

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND PERFORMANCE MANAGEMENT COMMITTEE

11 JUNE 2012

1. **MONITORING POLICIES ON RAISING CONCERNS AT WORK – WHISTLE BLOWING STANDING ORDER 2/20**

Joint report of the Chief Fire Officer and the Clerk and Monitoring Officer.

RECOMMENDED

- 1.1 THAT the Audit and Performance Management Committee note that there have been no incidents of whistle blowing in West Midlands Fire Service in the last year up to 30 April 2012.
- 1.2 THAT the Audit and Performance Management Committee note the content of the Whistle Blowing Standing Order 2/20 (attached as Appendix 1).

2. **PURPOSE OF REPORT**

This report is submitted to inform the Committee of the monitoring of the referrals under the Whistle Blowing Standing Order.

3. **BACKGROUND**

- 3.1 The Whistle Blowing Standing Order was updated, consulted on and amended in April 2011 in line with the West Midlands Fire Service's policy to review Standing Orders every three years.
- 3.2 Standing Orders are visible electronically to all personnel using the Important News section of the West Midlands Fire Service intranet and are also kept in the electronic library for reference. This makes sure that all staff are aware of any new or amended Standing Orders.
- 3.3 The Whistle Blowing Standing Order is also referred to in both employee and contractor inductions.

- 3.4 The Committee should note that there have not been any new incidents or concerns raised by employees over the last twelve months using the Whistle Blowing Policy up to 30 April 2012.

One incident in relation to HFSCs raised in a previous reporting year has now been fully investigated and resolved on behalf of the Clerk and Monitoring Officer. There were no substantive actions necessary as a result of this investigation.

- 3.5 The West Midlands Fire and Rescue Service will continue to raise awareness of the whistle blowing policy to all staff.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is required and has been carried out. The initial Equality Impact Assessment did not raise issues which required a full Equality Impact Assessment to be completed.

5. **LEGAL IMPLICATIONS**

- 5.1 In May 1996 the Committee on Standards in Public Life stated that “All organisations face the risk of things going wrong or of unknowingly harbouring malpractice. Encouraging a culture of openness within an organisation will help: prevention is better than cure.”
- 5.2 The Public Interest Disclosure Act 1998 sets out a framework for public interest whistle blowing, which protects workers from reprisal because they have raised concern about malpractice. Only a disclosure that relates to one of the broad categories of malpractice can qualify for protection under the Act. These include concerns about actual or apprehended breaches of civil, criminal, regulatory or administrative law; miscarriages of justice; dangers to health, safety and the environment; and the cover up of any such malpractice. Case law continues to develop this area of law.
- 5.3 In addition to employees the Act covers workers, contractors, trainees, agency staff, etc.
- 5.4 To be protected disclosures must be made in good faith, i.e. disclosure is made honestly so that the concern can be addressed. Good faith can be negated where the disclosure is made for some other dominant and improper motive.

- 5.5 Where a whistle blower is victimised or dismissed in breach of the Act he/she can bring a claim to any employment tribunal for compensation. Awards are uncapped and based on losses suffered.
- 5.6 The Committee on Standards in Public Life has recommended that a whistle blowing policy should make the following points clear:
- a) the organisation takes malpractice seriously, giving examples of the type of concerns to be raised, therefore distinguishing a whistle blowing concern from a grievance;
 - b) employees can choose to raise concerns outside of line management;
 - c) employees are enabled to access confidential advice from an independent body;
 - d) the organisation will, when requested, respect the confidentiality of an employee raising a concern;
 - e) when and how concerns may properly be raised outside the organisation (e.g. with a regulator); and
 - f) it is a disciplinary matter both to victimise a bona fide whistle blower and for someone to maliciously make a false allegation.
- 5.7 In addition the Committee agreed that organisations should:
- ensure that staff are aware of and trust the whistle blowing avenues;
 - make provision for realistic advice about what the whistle blowing process means for openness, confidentiality and anonymity;
 - continually review how the procedures work in practice; and
 - regularly communicate to employees about the avenues open to them.

- 5.8 As part of good governance and internal control it is necessary to review the Authority's policies and procedures from time to time to ensure that they conform to current standards and remain effective in practice.

6. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report.

BACKGROUND PAPERS

The Public Interest Disclosure Act 1998 (PIDA)

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CHIEF FIRE OFFICER

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CLERK AND MONITORING
OFFICER