy/Procedure	• Inconsistency of the application, meaning and interpretation • No clear timelines or not adhered to • The use of 'file-notes' as informal action • Nobody whistle blows - no protection • HR provide poor advice and operate poor practice • *People Hub* – they don't understand the questions • Need to demonstrate transparency
Informal	• TU's not invited to get involved • Mediation limited but can work • HR blow issues out of proportion - when it could be settled with a conversation

	• Employees encouraged to drop complaints or threatened with disciplinary action
Suspension	• Alternatives to suspension rarely considered • This action is consistently misused
Investigation	• The investigators make the recommendations - this is not right • Always managed centrally by HR • Increased work pressure for HR • Timescales are not adhered to • No tracking or updating on progress shared with the employee • They take too long and are not consistent • The terms of reference seem unclear • Quality of the investigation is poor • Poor structure to the reports • Investigator sometimes has no experience/knowledge of the service area • Always find holes in the investigation • Handwritten notes are poor • Employees not confident in terms of the use of audio
Hearings	• HR take over the hearing • HR not impartial – they support management • The junior member of staff is often moved • Subjective outcomes
Support	• Employees are poorly supported through the process • Wellbeing of employees not protected • Significant number of cases of stress and anxiety as a result • EAP helpline is poor and rarely used • Insufficient case management support • Employees are 'not believed' • Processes have a profound impact on employees who put their trust in HR
Solutions/change	• We want change • We want a professional dialogue • We want change in policy to be discussed - not sent via email with 'updated'

Bullying and Harassment

123. In order to review the effectiveness of your policies and associated processes, a benchmarking exercise was carried out. This enabled structured and objective assessment and allowed for comparison with similar and like-structured organisations. It allowed us to see how well policies were performing, and how they might be improved.

124. During the review process, we were handed versions of a new and emerging policy that we understand the HR team and Legal have developed. It is in draft form and has not been distributed or promulgated across the organisation just yet. As it is not yet in issue or in use, it did not form part of the benchmarking exercise. Nevertheless, where there were improvements in the drafts, we have, so far as we can, acknowledged this in the analysis.

125. Human Resource policies are the source of direction, guidance and procedure, providing help and instruction to both management and employees more generally. Ordinarily, the policy clarifies aims and broad principles within the context of the broader organisation and its' management style and philosophy. To be effective, it needs to outline its overall approach and values as well as reflecting legislative requirements.

126. In turn, its guidance to managers and procedure need to turn the policy into a set of actions and requirements to follow. Procedures should be separate from the policy or emboldened within it so that it is easily differentiated.

127. The work that we undertook reviewed your policies of Bullying & Harassment, Grievance as well as Whistleblowing. In addition, we looked at guidance notes in respect of investigation, hearing and appeals procedures, as well as employee and line manager grievance guidance and equalities and diversity processes.

128. In all, six organisations were benchmarked. The benchmarks utilised were deliberately confined to the public sector and were all of a similar, or larger, size to you. It enabled a 'compare and contrast' with organisations with similar values. Benchmarking criteria were selected from best practice advocated by ACAS and JACS in policy development. Also taken into account was work considered to be new and innovative in terms of best practice.

129. The overall marking matrix is attached at Annex B. The organisations that we reviewed were:

- BBC
- Hampshire County Council
- London Fire Brigade
- London Ambulance Service

- Metropolitan Police
- Wolverhampton LA

130. Each organisation's policy on Bullying and Harassment, Grievance and Whistle-blowing were assessed against the criteria. Annex B indicates how each organisation met them. One spreadsheet incorporates Bullying and Harassment and Grievance Policies, as both often overlap. The other sheet relates to Whistleblowing policies. In some instances, the organisation's guides were incomplete.

131. The following chart indicates the extent to which best practice is met.

Table H

B&H and grievance policies fully meeting best practice

Organisation	Value
LFB	14
BBC	29
L. Amb	30
Hants CC	16
Wolv	27
Met Police	26
SOJ	13

Table I

B&H and grievance policies not meeting best practice

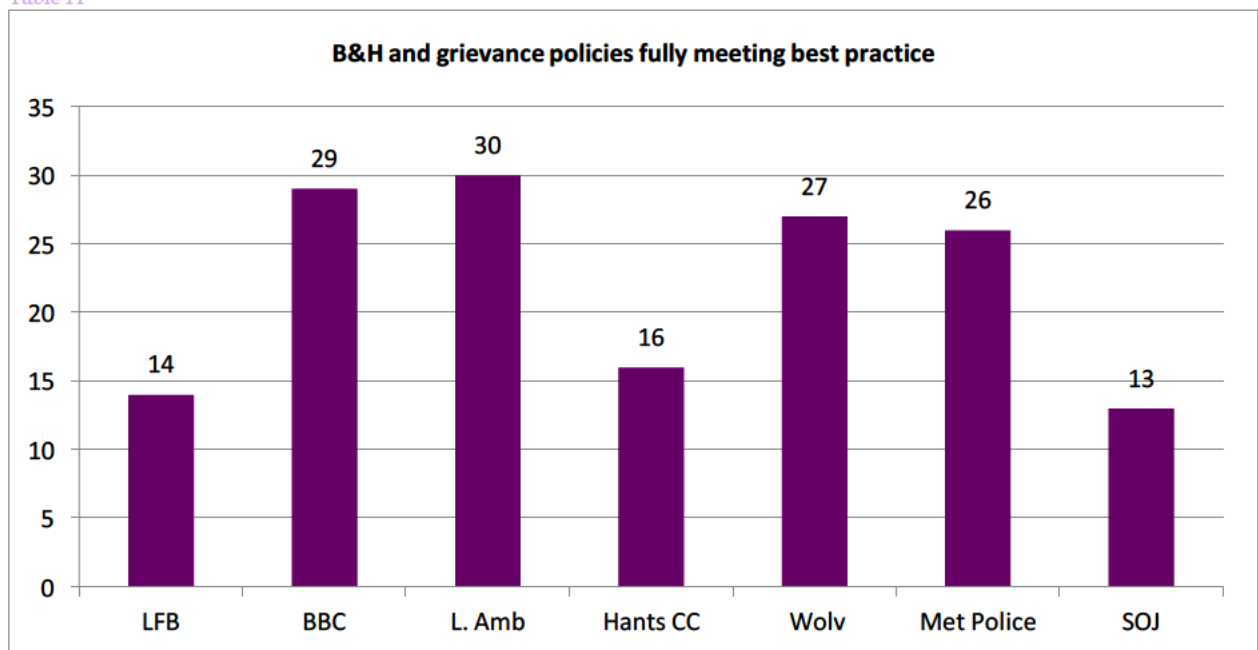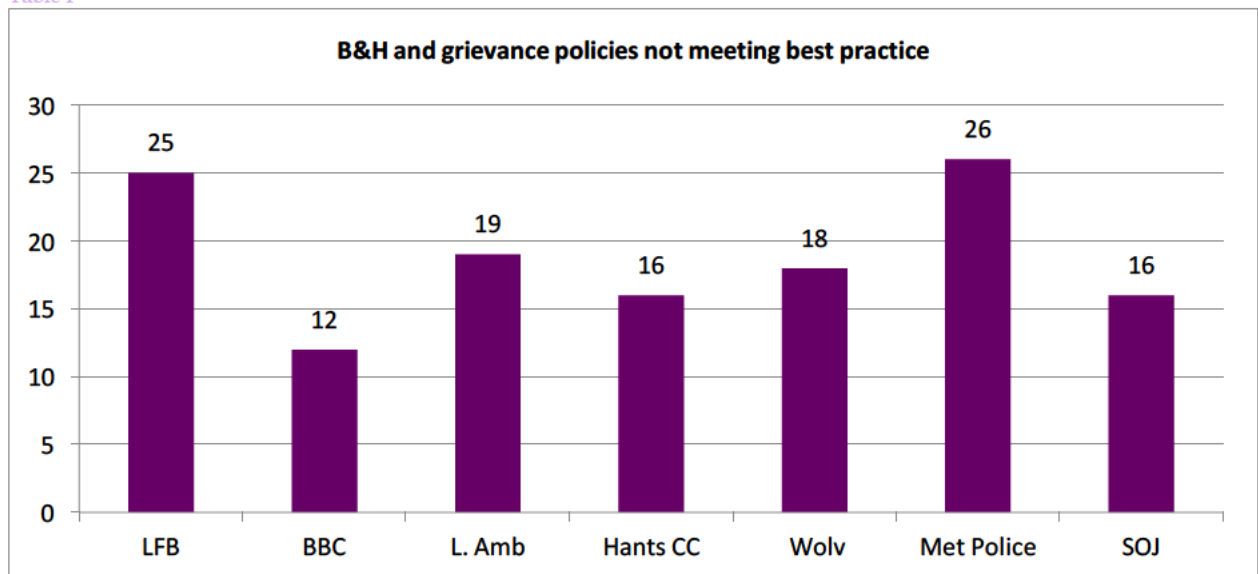| Organisation	Value
LFB	25
BBC	12
L. Amb	19
Hants CC	16
Wolv	18
Met Police	26
SOJ	16

132. The following analysis is a breakdown of the benchmarking exercise. Each criteria was examined. Findings allowed for an objective assessment of how well your policies were performing. It identified where gaps existed between you and other organisations.

133. If, on the face of it, some comments appear minor, we would comment that the emphases and contents of your policy is really important in compelling the reader as to the level of your commitment in dealing properly and robustly with incidents of bullying and creating the climate in which employees feel able to raise such matters without fear of retribution or retaliation. The scale of the latter is a reason why we are making such comments in this section.

134. In your own case, your policy defines the ethos of the organisation and your broad commitment to anti-bullying and harassment. The aim should be to protect employees by creating and sustaining a positive and harmonious environment in which they feel protected and secure from unwelcome behaviour. In this sense, the language and terminology used can demonstrate your maturity, awareness and sincerity in dealing with instances of bullying.

135. The table below sets out language and terminology used in other organisations' policies that, on the face of it, demonstrate a level of commitment more fully than your own.

Table J - to illustrate language and terminology used in Bullying and Harassment related policies.

WOLVERHAMPTON	HAMPSHIRE	LAS	SOJ
Dignity at work policy	Resolving workplace issues policy	Bullying and Harassment policy	Bullying and Harassment policy
Committed to *ADOPTING* policies and procedures to *ENCOURAGE* a positive work environment	Committed to *PROVIDING* a workplace where Employees feel valued and fairly treated	We have a *DUTY OF CARE* to all staff	Committed to *DEALING* with Bullying and Harassment in the workplace
Has *A DUTY TO CREATE* a safe work environment		We are committed to *PROVIDING* a safe environment that is free from …	*RECOGNISES* the Right of All Employees to be treated with Dignity and Respect at Work

136. You set out your intention to deal with workplace issues and recognise the right of employees to be treated with dignity and respect. A very positive feature in your new draft policy is inclusion that the issue is about *'how it made the individual feel'*. We support the description used here for both complainant and respondent.

137. That said, your policy is silent about promoting positive behaviour. Bullying and harassment is complex and it is helpful to provide examples of acceptable and unacceptable behaviour that illustrate it rather more and which enables

managers and employees to be cognisant about the impact of certain types of behaviour.

138. The BBC provides an excellent example for both employees and management on their website, illustrating practical case examples. By comparison, your current policy does not articulate the level of responsibility placed on all employees to demonstrate dignity at work values. The new policy does start to address this but we believe that it should say rather more in order to be wholly clear about your expectations.

139. Legislative and statutory requirements, as well as codes of conduct, should also be included in the policy in a way that is accessible and understood. It is equally important to be clear on potential consequences of breaches. Your policy does not refer to the legislative framework including the Discrimination (Jersey) Law 2013 or any code of practice. JACS guidance mentions the importance of making employees aware of your expectations including the risk of personal claim.

140. To maintain a positive and harmonious workplace, the employer must be proactive in tackling and resolving workplace issues at the earliest opportunity. Left unaddressed, issues escalate and fester, resulting in disproportionate amounts of time and distraction as well as potential costs, rather than gripping and resolving the issue.

141. Your policy partially meets this requirement in part - though we have a concern - both in the current policy and the draft - under review, that inclusion *of 'an occasional raised voice or abrupt instruction'* rather dilutes a position. Quite apart, it appears to interpret an aspect of managerial behaviour that could be interpreted to counter ACAS guidance.

142. Put simply, it will generate a tariff for 'spirited conversations' when ACAS guidance defines bullying rather more broadly. We do not think that you mean this and would suggest that the provision be removed. It is at odds with good practice if managers are to successfully recognise an appropriate way to treat people at work, and to understand their role in avoiding all forms of potentially intimidating behaviour.

143. In terms of your policy, there is no provision for an employee to discuss their experience in order to decide what options might be pursued. This is important as a way of expressing your commitment. A policy alone does not stop bullying and harassment. The Employer needs to be committed to, and demonstrate their duty of care, by proactively protecting their employees. An early discussion is a way of doing this. It would also serve as a strong indication that there was positive encouragement for an individual to come forward and raise issues.

144. How you handle the resolution of bullying and harassment informally is examined here. Robust dispute resolution enables an organisation to tackle workplace issues more efficiently and sensitively. It is useful to note that embedded in one of the benchmarked organisations (Metropolitan Police) is the

practice of a mandatory informal stage. Here, senior management requires assurance that this stage has been fully exhausted before entering into formal stages. In our experience, a provision for this is time and cost effective.

145. Mediation is included in your policy and states that it can be used at all stages of the process. However, it is not - as we interpret it - integrated fully into the process. It appears in the policy only briefly and is listed as an option rather than an integral part of a dynamic process. It is neither promoted nor endorsed. Mediation offers an effective and rapid means of bringing resolution. It is neither foolproof nor relevant to every set of circumstances but as a process designed wholly about resolution, we regard it is an important part of a policy that should be actively promoted and utilised for it offers a significant prospect to bringing about an early resolution to issues when they arise.

146. Clarity about whom to contact in the event that the normal contact person is implicated - as is often the case - should be more clearly expressed. It is important that an employee is clear on whom they can go to in what could be a potential inflammatory and difficult situation. Whilst the policy acknowledges that this measure is needed, it refers employees to HR *in the first instance*. If this is to be the case, an explanation of the role of HR, and what they will undertake in such instances, must be specific.

147. The draft Policy adds *will deal with complaint on a strictly confidential basis* but this does not go far enough in explaining the subsequent process. Equally, this could potentially derail the process by not allowing for the issue to be resolved at its source by managers, as well as potentially slowing the process down unnecessarily. This section requires some redrafting.

148. Language utilised in the policy states *if it is against the line-manager*. Phrasing it in this way potentially contributes to creating an adversarial situation. The policy should focus the line managers' efforts on positively advising line managers to exhaust all informal processes rather than simply 'to attempt' it.

149. It is confusing in both the current policy and the draft policy as to how you manage an informal process. The policy describes an informal meeting as one where individuals can be represented by their trade union representative and which includes both complainant and respondent. This is more indicative of what would occur during the formal process. We would comment that your informal process has mixed application. In the Police Service, it appears to be commonly used - perhaps even overly so - though rather less, if at all, elsewhere.

150. In the main, your formal process appears to follow the general principles of JACS/ACAS statutory codes of practice in order to best respond, and provide defence for the organisation in potential claims. When we examine the issue more closely, the position is not quite so assured, especially in the area of *'Hearings and Appeals'*. This was found in a separate policy document called *'Formal hearing and appeals procedure'*. The latter was impressive and satisfied all benchmarking criteria, which is excellent.

151. Notwithstanding this, there are changes that we would propose that would improve the document further. It is a particularly lengthy document, is unclear whether it is a policy or a guide/toolkit and just a little impregnable. The changes proposed would be simple and straightforward.

152. You satisfy the issue for prompt investigation within a specified timescale, which appears in line with other benchmarked organisations. However, in the policy, it appears that investigation appears to occur in front of an informal process, which feels contradictory. And it is also unclear exactly who undertakes the investigation itself and we would also wish there to be clarity on managerial decision taking levels as well as requirements for timescales for each stage of the process.

153. You are on par with others on how a respondent may be treated though the extent to which others may have separate arrangements for this is unclear. Equally, you state that both complainant and respondent should be offered support in the draft policy though our fieldwork highlighted difference between the requirement and what actually occurs. Overwhelmingly, we collected evidence of staff - both complainant and respondent - feeling unsupported and lonely during the process. Two described it as feeling '*leper like*'. That is an unfortunate description but telling.

154. If an organisation is to encourage the raising of issues at the earliest opportunity, and ensure ongoing support during the process, it is important that employees know to whom and when s/he can turn to. The level and type of support available should be flexible and geared directly to the individual.

155. The benchmarking exercise reflected less well for most organisations with regard to the repair of working relationships post a complaint. You are described as a '*learning organisation*' and we would suggest that an important aspect of learning would be in post mortem examination of the causation of issues generated by bullying complaints as well as follow up on the effect of remedial measures put in place to deal.

156. You make reference to the importance of maintaining accurate records. We agree with you. Our experience though is that, despite the efforts of the CMU, your managers are less good at keeping records than your policy requires. As part of our own fieldwork, there were missing records or even possibly documents that simply do not exist. Examples include complaint submissions, investigation reports and outcome letters – not always retained on the file. In all probability, they exist but they simply have not been filed correctly.

157. Added to this is the distinct impression given in interviews and focus groups that the paperwork that would serve you well in any subsequent claim is not to a standard or quality that it should be. For example, outcome letters should clearly state a description of how a decision was reached in relation to each element of a complaint raised. This is key to the complainant understanding and accepting an

outcome and enabling an informed decision with respect to acceptance or the basis of lodging an appeal.

158. CMU would benefit from a system that requires all documentation including final responses and outcomes to be centrally logged. This would ensure good tracking of cases - enable organisational learning to be taken and simply to ensure that documentation is up to the mark.

159. Overall, there are some aspects of your policy that benchmark positively but there is practice elsewhere that is advanced of yours and from which you can learn.

160. We make recommendations later where we believe such practice should be incorporated into your own arrangements.

161. **Whistleblowing**

The same six organisations' whistleblowing policies were benchmarked against your own whistleblowing policy. At the outset, we need to comment that whilst you have a policy, it was barely referred to in all our fieldwork. We found no evidence of its use and the arrangements put in place three years ago to launch it appear to have fallen into disrepute. Put simply, you have a policy that has no use, gravitas or application across the organisation.

162. Whatever, we reviewed your policy alongside others. In general terms, there is not a great deal wrong with it though we do believe that it could be written in less formal and more accessible language and altogether give a feel that you welcome - rather than resist - staff using the procedure. We believe it to be an important part of a contemporary and receptive organisation that you welcome and want to respond to issues of whistleblowing.

163. It is important to note though, that there is no legislation in Jersey specifically to protect employees and workers who make a public interest disclosure. In the UK, the Public Interest Disclosure Act 1998 (PIDA) offers protection to the whistle-blower provided that the disclosure is proportionate and in relation to one of the specified subjects of public concern.

164. It is respected that the provisions of this Act do not directly apply and it is to your credit that you chose to introduce such provision to apply. But in the circumstances that your policy is not being actively encouraged or pursued suggests a contradictory approach that we do not believe that you would welcome. For that reason, we encourage you to majorly overhaul and develop a new policy and launch a new whistleblowing line and process as a very positive feature of your new values and management. It demonstrates openness about your management and willingness to learn and adapt that, from other features of your employment offering, we believe that you would wish to demonstrate.

165. Benchmarking criteria were determined using best practice as defined by ACAS in policy development. Overall results are detailed in Annex B.

166. We have tried to address the lack of a legislative framework by including a *'Not Applicable'* category on the law compliant criteria in our analysis. In addition, in order to highlight the benchmark criteria (protection form victimisation and anonymity) affected by the legislative framework, an indication to this effect is shown in the annex.

167. Your policy does not explicitly encourage employees to raise concerns at any point. This would be regarded as essential if employees are to feel safe in raising matters and as a way of demonstrating your openness and transparency in dealing with such complaints. There are one or two good examples from those benchmarked organisations:

- **London Ambulance Service:** *You may feel worried about raising a concern, and we understand this. But please do not be put off. In accordance with our duty of candour, our executive directors and entire Board are committed to an open and honest culture. We will look into what you say and you will always have access to the support you need while this is happening.*

- **City of Wolverhampton:** *The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we actively encourage employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. This document makes it clear that you can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing policy and procedure is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem.*

168. Your policy states that, *'anyone raising a concern is protected from victimisation and reprisal'*. However, this is not reinforced in your policy with any explanation of how you would achieve this. Equally, this intention is undermined by point 8.1 in the policy under *'Disclosure to outside agencies'*. Here it requires an employee to exhaust all internal procedures prior to disclosing to an appropriate external body. It implies that an employee will not be safe from punitive sanctions unless s/he does so. This is contrary to good practice and doubtless, acts as a serious discouragement.

169. You do not offer confidentiality or anonymity. Much that it may be difficult to guarantee this, other organisations do - and do so successfully - and we believe it to be a serious drawback of your current arrangements. At 7.1.2 of your policy it says *'the investigation process may reveal the source of the information and a statement by the individual may required as part of the evidence'* and the policy *'strongly'* discourages anonymity.

170. Whilst recognising that these two areas are challenging, both are crucial if a whistleblowing policy is to have serious impact and employees feel safe to use it to raise concerns. Making significant changes in this area would encourage employees to come forward.

171. The following gives examples from two organisations that in our opinion expressed constructive wording and explained their ethos in this area.

- **BBC:** '*You may decide that you want to raise your concern in confidence. You can do so by asking for your identity to be protected; therefore, it will not be disclosed without your consent. If a situation arises where it is not possible to deal with your concern without revealing your identity, for instance because your evidence is needed in court, you will be involved in a discussion to decide the best way to proceed*'.

- **London Ambulance Service:** '*We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. This means that while you are willing for your identity to be known to the person you report your concern to; you do not want anyone else to know your identity. Therefore, we will keep your identity confidential, if that is what you want, unless we are required to disclose it by law (for example, by the police). You can choose to raise your concern anonymously, without giving anyone your name, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome*'.

172. There is no explanation in your policy of what is meant by whistleblowing. In comparison to other policies considered, it does not appear to be drafted with the whistle blower in mind and seems to be more of a guide for management. It is noted that other benchmarked organisations policies are written less formally. The formality of your policy makes it less accessible and discouraging.

173. Similarly, there appears to be no alternative other than to report a matter to the most senior management. For some, that is a daunting prospect that could, in an employee's mind, be career threatening. There is much research on this subject and how policies are written intended to be helpful but which have quite the opposite effect to that intended.

174. The benchmarked organisations reveal several initiatives that overcome this:

- **London Fire Brigade -** a confidential reporting telephone line.
- **BBC** - a free anonymous and confidential helpline.
- **London Ambulance Service** - freedom to speak up Guardians and NHS Whistleblowing helpline.
- **City of Wolverhampton -** 24-hour Whistleblowing helpline.

175. We conclude that there are many ways that your whistleblowing policy could be redrafted, strengthened and generally made more pertinent as a way that employees can raise issues of significance in a protected and safe environment. We cover this in the recommendations section.

176. Many issues arose about training that warrant a section in its own right here and also suggest that a renewed programme of training and development is necessary. Such programme is not just about organisational culture, values and behaviours, though a great deal does concern those activities. There is, in our view, a rather more fundamental requirement about management handling of bullying cases as well as a need for sharper and improved investigative skills and the like.

177. The States of Jersey, like many other employers, has reduced the overall training budget. Presently, you operate a central resource of circa. £135k allocated annually, with an additional £500k reserved for leadership development until year 2019. The £135k is utilised to fund events such as induction and development, principally in the areas of digital skills and health and safety. That said, there is no current corporate training and development plan – though we are advised that this will be rectified later this year.

178. In this vacuum, departments have done their own thing and made their own plans which - whilst commendable - mean that the activity largely, is functional and misses opportunity to address organisation wide cultural issues and disseminate messages and briefings that need to be given.

179. Thus, the training is silo based and loses effectiveness as a result. The contrast between different parts of the organisation is marked. There seems little central co-ordination or awareness of what is planned or delivered locally, and as such it is probable that training and development is not aligned with your organisational wide strategic and operational goals.

180. Similarly, there is some work to do regarding the dissemination of broader HR policies. There is, on the face of it, a pretty full range of policies and processes that have been developed. These did not form part of our commission but we note their overall quality. In common with the policies that we did review relating to this study, their policing and implementation is not quite so impressive. In sum, you appear to be policy rich but implementation poor.

181. As an example, there has been no central delivery of a programme of HR policies since 2014, which means that important top down messages regarding managerial expectations are rarely given. Instead, new policies are published on your Intranet with little awareness of briefing, guarantee of implementation or policing of the policy or follow up.

182. Anecdotal evidence indicates that updated polices are issued with little introduction and management are expected to adopt and adjust practice accordingly in line with the changes.

183. As an example that is relevant to this review, the latest adopted version of the Bullying & Harassment Guidelines was issued in 2014 but it would appear that no manager accessed training on how to apply them.

184. In its stead, managers were signposted to the Jersey Advisory & Conciliation Services (JACS), who through a range of programmes, updated the recipient on law and best practice in terms of the management of certain employee related issues, including difficult conversations, managing absence, redundancy, unfair dismissal, disciplinary and grievance, bullying and harassment and discrimination issues.

185. These sessions consist of a 3.5 hour generic programme that neither focuses on your policy, nor ensures that your managers are properly briefed on your expectation and as such, it will not help the recipient to interpret its application. Given time limits and the diverse audience that these programmes attract, there is little scope in the Bullying and Harassment session to emphasise and recognise bullying behaviours, how to sensitively manage such matters, or understand the type of support that should be offered to both complainant and respondent.

186. Furthermore, it would be impossible to add value to these sessions by relating it to your own organisational expectations, values and ethos, which is critical. There is no overall evaluation of the training offered by JACS to determine if learning is effective and transferable, and no central monitoring in terms of who has participated in order to ascertain what proportion of the organisation requires further development.

187. In sum, the extent to which you possess a trained cartel of managers trained and skilled to handle cases of bullying is unknown. Our fieldwork suggests very few.

188. There is one counter to this that needs development and embedding into your regular training provision. The Case Management team accessed investigative practice training in April 2016 that was delivered by an external provider. The programme consisted of pre-course work; a 3-day structured classroom programme, as well as post-course work activity.

189. This training led to an accreditation in the form of post-assessment of a Professional Workplace Investigator certificate from the ILM. Previously, investigators accessed development to acquire this skill set via an ACAS led programme as well as a three-hour JACS facilitated session.

190. Also worthy of note is the modular based programme covering a variety of issues including coaching skills. It is possible that this could be developed, transferred and utilised more widely when managing complex and sensitive bullying and harassment cases. And also the 'People Leader' module, which is about exploring the nature of conflict and team dynamics. The programme helpfully establishes a direct link between 'Jersey values' and management

practice and could be usefully and easily extended to develop manager's skillsets.

191. So far, 91 managers have completed this programme with 54 currently participating. Funding for this programme though will be exhausted by 2019 and not all managers on a management grade will have had opportunity to benefit from it.

192. Our conclusion is that a structured and mandatory programme of appropriate management skills that includes proper tuition and briefing on your requirements, values and behaviours and means of dealing with difficult managerial situations should be planned and kept in place as routine management training.

193. Some departments allocated separate resource and undertook departmental work with their own HR Business Partners (HRBP) to deliver local responses. Some of this work has been outstanding and could, if you were so minded, be the foundation of a broader programme across the entire organisation that embeds your overall values and enables each part of the organisation to put its own stamp on specific requirements.

194. Of particular commendable note is the recent project delivered by The Department for Health and Social Services (H&SD), commissioned by its' Chief Executive Julie Garbutt and ████████████████, to explore the States of   Article
Jersey values that identify and emphasise expected behaviours of employees.   25

195. The intention of the 'Our values Our Actions' programme was to address an 'old-fashioned' culture where doctors were considered *overly powerful and where nurses defer to them'*, but also to address several complex bullying and harassment cases, and to improve recruitment and retention. The following were specific areas of concern and were highlighted with the intention of delivering training that would raise awareness around unacceptable behaviours, amongst other things:

   • An oppressive management style
   • Disrespect
   • Inappropriate language and tone
   • Undermining management style

196. In order to understand the depth of the issue, H & SD commissioned a staff survey with a 49% return that demonstrated that the buy-in to organisational behaviours and values was low. This led to an extensive launch to embed values about which results were encouraging with a high percentage of employees receptive to the training and expressing a desire for change. As a key example, one particular question posed before and after the training was:

'To what extent do you think it is your job to personally challenge negative or inappropriate behaviour?'

At the beginning of the training

A top priority	24	18.46%
A key part of my job	56	43.08%
Part of my job	37	28.4%
To some extent	13	10.00%
Not at all	0	00.00%
	130	

At the end of the training

A top priority	53	32.72%
A key part of my job	82	50.62%
Part of my job	22	13.58%
To some extent	5	3.09%
Not at all	0	00.00%
	162	

197. The participants of the 'Our Values Our Actions' were invited, post-training, to share what they might do differently. Comments comprised:

   • **Appreciate the value of colleagues**
   • **Be braver to challenge behaviour and make a difference**
   • **Be more approachable and positive**
   • **Be more aware of my behaviour on colleagues**
   • **Challenge senior colleagues more**
   • **Don't condone inappropriate comments**
   • **Find a way to challenge constructively damaging behaviour**
   • **I will be mindful of my role to embed a cultural shift in my team**

198. Similarly, the Department for Infrastructure, as a direct response to significant organisational change, delivered via an external training consultancy, a programme to help employees deal with change, focusing on behavioural change. ███████████████████████████ commented Article 25 that this endeavour was to embed cultural change and improve morale with a transference of skills learnt on the course that in turn enabled the following:

   • **Support employees with relationship issues**
   • **Raising concerns and finding solutions to resolve conflict**
   • **Manage relationships more positively**

199. These are examples of work underway already intended to demonstrate that you do not need to reinvent wheels but with some proper assessment and planning, you have the foundations of the type of programme that is required

already in place and with some further and we believe, nominal, investment, could be quickly adapted to operate across the organisation.

200. A through training needs analysis should be carried out which we believe should incorporate a range of intervention training requirements to include:

- **Investigative performance training** - to create a small pool of skilled and capable investigators
- **Harassment and Bullying** 'buddy' briefing programme
- **HR case management review** - lessons learned, process and structure
- **Management development** - restoration practices and mediation 'tool-kit' development
- **Management development** - bullying and harassment and grievance in line with your policies/procedures
- **Management development** - how to chair a hearing and reach outcomes
- **Management development** - how to recognise and manage a whistle-blowing complaint

201. Similarly, the roll out of a central approach to a relaunch of your values and behaviours that focuses on enhancing manager capability and employee resilience would be wise, especially as the foundation for this already exists.

202. Having considered the fieldwork undertaken and our reflection on each main point, we conclude that the following main issues require attention and about which our recommendations are based.

203. We believe that there needs to be a refreshing and relaunch of your values and behaviours. This is an opportune moment to undertake such a requirement and to restate to staff what standards of behaviour should exist. Such a relaunch need not be extensive - or expensive - but impactive and straightforward with leadership and staff requirements clearly articulated. Critically, the programme requires top-level endorsement, championing and support.

204. We believe that the programme should be launched via an organisation-wide training programme utilising the work undertaken in H and SC.

205. We believe that the level of alleged instances of bullying and harassment is significant and conclude that new *Bullying and Harassment and Whistleblowing policies* are required - based on your values and standards as well as publication of management guidance and clear statements that outline the expectations of your managers. We propose that you should launch a new independent whistleblowing hotline.

206. We believe that meaningful *consultation* with the trades unions will be essential to successful implementation of any new arrangements including new policies.

207. We have concluded that you need to embark upon a programme of *training* - spread over a period of up to three years - so that all managers are briefed on dealing with such incidents as well as understanding your own expectations and requirements.

208. We feel that such guidance and training should make clear a specific provision of *nil tolerance* of issues of bullying and harassment and the action to be taken when such cases are evidenced.

209. We think that the quality of your *investigation* resources require upgrade both in the sense of creating a pool of properly trained investigators amongst your workforce as well as a standard of investigation that demonstrates independence, impartiality and neutrality with reports that are fit for purpose, thorough and reveal a depth of investigative quality. We propose that a small cartel of investigative resources be established by way of a small team made up of 'seconded 'Jersey staff, who are supported and sponsored by their line managers to undertake this role and working on secondment for a period of say two years as well as a relationship with externally sourced investigators for particularly difficult, senior or sensitive cases.

210. We have a view that the *Case Management Unit* should not, ordinarily, be directly involved in investigation but instead be responsible for operating a case

triage system, overseeing the quality, speed and emphasis of investigation, allocating cases to investigators, early resolution and policing the progress of such complaints as well as the provision of advice and guidance more generally. Of course, there may occasionally be circumstances that demand investigative resources be drawn from the CMU but we believe that such occasions should be a rarity.

211. We have a view that the resources of the CMU should be temporarily increased to enable a backlog of cases to be cleared.

212. We have a strong view that you should introduce a *14-day managerial intervention period* before any other process is triggered to enable local resolution to be discovered. As such, managers should have a number of tools at their disposal including mediation. We believe that mediation could be offered, in common with other organisations, by Jersey staff trained for the purpose.

213. We believe that you require a new *case-tracking* system. Such systems are readily available at relatively low cost. Such will enable you to progress chase, track and report more easily.

214. Similarly, we believe that the CMU should publish a regular report outlining *case progress* that enables you to properly oversee the resolution of these issues. Part of this report should be the outcome of a new post incident debriefing and organisational learning process for both management and the CMU.

215. Introduce a new *'friend'* system with the appointment in each confirmed case of bullying under investigation of a friend to both complainant and respondent. The role is not one of representative but as an organisational advocate that assists the party to understand what is taking place, offers an objective and balanced opinion and generally supports a resolution. A scaled down programme that offers broadly the same type of support should be introduced for witnesses.

Conclusions and recommendations

216. It is recommended that you consider the following:

On Culture – paragraphs 59, 60, 74 - 87, 122 and 203 refer:

a. Refresh the values and standards of behaviours and embark upon a re-launch programme building on the excellent work carried out within H and SD; and

b. Create a new management tool and discipline for measuring compliance with and action taken re breaches of values.

On Whistleblowing – paragraphs 116 - 120, 161 - 175 and 205 refer:

c. Relaunch and maintain an effective whistleblowing policy; and

d. Set up a new and dedicated whistleblowing line outside of regular reporting lines.

On Confusion – paragraphs 88 - 92 refer:

e. Articulate clear lines of responsibility in your policies and job profiles and descriptions; and

f. Establish a new and confidential '*Hotline'* for complainants.

On Policy and procedure – paragraphs 59, 60, 63-64, 93 - 97, 122, 123 - 160 and 205 refer:

g. Draft and circulate new policies relating to Bullying, Grievance and Whistleblowing - with proper relaunch and briefing arrangements and which outline clear and specific managerial responsibilities; and

h. Utilise more sensitive language in the policy that starts from a *'believe the complainant'* perspective; and

i. Create a new *'friend'* system for complainants and respondents; and

j. Introduce a new modest witness support programme (CMU); and

k. Agree in certain circumstances to accept unwritten complaints; and

l. Undertake a review of how staff promotions occur and what information is taken into account and how such to ensure that negative and damaging information about complaints and the like, is not taken into account; and

m. Adopt a far more uncompromising stance towards breaches of policy adherence; and

n. Introduce a new early 14-day resolution process that places an onus on managers to resolve; and

o. Create a pool of internal mediators, demystify mediation process and promote effectively.

On Investigation – paragraphs 59, 61, 65, 98 -102 and 209 - 210 refer:

p. Ensure that the CMU do not, other than in the most exceptional of circumstances, carry out investigations to avoid conflict of their function; and

q. Introduce - in the CMU - a new Triage, case overview and investigation assessment function; and

r. Create a pool of internal trained investigators and appoint external investigation where serious sensitivities arise.

On Resolution – paragraphs 59, 61, and 103 -104 refer:

s. Introduce a system of post incident review in order to take organisational learning; and response to all parties; and

t. Distribute a periodic bulletin on lessons learned from recent (unnamed cases) as a way of advising staff a willingness to learn from past cases; and

u. Seek to close cases formally either by way of confirmed acceptance of resolution or time lapse; and

On Training /Learning and follow up – paragraphs 105 - 106, and 176 - 201 refer:

v. Introduce new and regular training for managers; and

w. Introduce a new programme of investigative training; and

x. Post report support to complainant and /or respondent depending on outcome; and

y. Mentor and support line manager and team facing a particularly demanding and time consuming case.

On Organisation – paragraphs 107 - 116, 210 - 211 and 214 refer:

z. Redefine role of Case Management Unit and enhance resource, at least for the time being whilst backlog of cases is cleared; and

aa. Need to refine support further for smaller departments and establish how resources may be pooled in order to ensure appropriate response; and

bb. Redesign the case management systems in order to have an appropriate tracking system and ensure that all data pertaining to the case is properly secured; and

cc. Review the way that the *Advice Hub* operates and the quality of advice scripts available to call centre staff. Seek to establish a much more professional and generic advice line that supports HR across the board rather than simply directing inquiries.

And finally

217. The HR Lounge is keen to support you in whatever way we can to conclude on these recommendations and assist you to implement them. We would be delighted to quote for such work should you decide that you require further assistance. We believe that we have a good grasp of your requirements as well as an understanding of your culture and could, if invited, hit the ground running in terms of follow up work.

Acknowledgements

218. We are grateful for the help and support given to The HR Lounge during the term of this assignment by ██████████████████████████████████ and ██████████ for their timely responses to our requests for information.

Article 25

219. We are also grateful to members of staff who participated in the interviews and focus groups, and corresponded and generally and willingly assisted us with our inquiries.

220. All worked respectfully and courteously and in a balanced way too and represented and gave a good impression of the States of Jersey.

Qualification

221. The conclusions reached in this report are based on material presented to The HR Lounge. No additional material has been used, except where specifically mentioned. Any relevant additional material, of which we are unaware, may affect the conclusions reached.

222. We have reached our conclusions and prepared this report in good faith and cannot be responsible for failing to take into account information or evidence that was not available to us at the time of writing this report.

223. Our assessment is based on our best understanding and interpretation of the material presented and reviewed. This report must be considered in its entirety and we are not responsible for omissions in reproduction, or amendments made by other parties after its submission.

Final report v7 prepared by The HR Lounge
Martin Tiplady OBE and Evelyn Fearon
21 February 2018

ANNEXES

A. Profiles of Martin Tiplady and Evelyn Fearon

B. Analysis – desktop spreadsheet

C. Quotes

Consultants

This assignment was carried out by two of our most experienced consultants, Martin Tiplady OBE and Evelyn Fearon. Both are experienced in high-level policy review as well as high-level and profile investigations. Their profiles are below.

Martin is a very experienced Senior Consultant and Chartered Companion of the CIPD. Well regarded for his skills in dissecting and reformatting policy and devising new organisational structures, he is in demand in change management and organisational design and development assignments. He is also in demand as an investigator having undertaken many senior investigations in major organisations. Within the last 12 months, he has carried out whistleblowing investigations in the offices of the Chief Executive of NHS England, the Chair and Chief Executive of the Care Quality Commission and several discipline, bullying and grievance disputes in the highest offices of several London Boroughs. In the last few weeks, he has completed a review of one such case in the Office of the Information Commissioner and overseen and led an extensive investigation into allegations of sexual misconduct and physical violence towards students in a group of private schools. In this investigation, he led the team comprising of Police, Local Authority, Safeguarding and Regulatory officials. He is highly respected for his ability to command a brief and his forensic skills in getting to the heart of the issue.

As the former Director of Human Resources of the Metropolitan Police, he is in demand for policy, process and investigative related work. Indeed, much of his work in policing was the basis upon which new policy and process was devised across the UK and the prompt for his award of an OBE in The Queens Birthday Honours 2010.

Evelyn is a Chartered member of the CIPD, a Specialist Paralegal in Employment Law, a qualified conflict resolution mediator, and has undertaken extensive professional training in investigative practice together with delivering forensic, multi-faceted evidence based investigations, including cases of safeguarding vulnerable adults and children. She specialises in employee relations and case management at senior management levels, creating and maintaining excellent stakeholder relationships in her assignments. Evelyn is an accomplished practitioner who delivers logical, reasoned, and rational case reviews combined with practical and accessible lessons-learnt data and reports.

Evelyn has a proven track record of achieving results with clear solution-focused outcomes and possesses an excellent reputation for project management, which delivers on business objectives and on schedule. Her style is straightforward credible, engaging, interactive and flexible, as well as challenging, thought provoking, but ultimately supportive.

You will see from our client list that we are in demand for this type of work, and renowned for our speedy and accurate assessments and quality of final reports. We

can provide excellent references to support work of this type that we have fulfilled elsewhere.

Annex B – Desk topAnalysis

See attached

Annex C   Quotes

For the purposes of illustrating our report, we set out below a collection of quotes received during the fieldwork stage. The information is clearly anecdotal but should assist to enable a realisation of the depth of the concerns that we heard.

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████████ - we have fair systems but the trouble is that the time taken to carry them out and the inconsistent way that they operate makes it all very unfair.

████████ - we have one policy but no single department appears to understand or implement it in the same way

███████████████████████████████████████

████████ I see it all the time. Inappropriate treatment of staff.

███████████████████████████████████████

████████ We seem disabled when there is a complaint. █████████

████████ - we never seem to learn from mistakes and commit the same one's time and time again.

I have no faith in the current process given my experiences.

[REDACTED] Unfortunately, very often bad behaviour is tolerated. Problematic staff are never dealt with or managed and others have to suffer and bend around these difficult people. [REDACTED] There is very little proactive care of staff and complaints about behaviour are ignored. No management at all of these difficult issues is not the answer. These things need to be dealt with and 'nipped in the bud' early when not so much damage has been done; instead they are left to fester. [REDACTED] the general view is that if you are bullied and harassed and then raise any issues at all, you will suffer for it and so the general view is don't raise any issues about bullying and harassment.

[REDACTED] – I have lots to say about bullying, harassment and grievance,