

Item No. 12.	Classification: Open	Date: 22 November 2022	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 2021 and September 2022 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, external contractors and agency workers (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 June 2020 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 or she 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

detering people from using it. It is important for the council to avoid the possible identification of any 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 refs in period	Fraud response plan	HR	External bodies	Insufficient info to progress	Whistle-blowing
01/10/2021	30/09/2022	10	1	2	0	1	6
01/10/2020	30/09/2021	5	0	2	3	0	0
01/10/2019	30/09/2020	6	2	0	0	0	4
01/10/2018	30/09/2019	5	0	1	0	0	4

10. Six cases have been received since October 2021 which have been initially identified as 'whistleblowing' cases.

11. The referrals for the cases identified as whistleblowing cases were received from the following sources:

Period from	Period to	Employee	Member	Public	Employee of contractor or provider	Anonymous
01/10/2021	30/09/2022	3	0	1	2	0
01/10/2020	30/09/2021	0	0	0	0	0
01/10/2019	30/09/2020	1	0	3	0	0
01/10/2018	30/09/2019	1	0	1	0	1

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

Period from	Period to	Children & Adults	CEx	Env & Leisure	Finance & Gov	Housing & Mod	Voluntary Sector
01/10/2021	30/09/2022	3	0	2	0	1	0
01/10/2020	30/09/2021	0	0	0	0	0	0
01/10/2019	30/09/2020	1	0	2	1	1	0
01/10/2018	30/09/2019	1	0	2	1	0	0

13. The referrals related to the following themes:

Period from	Period to	Safeguarding	Contracts	H&S	Employment	Inappropriate practices	Other
01/10/2021	30/09/2022	2	1	0	1	2	0
01/10/2020	30/09/2021	0	0	0	0	0	0
01/10/2019	30/09/2020	0	1	0	2	0	1
01/10/2018	30/09/2019	0	2	0	0	0	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	Complaint not upheld	Dept. for action	Recategorised as a non-whistleblowing matter	Outstanding at the end of the period
01/10/2021	30/09/2022	6	2	0	0	4
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

15. Further details of the outcomes of the investigation completed in the year are as follows:

Number	Description of allegation	Outcome
WB2021-09	Complaints about recruitment processes not being followed	Not upheld- no evidence that recruitment was not properly carried out although some good practice recommendations were made
WB2022-04	Various complaints about contractor providing services to children not following proper procedures including DBS checks	Not upheld- provider able to provide evidence of all necessary requirements and safeguarding team satisfied with the arrangements in place

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. In one case although the complaint was not upheld there were some recommendations made to the department regarding good practice.

Policy framework 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 values of treating residents as if they are a valued member of the family, being open, honest and

accountable, spending money as if it were from our own pocket and always working to make Southwark more equal and just.

Community, equalities (including socio-economic) and health impacts

19. Any whistleblowing complaint that is made will be handled in a way that gives consideration to the public sector equality duty in section 149 Equality Act 2010 i.e. to have due regard to the need to eliminate discrimination, advance equality of opportunity, and to foster good relations between people with protected characteristics and others. Any potential socio-economic and health impacts raised in any such complaint will also be given due regard.

Climate change implications

20. There are no direct climate change implications arising from this report.

Resource implications

21. There are no direct resource implications in this report. Any investigations arising from whistleblowing complaints will be managed within relevant departmental budgets.

Consultation

22. There has been no consultation on this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

23. Although there is no statutory obligation to have a whistleblowing policy, the law protects employees and others who make whistleblowing claims from being subjected to detrimental treatment as a result of any claim. It is therefore important that there is a process in place to deal appropriately with such claims. The council has also decided to include in the scope of its policy any individual (not just those employed or contracted by the authority) who wishes to report a concern about wrongdoing within the council. This report sets out details of the complaints that have been treated as whistleblowing cases in the last year and provides some comparative data from previous years.

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	Allan Wells 020 7525 2130

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Law and Governance	
Report Author	Allan Wells, Specialist Governance Lawyer, Legal Services	
Version	Final	
Dated	4 November 2022	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	4 November 2022	