

**Hampshire Fire and Rescue Authority**

**Standards and Governance Committee**

**Item: 14**

**11 December 2013**

**Whistleblowing arrangements in the Service**

**Report by the Chief Officer**

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**1 Summary**

- 1.1 At the September meeting of this Committee, the Chairman requested a report regarding whistleblowing arrangements in the Service. It was agreed that a report would be provided for this meeting.
- 1.2 Whistleblowing is the term used when someone who works with or for an organisation, wishes to raise concerns about possible malpractice or serious risk in the organisation that could threaten customers, colleagues, the public or the organisation's own reputation. Examples could be crimes such as fraud, civil offences, dangers to health and safety or the environment or other serious risks, and the cover up of any of these. Whistleblowing is very different from a grievance.
- 1.3 The Service has a Whistleblowing policy, a copy of which is attached in appendix 1. It was last reviewed and updated in 2011, and was due to be reviewed again in November this year. It was decided to wait until feedback was received from an internal survey and from any comments that Members of the Committee may have.

**2 Recommendation**

- 2.1 The Committee notes the contents of this report, and receives further updates on the review of the Service's Whistleblowing policy.

**3 Introduction and background**

- 3.1 The Public Interest Disclosure Act (PIDA) 1998, known as the Whistleblowing Act, is intended to promote 'internal and regulatory disclosures and encourage workplace accountability and self-regulation'. The Act protects the public interest by providing a route for individuals who suffer workplace reprisal for raising a genuine concern, whether it is a concern about financial malpractice, danger, illegality, or other wrongdoing. The concern may relate to something that is happening or has happened in the past.

- 3.2 Under the PIDA, workers are protected from reprisals for reasonably raising an honest and genuine concern internally, but they must be acting in the public interest and not for personal gain to be given this protection. The Act covers all workers and temporary agency staff.
- 3.3 The objective of the Whistleblowing Policy is to pick up issues quickly before they develop and to deter wrongdoing.

#### **4 Whistleblowing cases to date**

- 4.1 We have had no officially recorded cases of whistleblowing in the Service to date. However, staff are encouraged to raise issues with their line managers in the first instance. Some cases may have been resolved at line manager level; whereas anything related to a crime of any form would have been escalated.

#### **5 Survey of staff awareness and attitude to whistleblowing**

- 5.1 Leadership and the promotion of whistleblowing arrangements are critically important. The Committee on Standards in Public Life, which has done much to inform whistleblowing legislation, distinguishes a 'real' internal whistleblower from an anonymous leaker to the press, and has recently stressed that the Public Interest Disclosure Act should be seen as a 'backstop' for when things go wrong and not as a substitute for an open culture. In its most recent report the Committee emphatically endorsed additional elements of practice drawn from Public Concern at Work's evidence that organisations should:
- ensure that staff are aware of and trust the whistleblowing avenues;
  - make provision for realistic advice about what the whistleblowing process means for openness, confidentiality and anonymity;
  - continually review how the procedures work in practice; and
  - regularly communicate to staff about the avenues open to them.
- 5.2 We are currently conducting an internal survey to gauge awareness of our policy amongst our staff, and their willingness to use it should they need to. We will use the outcomes of this to plan a way to review, improve, and promote the policy in line with our culture. We need to ensure that our staff feel comfortable and safe enough to raise concerns they have and that concerns will be examined and addressed fairly.
- 5.3 Directors are very supportive of this approach. We have a Pathway to our Vision 2020 which aims to ensure our culture moves from 'tacit liberation to active mobilisation', with staff feeling empowered. The Pathway underpins our Service Plan and provides the infrastructure for us to meet our vision.

#### **6 Supporting our corporate priorities and aims**

- 6.1 The Service engenders a culture of openness, honesty, integrity, and mutual trust. An effective whistleblowing policy is an enabler of this culture.

## **7 Risk analysis**

- 7.1 If our whistleblowing arrangements are not effective, malpractice may go undetected, and risks may become live issues before they can be addressed. Risks need to be raised at the earliest opportunity, and it is staff who are often best placed to identify these. The impacts can be unplanned costs, litigation, and damage to our reputation.

## **8 People Impact Assessment**

- 8.1 The proposals in this report are considered compatible with the provisions of the equality and human rights legislation. A People Impact Assessment will be carried out during the review of the policy.

## **9 Environmental and sustainability impact assessment**

- 9.1 No impacts have been identified.

## **10 Resource implications**

- 10.1 There are no resource implications to this report.

## **11 Conclusion**

- 11.1 Once we have completed our survey to staff, and received any feedback we will review our Whistleblowing arrangements in line with best practice, including the Code of Practice. We will report back to this Committee on the outcomes.
- 11.2 It should be noted that Whistleblowing is not a substitute for management, compliance and other controls. It is a safety net for those controls which will pick up problems, deter wrong-doing and promote accountable conduct.

## **12 Background papers**

- 12.1 The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of the report:

Note: The list excludes: (1) published works; and (2) documents that disclose exempt or confidential information defined in the Act.

Public Interest Disclosure Act 1998

Whistleblowing arrangements Code of practice, BSI, 1998

Survey of public attitudes towards conduct in public life 2012, prepared for the Committee on Standards in Public Life by Isabel Taylor, Nicole Martin and the Committee's Research Advisory Board, September 2013,

## Appendix 1

### Service Order/1/2/2 – Whistleblowing Policy

#### 1 Policy

1.1 Hampshire Fire and Rescue Service is committed to the highest standards of openness and accountability. All employees have a right and a duty to report serious concerns about irregularities and unprofessional conduct within the Service.

1.2 The aim of this policy is to:

- deter malpractice and avoid crisis management
- help ensure good governance of the Authority and the appropriate, and efficient use of its resources
- encourage employees to question and act upon concerns about bad practice and to feel confident in raising serious concerns
- provide a process for employees to raise concerns
- ensure that concerns are addressed promptly and effectively
- ensure that employees who raise concerns receive feedback on action taken
- provide guidance to employees on how to take matters further if they are not satisfied
- reassure employees that they will be protected from possible reprisals or victimisation if they have made the disclosure in good faith, and
- maintain the Service's good reputation.

1.3 The policy has been designed to operate in accordance with, and fulfill the Service's legal obligations in respect to the Public Interest Disclosure Act 1998, which provides special rights for people making disclosures to encourage reporting of malpractice. It provides employees with protection from victimisation and dismissal for making a 'qualifying disclosure'. The Act encourages employees to raise matters internally with their employer in the first instance. Disclosures will be protected if they meet the legal requirements, which generally require the employee to be acting in good faith.

This policy applies to all employees, and includes temporary, part time and casual workers. It also applies to contractors, suppliers, trainees, agency workers, volunteers, students, secondees and those providing services under a contract or on an assignment with Hampshire Fire and Rescue Service.

1.4 Examples of the types of malpractice that should be disclosed include, but are not limited to, the following:-

- Fraud, corruption and bribery
- Financial irregularities

- Unauthorised use of public funds
  - Serious breaches of professional codes of conduct or practice
  - A criminal offence
  - Abuse of users of HFRS services
  - Endangering an individual's health and safety
  - Failure to follow financial or contract service orders
  - Conduct which is an offence or a breach of the law
  - Miscarriages of justice
  - Damage to the environment
  - Showing undue favour to a contractor or job applicant
  - Deliberate concealment of information relating to any of the above
  - Other dangers or illegalities which may affect members of the public or the Authority itself
  - Not striving to serve the interests of the public
  - Other unethical conduct
- 1.5 The standards expected of the Service's employees are set out in the Code of Conduct and specific service orders.
- 1.6 The Service recognises that the decision to report a concern can be a difficult one to make. Employees who believe that there is a serious problem within the Service may feel reluctant to express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Service in general. They may also fear harassment or victimisation. This policy makes it clear that employees have a duty and a right to disclose concerns, in confidence, without fear of subsequent victimisation, discrimination or disadvantage. Employees should raise serious concerns within Hampshire Fire and Rescue Service rather than ignoring a problem or 'blowing the whistle' outside the Service.
- 1.7 All concerns will be treated in confidence and every effort will be made to preserve the anonymity of the person making the disclosure where necessary. However, at the appropriate time it may be necessary for the person making the disclosure to come forward as a witness, for example, as part of the internal investigation, disciplinary process or legal proceedings.
- 1.8 Wherever possible, employees are encouraged to put their name to an allegation, as concerns expressed anonymously can be less effective and more difficult to investigate properly.
- 1.9 Anonymous disclosures will be considered by the Service, but whether further action is taken will depend on the seriousness of the issues raised and the likelihood of confirming the allegation. This decision will be made by local management in conjunction with HR Business Team.

- 1.10 The Service will take steps to minimise any difficulties which an employee may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings the Service will arrange for advice and support to be provided. The Service will also consider practical issues such as travel costs and the implications of spending time away from the workplace.
- 1.11 If an employee makes an allegation in good faith but it is not confirmed by the subsequent investigation, no action will be taken against them. However, if it is found as a result of the investigation that an allegation has been made frivolously, maliciously, or for personal gain, then disciplinary action may be taken against the individual.
- 1.12 Victimisation or deterring an employee from raising a legitimate concern will constitute serious misconduct and will be addressed under the Service's disciplinary policy.
- 1.13 The Service recognises that the complainant will need to be assured that the matter has been properly addressed. Due to confidentiality considerations, the complainant may not be informed of the outcomes of any investigation, but will be provided with appropriate information to reassure them that the matter has been addressed.
- 1.14 Support is available at all stages from the Service's confidential counselling and welfare support, which is supplied via Workplace Options.
- 1.15 The HR Business Team is responsible for providing advice and guidance on this procedure, and all managers are responsible for ensuring that all employees have the opportunity to raise concerns under the Whistleblowing procedure, and that any concerns received by them follow the correct procedure.

## **2 How to raise a concern**

- 2.1 It is hoped that most concerns can be resolved simply and effectively at the lowest appropriate level in the Service. This will normally entail employees raising concerns with their line manager or supervisor. However, this will depend on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. If it is believed that line managers and or supervisors are involved, or the issue cannot be resolved at this level, the employee should contact another line manager.
- 2.2 Managers will need to assess whether the concern raised by the employee falls within the scope of this policy or is to be managed under the Grievance Policy. In general if the concern falls within the scope of the examples listed in Section 1.4, they should be dealt with under this policy. Managers should seek advice from the HR Business Team
- 2.3 However, if this does not resolve the situation, the employee should contact one of the following:-
  - The Authority's Monitoring Officer (currently the Chief Executive, Hampshire County Council), or

- The Authority's Chief Internal Auditor (currently Hampshire County Council Audit Services); or
- The Authority's external Auditor (currently the Audit Commission).

Full contact details for all the above are given in Appendix A.

Individuals must make every effort to raise their concerns internally in the first instance.

- 2.4 Disclosures can be made orally, followed up in writing. They should include the background and history of the concern, including relevant dates, and the reason why the situation gives particular cause for concern, with as much detail as possible. Although employees are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for concern. This should be made clear when an issue is being raised under the Whistleblowing policy.
- 2.5 Concerns should be raised as early as possible, as this will make it easier to take action and enable any problems to be resolved quickly. However, it is recognised that some bad practices can develop over a long period of time, delaying the opportunity for disclosure, or could be discovered after they have become well-established. Whilst there is no definite time limit on raising concerns, individuals should make every effort to bring any matters to the attention of the Service as soon as possible after an event has occurred. Whether an issue can viably be dealt with after a long period of time will depend on the circumstances. It is more likely that a matter can be addressed if the Service is aware of it when it is current, or has recently occurred.
- 2.6 Employees may wish to discuss their concern with a colleague first and may find it easier to raise the matter if there are two (or more) people who have had the same experience or concerns. However, employees should also be prepared to give their own individual account during the investigation process.
- 2.7 Employees may be accompanied by a trade union representative or colleague during any meeting or interviews in connection with the concerns they have raised.

### **3 How Hampshire Fire and Rescue Service will respond**

- 3.1 The Service will always respond to concerns raised by employees and the matter will normally be investigated by management. Further courses of action will vary, depending on the issue, but could include:
- investigation by the HR Business Team, resulting in disciplinary procedure if appropriate, or other formal action;
  - investigation by an internal investigating officer;
  - investigation by Internal Audit, again resulting in use of disciplinary procedure if appropriate;

- referral to the Service's external auditors; or
  - referral to the Police.
- 3.2 When deciding on whether an investigation is appropriate, and what form this should take, the Service will consider the public interest as an over-riding principle.
- 3.3 Within ten working days of the concern being raised, the person receiving the disclosure will write to the employee, giving due regard to personal confidentiality of parties involved, to:
- acknowledge that the concern has been received,
  - indicate how it is proposed that the matter will be dealt with (i.e. whether further investigations will take place, and what form these will take),
  - indicate whether any initial enquiries have been made,
  - give an estimate of how long it will take to undertake any investigation and to reach a conclusion, and
  - supply information on employee support mechanisms.
- 3.4 The amount of contact between persons considering the issue and the employee who raised the issue 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 person making the disclosure, ensuring that confidentiality is maintained as far as possible.
- 3.5 Investigations into allegations of potential malpractice will not influence, or be influenced by, any disciplinary or redundancy procedures that an employee may already be subject to. However, any allegations of bad practice within the disciplinary procedure itself will only be dealt with through that process (i.e. by invoking the disciplinary appeal procedure).

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

- 4.1 This procedure is intended to provide employees with an avenue with which to resolve their concerns internally, but if an employee raising a concern is dissatisfied with the action taken and wishes to take the matter outside the Service, the following are examples of appropriate contact points:
- 4.2 Semi-external contacts:
- An elected Member of the Hampshire Fire and Rescue Authority
  - The External Auditor
  - A trade union representative
  - The Local Government Ombudsman

Full contact details for the above are given in Appendix A.

4.3 External contacts:

- The Citizens Advice Bureau
- Public Concern at Work (a national charity that gives advice on 'blowing the whistle')
- Appropriate professional bodies or regulatory organisations
- The Police

Full contact details for the above are given in Appendix A.

4.4 If the matter is taken outside the Service, the employee should ensure that information is not disclosed, such as personal details about colleagues, or restricted financial information. All Service policies on the transfer or disclosure of information should be followed. We would expect the individual to inform the Service in the event that a matter is being raised externally.

4.5 Employees raising a concern externally should consider carefully whether this is the most appropriate course of action for resolving the issue and that all reasonable, possible internal steps have been taken.