

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: **Audit Committee**

Report of: **Monitoring Officer, Legal Services**

Date of Meeting: **26 July 2016**

Subject: **Whistleblowing & Serious Misconduct Policy**

Wards Affected: **All**

1. Purpose of Report

To update the Audit Committee and provide an overview on co-ordination of concerns under the Whistleblowing & Serious Misconduct Policy ("the Policy").

2. Recommendations

To note the contents of this report.

3. Background

The Council introduced the Policy on 12 January 2015. In March 2016, following a planned review under the Future Council, Year One Action Plan, Cabinet approved a revised version of the Policy. During its first year a public report was presented to the Council's Overview & Scrutiny Committee, to update and confirm that the new policy had been implemented. Future reports on the Policy will be presented to Audit Committee.

4. Legal and Resource Implications

The Policy is being operated and managed within existing resource.

5. Risk Management and Equality Analysis Issues

Not Applicable.

6. Compliance issues

Not Applicable.

7. Recommendations

To note the contents of this report.



.....
Officer Name Kate Charlton
Job Title Joint Interim City Solicitor, Monitoring Officer

**Contact Officer: Michael Day, Senior Solicitor
Legal Services**

Telephone No: 0121 303 2239

e-mail address: michael.day@birmingham.gov.uk

Audit Committee

26th July 2016

Whistleblowing & Serious Misconduct Policy



Legal & Democratic Services
10 Woodcock Street
Birmingham
B7 4BL

Policy Background and Overview

In 2014, the report of Ian Kershaw recommended that the Council should review the effectiveness of its whistleblowing for schools, to include ensuring a single point of receipt, and appointing a senior officer to monitor and report on the effectiveness of the system. This recommendation was later endorsed by Sir Bob Kerslake in his independent review, in which it was said the process should be mirrored across the Council.

The Council introduced a new Whistleblowing & Serious Misconduct policy on 12 January 2015 ("the Policy"). In March 2016, following a planned review under the Future Council, Year One Action Plan, Cabinet approved a revised version of the Policy.

The Policy applies to all services across the Council, but also makes specific, targeted provision for complaints from, or about, schools. The Policy serves as a route for Council workers to raise protected disclosure concerns. It also provides a platform for members of the public to raise similar concerns about suspected serious misconduct within Council services.

Concerns Raised

This report is accompanied by a number of charts and graphs, which demonstrate the levels of concern received, as they relate to different directorates or service areas for the Council, as well as the source of those concerns.

The Council undertakes to record all concerns raised under the Policy. However, it is important to understand that not every concern reported will automatically fall within the remit of the Policy. In fact, we have seen a relatively low number of matters raised actually fall within the definition of whistleblowing and serious misconduct as defined by the Policy.

In deciding whether a concern should be dealt with under the Policy, the Council looks to the legal definition of a protected disclosure. Namely, whether the concern includes information, of wider public interest, which tends to show at least one of the following is occurring, has occurred or is likely to occur:

- a) A criminal offence;
- b) Failure to comply with a legal obligation;
- c) A miscarriage of justice;
- d) A danger to the health or safety of an individual;
- e) Damage to the environment, or;
- f) That any matter relating to any of the above is being deliberately concealed.

Concerns which do fall within the Policy are referred to the relevant directorate, for investigation. Often, Legal Services will advise on an appropriate form of investigation.

It is not appropriate to discuss specific cases within this report. However, by way of illustration, example concerns which would fall under the Policy include:

- An allegation that an officer has accepted a bribe or abused their position in some way, perhaps for the personal gain of themselves or someone they know, or;
- An allegation that an officer, service or school has acted contrary to a legal obligation, which they are required to comply with.

Example concerns we have seen which fall outside the remit of the Policy, include:

- General concern about service provision within the Council, which can appropriately be dealt with under the Council's existing, general complaint processes, or;
- A complaint about a decision where there is already another, established route for appeal (for example, where a planning or licensing application is refused);

Where concerns fall outside the Policy, Legal Services will ensure it is referred to the appropriate service, or that the complainant is appropriately advised about how to take the matter forward.

The statistics appended to this report, show that members of the public generally raise the majority of concerns under the Policy, although the balance is less consistent for those concerns which meet the specific definition of serious misconduct (figures 1 - 4).

Concerns by Service Area

Throughout 2015 and already during the first half of 2016, schools account for the highest number of concerns overall (figures 7 & 8). However there are over 400 schools in Birmingham, which to some extent touch upon the lives of more than half the population of the city, so there will always be a greater public scrutiny of these services. It should also be noted (figures 5 & 6) that a large proportion of school concerns, are actually about academies, which are not maintained or controlled by the Council.

Within the wider Council, directorates containing a higher number of front-line services generally attract a greater number of concerns under the Policy. Again this may be due to greater public scrutiny being focused here. However, across all services, the vast majority of investigations have concluded there is no evidence of serious misconduct within the Council (by way of illustration, in 2015, just 3 investigations found any evidence of misconduct or wrongdoing).

Reporting

To address each of these concerns and ensure that any patterns or trends causing concern can be dealt with, a robust reporting process exists under the Policy.

The single point of contact for all concerns is the Council's Monitoring Officer. In addition, the Strategic Director for each Council directorate receives a quarterly report on the concerns which relate to their service areas. A quarterly report is also provided to the Improvement Quartet, in respect of concerns raised about schools in Birmingham.

A separate report is prepared for the Council's Corporate Leadership Team each quarter, providing a high level overview on the number of concerns raised, comparable across each directorate. Meanwhile, every six months an anonymised summary of all concerns is also shared with the Council's Chief Executive, Assistant Chief Executive and Deputy Leader.

Whistleblowing and Serious Misconduct Policy Statistics

FIGURE 1

SOURCE OF CONCERNS 2015
(total number of concerns)

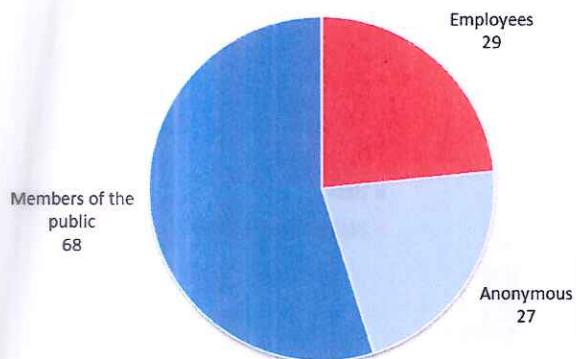


FIGURE 2

SOURCE OF CONCERNS 2016 (TO 1 JUNE 2016)
(total number of concerns)

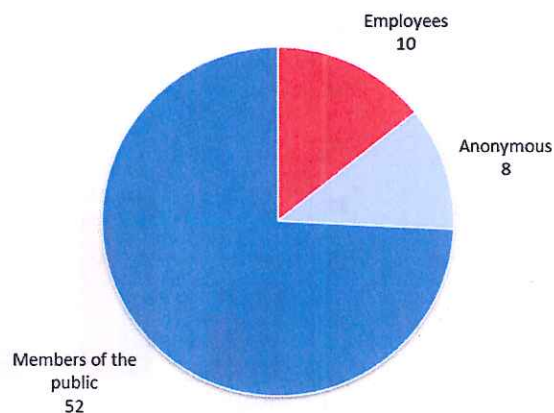


FIGURE 3

SOURCES OF CONCERN 2015
(complaints which fall under the policy)

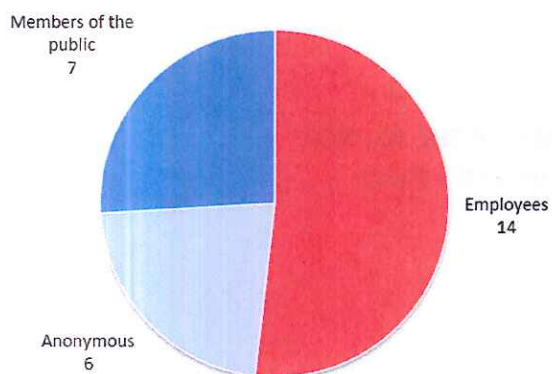


FIGURE 4

SOURCES OF CONCERN 2016 (TO 1 JUNE 2016)
(complaints which fall under the policy)

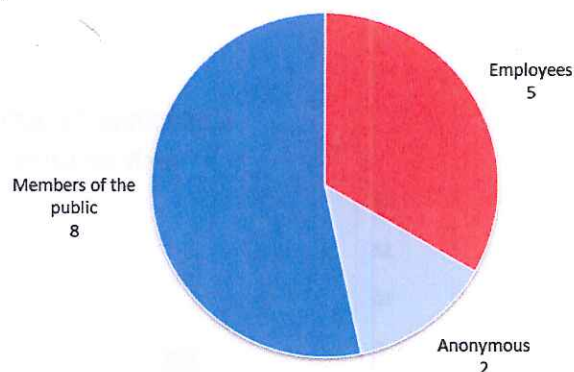


FIGURE 5

CONCERNS ABOUT SCHOOLS 2015

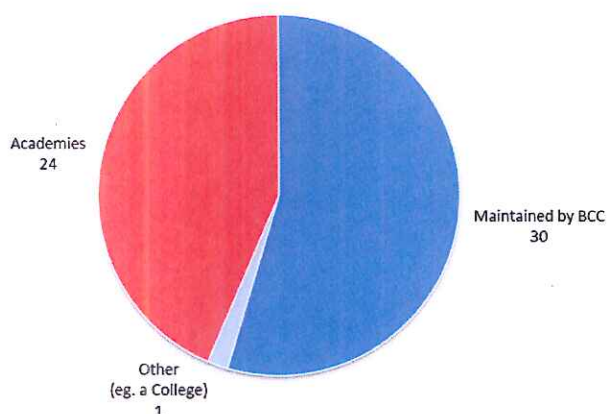


FIGURE 6

CONCERNS ABOUT SCHOOLS 2016 (TO 1 JUNE 2016)

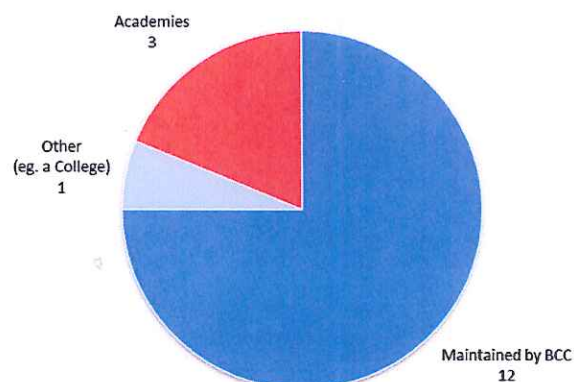
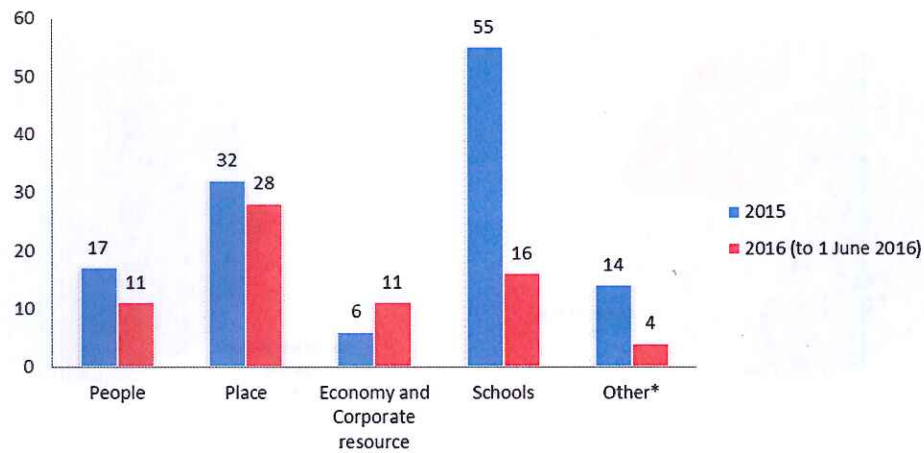


FIGURE 7

CONCERNS RELATING TO AREA OF THE COUNCIL
(total number of concerns)



*Other includes concerns raised about people or organisations which are not employed or controlled by the Council (for example, if a person complains to the Council about their hospital, or about the Police), or it might be where there is insufficient information to identify which Council service the concern relates to

FIGURE 8

CONCERNS RELATING TO AREA OF THE COUNCIL
(only concerns which fall under the policy)

