

TITLE: WHISTLEBLOWING POLICY

DOCUMENT: Replaces Whistleblowing Policy, formerly known as Confidential Reporting Code, approved by Fire and Rescue Authority on 18 February 2008

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INTRODUCTION

This Whistleblowing Policy is the Authority's response to the Public Interest Disclosure Act 1998. Although the code is principally there for the use of all Members and staff in the Authority, and the terminology reflects this, the reporting procedure may also be used by others with whom the Service has a working relationship, such as contractors and their staff. The Code has been agreed with all recognised trade unions and professional associations and will be reviewed regularly to ensure that it is working as the parties intended.

BACKGROUND TO THE CODE

The Public Interest Disclosure Act 1998 provides a statutory protection to employees who come forward and raise concerns. The Act protects workers from reprisals if they disclose information which points, for example, to a criminal offence, the failure to comply with a legal obligation or a risk to health and safety.

But Whistleblowers do not have a free-hand. To enjoy the protection the Act provides, they must act in good faith (reasonably believing that what they disclose is true and that the disclosure is in the public interest), they must not seek to profit from their disclosure and other than in the most exceptional circumstances they must exhaust internal procedures before disclosing information to an external individual or body.

CONFIDENTIAL REPORTING - PRINCIPLES

As a public body the Authority must be seen to maintain the highest standards of openness, probity and accountability.

The subject of this code is conduct by staff, or organisations providing services under contract with the Authority which is improper, unethical, or puts people at risk, and in particular the following:

- Conduct which is unlawful

- Miscarriages of justice
- Risks to health and safety either of employees or of members of the public
- Damage to the environment
- The unauthorised use of public funds
- Fraud and corruption.

It may not always be apparent whether the conduct in question is, for example, unlawful. Nevertheless, staff should not be deterred from voicing concerns wherever the conduct of others makes them feel uncomfortable having regard to the standards they believe the Authority subscribes to. A key aim of the Code is to encourage and enable staff to pursue a concern **within** the Authority, rather than disregard it or air it publicly. Public disclosure may be justified at some point but this should not happen before the Authority has had the opportunity to investigate the concern. Premature or avoidable publicity may damage the Authority's reputation, impede proper investigation and cause unnecessary distress to individuals.

The decision to report a concern can be a difficult one to make and depends ultimately on staff having trust in the Authority to protect them from any harassment, recrimination or victimisation-'official' or 'unofficial'-if they do disclose. The Authority wants to reassure staff that if they pursue a concern internally they will suffer no reprisals – provided always that they act in good faith, believing the information they disclose to be true. If an employee is already involved in any disciplinary or redundancy process at the time they make a disclosure, these matters will be kept entirely separate.

Allegations, which are made in good faith but not substantiated by investigation, are protected nevertheless. On the other hand, frivolous, malicious and patently untrue allegations are not protected, and the staff making them will be liable to disciplinary action including, where the circumstances justify it, summary dismissal. Also, staff who raise concerns publicly without first using the code should be aware that this might result in disciplinary action.

All disclosures will be treated in confidence and every effort will be made not to reveal employees' identity, if this is what they want. At the appropriate time, however, staff who disclose may be required as witnesses in any action taken against the person who is the subject of their disclosure.

Disclosures made anonymously are less powerful and as a rule more difficult to investigate and substantiate, but they will be considered nonetheless and investigated as far as practicable. The Authority hopes, however, that the above assurances will encourage staff to put their name to allegations.

CONFIDENTIAL REPORTING PROCEDURE

Things to consider

Staff who are considering making a disclosure should bear in mind that:

- The sooner a concern is raised, the easier it is to take action - a trail, which has 'gone cold' is much harder to follow
- Although no one is expected to prove the truth of an allegation beyond doubt, there must be some demonstrable basis for believing it to be true

- A problem shared can be a problem halved; it may be easier to raise a concern if there is backing from another source, e.g. a colleague.

How to raise a concern/make a disclosure

Concerns about serious wrongdoing can be raised either:

- **Indirectly**, via the employee's Line Manager, or representative body/professional association; or
- **Directly**, with the Secretary to the Authority (see [Appendix A](#))

Where a concern is raised initially with the Line Manager he/she should obtain from the employee only such information as is sufficient to indicate whether or not the concern is well founded, then refer the matter to the Secretary to the Authority. The Line Manager **MUST NOT** at this stage attempt to investigate the matter personally.

Disclosure can be made orally or in writing, but staff must be prepared to give the background to and reasons for their concern, and dates wherever possible.

On receipt of a disclosure, directly or indirectly, Secretary to the Authority will decide whether to deal with the matter personally or refer it to another Senior Officer, according to the circumstances of each individual case.

How will the Authority respond?

As appropriate, the matter raised may be:

- Investigated internally
- Referred to the Police
- Referred to the external auditor
- The subject of an independent enquiry
- Or any combination of these.

As a rule, discreet enquiries will be made to decide whether a formal investigation is appropriate and, if so, what form it should take. It must be appreciated that 'testing out' an allegation is not the same as accepting or rejecting it, rather it is an essential safeguard for all concerned. In deciding how to proceed the Authority's overriding concern will be what is in the public interest.

Exceptionally, an allegation may be acted upon immediately, and followed by an investigation.

The Secretary to the Authority, or other Senior Officer, to whom they have referred the disclosure, will respond within **10 working days** and will write:

- Formally acknowledging that the disclosure has been received
- Advising of any initial enquiries which have been made, and saying how it is proposed the matter will be dealt with
- Estimating how long this will take (so far as is possible)
- Giving details of such staff support mechanisms as are available, including support in giving evidence if criminal, civil or internal disciplinary proceedings are in prospect.

Clearly this only applies where the identity of the employee who has made the disclosure is known.

The amount of contact necessary with the Officer charged with investigating a disclosure will vary according to the individual circumstances at each case. Where the need for face-to-face contact arises an off-site location will be arranged if need be, and if they wish the employee may be accompanied by an appropriate representative. The employee should be prepared to give additional information if required.

Thereafter, the employee will be kept informed by the Investigating Officer, subject to any legal constraints.

Monitoring

The Secretary to the Authority is accountable to the Authority for the administration of the code, for its review and for its amendment as appropriate. The Secretary to the Authority will report annually to the Authority on the operation of the code, in a form, which does not prejudice confidentiality.

How can a matter be taken further?

The Code aims to give staff an effective means of pursuing a concern **within** the Authority. The Authority hopes that staff who do this will be satisfied with the action taken but if this is not the case staff are entitled to take their concern elsewhere, for example to:

- The District Auditor
- The employee's local Councillor (if a member of the Authority)
- The appropriate regulatory body
- The local Citizens Advice Bureau
- The Police.

[Appendix A](#) gives contact details for some of the above.

If they do take their concern elsewhere staff **must** ensure that they do not disclose information which is confidential or otherwise restricted.

APPENDIX A – CONTACT DETAILS

Staffordshire Fire & Rescue Service	Secretary to the Authority Service Headquarters Pirehill Stone Tel: 01785 898672
District Auditor	Grant Thornton UK LLP Colmore Plaza 20 Colmore Circus Birmingham B4 6AT Tel: 0121 232 5343
Citizens Advice Bureau	131-141 North Walls Stafford Tel: 03444 111 444
Staffordshire Police HQ	Weston Road Stafford ST18 0YY Tel: 01785 236211
Health & Safety Executive	Lyme Valley Court, Lyme Drive Parklands Business Park Trent Vale, Stoke-on-Trent ST4 6NW Tel No: 01782 602300
Environmental Agency	(no local address) Tel: 03708 506506 (enquiries) 0800 807060 (to report accidents)
HMRC	Greyfriars House, Greyfriars Stafford Tel: 01785 256222
UNISON	Whistleblowing hotline 0800 597 9750
Public Concern at Work	(an independent charity providing legal advice) 020 7404 6609
One's Local Councillor	(If a member of the Authority)