



## Whistleblowing / Reporting Concerns

### Contents

1. Introduction
  2. How to make a report
  3. Operating procedures
- Appendix 1 The Public Interest Disclosure Act 15

Please be aware that the majority of this policy and its procedures have been taken from the Police National Guidelines, issued by the College of Policing (10/16).

### 1. Introduction

All those who work in the Office of the Police and Crime Commissioner (OPCC) are expected to report concerns they may have about wrongdoing or poor practice.

If you have something to report, you should do so at the earliest opportunity. Your concerns do not need to be proven correct, nor are you required to be able to prove anything yourself. As a member of staff it is your duty to report your concerns. It is the duty of those to whom you report, to ensure that those concerns are properly considered and responded to.

Provided you are raising a genuine concern, it does not matter if you are mistaken. If you raise a genuine concern using this guidance, you will not be at risk of losing your job or suffering any form of reprisal as a result. The harassment or victimisation of anyone raising a genuine concern will not be tolerated. It is a disciplinary matter to victimise anyone who has raised a genuine concern. If at any stage you experience reprisal, harassment or victimisation for raising a genuine concern, you should seek advice and report it to the appropriate body (i.e. The Independent Ethics Panel or Human Resources) immediately.

Of course this assurance does not extend to someone who maliciously raises a matter they know is untrue. Someone who **maliciously** raises a matter they know is untrue may face disciplinary action.

As a staff member, you should always seek to make a report internally. By doing so, you provide the organisation with the opportunity to investigate your concern and to take corrective action when required.

In exceptional circumstances, you may feel unable to raise your concerns internally. For example, you could have reason to believe that doing so may lead to evidence being hidden, fear of repercussions or because you have already tried to do so and no action has been taken. Should this be the case, there are several options available for reporting your concerns externally (see Section 2 - How to make a report).

When you make a report, every effort will be made to check the accuracy and integrity of the information you have provided. In all cases, but especially where the information is provided anonymously, evidence or other intelligence will be sought at the earliest opportunity to corroborate the information you have provided. This will help in understanding the issue. Corroboration will also make it easier to address your concern while protecting your identity.

This guidance does not apply to cases that can be dealt with through the grievance procedure. If something is troubling you, which you think someone in authority should know about, or look into, please use this guidance. If you wish to make a complaint about your employment, however, or how you have been treated, please use the Organisation's grievance policy.

This guidance is primarily for concerns where the public interest is at risk, which includes a risk to the wider public, staff or the organisation itself.

While there cannot be a guarantee that all matters will be responded to in the way that you might wish, they should be handled fairly and properly. By using this guidance, you can help to achieve this.

If you are unsure about raising a concern, you can get independent advice at any stage of the process. Some organisations who may be able to assist you, are the Independent Ethics Panel (information on how to contact a member of the Independent Ethics Panel can be obtained from Business Support), staff associations or unions (contact details can be found on the South Yorkshire Police website). The independent whistleblowing charity Public Concern at Work can be contacted for free confidential advice on 020 7404 6609 or by email at [helpline@pcaw.org.uk](mailto:helpline@pcaw.org.uk).

## **2. How to make a Report**

If you wish to report a concern, there are several options available to you. This section details these options and contains contact information.

## **Internal reporting**

Wherever possible, it is best to report your concern through conventional internal routes. By doing this, you give the Organisation the opportunity to resolve issues quickly and effectively. You will also receive feedback and will be consulted throughout any enquiry we carry out.

When you raise a concern, the Organisation must treat the information confidentially and ensure it is only shared with those who have a clear and specific need to know.

If you are concerned that your identity as the reporting person will become known, you should inform the person to whom you report at the earliest opportunity, explaining what your concerns are. This will enable us to take appropriate steps to address your concern while supporting your personal position. If you ask us not to disclose your identity, ie, raise a concern confidentially, we will not reveal your identity without your consent unless required by law. You should understand that there may be times when it may not be possible to resolve a concern without revealing your identity, for example, where your personal evidence is essential. In such cases we will discuss with you whether and how the matter can best proceed.

There may be times where, due to the nature of the concern raised, it is evident that you may be the source (eg, where only a small number of people are aware of the issue). If this is the case, the Organisation should still make every effort to maintain your confidentiality and provide necessary support. Once you have made a report, it is important to abide by advice we provide in order to protect your identity.

## **Reporting directly to your line manager**

In the first instance, you should normally make a report to your line manager. This enables an immediate response, and feedback can be given directly, especially if the matter is something your line manager can deal with themselves. Your line manager can also provide support and guidance throughout the reporting process.

Should you wish to make a report regarding your line manager, or if for any other reason it is more appropriate to report to another manager, then this is also possible.

## **External reporting**

This guidance has been developed to enable you to report concerns safely and openly using internal reporting routes. There may be times, however, when you may feel that it is necessary to consider external options. This

section details the options that are available to you should you wish to report a concern, but do not feel able to do so through the usual internal routes.

Depending on the concern you wish to raise, other regulators may be relevant. When considering making an external report, you should seek advice about how to do so reasonably and safely. The Independent Ethics Panel, staff association, union or an independent body such as or Public Concern at Work may provide advice on external reporting.

You should consider and make use of all the relevant authorities listed below before deciding to take your information to any other organisation, eg, non-governmental organisations (NGOs), campaign groups, the media etc. Reports made outside relevant authorities may result in disproportionate and/or inaccurate reporting, which can undermine the investigation and make it more difficult to take corrective action.

It is never acceptable for a staff member to make a disclosure for personal gain, whether that gain be financial or otherwise. Doing so may constitute misconduct in public office or an offence.

### **The Independent Ethics Panel**

It may be inappropriate to report internally and if this is the case, you may prefer to report it to the Chair or any other member of the Independent Ethics Panel.

If you have provided the information in a manner that allows The Panel to contact you, they will seek to do this at an early stage, to ensure that they fully understand the issue.

The Panel will check whether any similar concerns have been raised and will see if it's possible to corroborate the information by any other route. This may enable them to protect your identity.

Where possible they will do this without disclosing that a confidential report has been submitted.

### **Associations and trade unions**

Trade unions and other staff associations can and do play a key role in acting as an agent through which members can relay their concerns in a non-threatening environment. They are used to dealing with issues in a confidential way.

They are able to offer independent advice on whether a particular case merits formal reporting and, if you feel unable to make a report internally, they can also provide advice on how best to proceed. These organisations are bound by their own internal rules regarding confidentiality and the need for a member's consent prior to forwarding information.

## **Crimestoppers**

Crimestoppers provide a service which allows all members of the public to report information about suspected crime. If you provide information about criminal behaviour within the police to Crimestoppers, it will be passed to the relevant force's professional standards department for investigation.

Crimestoppers accept anonymous referrals. They will not ask you for your identity, nor do they trace or record telephone calls. The telephone line is available 24 hours a day, 7 days a week and an operator will answer the call. You can also provide information through this service via an online form.

**Phone:** 0800 555 111

**Online:** <https://crimestoppers-uk.org>

### **3. Operating Procedures**

It is important to ensure there are minimum standards that should be followed whenever a member of staff reports a concern.

#### **Supporting those who come forward**

Reporting a concern can be a stressful process, and it is essential that support mechanisms are in place for those who decide to come forward. Where someone comes forward, the organisation should value this action and provide the appropriate support.

#### **Appointing Support**

The appropriate support should be discussed with the reporting person. A support officer will not be appropriate or wanted in all cases and, in some, the line manager may be able to adequately fulfil the role. However in other cases – particularly where the individual reports concerns about senior staff, criminal activity or serious misconduct – it may be appropriate (and more reassuring for the reporter) if support is provided from an external source.

#### **Safeguarding measures**

Some staff may be reluctant to come forward and report wrongdoing, believing that doing so could lead to unfair treatment by their colleagues. Anyone making a reprisal against a person reporting concerns will be liable for disciplinary action.

#### **Handling information and confidentiality**

Whether a report is made internally or externally, the person receiving the report (or the person identified to investigate the concerns, if this is different)

should make early contact with the reporting person. This will enable the investigator to ascertain full details about the concern.

It is also important to be honest with the reporter about the extent to which their identity can be protected. This may depend on the nature of the evidence and who may already be aware of issues involved. The assurances given to the individual in this guidance provide a high level of protection but where in practice their identity may be discovered or guessed (eg, where they have already raised the issue with others involved), it is a matter to be carefully discussed with the reporting person.

Where the reporting person has requested that their identity not be disclosed, the organisation should not do this without their consent unless required by law. The investigator should explain there may be times when they are unable to resolve a concern without revealing the reporting person's identity, for example, where their personal evidence is essential. In such cases, the investigator must discuss with the reporter whether and how the matter can best proceed.

In exceptional circumstances, staff members may feel unable to report a concern unless they are able to do so anonymously. It is important that where possible, anonymous reporting is made available. The Organisation should not attempt to trace the reporter through the system. Doing so undermines confidence and discourages the process.

Uncorroborated anonymous reports may be of very limited value, however, as options to act are limited. Where a person reports a concern anonymously, it is less likely that they would be able to rely on it as a defence to an allegation they had failed to challenge or report improper behaviour.

## **Consultation and feedback**

People are unlikely to report concerns if they do not believe action will be taken. It is important to be able to reassure individuals that their concerns will be taken seriously and that they will remain involved in the investigation and informed about its progress. Where it would not compromise the security or integrity of that or any other investigations, and would not pose a risk to any individual, the emphasis should be on providing information to the reporting person.

There are several stages during an investigation where the investigator should consult the reporter. Although the investigator is responsible for making decisions during the investigation, they must take account of concerns or observations from the reporter and should explain their rationale for decisions they make.

The reporting person should be consulted in the following circumstances:

- to discuss whether their identity can be kept confidential (consultation should take place before taking action that might reveal their identity)
- if there are any individuals, or groups whose knowledge of the allegation or the person reporting it could compromise the investigation

- where the investigator is unable to resolve the concern without revealing their identity
- on the findings of an investigation and/or response to the findings.

In addition to consultation at key stages, the reporting person must be kept up to date with the progress of an investigation triggered by their report. Updates may include information about the stage reached in the investigation, what has been done, what remains to be done, together with timescales and, where it cannot compromise the investigation, a summary of any significant evidence obtained.

At the beginning of an investigation, the investigator should agree with the reporting person by what means they wish to be updated, and with what frequency.

Updates should be provided at significant stages of an investigation and in any case at least every 28 calendar days.

### **Consideration regarding misconduct proceedings**

If an individual has been involved in behaviour that merits criminal or misconduct proceedings against them, reporting concerns about the behaviour of others will not allow them to evade disciplinary action.

An investigating body or a misconduct panel may take into account the individual's exposure of **more serious** misconduct or criminal behaviour and either decide no action should be taken, or reduce the level of sanction they would otherwise have delivered. The circumstances where this may happen are limited and it will **not** apply where the individual's operational honesty or integrity has been found to be compromised, nor where the member of staff concerned took part in a criminal offence, or a serious breach of discipline, or gained from either of these actions.

This type of case will be exceptional and the appropriate authority or panel will need to consider various issues, including:

- Is the individual's evidence essential?
- Is the evidence needed to support a successful prosecution/ gross misconduct hearing?
- Was the individual's misconduct minor?
- Has the individual been frank and co-operated with the investigation throughout?
- At what stage did the individual raise concerns?

### **Governance**

If staff are to be able to effectively report their concerns, they must have confidence in systems. The Police and Crime Commissioner will want to be reassured that reports are managed and investigated properly and that reporters are treated with fairness and respect.

While the OPCC will invariably administer, oversee and investigate relevant reports, this could differ depending on the situation, and the people involved.

If the issue is dealt with by the OPCC it may be that the Independent Ethics Panel are able to assist and provide impartiality where necessary.

In some circumstances it may be appropriate for a South Yorkshire Police senior officer or member of staff to investigate and take advice from Professional Standards.

In all cases, the aim is to provide all parties with confidence that concerns are taken seriously and that confidentiality is maintained.



## The Public Interest Disclosure Act

### The legal basis for reporting concerns

If you fear you will suffer detriment or have already suffered detriment because of the information you share, please explain this when you raise your concern. You should also seek advice at the earliest opportunity, eg, from an independent adviser, union or human resources in your organisation. Please remember that if no one knows who you are, they cannot offer you protection and this may affect your rights.

The **Public Interest Disclosure Act 1998 (PIDA)** is a piece of employment legislation that enables you to take a claim to an employment tribunal if you suffer detriment from co-workers or your employer, or if you have been dismissed for having raised a concern about wrongdoing. PIDA has a broad definition of wrongdoing including a breach of a legal obligation, miscarriage of justice, danger to health and safety, danger to the environment, criminal acts or an attempt to conceal any of the above.

PIDA protection applies when you raise a concern internally. At this stage the law states you need only have a reasonable suspicion of the wrongdoing and believe the information is in the public interest. PIDA protection also applies if you raise a concern with a person prescribed under PIDA – these are mainly regulators such as the chief executive of the Criminal Cases Review Commission and the IPCC. They also include Members of Parliament. For a full list see **Blowing the whistle to a prescribed person**.

In certain circumstances, the law protects you if you raise a concern more widely, eg, with an NGO or the media. This may apply if you have already raised a concern with your employer or prescribed person or if the issue is very serious. To be protected in these circumstances is more complex. For more information about your rights under PIDA you can speak to Public Concern at Work or visit [www.pcaw.org.uk/](http://www.pcaw.org.uk/)

### Reporting to a legal adviser

A qualifying disclosure automatically becomes a protected disclosure when it is made to a legal adviser, such as a solicitor, in the course of obtaining legal advice.

### Further protection for whistleblowers who make a disclosure under PIDA

Given the duty on police officers and police staff members to report wrongdoing, the Police (Conduct) Regulations 2012 have recently been amended to clarify that, where reasonable in order to make a protected disclosure, your actions should not be considered as bringing the force into disrepute or as any other breach of the Standards of Professional Behaviour.

### Further information

This guidance is intended to outline the principles of PIDA and should not be considered to be a definitive guide. For further information, you may wish to seek legal advice, or to contact an independent organisation such as Public Concern at Work or visit [www.pcaw.org.uk/](http://www.pcaw.org.uk/)

<b>Implementation Date</b>	31/10/2017
<b>Author</b>	Joanne Ridge
<b>Review Date</b>	31/10/2019