

# WHISTLE BLOWING POLICY



## 1. INTRODUCTION

- 1.1. The Police and Crime Commissioner wants to achieve the highest possible standards of openness, probity and accountability. In line with that commitment the Police and Crime Commissioner encourages employees and others with serious concerns about any aspect of the Police and Crime Commissioner's work to come forward and voice those concerns within the Police and Crime Commissioner without fear of reprisals. This policy document makes it clear that Officers can do so without the fear of victimisation, subsequent discrimination or disadvantage. This policy is intended to meet the requirements of the Public Interest Disclosure (PIDA) Act 1998.
- 1.2. The policy applies to all employees and any contractors working for the Police and Crime Commissioner, including those designated as casual hours, temporary, agency, or work experience.
- 1.3. It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or serious wrongdoing provided that they make the disclosure in accordance with the policy; it is not designed to question financial or business decisions taken by the Police and Crime Commissioner nor may it be used to reconsider any matters which have already been addressed under harassment, complaint or disciplinary procedures. Individuals who make disclosures outside the arrangements set out here will not be protected under this policy and may not be protected under the Act.
- 1.4. A number of policies and procedures are already in place including grievance, discipline, complaints and guidelines for dealing with harassment. This policy is intended to cover concerns which are in the public interest and may (at least initially) be investigated separately but might then lead to the using of these other procedures.

## 2. AIMS AND SCOPE OF THIS POLICY

- 2.1. This Whistle Blowing Policy aims to:
  - 2.1.1. encourage Officers to feel confident in raising serious concerns and to question and act upon concerns about practice
  - 2.1.2. provide avenues to raise concerns in confidence and receive feedback on any action taken

- 2.1.3. allow the matter to be taken further if there is dissatisfaction with the Police and Crime Commissioner's response; and
- 2.1.4. reassurance that Officers will be protected from reprisals or victimisation for whistle blowing in good faith.

**N.B.** This policy does not supercede the requirement under the Anti-Fraud and Corruption Policy and Financial Regulations to immediately inform the Chief Executive and Monitoring Officer or Chief Finance Officer of any financial and accounting irregularities or suspected irregularities.

2.2. Concern may be about something that:

- 2.2.1. is unlawful
- 2.2.2. makes an Officer feel uncomfortable in terms of known standards, experience or the standards they believe the Police and Crime Commissioner subscribes to
- 2.2.3. is against the Police and Crime Commissioner's Standing Orders or policies; or falls below established standards or practice
- 2.2.4. amounts to improper conduct
- 2.2.5. failure to comply with a legal obligation
- 2.2.6. miscarriage of justice
- 2.2.7. financial malpractice
- 2.2.8. endangering of an individual's health and safety
- 2.2.9. damage to the environment
- 2.2.10. deliberate concealment of information tending to show any of the above.

2.3. A qualifying disclosure will then be protected under PIDA if it is made:

- 2.3.1. In good faith to the Officer's employer or to another person (e.g. a contractor) whom the Officer believes to be solely or mainly responsible for the lapse in question
- 2.3.2. To a legal adviser in the course of obtaining legal advice
- 2.3.3. In good faith to a Government Minister by a worker employed in a Government organisation

- 2.3.4. To a person or body prescribed in Statutory Instrument 1999 No 1549 as a Prescribed Person, e.g. the Health and Safety Executive.
  - 2.3.5. Another person where, under all the circumstances it is reasonable to do so.
- 2.4. This is not intended to be a comprehensive list and any matters raised under this policy will be considered seriously.

### 3. SAFEGUARDS

- 3.1. The Police and Crime Commissioner is committed to good practice and high standards and wants to be supportive of employees.
- 3.2. **Harassment or Victimisation** - The Police and Crime Commissioner recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Police and Crime Commissioner will not tolerate harassment or victimisation and will do what it lawfully can to protect you when you raise a concern in good faith.
- 3.3. **Confidentiality** - The Police and Crime Commissioner will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.
- 3.4. **Anonymous disclosures** - This policy encourages individuals to put their name to any disclosures they make. However, an Officer making a complaint has the right to raise their concern in confidence and ask for their identity to be protected.

Anonymity cannot be protected where this would have an adverse effect on any disciplinary, civil or criminal proceedings. In exercising discretion, the factors to be taken into account will include:

- 3.4.1 the seriousness of the issues raised;
  - 3.4.2 the credibility of the concern; and
  - 3.4.3 the likelihood of confirming the allegation from alternative credible sources.
- 3.5 An Officer may reasonably make a whistle blowing report anonymously outside of the Police and Crime Commissioner if the following applied:
- 3.5.1 The worker reasonably believed that he or she would be victimised if the disclosure had been made to the employer or to a prescribed person.

3.5.2 There was no prescribed person and the Officer reasonably believed that disclosure to the employer would result in destruction or concealment of evidence.

3.5.3 The Officer had already disclosed substantially the same information to the employer or prescribed person without effect.

However, officers must only use this policy whilst employed by the Police and Crime Commissioner.

3.6 **Untrue Allegations** - If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. If, however, the investigation shows that an individual was seeking to make personal gain or has made malicious or vexatious allegations and particularly if he or she persists with making them, which they know to be untrue, they will be subject to disciplinary action being taken against them.

3.7 **The Responsible Officer** – The Chief Executive and Monitoring Officer has overall responsibility for the maintenance and operation of this policy, maintains a record of concern raised and the outcomes and will report as necessary to the Joint Audit Committee.

## 4 PROCEDURES FOR MAKING A DISCLOSURE

4.4 As an initial step, Officers should normally raise concerns either verbally or in writing to their immediate Line Manager. It has the advantage of enabling an immediate response, where appropriate, and direct feedback. However, this depends on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If the officer feels it is more appropriate, the Chief Executive and Monitoring Officer may be contacted directly. In exceptional circumstances, the officer is able to go beyond the Chief Executive and Monitoring Officer to:

4.4.1 the Chairman of the Audit and Standards Committee

4.4.2 The Heads of our service providers for Internal Audit or Legal Services

4.4.3 Police

4.4.4 Health and Safety Executive

4.4.5 The independent charity Public Concern at Work 020 7404 6609

4.5 They will be invited to set out the background and history of the concern, giving names, dates and places where possible, and the reasons why they are particularly concerned about the situation. If they do not feel able to put their concern in writing, they can telephone or meet the appropriate officer.

- 4.6 The earlier the concern is expressed, the easier it is to take action.
- 4.7 Although they are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for their concern.

## **5 THE POLICE AND CRIME COMMISSIONER'S RESPONSE**

- 5.4 The action taken by the Police and Crime Commissioner will depend on the nature of the concern. The Police and Crime Commissioner after consideration may decide that the matter raised might:
  - 5.4.1 be investigated internally
  - 5.4.2 be referred to the Police
  - 5.4.3 be referred to the external Auditor
  - 5.4.4 form the subject of an independent inquiry.
- 5.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted. All action involved will be proportionate to the seriousness of the original concern.
- 5.6 The person receiving the whistle blowing allegation will be responsible for ensuring that it is investigated properly. The nature of the investigation will depend upon the concern raised.
- 5.7 The person receiving the whistle blowing concern is responsible for giving feedback on progress, subject to any issues of confidentiality which may be necessary to guarantee a successful conclusion.
- 5.8 The person raising the concern will be given as much information as possible on the outcomes of the investigation, subject to the constraint of the Police and Crime Commissioner's duty of confidentiality to Officers, or any legal constraint. The objective would be to ensure that a person expressing a legitimate concern can be assured that the matter has been addressed.

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