

Item No. 15.	Classification: Open	Date: 20 November 2019	Meeting Name: Audit Governance and Standards Committee
Report title:		Whistleblowing complaints and outcomes and update to policy	
Ward(s) or groups affected:		All	
From:		Director of Law and Democracy	

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 2018 and September 2019 and an update on the outcomes of referrals received in the previous three 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/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

- a. Cases which should be dealt with under the council's fraud response plan
- b. Cases which are more properly HR matters
- c. Cases which are not the council's responsibility and should be referred to external bodies.

9. The number of referrals received in each period in the last year and then in the previous 4 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
01/10/2018	30/09/2019	5	0	1	0	4
01/10/2017	30/09/2018	5	1	1	0	3
01/10/2016	30/09/2017	6	2	2	0	2
01/10/2015	30/09/2016	11	1	4	2	4
01/10/2014	30/09/2015	11	5	1	0	5

10. Four cases have been received since October 2018 which have been initially identified as 'whistleblowing' cases.

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

Period from	Period to	In year cases	Employee	Member	Public	Anonymous
01/10/2018	30/09/2019	4	2	0	1	1
01/10/2017	30/09/2018	3	1	0	2	0
01/10/2016	30/09/2017	2	2	0	0	0
01/10/2015	30/09/2016	4	2	0	1	1
01/10/2014	30/09/2015	5	2	0	1	2

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

Period from	Period to	Children & Adults	CEx	Env & Leisure	F&CS	Housing	Place & Wellbeing	Voluntary Sector
01/10/2018	30/09/2019	1		2	1			
01/10/2017	30/09/2018			1	1	1		
01/10/2016	30/09/2017			2				
01/10/2015	30/09/2016	3		1				
01/10/2014	30/09/2015	2	1	2				

13. The referrals related to the following themes:

Period from	Period to	Child Protection	Safeguarding	Contracts	H&S	Other	Employment
01/10/2018	30/09/2019			2		2	
01/10/2017	30/09/2018					1	2
01/10/2016	30/09/2017					1	1
01/10/2015	30/09/2016	1				3	
01/10/2014	30/09/2015	1	1		1	1	1

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
01/10/2018	30/09/2019	4	2	1		1
01/10/2017	30/09/2018	3	1	1	0	1
01/10/2016	30/09/2017	1	0	0	1	1
01/10/2015	30/09/2016	4	2	1	0	4
01/10/2014	30/09/2015	5	2	2	1	3

15. Further details of the referral made since October 2018 are as follows:

Number	Description of allegation	Outcome
WB2019-01	Poor performance of a council contractor engaged to undertake gas and electric works in council properties and possible fraud by contractors and staff.	On review the contractor and its organisation of gas servicing operatives was overall considered to be acceptable but there were some areas of concern with not all gas operatives performing as should be expected. Recommendations made to follow this up.
WB2019-02	Poor work practice amongst agency staff in community care, no care plans, missed appointments, underpayment of staff	Anonymous allegations. Not possible to identify details and investigate but reviewed position with relevant agency
WB2019-03	Unjustifiable payment of council tax benefit	No merit found in allegations
WB2019-04	Fair community housing- allegations of failure to comply with legal obligations.	Outstanding

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.

Policy changes

19. The committee should note that the policy has recently been revised to provide an additional appendix setting out the process where an agency worker or contractor wishes to raise a whistleblowing issue. Reference to modern slavery has also now been included.

Community impact statement

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

Resource implications

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

Consultation

22. 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 Democracy	
Report Author	Norman Coombe, Head of Corporate Team, Legal Services Allan Wells, Governance Lawyer, Legal Services	
Version	Final	
Dated	30 January 2020	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	N/A	N/A
Strategic Director of Finance and Governance	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	30 January 2020	