



SCOTTISH
FIRE AND RESCUE SERVICE

Working together for a safer Scotland

PEOPLE AND ORGANISATIONAL DEVELOPMENT

HUMAN RESOURCES

WHISTLEBLOWING POLICY

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1. POLICY STATEMENT

- 1.1 The Scottish Fire and Rescue Service (SFRS) is committed to the highest possible standards of openness and accountability. In line with that commitment, employees with serious concerns about illegality, malpractice, wrongdoing or serious failures of standards of work are encouraged to come forward and voice their concerns.
- 1.2 This whistleblowing policy is intended to encourage and enable employees to raise serious concerns within the SFRS, rather than overlooking a problem or blowing the whistle outside and it reassures employees that they can do so without fear of reprisal.
- 1.3 This policy applies to all individuals working at all levels of the organisation, including employees, consultants, contractors, fixed term workers and agency staff (collectively known as 'employees' for the purposes of this policy).

2. BACKGROUND

- 2.1 The Public Interest Disclosure Act 1998 (PIDA) came into force on 2 July 1999. The Act makes further provisions for the protection of individuals who disclose information about specific issues. The Act gives legal protection to employees against being dismissed, penalised or treated badly by their employers as a result of publicly disclosing certain serious concerns.
- 2.2 It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows malpractice or wrongdoing within the organisation, then the

information should be disclosed without fear of reprisal and may be made independently of line management.

2.3 The law provides protection for those who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that:

- A criminal offence
- A miscarriage of justice
- An act creating any risk to health and safety of any individual
- An act causing damage to the environment
- A breach of any other legal obligation, or
- A deliberate attempt to conceal any of the above

is being, has been, or is likely to be, committed.

2.4 There is a separate procedure for employees who wish to raise a personal grievance – please refer to the SFRS Grievance Policy, which is available on the intranet. Allegations of injustice or discrimination against individuals should, if at all possible, be dealt with under established grievance or dignity and integrity procedures, which are intended to be flexible and to have high levels of confidentiality.

The Whistleblowing policy is **not** another mechanism for employees to raise private grievances.

2.5 It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief is sufficient. The employee has no responsibility for investigating the matter – it is the responsibility of SFRS to ensure that an investigation takes place – please refer to [section 6](#).

- 2.6 An employee who makes a protected disclosure has the right not be dismissed, victimised, or subjected to any other detriment because they have made a disclosure.
- 2.7 While SFRS encourages employees to raise their concerns under this procedure with their line manager in the first instance, employees can, if they would prefer, approach other managers that they feel comfortable with to raise concerns. If an employee is not sure whether or not to raise a concern, they can discuss this with a member of the HR Department or, where applicable, they are encouraged to contact their Trade Union for advice.

3. PRINCIPLES

- 3.1 The issues raised under the protected list may relate to another employee, group of employees, the individual's own Directorate or another part of SFRS.
- 3.2 The disclosure must not be made for the purposes of personal gain and, in all circumstances, must be perceived to fall within the range of qualifying disclosures as listed in [paragraph 2.3](#).
- 3.3 SFRS will ensure that any employee who makes a disclosure in such circumstances will not be penalised or suffer any adverse treatment for doing so.
- 3.4 If misconduct is discovered as a result of any investigation under this procedure, the SFRS Disciplinary Procedure will be used. Furthermore, depending on the circumstances of the case, the SFRS may be required to consider whether appropriate external measures may also have to be considered, in line with professional advice, e.g. legal advice.

- 3.5 Victimization of a worker for raising a qualified disclosure will be a disciplinary offence.
- 3.6 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue a concern, even by a person in authority such as a manager, employees should not agree to remain silent and should report the matter to either their line manager or the Designated Whistleblowing Officer referred to in [section 6](#).
- 3.7 Employees who are members of Trade Unions are also encouraged to contact their Trade Union to provide advice, support and assistance over any whistleblowing concerns they may wish to raise.

4. RAISING A COMPLAINT

4.1 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases, employees should not find it necessary to alert anyone externally and we would encourage staff to report such concerns internally first. However, the law recognises that, in some circumstances, it may be appropriate for employees to report their concerns to an external body such as a regulator. The legislation sets out a number of bodies to which qualifying disclosures may be made including:

- HM Revenue and Customs;
- The Financial Conduct Authority (formerly the Financial Services Authority);
- The Office of Fair Trading;
- The Health and Safety Executive;
- Scottish Environment Protection Agency;
- The Procurator Fiscal Service; and
- The Serious Fraud Office.

A full list of prescribed persons or bodies can be obtained from the Department for Business Innovation and Skills, which can be found at the following web address:

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

In addition, further information on the Public Interest Disclosure (Prescribed Persons) Amendment Order 2013 can be found at the following web address:

<http://www.legislation.gov.uk/ukxi/2013/2213/made>

- 4.2 It is intended that the procedure should be flexible enough to deal with legitimate concerns about all types of matters received from, or about, any employee within SFRS. In some cases, the Grievance Procedure may not be an acceptable avenue for pursuing a legitimate concern.
- 4.3 Since the Grievance Procedure relies on the line management structure, an alternative system to the traditional structure is required for 'whistleblowers' and this is detailed in [section 6](#) below.

5. ENGAGING WITH THE MEDIA

- 5.1 The Media may contact employees directly for information or comment on behalf of the SFRS. Employees should be familiar with the SFRS Engaging with the Media Policy which ensures a planned, co-ordinated and consistent approach.
- 5.2 In line with the aforementioned policy, employees must not comment or disclose any confidential SFRS information, including financial or confidential information

about the Service, its employees, partners, suppliers or stakeholders to the media. Except in circumstances where an employee is taking part in the activities of a trade union at a relevant time.

- 5.3 Staff should be aware that such unauthorised contact and disclosures to the media may result in action under the SFRS Disciplinary Policy and, in extreme cases, civil and criminal law.

6. DESIGNATED WHISTLEBLOWING OFFICER

6.1 Who to contact

It is hoped that, in many cases, the employee will be able to raise concerns informally with their line manager in the first instance. Employees may also approach another manager within the Service, if they feel more comfortable in doing so.

The employee may tell them in person or put the matter in writing, if they prefer. However, where the matter is more serious or the employee would prefer to raise it with a more independent manager, they should contact the Director of Finance and Contractual Services (details can be obtained from either the [SFRS intranet](#) or www.firescotland.gov.uk).

The Director of Finance and Contractual Services is responsible for deciding which member of the Strategic Leadership Team (SLT) will assume responsibility for investigating the concerns. Any member of the SLT can be appointed as the Designated Whistleblowing Officer (DWO), whose responsibilities include investigating the employee's concerns and deciding on the most appropriate course of action to take.

Employees can raise their concerns orally or in writing. The employee must state that they are using the Whistleblowing Policy and specify whether they wish their identity and concerns to be treated confidentially, with such wishes being respected. The Designated Whistleblowing Officer (DWO) will acknowledge receipt of their formal written disclosure and keep a record of further action taken.

The DWO may then invite the employee to a meeting to discuss their concern(s). An employee is entitled to be accompanied by a workplace colleague or a trade union representative at any meeting with the DWO (or the DWO's nominee) under this procedure and is encouraged to do so. The companion will be asked to respect the confidentiality of the disclosure and any subsequent investigation.

6.2 Next Steps

The DWO will consider the information available and decide whether an investigation should be conducted and what form it should take. This will depend on the nature of the matter raised and may need to be referred to the relevant outside body – some of which are listed in [section 4](#). Following their initial assessment, the DWO may appoint a member of staff with relevant experience or specialist knowledge, should further investigation be deemed necessary, e.g. cases that may be considered to be a criminal matter and which, therefore, require confidentiality in order not to compromise any subsequent investigation.

6.3 Investigation and Outcome

SFRS is committed to investigating disclosures fairly, quickly and confidentially, where circumstances permit. If a longer investigation is considered necessary, an investigator will be appointed. So far as appropriate and practicable, the individual who made the disclosure will be kept informed of the progress of the investigation. However, the need for confidentiality may prevent the disclosure of specific details of the investigation or actions taken.

On completion of the investigation, the DWO will inform the employee making the disclosure what action is to be taken. If no action is to be taken, the employee making the disclosure will be informed in writing of the reasons for this.

The decision may be that the matter would be more appropriately dealt with under existing procedures, such as grievance, bullying and harassment, discipline, or the anti-fraud policy for financial irregularities.

If it is deemed necessary to refer the matter to an external authority for further investigation, SFRS will endeavour to inform the employee making the disclosure. However, in some cases SFRS may need to make such a referral without the employee's knowledge or consent, if considered appropriate, e.g. cases that may be considered to be a criminal matter and which, therefore, require confidentiality in order not to compromise any subsequent investigation.

In the event that an investigation leads SFRS to decide that there has been a breach of Service discipline, the members of staff responsible may be subject to disciplinary action in accordance with the SFRS Discipline procedures.

SFRS will always endeavour to handle investigations promptly and fairly but, if an employee who has made a disclosure under the procedure is not satisfied with the investigation or the conclusions reached by the Designated Whistleblowing Officer, they can write directly to the Deputy Chief Officer detailing their concerns. The Deputy Chief Officer will be responsible for carrying out an independent review of the disclosure to determine whether there are any concerns with the integrity of the investigation and/or the outcome(s).

7. CONFIDENTIALITY

- 7.1 Any employee or ex-employee who raises a legitimate concern will normally have the right to have the matter treated confidentially and not to have their identity disclosed to the alleged perpetrator of malpractice without their prior approval.
- 7.2 Individuals with a disability may require reasonable adjustments and/or assistance and, therefore, any individuals required to provide additional support throughout the process are also expected to treat all information they become privy to in the strictest of confidence.

8. ANONYMOUS ALLEGATIONS

- 8.1 This policy encourages employees to put their names to allegations. Concerns expressed anonymously will be investigated at the discretion of the DWO identified in [section 6](#) of this policy. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issue raised;
- the credibility of the initial information provided;
- the credibility of the concern; and
- the likelihood of confirming the allegation.

9. EMPLOYMENT TRIBUNALS

- 9.1 Although there is no requirement within the legislation that employees make a qualifying disclosure 'in good faith', Employment Tribunals are permitted to reduce compensation by up to 25%, if it appears that a protected disclosure was not made in good faith. Employment Tribunals also have the power to send

details of public interest disclosure allegations to the relevant regulator. The information is assessed by the regulator and, where appropriate, investigated and acted on in accordance with the regulator's own procedures.

10. EXISTING DISCIPLINARY PROCEDURES

10.1 It should be noted that, if an employee is already the subject of action under another procedure, such as Discipline, these procedures will not automatically be halted as a result of them raising concerns under this policy. However, the disciplinary process shall be suspended, pending the outcome of an investigation where the whistleblowing concerns raised are related to the disciplinary case.

11. RESPONSIBILITY FOR THIS POLICY

11.1 The DWO has day-to-day operational responsibility for this policy and must ensure that all managers and other staff who may deal with concerns or investigations under this policy receive regular and appropriate training.

11.2 This policy will be reviewed jointly by the People and Organisational Development and Financial and Contractual Services Directorates 24 months post promulgation.

11.3 All employees are responsible for the success of this policy and it is intended to provide sufficient reassurance so that employees have the confidence to disclose any suspected danger or wrongdoing. Employees should, therefore, ensure they use this policy to do so.

12. CONSULTATION

This policy has been developed following consultation with Representative Bodies and has been agreed by the SFRS Board.

13. ASSOCIATED DOCUMENTS / REFERENCES

- SFRS Anti-Fraud Policy Statement
- SFRS Code of Conduct
- SFRS Disciplinary Policy and Procedure
- SFRS Engaging with the Media Policy
- SFRS Grievance Policy and Procedure
- SFRS Equality Impact Assessment – Whistleblowing Policy

- Public Interest Disclosure Act 1998 (PIDA)
- The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2013
- Department for Business, Energy & Industrial Strategy, Guidance – Whistleblowing: list of prescribed people and bodies