

| | | | |
|------------------------------------|--------------------------------|--|--|
| Item No. 12. | Classification: Open | Date: 17 November 2021 | Meeting Name: Audit Governance and Standards Committee |
| Report title: | | Whistleblowing complaints and outcomes | |
| Ward(s) or groups affected: | | All | |
| From: | | Director of Law and Governance | |

RECOMMENDATION

1. That the Audit, Governance and Standards Committee notes this report.

BACKGROUND INFORMATION

2. This report provides details of the whistleblowing referrals received by the council between October 2020 and September 2021 and an update on the outcomes of referrals received in the previous 3 years.
3. This report has taken a generic definition of whistleblowing to include not only those referrals from staff and employees of contractors (and subject to the Public Interest Disclosure Act 1998 which provides protection for staff and others when making whistleblowing disclosures) but also from members of the public and councillors. Anonymous referrals are also included.
4. The council's current whistleblowing policy was approved in February 2018 and is published on the council's website and on The Source.
5. What constitutes a whistleblowing issue is defined in the policy:
 - That a crime has been committed, is being committed, or is likely to be committed.
 - That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which he is subject.
 - That a miscarriage of justice has occurred, is occurring, or is likely to occur.
 - That the health and safety of an individual has been, is being, or is likely to be endangered.
 - That the environment has been, is being or likely to be damaged.
 - That information tending to show any of the above matters has been concealed or is likely to be deliberately concealed.
6. Most local authorities receive a small number of referrals and Southwark is no exception. Work in recent years to increase awareness of the policy amongst staff has not resulted in a marked increase in referrals.
7. This report has to strike a balance between the need for openness and transparency, and the requirement not to undermine the efficacy of the policy by deterring people from using it. It is important for the council to avoid the possible identification of the whistleblower and other individuals and/or jeopardising any ongoing investigations.

KEY ISSUES FOR CONSIDERATION

8. When cases are first received, they are assessed to see if they should be investigated as whistleblowing cases, or more properly dealt with under other procedures. These include
- Cases which should be dealt with under the council's fraud response plan
 - Cases which are more properly HR matters
 - Cases which are not the council's responsibility and should be referred to external bodies (including schools).
9. The number of referrals received in each period in the last year and then in the previous 3 years and the results of the initial assessment are shown in the table below.

| Period from | Period to | Total Referrals in period | Fraud response plan | HR | External bodies | Whistle-blowing |
|-------------|------------|---------------------------|---------------------|----|-----------------|-----------------|
| 01/10/2020 | 30/09/2021 | 5 | 0 | 2 | 3 | 0 |
| 01/10/2019 | 30/09/2020 | 6 | 2 | 0 | 0 | 4 |
| 01/10/2018 | 30/09/2019 | 5 | 0 | 1 | 0 | 4 |
| 01/10/2017 | 30/09/2018 | 5 | 1 | 1 | 0 | 3 |

10. No cases have been received since October 2020 which have been initially identified as 'whistleblowing' cases.
11. The referrals for the case identified as whistleblowing cases were received from the following sources in previous years:

| Period from | Period to | In year cases | Employee | Member | Public | Anonymous |
|-------------|------------|---------------|----------|--------|--------|-----------|
| 01/10/2020 | 30/09/2021 | 0 | 0 | 0 | 0 | 0 |
| 01/10/2019 | 30/09/2020 | 4 | 1 | 0 | 3 | 0 |
| 01/10/2018 | 30/09/2019 | 4 | 1 | 0 | 1 | 1 |
| 01/10/2017 | 30/09/2018 | 3 | 1 | 0 | 2 | 0 |

12. These referrals were in respect of the following services:

| Period from | Period to | Children & Adults | CEx | Env & Leisure | Finance & Governance | Housing & Modernisation | Voluntary Sector |
|-------------|------------|-------------------|-----|---------------|----------------------|-------------------------|------------------|
| 01/10/2020 | 30/09/2021 | 0 | 0 | 0 | 0 | 0 | 0 |
| 01/10/2019 | 30/09/2020 | 1 | | 2 | 1 | 1 | |
| 01/10/2018 | 30/09/2019 | 1 | | 2 | 1 | | |
| 01/10/2017 | 30/09/2018 | | | 1 | 1 | 1 | |

13. The referrals related to the following themes:

| Period from | Period to | Child Protection | Safeguarding | Contracts | H&S | Other | Employment |
|-------------|------------|------------------|--------------|-----------|-----|-------|------------|
| 01/10/2020 | 30/09/2021 | 0 | 0 | 0 | 0 | 0 | 0 |
| 01/10/2019 | 30/09/2020 | | | 1 | | 1 | 2 |
| 01/10/2018 | 30/09/2019 | | | 2 | | 2 | |
| 01/10/2017 | 30/09/2018 | | | | | 1 | 2 |

14. The outcomes of the investigations are shown in the table below (some of these were completed subsequent to the year within which they were commenced):

| Period from | Period to | Whistle-blowing cases | Nothing wrong | Dept. for action | Recategorised as a non-whistleblowing matter | Outstanding at the end of the period |
|-------------|------------|-----------------------|---------------|------------------|--|--------------------------------------|
| 01/10/2020 | 30/09/2021 | 0 | 0 | 0 | 0 | 0 |
| 01/10/2019 | 30/09/2020 | 4 | 0 | 0 | 0 | 4 |
| 01/10/2018 | 30/09/2019 | 4 | 2 | 1 | 0 | 1 |
| 01/10/2017 | 30/09/2018 | 3 | 1 | 1 | 0 | 1 |

15. Further details of the outcomes of the referrals made October 2019 to September 2020 which were outstanding in September 2020 are as follows:

| Number | Description of allegation | Outcome |
|-----------|---|---|
| WB2019-06 | Allegation that council contractor is employing illegal workers | Fully investigated but no case to answer |
| WB2020-01 | Concerns for pupil and staff well-being in a Southwark school | Recategorised as non-whistleblowing matter as it related to a school and to be dealt with externally by the school |
| WB2020-03 | Concerns about opportunities for black staff | Head of HR to undertake a review of the management and recruitment practices and report to Strategic Director |
| WB020-04 | Concerns about management in a council directorate | Recommendations made about changes to contract management, departmental scheme of management, and review of learning development needs. |

16. The committee will see that there are a small number of whistleblowing complaints each year and very few have resulted in further action being taken.

Policy implications

17. As stated in its whistleblowing policy, the council is committed to achieving the highest possible standards of service and ethical standards in public life. The policy enables council employees and others to raise concerns about services, contracts or other matters.

18. The policy also supports the council's Fairer Future principles of treating

residents as if they are a valued member of the family, being open, honest and accountable, and spending money as if it were from our own pocket.

Community impact statement

19. This report is not considered to contain proposals that would have a significant impact on any particular community or group.

Resource implications

20. There are no direct resource implications in this report.

Consultation

21. There has been no consultation on this report.

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|--|---|--|
| Whistleblowing policy https://www.southwark.gov.uk/council-and-democracy/whistleblowing | Legal Services, Southwark Council, 160 Tooley Street, London SE1 2QH | Norman Coombe 020 7525 7678 Allan Wells 020 7525 2130 |

AUDIT TRAIL

| | | |
|---|--|--------------------------|
| Lead Officer | Doreen Forrester-Brown, Director of Law and Governance | |
| Report Author | Norman Coombe, Head of Corporate Team, Legal Services Allan Wells, Specialist Governance Lawyer, Legal Services | |
| Version | Final | |
| Dated | 9 November 2021 | |
| Key Decision? | No | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments sought | Comments included |
| Director of Law and Governance | N/A | N/A |
| Strategic Director of Finance and Governance | No | No |
| Cabinet Member | No | No |
| Date final report sent to Constitutional Team | | 9 November 2021 |