

**STANDARD OPERATING PROCEDURES:
OFFICE OF THE BEDFORDSHIRE POLICE AND CRIME COMMISSIONER**

Title	Whistleblowing - Handling of Qualifying Disclosures Policy
Area of Compliance	Compliance
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Senior Lead	Chief Executive
Author	Transparency Manager

Revision History

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The Office of the Police and Crime Commissioner (OPCC) has developed a policy to handle qualifying disclosures that encompasses the protection afforded to staff under Part IVA Employment Rights Act 1996 (as inserted by the Public Interest Disclosure Act 1998), relating to 'Protected Disclosures.

This policy enables any member of staff to be able to make a 'protected disclosure' about any corruption or wrongdoing of any kind within the organisation. It enhances professionalism in the workplace preventing and discouraging malpractice and corruption.

This policy encourages staff to report wrongdoing or suspected wrongdoing or unethical behaviour with confidence that any such report will be taken seriously and dealt with correctly. The policy encourages staff to use internal mechanisms and any member of staff making a protected disclosure under this policy will be supported.

Qualifying Disclosures

Certain kinds of disclosure qualify for protection ('qualifying disclosures'). Qualifying disclosures are disclosures of information which the staff member making the disclosure reasonably believes tends to show one or more of the following is either taking place, has taken place, or is likely to occur in the future:

- a) a criminal offence;
- b) a breach of a legal obligation;
- c) a miscarriage of justice;
- d) a danger to the health or safety of any individual;
- e) damage to the environment, or
- f) deliberate concealing information relating to any of the above.

Any staff member who makes a disclosure must have a reasonable belief that the information disclosed tends to show one or more of the offences or breaches listed above.

The belief need not be correct, it might be discovered subsequently that the member of staff was in fact, wrong, but the staff member must show that they held a reasonable belief in the circumstances, at the time of disclosure.



The PCC is determined that the culture and tone of these organisations are ones of honesty and opposition to fraud and corruption. There is an expectation and requirement that all individuals and organisations associated in whatever way with the OPCC will act with integrity, and that PCC and staff at all levels will lead by example in these matters. The PCC, the Chief Constable and their staff are important in the stance on fraud and corruption and they are positively encouraged to raise any concerns that they may have on these issues where they are associated with the activities of the Force and the OPCC. Concerns may be about something that:

- Is unlawful
- Is against the PCC's Standing Orders, Financial Regulations or policies
- Falls below established standards or practices
- Results in waste or loss to the PCC
- Amounts to improper conduct

Members of staff are often the first to realise that there may be something seriously wrong within the Office of the Police and Crime Commissioner ("the OPCC") for Bedfordshire.

However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Police and Crime Commissioner. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Police and Crime Commissioner is committed to the highest possible standards of openness, probity and accountability. In line with that commitment she expects officers and others that we deal with, who have serious concerns about any aspect of the OPCC's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis. The Commissioner will not tolerate the victimisation of anyone raising a genuine concern and anyone responsible for such conduct will be subject to disciplinary action.

This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting Policy is intended to encourage and enable members of staff to raise serious concerns within the OPCC rather than overlooking a problem or "blowing the whistle" externally.

This policy applies to all OPCC staff (temporary, permanent, part time and full time) and any agency staff or consultants undertaking work on behalf of the OPCC. It also applies to contractors working for the OPCC, such as agency staff.

Any disclosure must be made in the 'public interest'. Therefore matters relating to your own employment should be raised under the appropriate existing procedures e.g. Bedfordshire Police Fairness at Work Policy.

This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that your concerns are justified.



The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. Your concern may be about something that:

- is unlawful (e.g. theft, false claims etc)
- is related to miscarriages of justice
- relates to possible fraud and corruption
- is a health and safety risk (including risks to the public as well as colleagues)
- damages the environment
- relates to the unauthorised use of public funds
- relates to sexual or physical abuse
- amounts to improper or other unethical conduct
- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the OPCC subscribes to
- is against the OPCC's procedures, rules and policies or
- falls below established standards of practice
- relates to the conduct of the Police and Crime Commissioner

The OPCC is committed to good practice and high standards and wants to be supportive of staff.

The OPCC recognises that the decision to report a concern can be a difficult one to make (not least because of the fear of reprisal from those responsible for, or suspected of, the malpractice). If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer.

The OPCC will not tolerate any harassment or victimisation in accordance with the Anti-Discrimination in the Workplace guidance and will take appropriate action to protect you when you raise a concern. However, should you feel that you have suffered harassment, either directly or indirectly, from your employer and or co-workers as a result of raising a concern then you should refer the matter to the Chief Executive.

Any investigation into allegations of potential malpractice will not influence, or be influenced by, any disciplinary or redundancy procedures that may already affect you.

Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. However, you should appreciate that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence. At the appropriate time you may need to come forward as a witness.

Anonymous disclosures

This policy encourages you to put your name to any expression of concern about possible wrongdoing whenever possible

Concerns expressed anonymously are generally likely to be less credible and much more difficult to investigate. Factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.
- Unsubstantiated concerns

If you make a disclosure in the public interest and it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

How to raise a concern

You may wish to consider discussing your concern with a colleague or union/professional association representative first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

You may invite your trade union/professional association representative or a colleague to raise a matter on your behalf. As a first step, you should normally raise any concerns about a member of staff with your immediate manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If in any doubt, speak to the Chief Executive.

Concerns may be raised verbally or in writing. If you do not feel able to put your concerns in writing you should phone or meet the appropriate officer who will agree your statement with you. If you wish to make a written report you are invited to use the following format:

- the background and history of the concern (giving relevant dates names and places)
- the reason why you are particularly concerned about the situation

The earlier you express the concern the easier it is to take action. Although you are not expected to provide proof, you will need to demonstrate to the person that you contact that there are reasonable grounds for your concern.

How the OPCC will respond

The OPCC will respond to your concerns. Please note that testing out your concerns is not the same as either accepting or rejecting them. Where appropriate, the matters raised may:

- be investigated by management, internal auditors, or through the disciplinary process
- be referred to the Police
- be referred to the external auditor
- form the subject of an independent inquiry

In order to protect individuals (and those accused of misdeeds or possible malpractice) initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the OPCC will have in mind is the public interest.

Concerns or allegations which fall within the scope of specific procedures (for example, grievance issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted. Within ten working days of a concern being raised, the person to whom it is addressed will write to you:

- acknowledging that the concern has been received
- indicating how the OPCC proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made, and
- telling you whether further investigations will take place and if not, why not.

The amount of contact between you and the officer(s) considering the issue(s) will depend on the nature of the matter(s) raised, the potential difficulties involved and the clarity of the information provided. If necessary, the OPCC will seek further information from you.

Where any meeting is arranged (off-site if you so wish) you can be accompanied by a union, professional association representative or a colleague (who is not involved in the area of work in which the concern relates).

The OPCC will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the OPCC will arrange for you to receive advice about the procedure.

The OPCC accepts that you need to be assured that the matter has been properly addressed. Subject to any legal constraints, we will inform you of the outcome of any investigation.

The Responsible Officer

The Chief Executive has overall responsibility for the maintenance and operation of this policy. She will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality).

How the matter can be taken further

This policy is intended to provide you with an avenue within the OPCC to raise concerns. The OPCC hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the OPCC, the following are possible contact points:

- the external auditor
- your trade union
- your local Citizens Advice Bureau or a relevant voluntary organisation
- relevant professional bodies or regulatory organisations
- the Police
- your solicitor
- the Ombudsman
- Police and Crime panel

If you do take the matter externally, you should ensure that you do not disclose confidential or privileged information. Please check with the Chief Executive or your line manager first.

Statutory Protection

This policy does not in any way affect your statutory rights as an employee under Part IVA of the Employment Rights Act 1996, which was brought into force by the Public Interest Disclosure Act 1998 commonly referred to as "The Whistleblowing Act".

These provisions give employees statutory protection against unfair dismissal and other forms of disciplinary action if they make certain types of disclosure in the public interest.

A "qualifying disclosure" means any disclosure of information which in the reasonable belief of the worker making the disclosure tends to show one or more of the following:

That a criminal offence has been committed, is being committed or is likely to be committed



- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
- That a miscarriage of justice has occurred, is occurring or is likely to occur
- That the health or safety of any individual has been, is being or is likely to be endangered
- That the environment has been, is being or is likely to be damaged, or
- That information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

Public Concern at Work

If you are unsure about whether or not to follow the OPCC's "Whistleblowing" Policy or you want further independent advice, you may contact Public Concern at Work.

This is a charity completely independent of the Authority, which specialises in providing free and confidential legal advice on how to raise a concern about serious malpractice at work.

Public Concern at Work will also help to advise you on whether a circumstance can be properly reported to an additional outside body.

Telephone: 020 3117 2520

Email: whistle@pcaw.org.uk

<https://www.pcaw.org.uk/business-support-contact-form/>

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