

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

27 JUNE 2022

1. WHISTLEBLOWING POLICY

Report of the Chief Fire Officer

RECOMMENDED

- 1.1 THAT the Authority approves the Whistleblowing Policy which has been amended and taken through formal consultation.

2. PURPOSE OF REPORT

- To inform the Authority of the amended Whistleblowing Policy that has been reviewed by PSS Business Partners
- To inform the Authority that the Whistleblowing Policy is in line with current legislation
- To inform the Authority that this reviewed policy has gone through formal consultation on the 2 February 2022 via Joint Consultative Committee (JCC) over a four-week period.
- To seek Authority approval for the update Whistleblowing policy

THAT the Authority is made aware of the changes:

- Changes made to the role of a whistleblower, in line with government guidance: <https://www.gov.uk/whistleblowing>
- Added who is protected by law, in line with government guidance: <https://www.gov.uk/whistleblowing>
- Added who to inform and what to expect when whistleblowing, in line with government guidance: <https://www.gov.uk/whistleblowing>

- Added further information around confidentiality

3. **BACKGROUND**

- 3.1 West Midlands Fire Service recognises that policies and procedures are an essential part of our organisation. Our Whistleblowing Policy has been reviewed and amended to ensure compliance with laws and regulations.

Whistleblowing Policy is reviewed every THREE years with the engagement from Trade Unions, Line Managers and HR professionals and formal consultation.

- 3.2 The Whistleblowing Policy is expected to comply with the following elements:-

- 3.2.1 a relevant Authority must ensure that the policy is in line with the law.

- 3.2.2 a relevant Authority ensures that 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.

- 3.2.3 in addition it must detail:

- (a) how the grievance policy is explored if the complaint does not count as whistle blowing.
- (b) the different roles and responsibilities of the relevant Authority members.
- (c) the different types of allegations within the Whistleblowing policy.

- 3.3 The information referred to above, is available within the policy, as well as within the relevant internal Teams channel accessible to staff and published Joint Consultative Committee minutes.

4. **EQUALITY IMPACT ASSESSMENT**

- 4.1 In preparing this report an initial Equality Impact

Assessment is not required as there is no direct impact on individuals in setting out the Authority's Whistleblowing policy.

5. **LEGAL IMPLICATIONS**

- 5.1 The recommendations provided enable West Midlands Fire and Rescue Authority to continue to comply with the relevant legislation for Whistleblowing.

6. **TRADE UNION CONSULTATION**

- 6.1 This policy has been through formal consultation with the trade unions in line with our Joint Consultative Committee.

7. **FINANCIAL IMPLICATIONS**

- 7.1 There are no direct financial implications arising from this report.

BACKGROUND PAPERS

<https://www.gov.uk/whistleblowing>

The contact name for this report is Wayne Brown, Deputy Chief Fire Officer, 0121 380 6907.

PHIL LOACH
CHIEF FIRE OFFICER

APPENDIX 1

WHISTLE BLOWING POLICY

1. STRATEGY

Following the Public Interest Disclosure Act (PIDA), which came into force in July 1999 (updated on 1st May 2013 GOV.UK), 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 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 Policy.

The Public Interest Disclosure Act - GOV.UK

Equality & Diversity Policy

2. PURPOSE

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.

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

The public interest disclosure Act Gov.Uk
<https://www.gov.uk/government/publications/the-public-interest-disclosure-act/the-public-interest-disclosure-act>

3. RESPONSIBILITY

You're a whistle blower if you're a worker and you report certain types of wrongdoing. This will usually be something you have seen at work – though not always.

The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public.

As a whistle blower you're protected by law - you shouldn't be treated unfairly or lose your job because you 'blow the whistle'.

You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.

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 they may feel it 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.

Who is protected by law

You're protected if you're a worker, for example you're:

- an employee, such as a police officer, NHS employee, office worker, factory worker
- a trainee, such as a student nurse
- an agency worker
- a member of a [Limited Liability Partnership](#) (LLP)

Complaints that count as whistleblowing

You're protected by law if you report any of the following:

- a criminal offence, eg fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, eg doesn't have the right insurance
- you believe someone is covering up wrongdoing

Complaints that don't count as whistle blowing

- Personal grievances (i.e., bullying, harassment, discrimination) aren't covered by whistleblowing law, unless your particular case is in the public interest. Report these under our Grievance Policy.

[Policy | Grievance Procedure](#)

Who to tell and what to expect

You can tell your line manager or Service, this policy will tell you what to expect if you report your concern to them.

There are other options if you do not want to report your concern to the Service, for example you can [get legal advice](#) from a lawyer, or tell a [prescribed person or body](#).

If you tell a prescribed person or body, it must be one that deals with the issue you're raising, for example a disclosure about wrongdoing in a care home can be made to the Care Quality Commission.

Management responsibilities:

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 HR Practitioner.

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 - 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, complainant will receive information about the outcomes of investigations.

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

Responsible Officer:

The Strategic Enabler - 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 and Fire Authority.

4. PROCEDURES

4.1 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 Anti-Fraud Corruption and Bribery Policy.

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 Strategic Enabling Team (SET), the Treasurer or the Clerk to the Fire Authority, who will be required by WMFS to treat the matter in confidence.

Where possible, the complainant should raise their complaint in writing setting 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/ 151 Officer or the Clerk to the Fire Authority.

The earlier that the complainant can express the concern and the more detail that 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 Manager, then either the Strategic Enabler People (as Responsible Officer), or Deputy Chief Fire Officer or Chief Fire Officer, as appropriate, should be contacted in the first instance. Satinder Sahota as the Monitoring Officer role for the Fire Authority. The Monitoring Officer Satinder Sahota may be contacted via email.

Policy, Anti-Fraud, corruption and bribery
<https://wmfs.sharepoint.com/sites/Policy/SitePages/AntiFraudCorruptionandBribery.aspx>

Satinder Sahota
Contingent Worker

The Treasurer to the Fire Authority may be contacted on 0121 380 6919. The Clerk to the Fire Authority may be contacted on 0121 380 6678. Address for the Treasurer and the Clerk to the Fire Authority is: West Midlands Fire Service, 99 Vauxhall Road, Birmingham, B7 4HW.

4.2 **Confidentiality**

You can tell the Service or a prescribed person anonymously but they may not be able to take the claim further if you have not provided all the information they need. You can give your name but request confidentiality - the person or body you tell should make every effort to protect your identity. If you report your concern to the media, in most cases you'll lose your whistleblowing law rights.

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.

4.3 **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.

4.4 **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.

4.5 **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 - 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.

4.6 **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 - People or the Treasurer or Clerk or Monitoring Officer 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) 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.

[Protect - Speak up stop harm | The Whistleblowing Charity](#)

5. **APPENDICES**

None

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7. **DOCUMENT CONTROL AND AUDIT**

<u>Audit</u>	
Responsible SET Member Accountable	Human Resources
Authorised by	Shirley Haines
Direct enquiries to	Policyofficers@wmfs.net
EIA (Date Completed & Name)	Complete TBC
PIA (Date Completed & Name)	Complete TBC

<u>Review History</u>		
Version #	Date	Reviewed By
1.0	1/7/2018	Business Partner, PSS
2.0	1/2/2022	Kamla Devi-Ahir, Business Partner, PSS

<u>Amendment History</u>					
Version #	Date	Amended By	Section Amended	Amendment	Reason for change
2.0	1/2/2022	Kamla Devi-Ahir, Business Partner, PSS	Whole Policy	<ul style="list-style-type: none"> •Made a slight change to the role of a Whistle blower which is in line with www.Gov.Uk •Added, who is protected by law, in line with www.gov.uk •Added, who to tell and what to expect, in line with www.gov.uk •Added, further information around confidentiality in line with www.gov.uk •The policy reflects current legislation 	In line with the policy review cycle