

# **WHISTLE BLOWING POLICY**

## **STANDING ORDER 2/20**

**November 2014**

**Employee Relations**

**Service Support: Human Resources**

# WEST MIDLANDS FIRE SERVICE

## WHISTLE BLOWING POLICY

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## 2. STRATEGY

Following the Public Interest Disclosure Act 1998 (PIDA), which came into force in July 1999, legal protection is now provided to employees who raise concerns about suspected dangerous or illegal activity that they are aware of through their work. The common term for voicing such concerns is 'whistle blowing'. West Midlands Fire Service (WMFS) wishes to create an open and honest culture by being compliant with its statutory obligations, detailed in the Act, and ethical standards, detailed in its Core Values. Details on our core values can be found in the Equality & Diversity Standing Order 0213 or 'The Plan': <http://wm-srv-alf-01:8080/share/proxy/alfresco/api/node/content/workspace/SpacesStore/4806b62c-f0c9-4600-a25d-8557d1360ead/The%20Plan%202014-2017.pdf>

Employees are often the first to realise that there may be something seriously wrong with the organisation that employs them. They may be able to alert the organisation early on to things like fraud, negligence, bribery and health and safety risks. However, they may not express their concerns, because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may be no more than a suspicion of malpractice.

The procedures in this order give ways for individuals to raise concerns and receive feedback on any action taken. It makes sure that individuals receive a response and know how to pursue concerns if they are not happy with the response. It gives reassurance that individuals will be protected from possible reprisals or victimisation if they believe they have made a disclosure.

## 3. PROCEDURE

### 3.1 What the policy covers

The Public Interest Disclosure Act 1998 makes sure that employees, contractors providing services, most agency workers, home workers and trainees on vocational and work experience schemes are legally protected in raising concerns responsibly.

External contractors may encounter wrongdoing that affects WMFS. Therefore, this whistle blowing policy is also open to employees of our contractors.

The subject of concern may be something unlawful, against the Service's policies, below established standards of practice, or that amounts to improper conduct. The overriding concern should be that it would be in the public interest for the alleged malpractice to be corrected.

Whistle blowing is when an employee reports suspected wrongdoing at work. Officially this is called 'making a disclosure in the public interest'.

An employee can report things that aren't right, are illegal or if anyone at work is neglecting their duties, including:

- Someone's health and safety is in danger
- Damage to the environment
- A criminal offence
- The company isn't obeying the law (like not having the right insurance)
- Covering up wrongdoing
- Behaviours that are being displayed

#### **Distinction between grievance and whistle blowing**

Whistle blowing occurs when an employee raises a concern about danger or illegality that affects others, not themselves personally. When someone raises a concern through the Service's grievance procedure, they are saying that they have personally been poorly treated and they are seeking redress or justice for themselves. The whistle blowing policy is intended to cover concerns that fall outside the scope of grievance or other existing Service procedures.

## 3.2 How to raise a concern

If the matter relates to any fraudulent or corrupt activity, concerns should be raised in accordance with procedures detailed in the standing order Anti-Fraud, Corruption and bribery Policy 0122.

If the complainant wishes to raise or discuss any issues which might fall into the above category then the complainant should contact a member of the SET, the Treasurer or the Clerk to the Fire Authority will be required by WMFS to treat the matter in confidence.

Concerns are better raised in writing. The complainant should set out the background and history of the concern giving names, dates and places where possible and the reason why the complainant is particularly concerned about the situation. If the complainant does not feel able to put the concern in writing, then the complainant can discuss the concerns verbally with a member of the SET, or the Treasurer or the Clerk to the Fire Authority.

The earlier that the complainant can express the concern and the more detail can be provided, the easier it will be for the Service to take appropriate and necessary action. Remember:

- the complainant must disclose the information
- the complainant must believe it to be substantially true
- the complainant must not act maliciously or make false allegations
- the complainant must not seek any personal gain

At this stage the complainant will not be expected to prove the allegation, but will need to demonstrate to the person contacted that there are sufficient grounds for reasonable suspicion or concern.

The complainant may invite a member of the trade union representative body or a work colleague to be present during any meetings or interviews in connection with the concerns raised.

Where a concern relates to a Brigade Manager or SET, then either the Strategic Enabler for People (as Responsible Officer), or Deputy Chief Fire Officer or Chief Fire Officer, as appropriate, should be contacted in the first instance. The Monitoring Officer role for the Fire Authority is Head of Legal Services at Sandwell MBC.

The Treasurer to the Fire Authority may be contacted on 0121 569 3504. The Clerk/Monitoring Officer to the Fire Authority may be contacted on 0121 569 3172. Concerns are better raised in writing and may be sent for the attention of either person at:

Sandwell Council House,  
PO Box 2374  
Oldbury  
West Midlands  
B69 3DE.

## 3.3 Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal the identity of the complainant. However, it is likely that further investigation will be necessary and the complainant maybe required to attend a disciplinary or investigative hearing as a witness at the appropriate time. An employee raises a concern confidentially if they give their name only on condition that it is not revealed without their consent. A concern is raised anonymously if the employee does not give their name.

### 3.4 How the Service will respond

The action taken by the Service will depend on the nature of the concern. The matters raised may be investigated internally by an appropriately experienced officer knowledgeable in the area concerned, for example, audit, Line Manager or human resources.

Alternatively through the disciplinary process, the matter may be referred to the police, the external auditor or may be the subject of an independent enquiry.

In order to protect individuals and the Service, and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures, for example, unfair discrimination issues, will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation. Members of the SET can seek guidance from the Strategic Enabler of People at any stage in the investigation.

Within 10 working days of a concern being raised, the individual with whom the concern was raised will write to the complainant:

- acknowledging that the concern has been received;
- indicating how the matter is to be dealt with;
- giving an estimate of how long it will take to provide a final response;
- telling the complainant whether any initial enquiries have been made;
- supplying the complainant with information on staff support mechanisms; and
- telling the complainant whether further investigations will take place and if not why not.

The amount of contact between the officer(s) considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the complainant in a discreet manner.

When any meeting is arranged, the complainant will have the right to be accompanied by a representative body or a work colleague. The meeting can be held off site if requested.

West Midlands Fire Service will take steps to minimise any difficulties, which may be experienced as a result of raising a concern and provide any appropriate support. For instance if required to give evidence in disciplinary or criminal proceedings, the Service will advise the complainant of the procedure and give reasonable support. Subject to legal constraints, the complainant will receive information about the outcomes of investigations.

Upon completion of the investigation, **all** documents will be forwarded to the Strategic Enabler of People.

### 3.5 Responsible officer

The Strategic Enabler of People has overall responsibility for the maintenance and operation of this policy. This officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger the complainant's confidentiality) and will report as necessary to the Service.

### 3.6 Harassment or victimisation

West Midlands Fire Service 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 alleged malpractice. The Service will not tolerate harassment or victimisation and will take action to protect the complainant when a concern is raised.

### **3.7 Untrue allegations**

If the complainant makes an allegation, but it is not confirmed by the investigation, no action will be taken against the complainant. If however the complainant makes an allegation which, upon full investigation, is found to have been malicious or vexatious, disciplinary action will be considered and the protection of the PIDA will be lost.

### **3.8 Anonymous allegations**

This policy encourages the complainant to put their name to the concerns. Concerns expressed anonymously are much less powerful, but will be considered at the discretion of the Strategic Enabler of People.

In exercising this discretion the factors to be taken into account would include the:

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

### **3.9 How the matter can be taken further**

This policy is intended to provide the complainant with an avenue to raise concerns within the Service. We hope the complainant will be satisfied with the response. If not, the complainant must indicate this to the Strategic Enabler of People or the Treasurer or Clerk to the Fire Authority.

Legal advice may be sought on any concerns about malpractice. If the employee feels it is right to take the matter outside the Service, the following are possible contacts:

- the complainant's recognised trade union
- Citizens Advice Bureau
- A solicitor
- The Police
- Relevant professional bodies or regulatory organisations, such as Ombudsmen.

Public Concern at Work ([www.pcaw.co.uk](http://www.pcaw.co.uk)) is a charity that offers free advice to people concerned about danger or malpractice in the workplace, but who are unsure whether, or how, to raise the matter.

## **4. CROSS REFERENCES**

This Standing Order makes reference to and complements issues contained in other Orders, namely:

<a href="#">Standing Order No. 1/22</a>	Anti-Fraud, Corruption and Bribery Policy
<a href="#">Standing Order No. 2/1</a>	Disciplinary Procedure
<a href="#">Standing Order No. 2/17</a>	Dignity at Work

## **5. KEY CONSULTEES**

Minor changes only have been made to this Order and consultation was not necessary.

## **6. EQUALITY AND DIVERSITY**

The initial Equality Impact Assessment raised no issues so a full impact assessment was not required.

## **7. OWNERSHIP**

This Standing Order did not require Authority or Corporate Board approval.

## **8. RESPONSIBILITY AND REVIEW/AMENDMENT**

### **8.1 Responsible SET Member/Department**

Strategic Enabler People/HR Employee Relations Team

### **8.2 Created/fully reviewed/amended**

This Standing Order has been reviewed, amended by Employee Relations May 2014.

Fully reviewed and amended November 2014.