

# SUMMARY REPORT BY AILEEN MCCOLGAN KC FOR BRIGHTON & HOVE COUNCIL, 11 OCTOBER 2023

## 1. Introduction

1. I have been instructed by Brighton & Hove City Council (“the Council”) to conduct an independent investigation into allegations concerning behaviours and activity within the waste service. The complaints, which I have concluded were well-founded, contained multiple allegations of sexual harassment, race discrimination, discrimination based on disability, bullying and intimidation. As a result of my investigation I have recommended that the Council consider disciplinary action against a number of named individuals.
2. The Council issued a call for witnesses which extended to ‘any member of staff at City Clean or ... employed by the council who have been in roles significantly associated with City Clean, or ex-employees in these categories’. I was provided with statements from a number of individuals and was contacted by numerous others as a result of the Council’s call for witnesses. Many worked at City Clean. Others had done so in the past or were or had been significantly involved with City Clean as a result of their work for the Council.
3. During the course of my investigations I spoke to over 70 witnesses who provided their evidence to me on the basis that it would not be attributed to them in any report and that it would not be passed on to the Council without express written permission. I spoke to the vast majority of these people face-to-face or on Teams. Face-to-face interviews were conducted under conditions of secrecy because of the level of fear expressed by some potential witnesses about potential retaliation. In view of the matters discussed in this report I regarded that fear as well founded. I was provided with extensive documentary evidence from a number of sources, both unsolicited and at my request. I heard numerous accounts of appalling behaviour faced by staff and managers at City Clean including accounts of individuals:
  - 3.1. shouting and/or swearing at and/or threatening staff;
  - 3.2. acting in a physically aggressive way, making implicit and explicit threats to use physical violence and in fact using such violence;
  - 3.3. referring to managers as ‘cunts’, ‘wankers’, ‘a fucking bitch pulling the strings’;
  - 3.4. racially harassing members of staff including by racist name calling and graffiti;
  - 3.5. sexually harassing women staff and managers;
  - 3.6. harassing gay staff including by ‘catfishing’ them.
4. I am satisfied that managers at City Clean and elsewhere in the Council have, until recently, been unable to respond appropriately to such behaviour by reason of the threat of industrial action and a (reasonably) anticipated absence of political support. Behaviour of the sort described above became normalised as behaviour such as that outlined above has been emulated by other personnel within City Clean. One witness told me that ‘Aggression has become culturally engrained’.

5. I have provided the Council with my full findings in a detailed report in which I made a number of recommendations, including recommendations that disciplinary action be considered against persons named in the report. Given the nature of my investigation it is inevitable that much of the discussion in the full report is of the alleged behaviour of individuals. It is important to stress that those individuals, most of whom I have not spoken to, have not yet been given the opportunity to answer any of these allegations.

## **2. Background**

6. City Clean is a department of the Council with responsibility for waste and recycling collection, street and beach cleaning. It incorporated Customer Services and Projects and contracts teams as well as Operations and is based at Hollingdean Depot (hereafter 'the Depot'), which also accommodates environmental enforcement services.
7. Brighton and Hove City presents particular challenges as regards waste collection. It has narrow streets which pose difficulties of access for refuse and recycling trucks. Many properties lack space to store bins etc which are therefore on the street. These difficulties have also resulted in an unusually high level of dependence on communal waste disposal in large street-based bins. The city has high numbers of multiple occupancy premises with shared bins in basements and similar, which can quickly become fire hazards. It is also highly dependent on visitors who create additional waste and impose additional expectations. The result is that interruptions in waste collection can very quickly create very significant difficulties for residents, visitors and the Council.
8. Also important by way of background is the political context; Brighton & Hove City Council was created in 1997. After a period of 6 years in which the Labour Party was in control of the Council there was a 20 year period of no overall political control, the Council moving between Labour, Conservative and Green minority leaderships between 2003 and 2023. Further, the Council operated a committee system throughout its existence with the exception of the period from 2008-2012, which meant that Council leaders of minority administrations had limited powers.
9. I have been provided with evidence which suggests that, by 2017, bullying behaviours had become normalised at City Clean. These behaviours were exacerbated over time, in particularly after industrial action was threatened in 2019 in connection with alleged 'anti union bias' of City Clean management. An investigation carried out in 2019 by Gerry Doherty, former TSSA General Secretary, who very sadly died in September 2023, found that the allegation of anti union bias was without merit. Mr Doherty raised concerns about uncertainty as to the agreements in place between the GMB and Council at City Clean and involvement in HR operational matters of elected members.
10. Various decisions made at the highest level of the Council in 2019 in connection with the industrial action which was threatened conveyed a message to managers at City Clean that decisions relating to disciplinary action against certain members of staff would not be supported by the Council. (I note in this context that Member Appeal Panels have on occasion reinstated staff dismissed by City Clean on grounds of gross misconduct.) This message has

continued to be felt at City Clean and it is only recently that that position has begun to shift. I am satisfied that the outcome of the 2019 dispute, rather than any general lack of competence on the part of City Clean managers, has been responsible for subsequent shortcomings in the disciplinary and performance management of staff at the Depot. Industrial action taken in 2021 resulted in an agreement which further reduced management's ability to manage City Clean staff.

### **3. The environment at City Clean**

#### **I. General**

11. One witness described City Clean as being like *Animal Farm*. Others described the environment as 'toxic'. This culture has created a stressful and damaging working environment for all those who have experienced it. It has also served as a model for staff.
12. I was told, and I accept, that there are many issues with working arrangements at City Clean that impact the level of service to residents. One manager told me that he came into work every day with a bad taste in his mouth because he knew that he would be shouted, pointed and yelled at and people would be storming off and slamming doors. What should be straightforward managerial decisions on the utilisation of staff when, for example, people are off sick, escalate into morning-long events with members of staff storming off and crews going out hours late.
13. One manager talked about the fear of physical violence and of not being backed up. Senior managers have not been able to assure those for whom they are responsible that they will be protected from retaliation in the event that they complain about the behaviour of certain individuals. Managers at the Depot were subject to daily abuse and are routinely sworn at and (publicly) about.
14. Another aspect of the culture at City Clean is the tendency of staff to characterise as bullying and/or harassment managerial conduct which is entirely appropriate and reasonable.
15. Attempts to discipline certain individuals regularly result in threats of industrial action. I was told by many witnesses that the political environment mentioned above had resulted in administrations which felt vulnerable to the threat of industrial action, and that this had impacted on decision-making and inhibited the proper functioning of Council procedures to address bullying. Where procedures have been followed, some disciplinary dismissals have been overturned on appeal to panels of Councillors. One manager told me that, until recently, City Clean management expected their decisions to be overturned, to be punished for having made these decisions, and for the Council to fail to protect them from the 'punishment'. The same was true, the manager suggested, for anyone who came forward to raise a concern or provide evidence as a witness.

## **II. Racist/ sexist abuse**

16. A number of witnesses expressed concern about racism at the Depot. I heard a number of City Clean staff had been subject to racist name calling by their colleagues and that a truck had been regularly defaced with racist graffiti while parked in the Depot.
17. A number of witnesses also referred to misogyny and sexism at the depot. I heard that the word 'cunt' was regularly used to and about managers. One female member of staff told me that she had been subject to overwhelming sexual 'banter' daily by men in the depot. Another spoke about the very misogynistic culture at the depot which she told me she had to put up with most of the time because of the potential risks of challenging it. A number of witnesses said that much of the criticism aimed at women in senior management was related to the fact that they were women.
18. One witness spoke of a culture of racism, homophobia and sexism and told me that a group of loaders 'catfished' gay staff on Grindr. One witness, who told me that he was gay, found himself the subject of homophobic 'banter' while another said that a lot of people on refuse had refused to work with him because he was gay.

## **III. Other behaviour at City Clean**

19. In addition to the kinds of behaviour described above I heard many accounts of bullying and intimidation by City Clean staff and others to whom those working at City Clean are exposed. I have heard accounts of (non-managerial) individuals:
  - 19.1. shouting and/or swearing at and/or threatening staff;
  - 19.2. 'effing and blinding on a daily basis';
  - 19.3. banging on walls and tables and storming out of meetings;
  - 19.4. acting in a physically aggressive way, making implicit and explicit threats to use physical violence and in fact using such violence;
  - 19.5. referring to managers as 'cunts', 'wankers', 'a fucking bitch pulling the strings';
  - 19.6. making inappropriate sexual comments to and about women;
  - 19.7. calling a member of staff a 'Black cunt';
  - 19.8. telling staff that they did not need to attend mandatory diversity training;
  - 19.9. telling a manager that even if they left the Council the individual would follow them, find them and make sure they never got another job.
20. As above, I am satisfied that managers at City Clean and elsewhere in the Council have until recently, and through no fault of their own, been unable to respond appropriately to such behaviour.
21. One manager told me that, in many ways, City Clean was similar to many other waste and refuse and recycling services in that there was a typical predominantly male manual work force in which issues such as sexism, homophobia and racism were prevalent. The real differences

in Brighton & Hove were what happened when management tried to deal with those problems. I have found no reason to disagree with this analysis.

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