



**Wednesday,  
5 October 2016  
10.00 am**

**Meeting of  
Governance and  
Constitution Committee  
Fire Service HQ  
Winsford**

Contact Officer:  
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## **Cheshire Fire Authority**

### **Notes for Members of the Public**

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#### **Attendance at Meetings**

The Cheshire Fire Authority welcomes and encourages members of the public to be at its meetings and Committees. You are requested to remain quiet whilst the meeting is taking place and to enter and leave the meeting room as quickly and quietly as possible.

All meetings of the Authority are held at Fire Service Headquarters in Winsford. If you plan to attend please report first to the Reception Desk where you will be asked to sign in and will be given a visitors pass. You should return your pass to the Reception Desk when you leave the building. There are some car parking spaces available on site for visitors at the front of the Headquarters Building. Please do not park in spaces reserved for Fire Service personnel.

If you feel there might be particular problems with access to the building or car parking please contact the Reception Desk at Fire Service Headquarters on Winsford (01606) 868700.

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#### **Questions by Electors**

An elector in the Fire Service area can ask the Chair of the Authority a question if it is sent to the Monitoring Officer at Fire Service HQ to arrive at least five clear working days before the meeting. The contact officer named on the front of the Agenda will be happy to advise you on this procedure.

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#### **Access to Information**

Copies of the Agenda will be available at the meeting. A copy can also be obtained from the contact officer named on the front of the Agenda. Alternatively, individual reports are available on the Authority's website ([www.cheshirefire.gov.uk](http://www.cheshirefire.gov.uk))

The Agenda is usually divided into two parts. Members of the public are allowed to stay for the first part. When the Authority is ready to deal with the second part you will be asked to leave the meeting room, because the business to be discussed will be of a confidential nature, for example, dealing with individual people and contracts.

**This agenda is available in large print, Braille, audio CD or in community languages upon request by contacting; Telephone: 01606868414 or email: [equalities@cheshirefire.gov.uk](mailto:equalities@cheshirefire.gov.uk)**

#### **Recording of Meetings**

Anyone attending the meeting should be aware the Authority audio-records its meetings. There is a protocol on reporting at meetings which provides further information. Copies are available on the Service's website [www.cheshirefire.gov.uk](http://www.cheshirefire.gov.uk) or alternatively contact Democratic Services for details

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#### **Fire Evacuation**

If the Fire Alarm sounds you should make your way to the nearest exit as quickly as possible and leave the building. Please follow any instructions from staff about evacuation routes.



**MEETING OF THE GOVERNANCE AND CONSTITUTION COMMITTEE  
WEDNESDAY, 5 OCTOBER 2016**

**Time : 10.00 am**

**Lecture Theatre - Fire Service Headquarters, Winsford, Cheshire**

**AGENDA**

**Part 1 - Business to be discussed in public**

**1 PROCEDURAL MATTERS**

**1A Recording of Meeting**

Members are reminded that this meeting will be audio-recorded.

**1B Apologies for Absence**

**1C Declarations of Members' Interests**

Members are reminded that the Members' Code of Conduct requires the disclosure of Statutory Disclosable Pecuniary Interests, Non-Statutory Disclosable Pecuniary Interests and Disclosable Non-Pecuniary Interests.

**1D Minutes of the Governance and Constitution Committee**

(Pages 1 - 4)

To confirm as a correct record the Minutes of the meeting of the Governance and Constitution Committee held on 6<sup>th</sup> July 2016.  
(attached as Annex 1)

**ITEMS REQUIRING DISCUSSION / DECISION**

**2 Dispensations**

(Pages 5 - 10)

**3 Members' Allowances Scheme**

(Pages 11 - 16)

**4 Review of Whistleblowing Policy and Procedure**

(Pages 17 - 42)

**5 Review of Anti-Bribery Policy and Arrangements**

(Pages 43 - 48)

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**MINUTES OF THE MEETING OF THE GOVERNANCE AND CONSTITUTION COMMITTEE held on Wednesday, 6 July 2016 at Lecture Theatre - Fire Service Headquarters, Winsford, Cheshire at 10.00 am**

**PRESENT:** Councillors S Wright, R Polhill, P Booher, A Dirir and E Johnson

**1 PROCEDURAL MATTERS**

**A Recording of Meeting**

Members were reminded that this meeting would be audio-recorded.

**B Chair and Membership of Committee 2016/17**

Members were asked to note the appointment of a Chair, Deputy Chair and membership of the Governance and Constitution Committee for 2016/17, as agreed by the Fire Authority at its annual meeting on 15 June 2016 and listed below:

Councillors:

S Wright – Chair

P Booher

A Dirir

E Johnson

D Marren

R Polhill – Deputy Chair

Substitute Members:

H Deynem

J Mercer

Members were also reminded that Mrs L Thomson and Mrs A Ruddy attend the Committee in a non-voting advisory capacity.

**RESOLVED: That**

**[1] Membership of the Committee and appointment of Chair and Deputy Chair be noted.**

**C Apologies for Absence**

Apologies for absence were received from Councillor D Marren.

## **D Declarations of Members' Interests**

There were no declarations of Members' interests.

## **E Minutes of the Governance and Constitution Committee**

**RESOLVED: That**

**[1] the minutes of the meeting of the Governance and Constitution Committee held on Wednesday 30<sup>th</sup> March 2016 be confirmed as a correct record.**

## **2 DRAFT ANNUAL STATEMENT OF ASSURANCE 2015-16**

The Head of Legal and Democratic Services introduced the report to Members and explained that it gave them the opportunity to review the draft Annual Statement of Assurance 2015-16 prior to its presentation to the Fire Authority in September 2016. He provided Members with a summary of the background to this report and advised that one of the requirements of the Fire and Rescue National Framework for England (2012) was the publication of an Annual Statement of Assurance. He explained that the Framework specified that the Statement should provide assurance on financial, governance and operational matters.

He advised Members that the Local Code of Corporate Governance Framework already provided the Service with a simple structure for monitoring compliance and provided assurance under the six principles of the Code of Corporate Governance. It was decided by this Committee in November 2013 that the same process would be adopted for monitoring compliance with the National Framework requirements by adding a principle 7. He highlighted to Members Appendix 2 of the report which included a full review of evidence for the National Framework, detailed within principle 7 and the Local Code of Corporate Governance framework detailed within principles 1 – 6. The Head of Legal and Democratic Services concluded by confirming that the Service's internal auditors, Merseyside Internal Audit Agency (MIAA), had confirmed that it considered that the format of the Statement of Assurance remained fit for purpose.

A Member referred the Committee to the draft Statement of Assurance 2015-16 which was attached as Appendix 1 to the report. He commented that Warrington BC Members had recently received training on the Treasury Management Strategy and queried whether this training could be provided for Fire Authority Members. It was agreed that a training session would be beneficial for members and the Democratic Services Manager advised that this could take place as part of the Members Induction session on Finance and Budget Setting.

A Member queried the meaning of the term 'partner' in the context of the document. She asked if there could be further clarification on how the Authority ensured that the roles and responsibilities of partners were defined. The Head of Legal and Democratic Services informed Members that there were agreements between the Authority and partners to protect the Cheshire Fire and Rescue

Service brand. He drew Members' attention to key improvement areas that had been identified. One of these referred to the development of a partnership toolkit which would provide descriptions of and resources related to partnerships and collaborations. This would be submitted to the Governance and Constitution Committee for review.

The Head of Legal and Democratic Services also referred Members to the section on the Blue Light Collaboration Programme within the draft Statement of Assurance 2015-16. He explained that this programme was not a partnership and that the Authority would be entering into a number of contracts due to the significant obligations and liabilities that the collaboration entailed.

A member queried the presentation of figures in respect of the carbon reduction target and suggested that it would be useful to have progress on carbon reduction by tonnes measured as a percentage against the 40% reduction target. She also suggested that it would be helpful to have a timescale for elements of the environmental strategy included in the report.

**RESOLVED: That**

**[1] the draft Annual Statement of Assurance 2015-16 be approved for submission to the Fire Authority in September 2016.**

### **3 REVIEW OF WHISTLEBLOWING POLICY**

The Head of Legal and Democratic Services introduced the report which provided an update on the current position in relation to Whistleblowing. The Authority's policy and procedure on Whistleblowing was attached as Appendix 1 in the report and it was noted that the Government had issued further guidance for employees since the policy was adopted. He explained that the current Policy would be updated and presented to the next meeting of the Committee.

The Head of Legal and Democratic Services informed Members that the Authority had not received any complaints under the Whistleblowing Procedure since the last report to the committee in 2014.

Members discussed their experiences of Whistleblowing policy and procedures within their own unitary areas and the role that Members played in the process.

**RESOLVED: That**

**[1] the content of the report be noted; and**

**[2] a further report be presented to the next meeting of this Committee when the current Whistleblowing Policy has been further reviewed and updated.**

#### **4 ANNUAL REPORT - CORPORATE COMPLIMENTS AND COMPLAINTS**

The Head of Legal and Democratic Services introduced this report and advised Members that it provided information regarding compliments and complaints received about the Service during the period 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016. He explained that this report was presented annually to this Committee in this format.

The Head of Legal and Democratic Services described the Service's two-tier approach to complaints, which aimed for all complaints to be resolved at initial contact allowing them to be classed as informal. He referred Members to a table in the report which contained performance comparison figures from the past five reporting periods. He highlighted that there had been a reduction of informal complaints and that no formal complaints were received throughout 2015-16.

A Member referred the Committee to a complaint regarding a school visit and queried how the Service ensured that pupils were happy to participate. An independent member informed the Committee that schools now asked for written consent from parents for children to participate in these events.

Members wished to thank those involved with handling complaints and compliments and felt that the report helped affirm the view that the Service was performing well.

**RESOLVED: That**

**[1] the information regarding Compliments and Complaints made during the period 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016 be noted.**

#### **5 SUMMARY OF MEMBERS ATTENDANCE JUNE 2015 TO MAY 2016**

The Head of Legal and Democratic Services explained that this report provided Members with information in relation to Members' attendance for the Committee's consideration. He referred Members to Appendix 1 attached to the report, which summarised Member attendance at the Fire Authority and three main committees for June 2014 to May 2015.

Members were asked to consider whether they wished to further discuss the principles previously adopted in respect of the monitoring of attendance. Members were in agreement that there were no concerns arising from the findings of this report.

**RESOLVED: That**

**[1] the summary of Member attendance at meetings of the Authority and its three main Committees for 2015-16 be noted.**

## CHESHIRE FIRE AUTHORITY

MEETING OF : GOVERNANCE & CONSTITUTION COMMITTEE  
DATE : 5<sup>th</sup> OCTOBER 2016  
REPORT OF : HEAD OF LEGAL AND DEMOCRATIC SERVICES  
AUTHOR : ANDREW LEADBETTER

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**SUBJECT : DISPENSATIONS**

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### Purpose of the Report

1. To secure dispensations that allow Members with Disclosable Pecuniary Interests to take part in debates and votes concerning the setting of the Council Tax precept and approval of the Members' Allowance Scheme (and any changes and/or additions to it) to be effective for four years.

### Recommended: That Members

- [1] **Grant dispensations to all Members of Cheshire Fire Authority, that have requested this, to allow them to take part in debates and votes concerning the setting of the Council Tax precept, and approval of the Members' Allowance Scheme (and any changes and/or additions to it), such dispensations to be effective for four years.**

### Background

2. Dispensations were initially granted by the Governance and Constitution Committee on 8<sup>th</sup> February 2013 to all Members of the Fire Authority. The dispensations relate to the setting of the Council Tax precept, and approval of the Members Allowance Scheme (and any changes or additions to it).
3. The Localism Act 2011 (the Act) states that dispensations must specify the period for which they have effect, which may not exceed four years. The dispensations were granted for four years (up to 8<sup>th</sup> February 2017). As this period is due to expire it would seem appropriate to grant the dispensations for a further four years.

### Information

4. In considering whether to grant dispensations Members need to consider Section 33 of the Act. A copy of the section is attached as Appendix 1 to this report.
5. Section 33(1) states that there must be a written request from a Member to the proper officer (taken to be the Monitoring Officer) for a dispensation from the restrictions contained in Section 31(4) of the Act

(relating to participation and voting). All Members have been contacted to inform them that it is assumed that each Member wishes to secure a dispensation unless they indicate otherwise and a list of those Members seeking the dispensations will be provided at the meeting.

6. Section 33(2) states that a dispensation can only be granted by an Authority if, after having had regard to all relevant circumstances, it is satisfied that one of the reasons described in the Act is applicable. When granting the original dispensations Members previously confirmed that they were satisfied that at least one of the reasons in the Act applied to decisions concerning the setting of the Council Tax precept and the approval of the Members' Allowance Scheme. An extract from the original report is attached as Appendix 2 to this report. This explains the rationale for granting the original dispensations. This rationale continues to apply.

### **Financial Implications**

7. There are no financial implications arising from this report.

### **Legal Implications**

8. The legal implications are covered in the body of the report.

### **Equality and Diversity and Environmental Implications**

9. There are no equality and diversity or environmental implications arising from this report.

**CONTACT: JOANNE SMITH, FIRE SERVICE HQ, WINSFORD  
TEL [01606] 868804**

**BACKGROUND PAPERS:**

## SECTION 33 OF THE LOCALISM ACT 2011

### 33 Dispensations from section 31(4)

- (1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.
- (2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—
  - (a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
  - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
  - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
  - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

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EXTRACT FROM REPORT TO GOVERNANCE AND CONSTITUTION  
COMMITTEE ON 8<sup>TH</sup> FEBRUARY 2013

Council Tax Precept

1. Members that own property within the area of the Fire Authority would appear to have a Statutory Disclosable Interest (this is the term used in the Fire Authority's Members' Code of Conduct) in the setting of the Council Tax precept. Such a disclosure would, if no dispensation was granted, mean that they would be unable to remain in the meeting and have no opportunity to take part in the debate, nor vote.
2. As the majority of Members will need to make such a disclosure at the meeting of the Fire Authority on the 13<sup>th</sup> February 2013, when the Council Tax precept is to be discussed, there would appear to be a likelihood that:

the transacting of business would be impeded (Section 33(2)(a);

the representation of different political groups would be so upset as to alter the likely outcome of any vote relating to the business (Section 33(2)(b).

Members' Allowance Scheme

3. All Members receive an allowance and would appear to have a Statutory Disclosable Interest in the approval of the Members' Allowance Scheme (and any changes and/or additions to it). Such a disclosure would, if no dispensation was granted, mean that they would be unable to remain in the meeting and have no opportunity to take part in the debate, nor vote.
4. As all Members will need to make such a disclosure at the meeting of the Fire Authority on the 13<sup>th</sup> February 2013 when the Members' Allowance scheme is to be discussed:

the transacting of business would be impeded (Section 33(2)(a)

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## CHESHIRE FIRE AUTHORITY

MEETING OF : GOVERNANCE AND CONSTITUTION COMMITTEE  
DATE : 5<sup>th</sup> OCTOBER 2016  
REPORT OF : HEAD OF LEGAL AND DEMOCRATIC SERVICES  
AUTHOR : ANDREW LEADBETTER

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**SUBJECT : MEMBERS' ALLOWANCES SCHEME**

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### Purpose of Report

1. To agree the process and timeline for the next review of the Fire Authority's Members' Allowances Scheme.

### Recommended: That Members

- [1] Agree that the review of the Members' Allowance Scheme commences in November 2016 with the final report to be submitted to the Fire Authority meeting in February 2017 (to take effect from 1<sup>st</sup> April 2017); and
- [2] Agree that the process outlined in paragraph 12 be followed to facilitate the review.

### Background

3. Since 2003 (when Regulations were made by the Government) the Fire Authority has been required to have a Members' Allowance Scheme (Scheme). An interim Scheme made in 2003 was produced by a small group consisting of officers, a Member of the County Council and an independent member from the Fire Authority's Standards Committee. Subsequently, an Independent Remuneration Panel (IRP) was convened to make recommendations about the Scheme.
4. The Authority has continued to engage an IRP to review its Scheme. On the last occasion the IRP carried out its review over an extended period (meeting late 2012/early 2013 and reconvening late 2013). This meant that the outcome of the IRP's review was reported in two stages (part in February 2013, taking effect 2013-2014 and part in February 2014, taking effect 2014-15 and continuing to apply). The IRP was formed by 'recruiting' a member from each of the IRPs of the constituent authorities.
5. When the Fire Authority approved the current Scheme it noted 'that the next comprehensive review of the Members' Allowance Scheme is scheduled for 2016-17...'
6. This Committee is responsible for arranging for the review of members' allowances and making recommendations to the Fire Authority and considered a report from the Head of Legal and Democratic Services at

its meeting on 15 July 2015 in respect of the arrangements and timing of the next review. The Committee agreed the following:

- [1] a delay of the review of the Members' Allowance Scheme to 2016 (which would take effect from 2017-18) be agreed; and
  - [2] alternatives to the engagement of an independent remuneration panel to carry out the next review be pursued by officers, ensuring an independent element is retained in any review
7. This report provides a brief summary of the relevant legislation, information on the previous review and the proposed arrangements for the forthcoming review for consideration.

## **Information**

### **Law Relating to Members' Allowances**

8. The Local Authorities (Members' Allowances) (England) Regulations 2013, as amended (the Regulations), contain the legal requirements relating to members' allowances schemes. Appendix 1 to this report provides a brief summary of the Regulations.
9. Whilst most of the Regulations apply to the Fire Authority it is not required to have an Independent Remuneration Panel. However, Regulation 19(2) states that, 'Before an authority makes or amends a scheme that authority shall have regard to the recommendations made by any independent remuneration panels in relation to any authority by which any of its members are nominated'.

### **Independent Remuneration Panel**

10. There is no legal requirement for the Fire Authority to have an IRP. Other fire authorities do not have one. Servicing an IRP is time-consuming. The last review involved the IRP meeting on 7 occasions over an eighteen-month period. The work required to support the review equated to an average of approximately 4-5 hours per meeting. Whilst the review was undoubtedly comprehensive a large proportion of the Scheme was, ultimately, not altered.
11. When considering the previous report Members stated that they felt that the IRP provided them with assurance that the review was open and transparent. However they acknowledged, as the last review by the IRP was very comprehensive, it may be possible to progress the upcoming review without an IRP. They did expect there to be a level of independent input into the review.

### **Proposal for Upcoming Review**

12. It is proposed to carry out the review as follows:
- (i) Collate information from other authorities on allowances and increases over the past few years to provide a comparison;

- (ii) Check the schemes operated by the constituent authorities and establish whether any elements should inform the review (to comply with the 'have regard to' requirement in the regulations);
- (iii) Secure the support of one of the members of an IRP operated by a constituent authority;
- (iv) Present the comparative data and any other relevant information to the IRP member for consideration; and
- (v) Prepare a report for the Committee following guidance from the IRP member.

### **Financial Implications**

- 13. The annual increases applied to Members' allowances can be contained within the Authority's budget.

### **Legal Implications**

- 14. The law on Members' allowances is explained in the report. The Fire Authority is not covered by the same responsibilities that apply to a local authority.

### **Equality and Diversity Implications**

- 15. None.

### **Environmental Implications**

- 16. None.

**CONTACT: JOANNE SMITH, FIRE SERVICE HQ, WINSFORD  
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## The Local Authorities (Members' Allowances) (England) Regulations 2013

Regulations only apply in part, to fire authorities (Regulation 3)

General:

- Shall make a scheme for payment of basic allowances (Regulation 4)
- May include special responsibility allowances that accord with categories in the Regulations (Regulation 5)
- May provide for payment of dependents' carers' allowance to allow attendance and performance of some duties (Regulation 7)
- May provide for payment of travelling and subsistence for certain 'duties' (Regulation 8)
- Must make the scheme before the year it applies to (Regulation 10)
- May make provision for an annual adjustment to be made by reference to an index – which can only be relied upon for four years without seeking further input from an independent remuneration panel (Regulation 10)
- Must provide that members of more than one authority cannot receive two allowances for the same duties (Regulation 10)
- Shall include a time limit on some claims, e.g. travel and subsistence (Regulation 14)

Independent Remuneration Panels (IRPs):

- Only required by district, county and London borough councils (not by a fire authority) (Regulation 18)
- Fire authority must have regard to IRPs recommendations of the councils that appoint to it (Regulation 19)

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## CHESHIRE FIRE AUTHORITY

MEETING OF : GOVERNANCE AND CONSTITUTION COMMITTEE  
DATE : 5th OCTOBER 2016  
REPORT OF : HEAD OF LEGAL AND DEMOCRATIC SERVICES  
AUTHOR : ANDREW LEADBETTER

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**SUBJECT : REVIEW OF WHISTLEBLOWING POLICY AND PROCEDURE**

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### **Purpose of Report**

1. The purpose of this report is to ask Members:

To note the Government's Guidance for Employers and Code of Practice for Whistleblowing; and

To consider and approve changes to the Authority's current Whistleblowing Policy and Procedure.

### **Recommended That Members:**

[1] note the report; and

[2] approve the updated Whistleblowing Policy and Procedure.

### **Background**

2. "Whistleblowing" is the term used to describe the raising of a concern by a worker who considers that there has been wrongdoing or malpractice by his employer or fellow workers and where it is in the public interest to do so.
3. The legislation, initially introduced in 1998, is designed to reduce malpractice in organisations and to ensure individuals can report malpractice without fear of reprisals. Provided they satisfy certain conditions in the way they report the wrongdoing, workers are protected from dismissal or detriment.

### **Information**

#### **The Authority's Whistleblowing Policy and Procedure**

4. The Authority has a Whistleblowing Policy and Procedure which was last reviewed in 2014 when changes were made to reflect the recommendations made in a report produced by Public Concern at Work, the leading whistleblowing charity.

5. Since 2014 the Employee Handbook for Support Staff has been updated to include a section on Whistleblowing and this is given to all new starters and is covered in the induction training sessions for all staff.
6. The Government has issued further Guidance for Employers and a Code of Practice (the Guidance and Code) and a copy of this is attached to this report as Appendix 1.
7. The Government had made a commitment to provide best practice guidance for employers which it has now done, although it has not provided a model whistleblowing policy as expected, nor has it issued a statutory code of practice. It has instead issued a non statutory code which does not have the same legal force but which still contains recommended good practice.
8. The Authority's Policy and Procedure have been revised to reflect the contents of the Guidance and Code and the amended version is attached to this report as Appendix 2 with the amendments shown in red.
9. The main changes are as follows:
  - Some additional detail has been inserted in the legal section to describe the right to pursue a case to an employment tribunal
  - The Guidance and Code suggest that policies should make it clear that so called "gagging clauses" in settlement agreements do not prevent workers from making disclosures in the public interest and this has been added.
  - Some further details have been included on anonymous allegations, as recommended.
  - Details of where further information can be obtained have been added to assist employees who are considering making a disclosure.
  - It is suggested that every whistleblowing policy should contain a clear commitment from the organisation to treat disclosures appropriately, consistently, fairly and professionally and this is now stated.
  - The Government has also published Prescribed Persons Guidance and the policy has been amended to include some addition information about Prescribed Persons and their role in the whistleblowing process.
  - An additional paragraph has been added to cover external disclosures
  - The names of those on the list of contacts have been added as have details of the Authority's internal and external auditors.

## **Whistleblowing Complaints**

10. The Authority has not received any complaints that have been handled under the Whistleblowing Procedure since the last report to this committee in 2014. It has, however, received two related referrals from Safecall (both concerned with an employment matter).

## **Further Publicity**

11. The updated Whistleblowing Policy and Procedure will be publicised.

## **Financial Implications**

11. There are no additional resource implications arising from this report.

## **Legal Implications**

12. The policy and procedure ensure compliance with the legislation and mitigate risks to the Authority's reputation.

## **Equality & Diversity Implications**

13. The policy and procedure minimise the risk of reprisals against those raising concerns and allow possible concerns about discriminatory practices to be raised internally and dealt with appropriately without recourse to litigation.

## **Environmental Implications**

14. There are no environmental implications.

**CONTACT: JOANNE SMITH, FIRE SERVICE HQ, WINSFORD  
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**BACKGROUND PAPERS:**

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Department  
for Business  
Innovation & Skills

Appendix 1 to Item 4  
Governance and Constitution Committee  
5 October 2016

## WHISTLEBLOWING

Guidance for Employers and  
Code of Practice

MARCH 2015

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# What is whistleblowing?

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. In this guidance, we call that “making a disclosure” or “blowing the whistle”. The wrongdoing will typically (although not necessarily) be something they have witnessed at work.

To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

The second thing that a worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone’s health and safety
- damage to the environment
- covering up wrongdoing in the above categories

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have ‘blown the whistle’.

# What are an employer’s responsibilities in regards to whistleblowing?

As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer’s commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. This is also demonstrated by the following:

**Recognising workers are valuable ears and eyes:** Workers are often the first people to witness any type of wrongdoing within an organisation. The information that workers may uncover could prevent wrongdoing, which may damage an organisation's reputation and/or performance, and could even save people from harm or death.

**Getting the right culture:** If an organisation hasn't created an open and supportive culture, the worker may not feel comfortable making a disclosure, for fear of the consequences. The two main barriers whistleblowers face are a fear of reprisal as a result of making a disclosure and that no action will be taken if they do make the decision to 'blow the whistle'. There have been a number of high profile cases, including evidence collated by the Mid-Staffordshire NHS Foundation Trust Public Inquiry<sup>1</sup>, the Freedom to Speak Up Independent Review into creating an open and honest culture in the NHS<sup>2</sup>; and the Parliamentary Commission on Banking Standards<sup>3</sup> that confirm many workers are scared of speaking up about poor practice. Making sure your staff can approach management with important concerns is the most important step in creating an open culture. Employers should demonstrate, through visible leadership at all levels of the organisation, that they welcome and encourage workers to make disclosures.

**Training and support:** An organisation should implement training, mentoring, advice and other support systems to ensure workers can easily approach a range of people in the organisation.

**Being able to respond:** It is in the organisation's best interests to deal with a whistleblowing disclosure when it is first raised by a worker. This allows the organisation to investigate promptly, ask further questions of a worker and where applicable provide feedback. A policy should help explain the benefits of making a disclosure.

**Better control:** Organisations that embrace whistleblowing as an important source of information find that managers have better information to make decisions and control risk. Whistleblowers respond more positively when they feel that they are listened to.

**Resolving the wrongdoing quickly:** There are benefits for the organisation if a worker can make a disclosure internally rather than going to a third party. This way there is an opportunity to act promptly on the information and put right whatever wrongdoing is found.

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<sup>1</sup> <http://www.midstaffspublicinquiry.com/>

<sup>2</sup> <https://freedomtospeakup.org.uk/the-report/>

<sup>3</sup> <http://www.publications.parliament.uk/pa/jt201213/jtselect/jtpcb/98/98.pdf>

# Communicate policy and procedure

Having a policy is a good first step to encourage workers to blow the whistle but each organisation needs to let its workers know about the policy and make sure they know how to make a disclosure. Some organisations choose to publicise their policy via their intranet or through a staff newsletter. If an organisation recognises a trade union it might develop a policy in consultation with them. It is a good idea for organisations to share the information with all staff regularly to make sure they are all reminded of the policy and procedures and to inform any newcomers. Providing training at all levels of an organisation on the effective implementation of whistleblowing arrangements will help to develop a supportive and open culture.

**How?** When someone blows the whistle an organisation should explain its procedures for making a disclosure and whether the whistleblower can expect to receive any feedback. Often a whistleblower expects to influence the action the organisation might take, or expects to make a judgement on whether an issue has been resolved – such expectations need to be managed.

**Has the issue been resolved?** It is for the organisation to be satisfied that the disclosure has been acted upon appropriately and that the issue has been resolved. There should be clear and prompt communications between the whistleblower and the organisation. It is best practice for organisations to provide feedback to whistleblowers, within the confines of their internal policies and procedures. Feedback is vital so that whistleblowers understand how their disclosure has been handled and dealt with. If a whistleblower is unhappy with the process or the outcome it will make them more likely to approach other individuals and organisations to ‘blow the whistle’, such as a “prescribed person”.

## Disclosure or grievance?

Sometimes an employee believes they are blowing the whistle when, in fact, their complaint is a personal grievance. Workers who make a disclosure under an organisation’s whistleblowing policy should believe that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law. It is important that any policy, procedures and other communications make this clear.

An organisation may want to direct workers to the Government’s guidance for whistleblowers to verify the position that a personal grievance is not generally regarded as a protected disclosure. Workers can also contact the Advisory, Conciliation and Arbitration Service (Acas) for guidance on whistleblowing and grievances. Useful information can be found at: [www.acas.org.uk/grievances](http://www.acas.org.uk/grievances), [add link to whistleblowing page](#)

# Is there a standard whistleblowing policy?

There is no one-size-fits-all whistleblowing policy as policies will vary depending on the size and nature of the organisation. Some organisations may choose to have a standalone policy whereas others may look to implement their policy into a code of ethics or may have 'local' whistleblowing procedures relevant to their specific business units.

A large organisation may have a policy where employees can contact their immediate manager or a specific team of individuals who are trained to handle whistleblowing disclosures. Smaller organisations may not have sufficient resources to do this.

Any whistleblowing policies or procedures should be clear, simple and easily understood.

Here are some tips about what a policy should include:

- An explanation of what whistleblowing is, particularly in relation to the organisation
- A clear explanation of the organisation's procedures for handling whistleblowing, which can be communicated through training
- A commitment to training workers at all levels of the organisation in relation to whistleblowing law and the organisation's policy
- A commitment to treat all disclosures consistently and fairly
- A commitment to take all reasonable steps to maintain the confidentiality of the whistleblower where it is requested (unless required by law to break that confidentiality)
- Clarification that any so-called 'gagging clauses' in settlement agreements do not prevent workers from making disclosures in the public interest
- An idea about what feedback a whistleblower might receive
- An explanation that anonymous whistleblowers will not ordinarily be able to receive feedback and that any action taken to look into a disclosure could be limited – anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymised email address
- A commitment to emphasise in a whistleblowing policy that victimisation of a whistleblower is not acceptable. Any instances of victimisation will be taken seriously and managed appropriately
- An idea of the time frame for handling any disclosures raised
- An idea of the time frame for handling any disclosures raised
- Clarification that the whistleblower does not need to provide evidence for the employer to look into the concerns raised
- Signpost to information and advice to those thinking of blowing the whistle, for example the guidance from the Government, Acas, Public Concern at Work or Trade Unions
- Information about blowing the whistle to the relevant prescribed person(s)

# Promoting a policy and making sure it is easily accessible

It's no good having a policy in place if no one knows about it. Actively promoting a policy shows the organisation is genuinely open to hearing concerns from its staff. Managers and leaders in the organisation can also promote a policy in the way they behave at work. Conduct and written policies will help to create an open culture, which will increase the likelihood of a worker speaking up about any wrongdoing they come across.

**Written policies are not enough.** Training should be provided to all staff on the key arrangements of the policy. Additional training should be provided to those with whistleblowing responsibilities, such as managers or designated contacts, so they are able to provide guidance confidently to workers. Managers should also lead by example and ensure they are committed to creating an open culture where disclosures are welcome. It is also a good idea to include handling whistleblowing disclosures as part of discipline and grievance training for managers and staff. Training should be offered at regular points to make sure it stays fresh in managers' minds and to capture any newcomers to the organisation.

Here are some ideas about how to promote a policy:

- Hold a staff session or in larger organisations require managers to hold smaller, consistent team meetings
- Make the policy accessible on the staff intranet
- Appoint a whistleblowers' champion to drive the commitment to valuing whistleblowing and protecting whistleblowers within the organisation
- Use promotional posters around the building
- Include the policy within induction packs for newcomers
- Set the policy out in staff handbooks and contracts

## Deciding how to deal with the whistleblowing disclosure

Where a worker feels able to do so they may make a disclosure to their immediate manager who will be able to decide whether they can take forward the disclosure or whether it will require escalation. An organisation will need to equip managers with the knowledge and confidence to make these judgements. A whistleblowing policy and training can help with this.

Larger organisations may have a designated team who can be approached when workers make a disclosure. Although this may not be possible for smaller organisations, it is

considered best practice that there is at least one senior member of staff as a point of contact for individuals who wish to blow the whistle. This is particularly helpful in cases where the immediate line management relationship is damaged or where the disclosure involves the manager. Alternatively, there are commercial providers who will manage a whistleblowing process on the employer's behalf.

## Dealing with disclosures

Once a disclosure has been made it is good practice to hold a meeting with the whistleblower to gather all the information needed to understand the situation. In some cases a suitable conclusion may be reached through an initial conversation with a manager. In more serious cases there may be a need for a formal investigation. It is for the organisation to decide what the most appropriate action to take is.

It is important to note that if an investigation concludes that the disclosure was untrue it does not automatically mean that it was raised maliciously by a worker.

When dealing with disclosures, it is good practice for managers to:

- Have a facility for anonymous reporting
- Treat all disclosures made seriously and consistently
- Provide support to the worker during what can be a difficult or anxious time with access to mentoring, advice and counselling
- Reassure the whistleblower that their disclosure will not affect their position at work
- Document whether the whistleblower has requested confidentiality
- Manage the expectations of the whistleblower in terms of what action and/or feedback they can expect as well clear timescales for providing updates
- Produce a summary of the meeting for record keeping purposes and provide a copy to the whistleblower
- Allow the worker to be accompanied by a trade union representative or colleague at any meeting about the disclosure, if they wish to do so
- Provide support services after a disclosure has been made such as mediation and dispute resolution, to help rebuild trust and relationships in the workplace

It will be useful to document any decisions or action taken following the making of a disclosure by a worker.

It is also good practice for organisations to:

- Record the number of whistleblowing disclosures they receive and their nature
- Maintain records of the date and content of feedback provided to whistleblowers
- Conduct regular surveys to ascertain the satisfaction of whistleblowers.

# What happens when a worker blows the whistle to someone other than their employer?

Ideally workers will feel able to make a disclosure to their organisation. Good policies and procedures for handling whistleblowing will help encourage this. However, there may be circumstances where they feel unable to. There are other ways, some of which are set out in law, that a worker may make a disclosure without losing their rights under whistleblowing law. One option for external disclosures of this type is prescribed persons. Prescribed persons are mainly regulators and professional bodies but include other persons and bodies such as MPs. The relevant prescribed person depends on the subject matter of the disclosure, for example a disclosure about wrongdoing in a care home could be made to the Care Quality Commission.

A complete list of prescribed persons can be found [here](https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2). (<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>)

Prescribed persons have individual policies and procedures for handling concerns and complaints. Generally these will be accessible on their websites.

Alternatively, a worker might choose to approach the media with their concerns. If a worker goes to the media, they can expect in most cases to lose their whistleblowing law rights. It is only in exceptional circumstances that a worker can go to the media without losing their rights. They must reasonably believe that the information they disclose and any allegation contained in it are substantially true. They cannot be acting for personal gain. Unless the wrongdoing is exceptionally serious, if they have not already gone to their employer or a prescribed person, they must reasonably believe that their employer will subject them to “detriment” or conceal or destroy evidence if they do so. And even then, their choice to make the disclosure must be reasonable.

# What happens if a whistleblower believes they have been unfairly treated?

If a whistleblower believes that they have been unfairly treated because they have blown the whistle they may decide to take their case to an employment tribunal. The process for this would involve attempted resolution through the Advisory, Conciliation and Arbitration Service (Acas) early conciliation service.

Information can be found at: [www.acas.org.uk/conciliation](http://www.acas.org.uk/conciliation) and the Acas helpline can provide further advice.

The Acas helpline details are:

Telephone: 0300 123 1100

Textphone: 18001 030 0123 1100

Monday to Friday, 8am to 8pm

Saturday, 9am to 1pm

## Confidentiality

There may be good reasons why a worker wishes their identity to remain confidential. The law does not compel an organisation to protect the confidentiality of a whistleblower. However, it is considered best practice to maintain that confidentiality, unless required by law to disclose it. Managers dealing with whistleblowing concerns should be briefed to ensure they understand how to handle the disclosure and protect personal information.

It will help to manage the expectations of whistleblowers if the risk that some colleagues may still speculate about who has raised the concern is explained to them.

Anonymous information will be just as important for organisations to act upon. Workers should be made aware that the ability of an organisation to ask follow up questions or provide feedback will be limited if the whistleblower cannot be contacted. It may be possible to overcome these challenges by using telephone appointments or through an anonymised email address.

Workers should be made aware that making a disclosure anonymously means it can be more difficult for them to qualify for protections as a whistleblower. This is because there would be no documentary evidence linking the worker to the disclosure for the employment tribunal to consider.

# Whistleblowing Code of Practice

It is important that employers encourage whistleblowing as a way to report wrongdoing and manage risks to the organisation. Employers also need to be well equipped for handling any such concerns raised by workers. It is considered best practice for an employer to:

- Have a whistleblowing policy or appropriate written procedures in place
- Ensure the whistleblowing policy or procedures are easily accessible to all workers
- Raise awareness of the policy or procedures through all available means such as staff engagement, intranet sites, and other marketing communications
- Provide training to all workers on how disclosures should be raised and how they will be acted upon
- Provide training to managers on how to deal with disclosures
- Create an understanding that all staff at all levels of the organisation should demonstrate that they support and encourage whistleblowing
- Confirm that any clauses in settlement agreements do not prevent workers from making disclosures in the public interest
- Ensure the organisation's whistleblowing policy or procedures clearly identify who can be approached by workers that want to raise a disclosure. Organisations should ensure a range of alternative persons who a whistleblower can approach in the event a worker feels unable to approach their manager. If your organisation works with a recognised union, a representative from that union could be an appropriate contact for a worker to approach
- Create an organisational culture where workers feel safe to raise a disclosure in the knowledge that they will not face any detriment from the organisation as a result of speaking up.
- Undertake that any detriment towards an individual who raises a disclosure is not acceptable
- Make a commitment that all disclosures raised will be dealt with appropriately, consistently, fairly and professionally

- Undertake to protect the identity of the worker raising a disclosure, unless required by law to reveal it and to offer support throughout with access to mentoring, advice and counselling
- Provide feedback to the worker who raised the disclosure where possible and appropriate subject to other legal requirements. Feedback should include an indication of timings for any actions or next steps



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## **EXTRACT FROM CODE OF CONDUCT SECTION 2**

### **CHESHIRE FIRE AND RESCUE SERVICE**

#### **Whistleblowing Policy and Procedure (Confidential Reporting)**

##### **Introduction**

Cheshire Fire and Rescue Service values its employees and the services they provide to the people of Cheshire. We are working hard to improve the services we deliver and we need our employees, partners and contractors to tell us when anything is not working well or when people are not behaving properly.

As a public service organisation, Cheshire Fire and Rescue Service must use public funds prudently and apply the highest standards of conduct throughout the organisation. This procedure encourages all employees to help maintain these standards, by enabling you to draw attention, within the Service, to any concerns which you may have. Public disclosure may well be justified at some point, but this should not happen before the Service has had the opportunity to investigate the concern. Premature or unnecessary publicity may impede proper investigations or harm individuals.

Within this Authority the Monitoring Officer has overall responsibility for the effective implementation of this policy.

##### **The Law**

The Public Interest Disclosure Act 1998, as amended, sets out a framework for a worker to make disclosures about certain categories of wrongdoing, provided they reasonably believe it to be in the public interest to do so.

The disclosure will be protected if it is made to the employer or to a “prescribed person”. There is a statutory list of “prescribed persons”, produced by the Secretary of State, together with the types of matters to be reported to them.

It is unlawful for an employer to dismiss or subject a worker to a detriment for having made a “protected disclosure”. **An employee has the right to take a case to the employment tribunal if they have been victimised at work or have lost their job because they have “blown the whistle”.**

##### **What can I report?**

You should report any concerns that you have about the conduct of our employees, elected Members, or contractors that may affect the services we provide or the good name of the Service.

Examples of concerns that may be raised under the procedure are:-

Criminal offence,  
Failure to comply with a legal obligation,  
Unauthorised use of money,  
Fraud and corruption,  
Bullying or abuse of employees or service users,  
Breaches of Service policies including health and safety issues,  
Any neglect of duty,  
Miscarriages of justice,  
Damage to the environment,  
Sexual or physical abuse,  
Other unethical conduct,  
Information tending to show any of the above has been or is likely to be concealed.

The Service considers that normal management channels are sufficiently open and effective for most concerns to be raised that way. But this will not always be appropriate, or possible, and that is why this procedure has been created. It offers the means to raise concerns you may have about any aspect of service provision, or the conduct of staff or elected Members, or other people acting on behalf of the Service. A concern may arise, for example, from worries about failure to observe standards, Standing Orders, procedures, or policies being circumvented, or improper conduct.

The procedure does not cover concerns that are covered by other procedures. For example, an employment problem may well be covered by the Grievance Procedure or Dignity at Work procedure. If you are in doubt as to which is the appropriate procedure, you should consult your Line Manager or HR Business Partner.

**If an employee agrees to settle an employment dispute with the Service by way of a formal settlement agreement, whereby the employee agrees to accept a payment in return for waiving their rights to pursue any claim against the Service, the agreement will not prevent the employee from making a disclosure in the public interest.**

### **Confidentiality**

The best way to raise a concern is to do so openly. Openness makes it easier for the Service to assess the issue, work out how to investigate the matter and obtain more information.

Your concern will be treated in strict confidence and everything done to keep your identity secret if this is what you request, unless the Service is required by law to disclose this. However, you may have to be a witness at some point if matters are taken further, following investigations. It might then not be possible to keep your identity fully secret.

## **Anonymous Allegations**

An anonymous concern is likely to carry much less weight than one which is signed; the investigating manager would have to decide whether or not to accept it. This decision would depend on the seriousness of the issue, the credibility of the concern and the likelihood of being able to confirm the allegation in other ways.

The ability of the organisation to ask follow up questions or provide feedback will be limited if the whistleblower cannot be contacted. It may be possible to seek feed back through a telephone appointment or by using an anonymised email address.

It will also be more difficult for an anonymous whistleblower to qualify for the protections given under the legislation because there will be no documentary evidence linking the worker to the disclosure for the employment tribunal to consider.

## **Raising a Concern - Who to Approach**

When deciding who it would be best to approach, take into account the type of matter, its seriousness and its sensitivity, and who may be involved. Some examples are given:-

- The manager for your department/watch or their manager [example - for a local service delivery concern]
- The Head of your Department or another Head of Department [example - for a service delivery concern within the wider department];
- External Audit or the Head of Finance [example - for a concern about financial probity];
- The Monitoring Officer [example – for a concern which has Service wide implications or needs to be raised with someone independent of your work area].
- Safecall – Independent confidential reporting line [example – concerns about fraud, theft, damage to equipment, harassment/bullying, or concerns involving your managers].
- The Monitoring Officer if your concern is in relation to an elected Member.

## **How to Raise your Concern**

If you raise your concern via the freephone helpline your concern will be dealt with in accordance with the procedures agreed between Safecall and the Service.

If you raise your concern other than via the freephone helpline, you can do this orally [i.e. face to face or over the phone], or in writing. If you make your

disclosure in writing, mark the envelope “personal and confidential” and send to the Health, Safety and Wellbeing Manager. Whichever way you choose, please give as much information as you can. Remember also to give your name, job and where you work and say if you do not want to be contacted at work [if so, give your home address and phone number].

The following headings should help you organise your thoughts, but you do not have to follow them exactly:

- Why you are concerned and the background information
- Any other procedures, which you have already used, and what happened
- The people who are involved and where they work
- Dates or periods of time
- The names and jobs of any other people who will [or may] support your concern

The earlier a concern is raised the better. Whilst you will not be expected to prove that allegations are true, you will need to show that you have a reasonable basis for your concern and that you believe it to be in the public interest to raise it.

You may want to discuss the matter with one or two colleagues first. Their support could be helpful. There is nothing to stop two or more of you putting your names to a concern.

### **Involvement of your Trade Union or Professional Association**

You may ask your trade union or professional association to raise a matter on your behalf. In this case, if you wish, you can remain anonymous when the concern is first raised. But you may have to be involved personally if the matter goes further.

You may also have your trade union, professional association or a friend at any meeting or interview.

### **Help with the Procedure**

Any of the following will help you to understand the procedure:

Health, Safety and Wellbeing Manager  
The Monitoring Officer  
The manager for your department/watch  
An HR Business Partner  
Head of Finance  
A trade union representative  
Equality and Diversity Officer

Further information and advice on how to make a whistleblowing complaint can be obtained from ACAS, the Government, Public Concern at Work and your trade union.

## **How your Concern will be dealt with**

**The Service is committed to treating all disclosures appropriately, consistently, fairly and professionally.**

On receipt of the disclosure the Health, Safety and Wellbeing Manager will identify the appropriate manager and initial discrete enquiries will be made to decide whether an investigation is needed and if so, how it should be carried out. This will help protect everyone concerned. The overriding principle will be the public interest.

It may be necessary to involve other agencies, for example the police or the external auditors. It may be possible, of course, to sort out the concern without a detailed investigation.

## **What you will be told**

Within ten working days of your concern being received, the manager who carried out the initial enquiries will write to you confirming:

- How and by whom the concern has been handled
- What initial enquiries have been made
- How long any further action may take [as far as this can be known]
- What further work is planned and how you may be involved

Updates will be provided to the employee who has registered the concern at regular intervals throughout any investigation.

The amount of contact you have with the people considering the matter will depend on many things. These include the type of concern, the potential difficulties of investigating it and the availability of information. You may need to provide more help. Wherever possible, you will be told the final outcome of the investigation.

## **Personal Support**

The Service will do all it can to minimise any difficulties which you may have because you have mentioned your concern.

As far as possible, you will be offered personal support and this will be arranged by an HR Business Partner. For example, if you had to give evidence in disciplinary or criminal proceedings, full advice about the procedure would be given to you.

## **Reprisals**

You may be put off raising a concern because you are worried about reprisals. If you raise a concern and reasonably believe it to be in the public interest to do so, you should have nothing to fear. You will be doing your duty to the Fire Authority and the public.

The Service will not tolerate any harassment or victimisation and you should not suffer any detriment because you have “blown the whistle”. This means any disadvantage including, for example, a failure to be promoted or a denial of a training opportunity. The Service will do all it can to protect you.

If you believe that you are suffering a detriment for having raised the concern you should report this.

Anyone who subjects you to any detriment because you have raised a concern may be disciplined. Furthermore, if you happen to be involved in any disciplinary or other procedures, these will be kept quite separate from the investigation or any matter you raise under this procedure.

You will not be penalised in any way where you make an allegation which you reasonably believe to be in the public interest which is not confirmed after it has been investigated. A concern which is raised frivolously, maliciously or for personal gain may result in disciplinary action.

### **If you are not satisfied with the Service`s Response**

This procedure is meant to give everyone an effective way to raise a concern within the Service and if possible, to resolve it internally. You should not feel that you have to take an issue outside the Service to get satisfaction.

If you are still unhappy after using the procedure and getting a final response you are entitled to consider taking your concern elsewhere.

### **Disclosure to Prescribed Persons**

The Prescribed Persons Order 2014 (which was updated in 2015) sets out a list of over 60 organisations and individuals that an employee can approach outside their workplace to report suspected or known wrongdoing.

A complete list can be found at

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2>

The organisations on the list have usually been designated as prescribed persons because they have an authoritative or oversight relationship with the sector, often as a regulatory body.

In making a disclosure to a prescribed person the issue is escalated beyond the Service to a regulatory body who can investigate and make recommendations.

An employee can report an issue to a prescribed person after raising it with the Service or instead of doing so. In order to have the same protection in law the employee must not only have a reasonable belief that there has been wrongdoing and that it is in the public interest to make the disclosure but also

that the matter falls within the remit of the prescribed person and the information disclosed is substantially true.

### **External Disclosure in other cases**

If you raise the matter with an external organisation which is not a prescribed person there are further conditions which you will need to satisfy in order to have the same statutory protection. You must also take into account the rules about disclosing confidential information.

### **Contact Details**

#### **Andrew Leadbetter**

Head of Legal and Democratic Services/Monitoring Officer  
Cheshire Fire & Rescue Service  
Winsford, Cheshire  
Tel: [01606] 868456

#### **Paul Vaughan**

Head of Finance  
Cheshire Fire & Rescue Service  
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#### **Andrea Harvey**

Head of People and Development,  
Cheshire Fire & Rescue Service  
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#### **Neil Wilson**

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#### **Kevin Lloyd**

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#### **Grant Thornton UK LLP**

Royal Liver Building  
Liverpool  
L3 1PS

Safecall  
Independent Agency  
Tel: [0800 9151571]

## CHESHIRE FIRE AUTHORITY

**MEETING OF** : **GOVERNANCE & CONSTITUTION COMMITTEE**  
**DATE** : **5<sup>th</sup> OCTOBER 2016**  
**REPORT OF** : **HEAD OF LEGAL AND DEMOCRATIC SERVICES**  
**AUTHOR** : **ANDREW LEADBETTER**

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**SUBJECT** : **REVIEW OF ANTI-BRIBERY POLICY AND ARRANGEMENTS**

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### **Purpose of the Report**

1. To provide Members with confidence about the Authority's anti-bribery arrangements.

### **Recommended: That Members:**

- [1] Confirm their continued approval of the Anti-Bribery Policy; and
- [2] Note the arrangements for promoting the anti-bribery arrangements.

### **Background**

2. As a result of the enactment of the Bribery Act 2010 (the Act) this Committee approved an Anti-Bribery Policy (the Policy) on 27th March 2013. At the same time a number of actions were endorsed which were intended to ensure that appropriate anti-bribery arrangements were put in place.
3. An extract from the report from March 2013 appears as Appendix 1 to this report to remind Members about the core provisions in the Act.

### **Information**

#### The Policy

4. The Policy appears as Appendix 2 to this report. It remains as approved in 2013. The Policy continues to represent a succinct statement of the Authority's expectations in relation to bribery.
5. There have been no allegations of bribery since the Policy was adopted.

#### The Arrangements

6. The Policy is a clear commitment by the Authority and responsibility for ensuring that it is upheld sits with senior officers.

7. Corporate documents refer to the Policy to ensure that there is a consistent message and that where necessary third parties are aware of the Authority's expectations.
8. Officers are made aware of the Policy on induction and when the Policy was introduced it was publicised to existing officers. A reminder is due to be published.
9. The Authority has a suitable reporting mechanism in place. There are clear reporting lines within the organisation and the Safecall arrangements ensure that an anonymous notification is possible.

### **Conclusion**

10. Whilst the risk of bribery appears relatively low it is right that the Authority takes bribery seriously. Having a succinct Policy in place and appropriate arrangements to inform staff and third parties should ensure that the Authority is well placed to avoid bribery. Should bribery take place the Authority has suitable arrangements in place in order to be notified.

### **Financial Implications**

11. There are no financial implications arising from this report.

### **Legal Implications**

12. The legal implications are covered in the body of the report.

### **Equality and Diversity and Environmental Implications**

13. There are no equality and diversity or environmental implications arising from this report.

**CONTACT: JOANNE SMITH, FIRE SERVICE HQ, WINSFORD  
TEL [01606] 868804**

**BACKGROUND PAPERS:**

EXTRACT FROM REPORT TO GOVERNANCE AND CONSTITUTION  
COMMITTEE ON 27<sup>TH</sup> MARCH 2013

Core Provisions of the Bribery Act

1. Bribery is defined in general terms as “giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or reward that person for having already done so”.
2. The Act contains two general bribery offences:
  - i. Section 1, is concerned with offences of bribing another person;
  - ii. Section 2, is concerned with offences relating to being bribed.
3. The Act (Section 3) defines the type of function or activity to which bribery relates if certain conditions apply:
  - i. Functions of a public nature;
  - ii. Activities connected with a business;
  - iii. Activities performed in the course of a person’s employment;
  - iv. Activities performed by or on behalf of a body or persons (corporate or unincorporated).
4. Section 3 goes on to explain that the offences will apply if a person performing the function or activity is expected to:
  - i. Perform it in good faith; or
  - ii. Perform it impartially; or
  - iii. Is in a position of trust by virtue of performing it.
5. The Act introduces an offence in Section 7, entitled “Failure of commercial organisations to prevent bribery”. The Authority is a commercial organisation for the purpose of the Act. Section 7 states that:

“A relevant commercial organisation is guilty of an offence ... if a person associated with [it] bribes another person ... intending to obtain or retain business ... or to obtain or retain an advantage in the conduct of business...”
6. Persons associated with the organisation include employees, agents or subsidiaries. Section 7 comes into play if such persons associated with it commit the offences in Sections 1 and 2.

7. It is a defence for a relevant commercial organisation to prove it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct (Section 7(2)).
8. Prosecutions for offences under the Act can only be pursued with the consent of the Director of Public Prosecutions or Director of the Serious Fraud Office. However, successful convictions will attract potentially significant penalties:
  - i. For offences under Sections 1 and 2, an unlimited fine or up to 10 years imprisonment;
  - ii. For Section 7, an unlimited fine.
9. The Act is obviously relevant to individuals and organisations. The Authority could be liable in certain circumstances. For example:

If a very senior person in the organisation commits a bribery offence, that person's activities could then be attributed to the Authority.
10. Where someone who performs services for the Authority (e.g. an employee, or agent) pays a bribe specifically to get business, keep business, or gain a business advantage for the Authority.

## **ANTI-BRIBERY POLICY**

### **Policy Statement**

Employees and agents of the Service must not engage in activities that amount to bribery. They must report bribery or attempted/suspected bribery.

### **What we mean by the term “Bribery”**

Whilst the Bribery Act 2010 (the Act) contains detailed information about the offences relating to bribery, in general terms it is:

“Giving someone a financial or other advantage to encourage that person to perform their functions and activities improperly or to reward that person for having already done so”.

### **What are the Offences?**

The Act includes offences concerned with bribing another person and with being bribed (in other words the giving of and acceptance of a bribe). These apply to individuals.

The Service can also be prosecuted for the offence of failing to prevent bribery (by its staff, or agents).

### **What we do to avoid Bribery**

The Service has a clear Anti-Bribery Policy (this document) which is brought to the attention of all employees and agents.

The Service’s Anti-Bribery Policy is reflected in corporate documents so that there is a consistent message about bribery.

There is commitment to avoid bribery from Members and officers (the Chief Fire Officer and Chief Executive is the senior officer with responsibility for this Policy).

### **What we expect of employees and agents**

If an employee, or agent of the Service becomes aware of circumstances which cause them concern, they should report the matter to:

- Chief Fire Officer and Chief Executive
- Head of Legal & Democratic Services (Monitoring Officer)
- Head of Finance (Section 151 Officer)

Alternatively they should use the Whistleblowing Procedure.

### **What we will do about suspected Bribery**

The Service will ensure that any allegations of bribery are thoroughly investigated (involving the Police as appropriate).

Should there be weaknesses in any systems and/or processes which come to light as a result of a report of suspected bribery, or proven bribery, then changes will be made, as necessary, to avoid future problems. Employees and agents will be dealt with appropriately in cases of proven bribery.

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