

POLICE AND CRIME COMMISSIONER FOR DERBYSHIRE

PUBLIC INTEREST DISCLOSURE (WHISTLE-BLOWING) POLICY

March 2012

1 Introduction

- 1.1 The Police and Crime Commissioner for Derbyshire, as a public body has a duty to conduct their affairs in a responsible and transparent way and to take account of the requirements of its funding bodies for the proper use of public funds and of the standards required in public life.
- 1.2 The Public Interest Disclosure Act 1998 which came into effect on 2 July 1999 protects workers against detriment or dismissal for raising concerns about certain matters of public interest¹ and encourages the resolution of problems within the workplace.
- 1.3 This Policy is designed to allow Police and Crime Commissioner Staff to raise, at a high level, concerns or information which they believe in good faith provides evidence of malpractice or impropriety. Individuals discovering apparent evidence of malpractice, impropriety or wrongdoing within the Office of the Police and Crime Commissioner should feel able to disclose the information appropriately, **without fear of reprisal**. This Policy and Procedure sets out how such disclosures should be made, and how cases will be dealt with by the Commissioner.
- 1.4 **A person making a disclosure in good faith, without malice, and in line with this Policy will not be penalised for doing so.**
- 1.5 This policy is intended to be used to raise matters of general concern in the public interest.

2 External Disclosures

- 2.1 To avoid possible prejudice to any internal investigation process, a disclosure should not normally be made to external bodies before it is raised through the internal mechanisms set out in this policy.
- 2.2 However, under the Act, in certain limited circumstances² an individual making a disclosure to an external body relating to one of the matters

¹criminal activity, failure to comply with a legal obligation, miscarriage of justice, endangering of Health and Safety, damage to the environment, attempts to suppress or conceal information relating to any of these

² S/he reasonably believes s/he will be subjected to detriment by the employer, or, that it is likely that evidence will be concealed/destroyed if disclosed to the employer, or, s/he has previously made substantially the same disclosure to his/her employer, or it is of an exceptionally serious nature and in all the circumstances it is reasonable for him/her to make

covered in the Public Interest Disclosure Act 1998, may be protected from detriment or dismissal.

3 Purpose of the Policy

3.1 The purpose of the policy is :-

- To enable individuals to raise concerns within the organisation without fear of reprisals/victimisation.
- To provide a process for concerns to be raised, investigated and where appropriate acted upon.
- To give a clear message that allegations of malpractice/impropriety are taken seriously within the Office.
- To act as a deterrent to potential perpetrators of misconduct.
- To strengthen the confidence of all interested parties (the public of Derbyshire, the Police and Crime Commissioner, the Deputy Police and Crime Commissioner and the staff of the Commissioner's Office) that the Commission maintains the highest standards of conduct.

4 Matters Covered

4.1 This policy is designed to be used to raise serious concerns which are in the public interest. Examples of serious misconduct, impropriety or malpractice which may prompt such a disclosure are :-

- Criminal Activity
- Failure to comply with legal obligations
- Miscarriage of Justice
- Endangering of Health and Safety
- Damage to the Environment
- Financial and non-financial maladministration, malpractice or fraud
- Serious failure to comply with the Statutes, and Regulations governing the Office of the Police and Crime Commissioner
- Evidence of academic or professional malpractice
- Failure of an individual/s to disclose a serious conflict of interest
- Attempts to suppress or conceal information relating to any of the above.

4.2 This procedure is **not** designed to be used :-

- to reconsider any matters already addressed under any other internal procedures for example complaints or disciplinary and grievance procedures.
- by individuals to challenge financial and business decisions properly taken by the Commissioner.

the disclosure, and that s/he is making the disclosure in good faith, reasonably believing it to be true and does not make it for personal gain (Précis of Act)

5 Confidentiality

- 5.1 All disclosures under this Policy will be treated in a confidential and sensitive manner. If required, the identity of the person raising the matter will be kept confidential for as long as possible provided that this is compatible with an effective investigation. The investigation process may however at some stage have to reveal the sources of the information and the individual making the disclosure may need to make a statement as part of the evidence required.

6 Anonymous Disclosures

- 6.1 Individuals are encouraged to put their name to any disclosure they make since part of the purpose of this policy is to promote openness and discourage a fear of reprisals. Disclosures raised anonymously are far less capable of being addressed effectively but may be considered after taking into account the seriousness of the issue, the credibility of the disclosure, the likelihood of being able to investigate the matter and confirm the allegation from alternative sources, and fairness to any individual mentioned in the disclosure.
- 6.2 Any individual wishing to make a disclosure orally or to give further details as the matter is investigated may be accompanied by another person of his or her choice.

7 Procedure for Making a Disclosure

- 7.1 Any relevant disclosure should initially be made to the persons designated by the Commissioner to receive such disclosures. These “designated persons” are the Chief Executive and the Head of Compliance and Communities as appropriate. If the disclosure involves or implicates the Chief Executive or the Head of Compliance then it should be made to the Chief Executive and/or the Deputy Commissioner as appropriate. The Commissioner should be advised when such a disclosure is made.
- 7.2 The designated person to whom the disclosure has been made will consider the matters disclosed, and, if there are grounds for proceeding further will :-
- decide whether an investigation should be conducted;
 - determine what form the investigation should take;
 - appoint a relevant person to carry out the investigation.
- 7.3 If the designated person decides that there are not grounds for proceeding further, the person making the disclosure will be informed.

- 7.4 As the person conducting the investigation must not be the person who would ultimately take decisions based on the outcomes, the designated person to whom the disclosure has been made will not personally conduct the investigation and will remain separate from it.
- 7.5 When the matter has been investigated the person to whom the disclosure was made will decide whether the matter should be taken further and if so how it should be handled. This may include the initiation of formal procedures within the Office of the Police and Crime Commissioner or reference to an external agency. In any event the outcome will be reported, as appropriate to the Chief Executive and the Commissioner, and in cases where there are financial considerations, to the Treasurer and the JARAC.
- 7.6 As set out in the Financial Regulations, investigation of internal financial irregularities shall normally be carried out by the Professional Standards Department, who shall consult with Internal Audit as appropriate and keep them informed of progress. At the conclusion of the investigation Internal Audit shall review the case to identify any internal control weaknesses that allowed the financial irregularity to happen and shall make recommendations to ensure that the risk of recurrence is minimised.
- 7.7 Reporting of the findings of any investigation will depend on the nature of the disclosures as it is not appropriate to be prescriptive as to the correct level of reporting in every case.
- 7.8 This policy does not remove the right of individuals to invoke the relevant statutory procedures.

8 Individuals Named in a Disclosure

- 8.1 When an allegation is made against a named individual s/he will be informed of the allegation and supporting evidence. The point at which this occurs will depend on the specific nature of the case. S/he will be given an opportunity to respond either in writing or orally and, if interviewed about the matter, will be given an opportunity to be accompanied by a person of his/her choice.

9 Unfounded Disclosures

- 9.1 A disclosure made in good faith which is not confirmed by subsequent investigation will not lead to any action against the person making the disclosure. Individuals making disclosures which are found by subsequent investigation to be malicious and/or vexatious may be subject to disciplinary or other appropriate action.

10 Victimisation

10.1 Victimisation of a member of staff of the Office of the Police and Crime Commissioner, who has made a disclosure under this policy, may provide grounds for grievance, disciplinary or other appropriate action.

11 Timescales

11.1 Investigations will be conducted as speedily as possible having regard to the nature and complexity of the disclosure.

12 Feedback throughout the Process

12.1 The person making the disclosure will be kept informed as to the handling of the matter and of decisions taken throughout the process.

13 Records

13.1 All concerns raised and actions taken in response to disclosures will be recorded, and reports on all disclosures and investigations will be retained by the designated person for 5 years.

13.2 An official written record will be kept of each stage of the procedure.

14 Review of Policy

14.1 The implementation of this Policy will be kept under regular review.

For Independent advice/assistance you may like to contact Public Concern at Work, an independent non-statutory charitable body that provides advice to individuals with concerns about malpractice. Their contact details are:-

Public Concern at Work
3rd Floor, Bank Chambers
6-10 Borough High Street
London SE1 9QQ

tel 020 7404 6609
fax 020 7403 8823

web: www.pcaw.co.uk

UK enquiries: whistle@pcaw.org.uk
UK helpline: helpline@pcaw.org.uk
UK services: services@pcaw.org.uk

Policy has effect from March 2013

Next Review by January 2015

