



## HUMAN RESOURCES

### WHISTLEBLOWING POLICY

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Date of Equality Impact Assessment	November 2021
Date of Impact Assessment (commenced)	N/A
Date of Impact Assessment (concluded)	N/A
Quality Control (name and date)	George Lindsay, HROD Manager – March 2022
Authorised (name and date)	Scott Semple, Head of POD – March 2022
Date for Next Review	April 2026

**VERSION HISTORY**

<b>Version</b>	<b>Change</b>	<b>Who</b>	<b>When</b>
1.0	First version issued	Elinor Walton, HR Adviser	25/02/2015
2.0	Reviewed/amended	Leeanne Nicol, HR Adviser	03/04/2018
3.0	Reviewed/amended	Lucy Begley, HR Adviser	31/03/2022



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**FIRE AND RESCUE SERVICE**  
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# PEOPLE AND ORGANISATIONAL DEVELOPMENT

## HUMAN RESOURCES

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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.

## **2. SCOPE**

- 2.1 This policy applies to all individuals working at all levels of the organisation, including SFRS employees, consultants, contractors and agency staff (collectively known as 'employees' for the purposes of this policy).

## **3. INTRODUCTION**

- 3.1 The Public Interest Disclosure Act 1998 (PIDA) came into force on 2 July 1999. The Act makes 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.
- 3.2 It is a fundamental term of every contract of employment that an employee will faithfully serve their 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 the disclosure may be made independently of line management.
- 3.3 This Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within SFRS, rather than overlooking a problem or

blowing the whistle externally, and to reassure employees that they can do so without fear of reprisal.

- 3.4 An employee who makes a protected disclosure has the right not to be dismissed, victimised or subjected to any other detriment because they have made a qualifying disclosure. Victimisation of a worker for raising a qualified disclosure is a disciplinary offence. SFRS will ensure that any employee who makes a qualifying disclosure in such circumstances will not be penalised or suffer any adverse treatment, for doing so.

## **4. DEFINITIONS**

### **4.1 What is a Qualifying Disclosure?**

The law provides protection for those who raise legitimate concerns about specified matters. The Act defines 'protected disclosures' which are made by an employee as 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that one or more of the following is being, has been, or is likely to be, committed:

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

## **5. PRINCIPLES**

- 5.1 The Whistleblowing Policy must not be used for the purposes of personal gain and an employee, in all circumstances, must be raising a concern in the

public interest for a reason believed to fall within the range of qualifying disclosures as listed in [section 4.1](#).

- 5.2 The SFRS Grievance Policy is a separate procedure and should be used where employees wish to raise a personal, or collective, grievance. Allegations of injustice or discrimination against individuals should, if at all possible, be dealt with under established Grievance or Dignity and Respect procedures, which are intended to be flexible and to have high levels of confidentiality.
- 5.3 The Whistleblowing Policy is **not** another mechanism for employees to raise personal grievances.
- 5.4 Any concern raised under the protected list stated in [section 4.1](#) may relate to another employee, group of employees, the individual's own Directorate or another part of SFRS.
- 5.5 It is not necessary for the employee to have proof that 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 in line with this policy.

## **6. RAISING A CONCERN**

- 6.1 Where an employee has a concern that they believe meets the definition of a qualifying disclosure, as detailed in [section 4.1](#), and has considered the Principles detailed in [section 5](#), they should follow the guidance in this section to raise their concern(s).
- 6.2 If an employee is not sure whether to raise a concern, they can discuss this with their Human Resource Business Partner (HRBP).

- 6.3 Employees who are members of recognised Trade Unions are encouraged to contact their Trade Union who can provide advice, support and assistance over any whistleblowing concerns.

### **Who to Contact**

- 6.4 SFRS encourages employees to raise any concerns with their line manager in the first instance. Alternatively, employees can approach another manager to raise concerns if they feel more comfortable. Managers should investigate and respond to concerns by email. Where the employee is dissatisfied with the response, or the manager feels the matter is too serious for them to respond to, the concern should be escalated to the Director of People and Organisational Development (POD). Concerns can be raised in person or in writing.
- 6.5 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 POD directly.
- 6.6 The Director of POD will assign a member of the Strategic Leadership Team (SLT) to act as the Designated Whistleblowing Officer (DWO). Any member of the SLT can be appointed as the DWO. The DWO's responsibilities include investigating the employee's concerns and deciding on the most appropriate course of action to take.
- 6.7 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 DWO will acknowledge receipt of their formal written disclosure and keep a record of further action taken.

- 6.8 Where possible, the employee should identify which of the events in [section 4.1](#) is being referred to and the particular facts and circumstances they believe to be applicable.
- 6.9 The DWO may then invite the employee to a meeting to discuss their concern(s). An employee is entitled to be accompanied by a trade union representative or workplace colleague 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.
- 6.10 Any instruction to cover up wrongdoing is, in 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 DWO.

### **Raising a Concern Externally**

- 6.11 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 in the first instance. 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. Government guidelines provide a list of prescribed persons or bodies to which qualifying disclosures can be made. Where a report is made to a prescribed person or body, it must be one that deals with the issue being raised. The prescribed list includes:

- HM Revenue and Customs;
- The Financial Conduct Authority (formerly the Financial Services Authority);
- 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, Energy and Industrial Strategy, 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>

## **7. INVESTIGATION AND OUTCOME**

- 7.1 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(s) raised and may need to be referred to the relevant outside body, detailed in [section 6.11](#). Following their initial assessment, the DWO may appoint a member of staff with relevant experience or specialist knowledge, should further investigation be deemed necessary.
- 7.2 SFRS is committed to investigating disclosures fairly, quickly and, where circumstances permit, confidentially. 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.

- 7.3 On completion of the investigation, the DWO will inform the employee who made the disclosure what action is to be taken. If no action is to be taken, the employee will be informed in writing of the reasons for this.
- 7.4 It may be decided that the matter would be more appropriately dealt with under an alternative procedure(s), such as the Grievance, Dignity and Respect, Discipline or the Anti-Fraud Policies. In such instances, the whistleblower will remain protected under the principles of this policy.
- 7.5 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, SFRS may be required to consider whether appropriate external measures need to be considered, in line with professional advice.
- 7.6 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, 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.
- 7.7 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 DWO, 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).

## **8. ENGAGING WITH THE MEDIA**

- 8.1 The Media may contact employees directly for information or comment on behalf of SFRS. Employees should be familiar with the SFRS Engaging with the Media Policy which ensures a planned, co-ordinated and consistent approach.
- 8.2 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.
- 8.3 Employees should be aware that, under the terms of the Whistleblowing Policy, protected disclosures may only be made to organisations on the prescribed list as detailed in [section 6.11](#) above. Protected disclosures cannot therefore be made to the media under the terms of this policy.
- 8.4 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.

## **9. RESPONSIBILITIES**

### **9.1 Corporate Responsibilities**

The Director of POD is responsible for this policy and will assign a member of the SLT to act as the DWO for a Whistleblowing case. The DWO has day-to-day operational responsibility for any cases assigned to them.

## **9.2 Directorates**

Directorates, through Heads of Function and Heads of Service Delivery, will ensure the Whistleblowing Policy is used when appropriate and any concerns raised are dealt with under the principles of this policy.

## **9.3 Departmental Managers**

Departmental Managers are responsible for providing support to Heads of Function and Heads of Service Delivery. To ensure the implementation of this policy, specifically, they are responsible for:

- Ensuring they comply with this policy within their areas/departments;
- Ensuring any concerns raised by an employee are handled under the principles of this policy;
- Ensuring no employee is victimised from raising a concern;
- Liaising with the HRBP as required;

## **9.4 POD Directorate**

POD is responsible for:

- Providing advice and guidance regarding this policy and other associated policies.

## **9.5 Duties of Employees**

Employees are responsible for:

- Cooperating with managers to ensure the effective implementation of this policy;
- Using this policy to disclose any suspected danger or wrongdoing, in the public interest.

## **9.6 Role of Trade Unions**

Recognised Trade Union representatives' functions include:

- Co-operating with SFRS to ensure the procedures outlined within this policy are effectively implemented;
- Consulting with managers and POD on Whistleblowing related issues; and
- Encouraging staff to co-operate and comply with this policy.

## **10. CONFIDENTIALITY**

10.1 Any employee who raises a qualifying disclosure has the right to confidentiality. An employee must make it known at the earliest opportunity should they wish this and SFRS will make every effort to protect their identity.

## **11. ANONYMOUS ALLEGATIONS**

11.1 This policy encourages employees to put their names to allegations. Concerns expressed anonymously will be investigated at the discretion of the DWO. In exercising this discretion, the factors to be taken into account would include the:

- Seriousness of the issue raised;
- Credibility of the initial information provided;
- Credibility of the concern; and
- Likelihood of confirming the allegation.

## **12. EXISTING DISCIPLINARY PROCEDURES**

12.1 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 may be suspended, pending the outcome of an investigation where the whistleblowing concerns raised are closely related to the disciplinary case.

## **13. MONITORING AND REVIEW**

### **13.1 Monitoring and Record Keeping**

SFRS is committed to evaluating the effectiveness of its activities and operations, and meeting its statutory obligations for monitoring. To do this, we will:

- create and capture necessary data to demonstrate evidence, accountability and information about our decisions and activities and the effectiveness of policies, procedures and processes;
- maintain securely and preserve access to records, as long as they are required to support SFRS operations, in accordance with the SFRS Records Retention Schedule;
- meet legal record keeping requirements, including the Data Protection Act 2018 and the Freedom of Information (Scotland) Act 2002, and confidentially destroy those records as soon as they are no longer required.

### **13.2 Privacy Statement**

SFRS processes personal data collected as part of this Whistleblowing Policy in accordance with the Data Protection Act 2018 and General Data Protection Regulation 2018 (GDPR). In particular, data collected as part of this policy is held securely and accessed by and disclosed to individuals, only

for the purposes of supporting employees. In addition, Data Protection Impact Assessments are carried out, where necessary, for all new and revised policies, involving the processing of personal data.

### **13.3 Consultation**

This policy has been developed following full consultation with relevant stakeholders and representative bodies. It has been agreed by the relevant SFRS Boards/Committees who provide strategic advice and advice on matters affecting employees, whilst ensuring it supports the strategic aims of the SFRS.

### **13.4 Policy Review**

This policy will be subject to update and review as necessary by POD, at no more than five yearly intervals or earlier should any relevant legislative, precedent, judgement, operational review or organisational changes occur prior to that date.

## **14. EQUALITY**

- 14.1 The equality issues associated with this policy have been considered and are detailed within the Equality Impact Assessment, to which interested parties are directed for associated equality issues, both directly and indirectly relevant to this policy.

## **15. ASSOCIATED DOCUMENTS / REFERENCES**

Anti-Fraud and Corruption Policy

Code of Conduct

Dignity and Respect Policy

Disciplinary Policy and Procedure

Engaging with the Media Policy  
Grievance Policy and Procedure  
Equality Impact Assessment – Whistleblowing Policy  
Records Retention Schedule

[Data Protection Act 2018](#)

[Freedom of Information \(Scotland\) Act 2002](#)

[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](#)