

POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE *DECISION RECORD*

To be completed in cases where a decision is required

DECISION OF POLICE AND CRIME COMMISSIONER

Date:

Officers present:

Received in OPCC Date:

OPCC Ref: EXE 0015/13

Title: Confidential Reporting ("Whistle Blowing") Procedure

Summary of Issue:

The PCC is required to publish details of a policy that allows personnel, who have serious concerns about any aspect of their work, to be able to come forward and voice those concerns (i.e. a "Whistle Blowing" procedure).

Recommendations presented:

That the Confidential Reporting "Whistle Blowing" procedure be adopted for use by those employees of the Office of the PCC who are under the direction and control of the PCC himself.

See attached paper for background.

Key discussion points at meeting

It was resolved that :

OFFICE OF PCC APPROVAL

Chief Executive or Chief Finance Officer:

I have been consulted about the proposal and confirm that appropriate advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner

Signature 

Name PAUL STOCK

Date 13/6/13

Publication Scheme

Decision of Monitoring Officer:

As Monitoring Officer for the Office of Police and Crime Commissioner for Leicestershire I have determined that :

It is appropriate to publish this record of decision made by the Police and Crime Commissioner : Yes / ~~Part Redacted~~ / No

It is appropriate to publish the contents of the assessment of the decision by either of the senior post holders in the Office of the Police and Crime Commissioner for Leicestershire (i.e. either the Chief Executive or Chief Finance Officer) :
Yes / ~~Part Redacted~~ / No

It is appropriate to publish details of the decision by the Police and Crime Commissioner for Leicestershire : Yes / ~~Part Redacted~~ / No

Reasons for any non Publication (referencing appropriate legislation):

Signature 

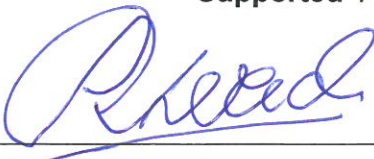
Name PAUL STOCK

Date 13/6/13

Police and Crime Commissioner for Leicestershire

Having received the advice set out above and reviewed relevant documentation my decision in regard of this matter is:

Supported / ~~Not Supported~~

Signature 

Date 13th June 2013

Background

1. HMIC have conducted a national review of integrity, primarily directed to examine the relationship between the Police Service, the media and other parties. The findings of this review entitled 'Without Fear of Favour' were published on 13th December 2011. The report also incorporated an integrity check list which required all police forces to consider their current position against specific areas identified as key risks. From this, the initial development plan was constructed.
2. On the 19th December 2012, HMIC's second report entitled 'Revisiting Police Relationships' was published, outlining the progress made by the Police Service in response to the recommendations resulting from the thematic inspection and the report 'Without Fear or Favour'.
3. The Leveson Inquiry report and the recent publication of the Transparency International report to ACPO has an additional impact on the wider integrity issues affecting the Police Service. In addition, the Home Secretary's recent speech on integrity and the subsequent publication of the proposed Police Integrity Model are matters that we have considered within our strategy.
4. DCC Edens was the Force strategic lead for the integrity development plan and amongst the requirements identified was the need for a revision of a Confidential Report procedure ("Whistle Blowing") to ensure that it complies with both the statute and spirit of the new and revised legislation and guidance.
5. The Anti Corruption Unit within Professional Standards Department has been responsible for the development of such a procedure, a copy of which is attached as an appendix.
6. The Chief Constable has adopted this revised procedure for use by all Police Officers and, whilst all civilian employees are legally employees of the Office of Police and Crime Commissioner, until the implementation of a Subsequent Transfer Scheme some of these employees are under the direction and control of the Chief Constable. The Chief Constable has also adopted the policy for their use having gone through the appropriate process for this adoption.
7. Given that the procedure fulfils all the recommendations and requirements of both the Home Secretary and HMIC it is proposed that the PCC adopt the procedure for use by employees who are under the direction and control of the PCC himself.

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1. Introduction

- 1.1 Leicestershire Police is committed to the highest possible standards of honesty, openness, probity and accountability. It seeks to conduct its business in a responsible manner, ensuring that all its activities are open and effectively managed and that its integrity is sustained.
- 1.2. In line with that commitment, the organisation encourages individuals, stakeholders and others associated with the organisation, who may have serious concerns about any aspect of their work, to come forward and voice those concerns.
- 1.3 The term “individuals” is used within this procedure to refer to police officers, police staff and volunteers. The term “managers” is used within this procedure to refer to supervisors and managers of all levels.
- 1.4 The organisation recognises and appreciates that individuals who raise concerns are an asset and not a threat. It is recognised that many concerns will be expressed in confidence and where possible that confidence will be maintained.
- 1.5 Individuals are often the first to realise that there may be something seriously wrong with, for example, the behaviour of colleagues or working practices. However, they may feel that expressing their concern would be disloyal or may fear harassment or victimisation. In these circumstances it may be easier to ignore concerns rather than report them.
- 1.6 The Standards of Professional Behaviour for both Police Officers and Police Staff place an expectation on individuals to challenge and report behaviour that may breach those standards. This procedure sets out how police officers and staff can meet their responsibilities with the support of the organisation and raise their concerns without fear of victimisation, subsequent discrimination or disadvantage.

2. Aims of procedure

- 2.1 This procedure will therefore ensure a credible professional standards reporting process that seeks to provide
- a proper mechanism for both open and confidential reporting;
 - adequate support for anybody who makes a report in good faith;
 - an acknowledgement of the potential effect of making a report on the individuals concerned and provide reassurance that the disclosure will be taken seriously and investigated thoroughly.

3. Guiding principles

- 3.1 **Confidentiality** – while open reporting of professional standards matters is encouraged to support effective investigation, mechanisms are in place to enable individuals to make reports anonymously and / or in confidence. Where confidentiality is requested by an individual, this will be given the highest priority and a senior officer within PSD will oversee arrangements to ensure this, in consultation with the individual. All individuals should be aware that legal rules governing ‘disclosure’ may apply to cases under this procedure as they apply to all others. Where confidential information has been received this may be handled for disclosure purposes in a similar way to criminal intelligence (ie, in criminal cases, consideration would be given to a public interest immunity hearing to protect the source of the information).
- 3.2 **Published and accessible guidance** – this document will be available through the Force intranet with additional information on the PSD website. Guidance will be published regularly to encourage reporting, for example, through the Latest News facility.
- 3.3 **Methods of reporting** – see [Appendix 1](#) for guidance on methods of reporting professional standards matters, both openly and confidentially.
- 3.4 **Feedback and support** – Section 6 provides guidance on sources of support both within Leicestershire Police and externally. The Anti Corruption Unit (ACU) will be able to provide feedback to reports made via the Bad Apple facility, which does not compromise confidentiality or anonymity in cases where this is requested. Bad Apple is the Forces primary confidential reporting mechanism where officers and staff can report in confidence, if required to the Anti Corruption Unit. This is outlined in Annex 1. Experience elsewhere has shown that such two-way engagement can improve the quality of information received as well as provide support and reassurance to individuals.

- 3.5 **Leadership** – there is an expectation on all supervisors and managers to provide visible, pro-active and supportive leadership in dealing with those who have expressed concern.
- 3.6 **False and malicious allegations** – every effort will be made to corroborate information received, and to fully investigate the integrity and accuracy of that information. While all individuals are encouraged to make reports in good faith it is equally important to protect individuals from malicious allegations. If it is established that a report has been made maliciously, an investigation will take place and consideration given to appropriate action.

4. **Legal basis**

- 4.1 The Public Interest Disclosure Act 1998 is relevant legislation that aims to ensure information of public interest is appropriately brought to the attention of the responsible person in order that concerns about wrongdoing can be dealt with. It provides statutory protection to individuals against victimisation and unfair treatment if they make protected disclosures in good faith about wrongdoings or dangers in the workplace. This leaflet provides guidance, and although it is produced by the Police Federation, it is equally as relevant to police staff. An individual may not always be protected by the law if, for example, he or she discloses allegations of malpractice to the press or if he or she breaks another law in blowing the whistle; for example, if he or she breaches the Official Secrets Act.
- 4.2 The types of disclosure that individuals are encouraged to report under the Public Interest Disclosure Act 1998 include information relating to;
- Criminal offences
 - Breaches of a legal obligation
 - Miscarriages of justice
 - Damage to the environment
 - Financial impropriety
 - Deliberate covering up of information
 - Intentional or reckless interference with equipment provided for health and safety purposes.

This list should not be considered exhaustive and individuals are encouraged to report any genuine concerns they have.

5. Monitoring and review

- 5.1 All information received into the ACU is subject of risk assessment and review through a tasking and co-ordinating process. The use and benefits of confidential reporting mechanisms covered in this procedure will be subject of periodic analysis and reported to the Head of Professional Standards, normally through the annual strategic review process.
- 5.2 This procedure will be subject of review in accordance with Force guidance on corporate policies and procedures, as managed by the Corporate Services Department.

6. Further information and support

- 6.1 Line managers are available in the first instance for individuals to discuss concerns and provide advice. In all cases line managers need to ensure a working environment in which individuals feel confident in making reports, and individuals are protected from any form of victimisation or discrimination. Line managers must have proper regard to support, guidance and welfare provision, engaging help from elsewhere when appropriate.
- 6.2 The role of PSD/ACU is to maintain the confidential reporting facility and to manage information that arises from such reports. ACU will ensure each report is investigated effectively in a proportionate manner and provide an appropriate level of feedback to an individual. In managing the process, ACU will liaise with managers, staff associations, Trade Unions and others to ensure responsibilities are being met.
- 6.3 Force Occupational Health / Care First / Risk Management Unit / Diversity Unit are all available to assist and advise individuals, to ensure that individuals are not compromised in the workplace, and that concerns raised are properly addressed from a welfare and support perspective.
- 6.4 Staff association and Trade Union representatives are experienced in providing support to their members in circumstances such as those that may arise from professional standards reporting. This applies to individuals who may make a report as well as those who may be subject of such reports.
- 6.5 The Police and Crime Commissioners (PCC) are currently the employers of all police staff. As such, they are able to offer advice and support to police staff employees should they wish to make a professional standards reporting. Additionally, the PCC have a statutory responsibility to investigate all complaints against the Chief Constable only. They also have a statutory responsibility to ensure that

Integrity Programmes are in place and maintained by the Chief Constable. Individuals may wish to be aware that this provides to them an additional point of contact. Contact may be made with the PCC writing or by telephoning extension 8980.

6.6 Independent advice on 'whistleblowing' can also be obtained from the charity, Public Concern at Work, and from the Audit Commission, as below;

- Audit Commission Tel: 0845 052 2646
- Public Concern at Work Tel: 020 7404 6609
Email: helpline@pcaw.co.uk

Appendix 1: Mechanisms for reporting professional standards issues

There are a number of ways in which staff can make such reports. These are set out below. It is for the individual making the report to choose which method is the right one for them.

1. Reporting direct to line management

This method has always been available to individuals and concerns are usually expressed verbally or in written form. It has the advantage of enabling an immediate response, where appropriate, and direct feedback to the individual. The Line Manager will request a written report as soon as possible and in all cases within twenty four hours of a verbal report. It is important that line management have a clear understanding of their role and responsibilities when presented with this type of information.

Where the breach of professional standards is believed to involve the person's line manager, or where for any reason it is felt more appropriate to report it to another manager, this may be done. If there is doubt as to who is an appropriate manager then advice may be sought from the Professional Standards Department or alternative methods of reporting may be chosen.

2. In Force confidential reporting system 'Bad Apple'

A user-friendly, confidential reporting system known as 'Bad Apple' is the preferred method of reporting. This facility is for the reporting of suspected wrongdoing and is available to all Leicestershire Police officers and staff, who are encouraged to raise concerns using this facility.

The Bad Apple system can be accessed either through the front page of the Force intranet or through the Professional Standards Department website.

The Bad Apple system is fully encrypted and can be utilised anonymously by any individuals if they feel unable to report matters openly. The choice of reporting anonymously or not is controlled solely by the reporting person. Only authorised individuals within the Anti-Corruption Unit receive the reports. The facility is fully auditable but does not store or provide any information that could identify the reporting person, either to Professional Standards Department or IT Department.

Additionally the facility allows a two way e-conversation if the reporting person wishes to engage. Two-way e-conversation is set up in a way to protect the identity of the reporting person if that option is chosen. This e-conversation will allow individuals within the Anti-Corruption Unit to contact the reporting person with updates and feedback on their information. The Anti-Corruption Unit will also be able to clear up ambiguities or direct the reporting person to appropriate support if needed.

Guidance for the Anti-Corruption Unit receiving reports via the Bad Apple facility is shown at APPENDIX 2.

3. Concerns raised through staff associations and Trade Unions

The Police Federation, Superintendents' Association, Trade Unions and other support 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.

The staff associations, Trade Unions and other support associations can offer independent advice on whether a particular case merits formal reporting. These organisations may be bound by their own internal rules regarding confidentiality and the need for a members consent prior to the forwarding of information

4. Direct contact with Professional Standards Department

This alternative has always been available and contact may be made verbally, in writing, by e-mail, fax or by personal face-to-face meeting. Such an approach will be dealt with by individuals experienced in dealing with cases involving allegations of breaches of professional standards. When direct reporting is chosen the individual may of course wish to be accompanied by their Staff Association or Trade Union Representative, an agreement on the status of the report and the degree of confidentiality necessary will be made between the Professional Standards department and the person reporting. This agreement will be recorded in writing.

This particular method of reporting provides an element of independent and objective assessment of the information provided at the earliest stage. This is beneficial to both the Force and to the person reporting

Where a report is made to the Professional Standards Department via a third party, it may necessitate a meeting between the person reporting and a Professional Standards officer.

5. Concerns raised through Crimestoppers

Crimestoppers provides a medium for providing information anonymously regarding crime and is, therefore, considered to be a valid alternative in appropriate circumstances. All Crimestoppers reports that relate to professional standards issues will be received by the Anti-Corruption Unit.

Crimestoppers can be contacted on 0800 555111 or online at <http://www.crimestoppers-uk.org/>

6. Concerns raised through the Chief Constable or Deputy Chief Constable.

This method has always been available to individuals and concerns are usually expressed verbally or in written form, though rarely used. It has the advantage of enabling an immediate response, and the Chief Officers can action reports directly to the Head of Professional Standards for assessment and if necessary, investigation.

Where the breach of professional standards is believed to involve the person's line manager, or where for any reason it is felt more appropriate to report it to another higher manager, this may be done. If there is doubt advice may be sought from the Professional Standards Department or alternative methods of reporting may be chosen.

Appendix 2: Guidance to the ACU receiving confidential reports

In all cases that fall within the terms of this policy the Head of Anti-Corruption or Deputy will be contacted with regard to the particular circumstances. Any initial action that may be required will remain the responsibility of the designated manager and may include the preservation of any scene or evidence at the request of the PSD.

Once a report has been made and after relevant consultations with the person reporting (if identity known), the matter will be recorded and given a unique number. The individual will be informed of the process, and proposed action where appropriate. All information and intelligence will be treated as confidential and documentation will carry a minimum protective marking of 'confidential'.

Due regard will be taken of the circumstances of the person reporting, they will be made aware of their right to representation from their Staff Association or Trade Union and a risk assessment will be carried out at an early stage to consider the welfare of the individual, their present post, levels of protection and other sensitive issues.

The ACU deals primarily with allegations of criminality or serious misconduct. Information received that does not fit these criteria will be assessed on its merits with a view to either advising the reporting person on how it may better be reported, or referred to an appropriate manager or department elsewhere. In either case a record will be made of the decision and action taken.

An agreed statement of expectations based on the risk assessment may be drawn up in appropriate cases between the individual reporting and the professional standards department. It will summarise what each party can expect from the other and outline the minimum level of support to be given to the individual who made the report. (e.g. this may demonstrate a commitment from the PSD to protect the identity of the individual and offer reassurance that the report will be taken seriously and acted upon). A copy of the agreed statement will be given to the person reporting, endorsed by a senior officer within PSD.

The ACU receiving officer will ensure every effort is made to examine the integrity and accuracy of the information. This may include requesting the reporting person to clarify or provide additional information. In such cases extreme care will be taken to ensure that the reporting person is not being 'tasked' or doubted in the reporting of such matters.

Where the report is made either openly or through the Bad Apple facility, the receiving officer will ensure that positive feedback is given as soon as possible including an appropriate explanation of proposed action. The Head of Anti-Corruption will ensure that subsequent updates and feedback are provided to the reporting person.

Where it is established that a report has been made falsely, maliciously or not in good faith, where appropriate (i.e. if the individual's identity is known) the Head of Professional Standards will decide if an investigation should take place and consideration given to management/misconduct action.

Following the conclusion of an investigation, an important part of the process will be for the investigating officer to hold a de-brief with the person reporting. This can often be helpful to the individual but may also serve as an opportunity to identify weaknesses or good and bad practices. Persons conducting such debriefs must consider disclosure issues in cases where criminal proceedings are pending.

There may be occasions when Leicestershire Police would wish to recognise the actions of an individual who has made a professional standards report. This might include a letter of appreciation or a private ceremony with a senior officer. In these circumstances, consideration may be given to awarding a formal commendation in public or in private. It remains important to consider each case on its merits and be guided by the wishes of the individual concerned. The final decision regarding rewards/recognition will be made by the Head of Professional Standards.