

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Review of Whistleblowing Complaints		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

The report summarises all complaints received by the Council via its whistleblowing policy in the municipal year 2020 to 2021.

Recommendation(s):

(1) That the report be noted.

Reasons for the Recommendation(s):

To appraise the Committee of all complaints received by the Council via its whistleblowing policy in the municipal year 2020 to 2021 in accordance with the terms of reference of the committee and the terms of the policy,

Alternative Options Considered and Rejected:

None

What will it cost and how will it be financed?

(A) Revenue Costs - None

(B) Capital Costs - None

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):	
Legal Implications: Employment Relations Act 1996 Public Interest Disclosure Act 1998	
Equality Implications: There are no equality implications	
Climate Emergency Implications: The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y

Contribution to the Council's Core Purpose:

Protect the most vulnerable: N/A
Facilitate confident and resilient communities: N/A
Commission, broker and provide core services: N/A
Place – leadership and influencer: Whistleblowing is important to safeguard the effective delivery of public services, and to ensure value for money. It serves to protect and reassure the workforce, and to maintain a healthy working culture and an efficient organisation.
Drivers of change and reform: N/A
Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A
Cleaner Greener: N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6491/21) and the Chief Legal and Democratic Officer (LD.4692/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

None

Implementation Date for the Decision

Immediately following the Committee meeting.

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Appendices:

There are no appendices to this report

Background Papers:

There are no background papers available for inspection.

1. Introduction

- 1.1 Whistleblowing has been defined as the act of an employee or worker making a qualifying disclosure, in the public interest, to an employer, regulator, legal adviser, minister, MP or other responsible or prescribed person about a criminal offence, breach of a legal obligation, miscarriage of justice, danger to health and safety, damage to the environment or deliberate concealment of any of those.
- 1.2 In these circumstances and subject to fulfilling certain criteria, it will be a 'protected disclosure' and the whistleblower will be protected from being dismissed or subjected to a detriment on grounds of that disclosure.
- 1.3 The principal objectives of a whistleblowing policy and procedure should be to:
 - Convey the seriousness and importance that the employer attaches to identifying and remedying wrongdoing.

- Encourage workers to raise concerns internally as soon as possible and to give them the confidence to do so.
- Remind workers (often by cross-referring to other policies and codes of conduct) of the standards of behaviour expected of them.
- Ensure workers know whom to approach with a concern, and to enable them to bypass the person, management level or part of the organisation to which the concern relates.
- Outline the procedures for investigating disclosures and what steps might be taken if wrongdoing is uncovered.
- Make it clear what will happen to those who victimise genuine whistleblowers or abuse the system by making malicious allegations.
- Provide access to further sources of advice and guidance on whistleblowing.

1.4 The Council is committed to running the organisation in the best way and to facilitate this the Whistleblowing Policy was introduced to reassure staff that it is safe and acceptable to speak up and raise any concern about malpractice at an early stage and in the right way. The Government expects all public bodies to have written policies.

1.5 The Council's current Whistleblowing Policy was approved by Audit and Governance Committee at its meeting on 19th June 2019.

1.6 The Policy can be found on the Council's intranet and internet pages:
[Whistleblowing policy \(sefton.gov.uk\)](http://sefton.gov.uk)

1.7 All employee policies and procedures should be easy to understand and operate. In general, whistleblowing policies should not be legalistic in their approach. A key measure of success will be whether the policy gives workers the confidence to come forward with their concerns. They are unlikely to do this if the policy is complex or unclear, or littered with legal jargon.

1.8 The concept of a qualifying disclosure in section 43B of Employment Relations Act 1996 requires the worker to have a reasonable belief that one of six specified situations has occurred, is occurring or is likely to occur.

- that a criminal offence 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 or safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged; or
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be, deliberately concealed."

- 1.9 One question for employers drafting a whistleblowing policy is whether to try to limit the coverage of the policy to the types of disclosure covered by the statutory regime. There is a strong argument that whistleblowing policies should cover more than just the matters potentially covered by a protected disclosure under ERA 1996. The statutory framework should ideally be seen as a backstop, not a replacement for a culture where all forms of inappropriate behaviour may be challenged.
- 1.10 Employers will likely also want to know about issues which do not strictly fall within the legal concept of a qualifying disclosure, particularly conduct which is "merely" unethical or a breach of professional conduct rules or internal procedures that do not have legal force. The policy may also encourage staff to raise issues or ask questions where they are unsure if their concern technically qualifies as whistleblowing, since this will help instil confidence in the procedure and its operation.

2 Referrals

- 2.1 Six referrals were received in a municipal year 2020 to 2021 and a summary of those referrals is outlined below.

3.0 Referral 1

- 3.1 An anonymous referral was received using the Council's on-line form claiming that two named children were living in conditions which gave rise to safeguarding issues.
- 3.2 The referral was referred to Children's Services to be dealt with under their normal procedures. Given the referral was anonymous it was not possible to inform the referee of the outcome.

4.0 Referral 2

- 4.1 A letter was received from an employee at a school addressed to the Council's Chief Legal and Democratic Officer, Head of Corporate Resources and the Chief Personnel Officer and copied to the Chair of Governor at the school. The issues covered within the letter broadly concerned a grievance the employee was pursuing as an employee at the school.
- 4.2 Following consultation with the Chair of Governors, the Chief Legal and Democratic Officer informed the referrer that as the school had its own whistleblowing and grievance procedures it would be appropriate for those procedures to be utilised and that the Chair of Governors would investigate the matters raised. The referrer confirmed that they were content with this course of action.

5.0 Referral 3

- 5.1 An email was received by the Chief Legal and Democratic Officer from a member of the public relaying information about possible malpractice by a company

commissioned jointly by Sefton Council and number of other Merseyside local authorities. The allegations related to potential overpayment to the company and malpractice in the way the company operates.

5.2 The information supplied was very detailed and complex given that it involved other local authorities. The referrer has also made several Freedom of Information Act requests for information relating to the contract.

5.3 It was decided that the Council's Environmental Health and Trading Standards Manager would investigate the matters raised and that investigation is on-going. The referrer is aware of the situation.

6.0 **Referral 4**

6.1 A telephone call as received from a teacher at a Sefton school who wished to remain anonymous. She had information about a person with the same name as a member of staff at Sefton Council and if it was the same person it would have a bearing on their professional ability.

6.2 Checks soon showed that it was a case of mistaken identity. It was not possible to report back to the referrer.

7.0 **Referral 5**

7.1 The Mayor of Sefton received an anonymous letter from a member of the public connected to a company commissioned by the Council. The letter raised concerns about the quality of the service provided by the company and the general conduct of the company.

7.2 The letter was passed to the Service Manager responsible for commissioning the company and they felt confident that the letter contained many misconceptions and inaccuracies and the points made by the referrer could be refuted. The Service Manager provided the Chief Legal and Democratic Officer with a detailed report covering all the issues raised.

7.3 It was not possible to feedback the outcome of our investigations as it was an anonymous referral.

8.0 **Referral 6**

8.1 The Council received a number of contacts from a member of the public who complained about the manner in which staff in the Contact Centre dealt with her. During the preliminary investigations into her complaints the complainant asked for the matter to be considered a whistleblowing complaint.

8.2 It was considered appropriate for the matter to be dealt with as corporate complaint and to follow the Corporate Complaints process and it was referred to a senior manager to deal with. Attempts to deal with the complaints were frustrated by the actions of the complainant. The complainant was then advised to contact the Local Government Ombudsman. To date we have had no further contact from the complainant.

9.0 **Conclusion**

9.1 During the municipal year 202 to 2021 the Council received six referrals under its Whistleblowing Policy. Three of the referrals were made anonymously and for the other three feedback was provided on the outcome of the referral.