



WHISTLEBLOWING POLICY

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1. INTRODUCTION

- 1.1. The Office of the Police and Crime Commissioner (OPCC) is committed to achieve the highest possible standards of openness, probity and accountability. In line with that commitment the Police and Crime Commissioner (PCC) encourages employees and others with serious and reasonably held concerns about any aspect of the Police and Crime Commissioner's work to come forward and voice those concerns without fear of reprisals.

The Public Interest Disclosure (PIDA) Act 1998 gives protection to employees against being dismissed or victimised if they make 'protected disclosures' as defined in the Act. In addition, the OPCC believes that individuals should be able to raise legitimate concerns that do not fall within the definitions set down in the Act, without fear of reprisal.

- 1.2. This policy applies to all employees and any contractors working for the PCC including those designated as contractors, volunteers, temporary or agency staff.
- 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. This policy should be read in conjunction with the OPCC Anti-Fraud & Anti-Corruption Policy.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1. This Whistle Blowing Policy aims to:
 - 2.1.1. encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice, without fear of victimisation or subsequent discrimination or disadvantage.
 - 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 PCC's response; and

The OPCC is committed to the principles of equality and diversity. No member of the public, member of staff, volunteer or service provider shall be discriminated against on any of the nine strands as identified within the Equality Act 2010.

N.B. This policy does not supersede the requirement under the Anti-Fraud & Anti-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.

3. TYPES OF CONCERNS

3.1. The Committee on Standards in Public Life defined 'Whistle blowing' as the "raising of concerns about misconduct within an organisation". This is called 'making a disclosure in the public interest'.

3.2 The term "misconduct" may cover a broad range of acts, omissions or practices. What employees may wish to report will usually be a specific instance(s) of wrongdoing on the part of an individual or group of individuals. However, in certain circumstances, employees may wish to report bad practice which, if it were to continue, would be likely to lead to wrongdoing.

The following examples indicate the type of actions which would normally constitute "misconduct" but should not be seen as a prescriptive list for the interpretation of this policy.

Examples include:

- Failure to comply with a legal obligation
- Health and safety risks, including risks to the public as well as other employees
- The unauthorised use of public funds
- Making decisions for personal gain
- Inappropriate use of OPCC assets
- Possible fraud and corruption

3.2.1. makes an Officer feel uncomfortable in terms of known standards, experience or the standards they believe the Police and Crime Commissioner subscribes to

3.2.2. is against the Police and Crime Commissioner's Standing Orders or policies; or falls below established standards or practice

3.2.3. amounts to improper conduct

3.2.4. financial malpractice

3.2.5. damage to the environment

3.2.6. deliberate concealment of information tending to show any of the above.

3.3 Any serious concerns that an employee may have about any aspect of the OPCCs activities or the conduct of colleagues/employees of the OPCC, or others acting on behalf of the OPCC, such as contractors, volunteers etc, can be reported under this policy. This may be about something that:

- Makes an employee feel uncomfortable in terms of known standards, or standards they believe the OPCC subscribes to
- Is against the OPCCs policies
- Falls below established standards of practice
- Amounts to improper conduct
- Is a breach of the College of Policing Code of Ethics or the OPCCs Code of Conduct

3.4 This policy is intended to assist employees who believe they have discovered malpractice or impropriety. It is not designed to question financial or management decisions taken by the OPCC, nor should it be used to consider any matters or personal issues which should be addressed under other policies.

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

- 3.5.1. 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
- 3.5.2. To a legal adviser in the course of obtaining legal advice
- 3.5.3. In good faith to a Government Minister by a worker employed in a Government organisation
- 3.5.4. To a person or body prescribed in Statutory Instrument 1999 No 1549 as a Prescribed Person, e.g. the Health and Safety Executive.
- 3.5.5. Another person where, under all the circumstances it is reasonable to do so.

- 3.6. This is not intended to be a comprehensive list and any matters raised under this policy will be considered seriously.

4. SAFEGUARDING STAFF AGAINST HARASSMENT OR VICTIMISATION

- 4.1. The OPCC is committed to good practice and high standards and wants to be supportive of employees.
- 4.2 The OPCC recognises that the decision to report a concern can be a difficult one to make, especially for staff that are new to the OPCC. If what an employee is reporting is true, or their suspicions are reasonable, they will have nothing to fear because they will be doing their duty to their employer and to those for whom they are providing a service.
- 4.3 The OPCC will not tolerate or allow any form of harassment, victimisation or discrimination (including formal pressures) and will take appropriate action to protect employees when they raise a concern 'made in the public interest' and fits into a category as follows:
- A criminal offence
 - A miscarriage of justice
 - An act creating risk to health and safety
 - An act causing damage to the environment
 - A breach of any other legal obligations; or
 - Concealment of any of the above
- 4.4 It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed – a reasonable belief is sufficient. The employee has no responsibility for investigating the matter and the OPCC will take responsibility to ensure that an investigation takes place. An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment or victimised because they have made a disclosure.

If there are any intimidatory threats or instances of harassment/victimisation/discrimination against a 'whistle blower', the OPCC will take appropriate action.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary, redundancy or any other procedures which may be ongoing.

5. CONFIDENTIALITY

- 5.1 The OPCC will treat all such disclosures in the strictest confidence 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.

6. ANONYMOUS ALLEGATIONS

- 6.1 This policy encourages employees to put their name to any allegations they make wherever possible. However, an employee 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:

6.1.1 the seriousness of the issues raised;

6.1.2 the credibility of the concern; and

6.1.3 the likelihood of confirming the allegation from alternative credible sources.

- 6.2 Where an allegation is made anonymously, it may not be able to be progressed if sufficient information is not included within the original allegations. The OPCC would then not be able to contact the individual(s) concerned to seek further information or clarity, thereby the issues may not be investigated or addressed.

If a member of staff does not initially feel confident to raise an issue with someone within the OPCC, there are a number of external organisations and charities they can speak with for information.

- 6.3 An employee may reasonably make a whistle blowing report anonymously outside of the Police and Crime Commissioner if the following applied:

6.3.1 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.

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

6.3.3 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.

7. UNTRUE ALLEGATIONS

- 7.1 If an employee makes an allegation 'in the public interest', which is not confirmed by subsequent investigation, no action will be taken against the employee. 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.
- 7.2 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 Independent Joint Audit Committee.

8 HOW TO RAISE A CONCERN

- 8.1 As an initial step, OPCC employees 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 suspected of the malpractice. For example, if an employee believes that the manager is involved, they should approach a more senior manager in the first instance. If the employee feels it is more appropriate, the Chief Executive and Monitoring Officer may be contacted directly. In exceptional circumstances, the employee is able to go beyond the Chief Executive and Monitoring Officer to:
- 8.1.1 the Chair of the Independent Joint Audit Committee
 - 8.1.2 The Heads of our service providers for Internal Audit or Legal Services
 - 8.1.3 Police
 - 8.1.4 The independent charity Public Concern at Work 020 3117 2520
- 8.2 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. If the person raising the concern is asked to attend any meeting, they have the right to be accompanied by a representative from the trade union or a workplace colleague.
- 8.3 The earlier the concern is expressed, the easier it is to take action.
- 8.4 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.

9 HOW THE OPCC WILL RESPOND

9.1 The action taken by the PCC will depend on the nature and seriousness of the concern. Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The matters raised may:

9.1.1 be investigated internally

9.1.2 be referred to the Police

9.1.3 be referred to the external Auditor

9.1.4 form the subject of an independent inquiry.

9.2 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.

9.3 Within 10 working days of a concern being raised, the manager will write to the employee in confidence with the following information:

- Acknowledge that the concern has been raised;
- Indicate how they propose to deal with the matter;
- Give an approximation of how long it will take to provide a final response;
- Advise whether any internal enquiries have been made;
- Supply information on staff support mechanisms;
- Advise if further investigation will take place and if not, why not.

9.4 Depending upon the nature of the matter, the OPCC may not be able to provide you with specific details of how they are dealing with it. However, the OPCC will take steps to minimise any difficulties which an employee may experience as a result of raising a concern.

9.5 Every effort will be made to ensure that concerns are dealt with as speedily as possible and employees are kept informed of progress made. The main point of contact will be the person with whom the complaint was raised.

9.6 If any meeting is arranged (which may be off-site at the request of the employee), the employee may be accompanied by a trade union representative or a workplace colleague who is not involved or implicated in the concerns under investigation.

9.7 The employee 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, any legal constraints or if it would be a breach of Data Protection legislation. The objective would be to ensure that a person expressing a legitimate concern can be assured that the matter has been addressed.

10. HOW THE MATTER CAN BE TAKEN FURTHER

- 10.1 The OPCC hopes that an employee will be satisfied with any action taken. If the employee is not satisfied and they feel they need to take the matter further (to an external organisation), they should ensure that they do not disclose confidential information.
- 10.2 If an employee believes they cannot tell their employer, they should contact a 'prescribed person or body'. An employee can only tell the prescribed person or body if they believe that their employer:
- Will cover up
 - Would treat them unfairly
 - Has not satisfactorily responded to a reported concern

In addition, there is a list of prescribed people and bodies with who concerns can be raised. This list can be obtained at the link below:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

11. SUPPORTING STAFF

- 11.1 Raising an issue or concern within a workplace can be emotional and stressful for both the employee and those who allegations are being made against. Should an employee require emotional support during an investigative process, this can be provided in a number of different ways:
- Staff Associations
 - Occupational Health
 - Family member, friend or work colleague
- 11.2 If an employee has someone supporting them through the process and wished for them to be updated, they will need to provide the OPCC with their details and written consent. They should also advise to what extent they would wish them to be advised is taking place. They would not be involved in the investigations however and are purely there to support the employee.

12. MONITORING, REVIEW AND EVALUATION

- 12.1 The OPCC will review this policy every 3 years. The policy will be revised as required to reflect any changes in regulation and statutory guidance.