

## Review of Whistleblowing Policy

### Report of the Chief Fire Officer

For further information about this report please contact Rod Hammerton, Chief Fire Officer, on 01743 260201 or Joanne Coadey, Head of Finance, on 01743 260215.

#### 1 Purpose of Report

This report requests the Committee to recommend that the Fire Authority approve the Whistleblowing Policy (attached as an appendix), following the annual review conducted by officers.

#### 2 Recommendations

Members are asked to consider the Whistleblowing Policy, attached as an appendix, and to recommend that the Fire Authority approve the Policy (with or without amendment).

#### 3 Background

The Fire Authority has in place a Whistleblowing Policy, which enables workers to raise concerns about unlawful conduct, financial malpractice (including fraud, bribery and corruption), failure to comply with any legal duty, danger to health and safety, damage to the environment and other unethical conduct. It is considered best practice for policies, such as this, to be reviewed annually.

#### 4 Review

Having carried out their review, officers recommend only minor changes to various job titles to bring the Whistleblowing Policy up to date. A copy of the draft Policy is attached as an appendix to this report.

Following consideration and approval by the Fire Authority at its October meeting, the Policy will be available on the Authority's website. It will also be brought to the attention of all employees on the Service's weekly newsletter.

## **5 Financial Implications**

There are no direct financial implications arising from this report.

## **6 Legal Comment**

Although the Fire Authority is not legally required to have in place a Whistleblowing Policy, the Government expects all public bodies to have such policies, which are assessed as part of the annual audit process.

## **7 Appendix**

Draft Whistleblowing Policy

## **8 Background Papers**

There are no background papers associated with this report.

## **Brigade Order, Human Resources 5**

### **Part 10 – Reporting of Illegality and Malpractice – Whistleblowing**

#### **Purpose**

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The Authority's expectation on propriety and accountability is that Members and all workers will lead by example in ensuring adherence to rules, procedures and recommended practices. Please note that throughout this Brigade Order the word 'workers' refers, not just to those employed directly by the Authority, but also to people engaged in work with the Authority, such as those on fixed-term contracts, agency staff, consultants, suppliers and contractors.

Members are bound by the Code of Conduct adopted by the Shropshire and Wrekin Fire and Rescue Authority and the professional conduct of workers is covered in the respective regulations and procedures relating to firefighters and non-operational personnel.

The purpose of this Brigade Order is to enable workers to raise concerns about unlawful conduct, financial malpractice (including fraud, bribery and corruption), failure to comply with any legal duty, danger to health and safety, damage to the environment and other unethical conduct.

If workers raise a concern under this policy, they reasonably believe that it is in the public interest to do so and they have not taken any part in the illegality or malpractice, the Authority and the Chief Fire Officer are committed to ensuring:

- Their safety - they will not be at risk of suffering any form of retribution
- Their confidence - the harassment or victimisation of anyone raising a concern will not be tolerated
- That the matter is handled in the most appropriate way and according to the procedures laid out

It is intended that the public, suppliers and contractors may also rely upon the principles laid down in this Order to raise concerns about illegality and malpractice. Some of the specific details relating to those directly employed by the Authority will not, however, be relevant in such cases. Separate arrangements are also in place to allow suppliers and contractors to report concerns. These are detailed in Procurement Brigade Orders.

#### **Strategic Aims**

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This Brigade Order specifically assists:

- Strategic Aim 4 – 'To deliver an effective fire and rescue service at a cost that is acceptable to our community'

Targets are:

- That concerns are dealt with in accordance with this Order (no concerns are mishandled)
- Members and workers adhere to the rules, procedures and recommended practices (concerns raised do not result in proven misconduct).

## What is whistleblowing?

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Shropshire Fire and Rescue Service is committed to the highest levels of equality and fairness. Part of that commitment is to develop policies that encourage workers and others, who have serious concerns about illegality or malpractice, to speak up. If someone reasonably believes that it is in the public interest and speaks up about such concerns, they can do so without fear of reprisal under the Public Interest Disclosure Act 1998 and subsequent legislation.

The legislation aims to improve accountability and good governance in all organisations by assuring workers that it is safe to raise their concerns. It also encourages employers to be receptive to such concerns and penalises them if they respond by victimising a worker, who raises a concern. It applies whether or not the information is confidential.

A disclosure to the employer will be protected, if the whistleblower reasonably believes that illegality or malpractice has occurred, is occurring or likely to occur and that it is in the public interest to disclose it. The worker is not expected to prove the case but in order to obtain protection, he or she must act reasonably and responsibly, this includes the tone and manner in which the concern is raised.

If, for example, a worker makes a rash disclosure to the media of a matter, which should have been raised internally, that worker will **not** be protected. Similarly the means by which the concern is raised must not of itself amount to misconduct. If, for example, an individual hacks into an IT system to demonstrate a lack of security, the misconduct (in this case the hacking) will not be protected. Furthermore, if the worker is him/herself involved in the illegality or malpractice, protection cannot be guaranteed.

Under this policy, once a worker has raised a concern, an investigation is carried out under the direction of senior officers or auditors, not by the worker.

## What areas of concern should be disclosed?

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This policy is not intended to replace (for those workers covered by it) the grievance procedure, which continues to be the appropriate way to raise personal issues relating to a worker's job or employment. The concerns under this procedure are distinct from complaints or grievances. They include concerns about:

- unlawful conduct
- financial malpractice (including theft, fraud, bribery and corruption)
- failure to comply with any legal duty
- danger to health and safety
- damage to the environment
- other unethical conduct
- and the cover-up of any of these

## **Who can use the whistleblowing policy?**

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The policy covers any person carrying out work on behalf of the Service/Fire Authority. It applies equally to independent consultants and agency staff, as well as to new recruits and long-term workers. Its principles also cover members of the public, suppliers and contractors, although separate arrangements are in place to allow suppliers and contractors to report concerns. These are detailed in Procurement Brigade Orders.

## **Raising a concern**

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In the first instance a worker should disclose any concern, either orally or in writing, to his or her Line Manager. If it is inappropriate to raise the concern with a Line Manager (because of the manager's involvement with the issue being raised) it should be raised with one of the individuals listed in the Procedure Statement (set out in the Appendix to this Order). An issue may be raised by a union on behalf of an individual.

In any case where a disclosure is made under this policy the individual (including the union) making the disclosure should provide full and specific details of their concerns together with any supporting evidence at the time that the concern is raised. If full and specific details and supporting evidence are not provided, it is likely to affect the extent of any investigation or, indeed, whether an investigation is possible or realistic.

## **Action to be taken**

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The organisation will investigate the concern in accordance with the investigation procedures laid out in the Appendix to this Order. All initial and follow-up investigations will be co-ordinated and recorded.

## **Feedback**

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Wherever possible the Service will provide the individual with feedback on the issues that they have raised. Feedback will ensure that the individual knows the matter has been looked into and, if necessary, sorted out and whether external disclosure is required or not. Please note, however, that the Service will be unable to give specific detail on action taken against individuals.

## **Support and advice**

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If a worker is unsure about raising a concern or needs support and advice, he / she should contact any of the individuals within or associated with Shropshire Fire and Rescue Service and listed in the Appendix, or contact Public Concern at Work on their confidential helpline – 0207 404 6609.

## Procedure Statement

### Informing about wrongdoing

#### Introduction

Usually concerns at work are easily resolved. However, when they are about:

- unlawful conduct (including discrimination and racism)
- unethical conduct
- financial malpractice (including theft, fraud, bribery and corruption)
- dangers to the public
- damage to the environment

It can be difficult to know what to do.

Individuals may be worried about raising such issues or may want to keep the concerns to themselves, perhaps feeling 'it's none of their business' or that 'it's only a suspicion'. They may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. Individuals may decide to say something but find that they have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

Shropshire Fire and Rescue Service has introduced this procedure to enable individuals to raise concerns about such malpractice at an early stage and in the right way. Individuals should raise the matter, even if it is just a concern, rather than wait for proof or for their concerns to materialise.

If something is troubling an individual that they think should be known about or looked into, they should use this 'Whistleblowing' Procedure. If, however, an individual is aggrieved about their personal position, they should use the Grievance Procedure, which can be obtained from the Line Manager or from the Human Resources Manager. If the issue is about personal harassment or bullying, then an individual should use the grievance procedure as a first step. The 'Whistleblowing' Procedure is primarily for concerns where the interests of others or of the organisation itself are at risk.

If in doubt - raise it!

#### Harassment or victimisation

The Service recognises that deciding to report a concern can be difficult, not least because of the fear of possible reprisals. The Service will not tolerate harassment or victimisation and will take action to prevent this, when a worker raises a concern, which they reasonably believe to be in the public interest.

#### Confidentiality

The Service will do its best to protect the worker's identity when they raise a concern and do not want their name to be disclosed. The worker must, however, appreciate that the investigation process may reveal the source of the information and they may be required to give a statement as part of the evidence.

## **Anonymous allegations**

This policy encourages workers to put their name to their allegation.

Concerns expressed anonymously are much less powerful and are more difficult to act upon, but they will be considered at the discretion of the Service. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern, and
- the likelihood of confirming the allegation from attributable sources.

## **Untrue allegations**

If a worker makes an allegation, which they reasonably believe to be in the public interest, but it is confirmed by the investigation that there is no wrongdoing, no action will be taken against them. If, however, a worker makes malicious or vexatious allegations, disciplinary action may be taken against them but the matter would be referred to the appropriate Brigade Manager before any action is taken.

## **How the matter will be handled**

Within 10 working days of a worker having raised a concern, a letter will be sent to them summarising their concern and setting out how the Service proposes to handle it. The worker will be told who is handling the matter, how they can contact him or her and whether their further assistance may be needed. An initial assessment will see what action should be taken. This may involve an internal inquiry or a more formal investigation. If the worker has any personal interest in the matter, they should state this at the outset. If the concern falls more properly within the Grievance Procedure the worker will be advised of this.

Throughout the process the worker will be given as much feedback as properly possible. The worker may not, however, be informed of the precise action taken, where this would infringe a duty of confidence owed to someone else.

## **How to raise a concern internally**

### **Step one**

If a worker has a concern about malpractice, they should first feel able to raise it with their manager. This will depend, however, on the seriousness and sensitivity of the issues and whom they believe to be involved. This may be done orally or in writing.

The Service's Anti-Fraud, Bribery and Corruption Strategy states that, in the event of financial malpractice, a worker should inform their Line Manager or a senior manager, who in turn would refer to the Treasurer, or if not appropriate, Internal Audit. If the worker is unsure where to raise their concern, they should speak to their manager in the first instance. If the worker is unable to contact their manager, they should refer to a senior manager as shown at Step two below.

## Step two

If a worker feels, or is, unable to raise the matter with their manager, for whatever reason, the matter should be raised with any of the following:

<b>Title</b>	<b>Contact details</b>
Any Brigade Manager	Contact via Control or Brigade Headquarters
Human Resources Manager	(01743) 260211
Area Manager Prevention	(01743) 260285
Area Manager Area Command	(01743) 260284
Area Manager Operational Planning	(01743) 260196
Area Manager Development, Safety and Risk	(01743) 260182
Audit Services Manager Internal Audit at Shropshire Council	(01743) 252027 If the wrongdoing is fraud
Treasurer Shropshire Council Shirehall, Shrewsbury	(01743) 252007 If the wrongdoing is about improper payments
Monitoring Officer Telford and Wrekin Council Civic Offices, Telford	(01952) 383200 If the wrongdoing is thought to be illegal

The Treasurer and Monitoring Officer will also be available for private surgeries on the day of Fire Authority meetings.

Should an individual wish to raise concerns outside normal office hours, the Duty Principal Officer should be the first point of contact or the audit line.

If these channels have been followed and the worker still has concerns, or if they feel that the matter is so serious that they cannot discuss it with any of the above, they should contact:

The 'Whistleblowing Hotline' provided by Shropshire Council on 01743 252627.

## **Independent advice and external contacts**

If a worker is unsure whether to use this procedure or they want independent advice at any stage, they may contact:

- if applicable, their Trade Union
- the independent charity 'Public Concern at Work' on 0207 404 6609. Their lawyers can give free confidential advice at any stage about how to raise a concern about serious malpractice at work

While the Service hopes that this policy gives workers the reassurance to raise such matters internally, there may be circumstances where they can properly report matters to outside bodies, such as regulators or the Police. 'Public Concern at Work' (or, if applicable, the worker's Union) will be able to advise on such an option and on the circumstances, in which workers may be able to contact an outside body safely.

### **If a worker is dissatisfied**

If a worker is dissatisfied with a response, they can go to the other levels and bodies detailed in this policy. While there is no guarantee that any response to matters will be in the way that a worker might wish, there is an intention to handle all matters fairly and properly. By applying this policy and process, workers will help to achieve this.