

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT COMMITTEE

9 JUNE 2014

**1. MONITORING POLICIES ON RAISING CONCERNS AT WORK –
WHISTLE BLOWING STANDING ORDER 2/20 AND
REGULATION OF INVESTIGATORY POWERS ACT 2000**

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

RECOMMENDED

- 1.1 THAT the Audit Committee notes that there have been no incidents of whistle blowing reported and no requests to enact the Regulation of Investigatory Powers Act 2000 in West Midlands Fire Service in the last year up to 31 March 2014.
- 1.2 THAT the Audit Committee notes the content of the Whistle Blowing Standing Order 2/20 (attached as Appendix 1) and the Data Protection Policy 1998 Standing Order 2/16 (attached as Appendix 2).

2. PURPOSE OF REPORT

This report is submitted to inform the Committee of the monitoring of the referrals under the Whistle Blowing Standing Order and the use of the Regulation of Investigatory Powers Act under the Data Protection Standing Order.

3. BACKGROUND

- 3.1 The Whistle Blowing Standing Order was consulted on and amended in April 2011. A review is currently being undertaken in line with the West Midlands Fire Service's policy to review Standing Orders every three years.
- 3.2 The Data Protection Act 1998 was consulted on and amended to include a policy on surveillance in May 2012.

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework for control and supervision of investigatory powers exercised by public bodies, including local authorities, in order to balance the need to protect privacy of individuals with the need to protect others, particularly in light of the Human Rights Act 1998.

- 3.3 Standing Orders are accessible electronically to all personnel. The use of 'Important News' section of the West Midlands Fire Service intranet ensures that employees are notified when amendments to the Standing Orders are made.
- 3.4 Our Standing Orders are also referred to in both employee and contractor inductions.
- 3.5 The Committee should note that there have been no issues of whistle blowing raised by employees over the last twelve months using the Whistle Blowing Policy up to 31 March 2014.
- 3.6 The Committee should note that the Service has not approved any surveillance under RIPA legislation in the last twelve months up to 31 March 2014.
- 3.7 The West Midlands Fire Service will continue to raise awareness of the Whistle Blowing Policy and the Data Protection Policy to all employees.

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 relation to whistle blowing 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 the public interest”, i.e. disclosure is made in the reasonable belief that there is an issue such as wrongdoing in public office or something that presents a risk to the public that warrants disclosure.
- 5.5 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.
- 5.6 In relation to RIPA; The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework for control and supervision of investigatory powers exercised by public bodies, including local authorities, in order to balance the need to protect privacy of individuals with the need to protect others, particularly in light of the Human Rights Act 1998. RIPA provides a statutory basis for the authorisation and use by the security and intelligence agencies, law enforcement and other public authorities, of covert surveillance, agents, informants and undercover officers. It regulates the use of these techniques and safeguards the public from unnecessary invasions of their privacy.

6. **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising from this report.

BACKGROUND PAPERS

The Public Interest Disclosure Act 1998 (PIDA)

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CHIEF FIRE OFFICER

N SHARMA
CLERK and MONITORING
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