

Meeting	SPA Audit, Risk and Assurance Committee
Date	28 January 2021
Location	Video Conference
Title of Paper	Whistleblowing – Police Scotland Progress Report
Presented By	ACC Alan Speirs, Professionalism and Assurance
Recommendation to Members	For Discussion
Appendix Attached	No

PURPOSE

The purpose of this paper is to provide an overview of the Whistleblowing processes in place within Police Scotland.

Members are invited to discuss the content of this report.

1. BACKGROUND

- 1.1 This paper provides an overview of the current Whistleblowing processes in place by Police Scotland, details of the work undertaken since the creation of the Professional Standards Department (PSD) National Gateway Assessment Unit in 2017 and proposed action to continue to develop the Whistleblowing process over the next financial year. This will support Policing for a safe, protected and resilient Scotland.

2. FURTHER DETAIL ON THE REPORT TOPIC

- 2.1 In February 2017, following Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) Assurance Review of Police Scotland's Counter Corruption Unit, the National Gateway Assessment Unit was established ('Gateway'). The Gateway serves as a single point of entry for all internal referrals or concerns raised involving Police Officers or Members of Police Staff. This provides a consistent assessment and management of internal referrals ensuring a fair, proportionate and transparent approach is maintained across the organisation.
- 2.2 Matters referred can include issues pertaining to unethical, unacceptable, unprofessional, discriminatory or illegal behaviour; conduct, performance, discipline or integrity issues. Referrals can be submitted to the Gateway through a variety of reporting mechanisms and officers or member of staff can elect to remain anonymous whilst raising a concern.
- 2.3 The referrals are assessed against a number of criteria including Legislation, Conduct Regulations, Standard Operating Procedures, Force Guidance, Performance and Integrity Issues to identify and record the concern appropriately as either Whistleblowing, conduct or staff disciplinary matters, grievance or a failure to adhere to the Standards of Professional Behaviour.
- 2.4 The oversight of all Gateway referrals by senior Detective Officers, including the assessment of Whistleblowing matters, enables ethical decision-making based on Force Values of Integrity, Fairness and Respect, supported by the application of sound professional judgement based on operational Policing experience.

Whistleblowing

- 2.5 Police Scotland produced an initial Whistleblowing Guidance document in June 2017, which outlined the definition of Whistleblowing and the protection and support offered to Whistleblowers, as laid out within the Public Interest Disclosure Act 1998 (PIDA 1998). It sets out Police Scotland's responsibilities and response to reports of Whistleblowing and further provides details of the reporting mechanism by which officers and members of police staff can submit concerns. The document also highlights that personal grievances and complaints are not usually covered by Whistleblowing and can be addressed via established processes, including Grievance and Conduct. In general terms, a Whistleblower has no self interest in the issue being raised, however it is accepted that the distinction is not always immediately evident.
- 2.6 The Whistleblowing Guidance has been updated since 2017 and is available to all staff to view on the intranet (currently Version 3.00).
- 2.7 Whistleblowing reports are assessed as information about 'wrongdoing' which meets the criteria set out in the appropriate Legislation, whereby the Whistleblower holds a reasonable belief that:
- They are acting in the public interest
 - That the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
 1. A criminal offence has been, is being or is likely to be committed
 2. A person has failed, is failing or is likely to fail to comply with any legal obligation
 3. A miscarriage of justice has occurred, is occurring or likely to occur
 4. The Health and Safety of an individual has been, is being, or is likely to be endangered
 5. The environment has been, is being or is likely to be damaged
 6. There has been deliberate concealment of information in relation to any of the above.

Whistleblowing Data

- 2.8 Between the dates of establishment of the Gateway in February 2017 until 31 March 2018 ('Year 1'), the Gateway received 1175 referrals in total. Of these, one report was reasonably assessed to be Whistleblowing, however, it was an anonymous report and therefore Police Scotland could not afford the Whistleblower protection under PIDA 1998.
- 2.9 Between the dates 01 April 2018 until 31 March 2019 ('Year 2'), the Gateway received 2168 referrals in total (an increase of 86% since Year 1). Of these, six reports were assessed as Whistleblowing. Three people were identified as Whistleblowers and have been formally acknowledged and afforded the rights and protections, as set out within the Guidance document, to ensure no detrimental impact upon them in the workplace. The other persons remained anonymous.
- 2.10 Between the dates 01 April 2019 until 31 March 2020 ('Year 3'), the Gateway received 2419 referrals in total (an increase of 11.6% since Year 2 and an overall increase of 107.6% since Year 1). Of these, 13 reports were assessed as Whistleblowing. Six persons were identified as Whistleblowers and have been formally acknowledged and afforded the rights and protections, as set out within the Guidance document, to ensure no detrimental impact upon them in the workplace. The other persons remained anonymous.

Police Scotland's Whistleblowing Process to Date

- 2.11 Police Scotland seeks to provide an environment where employees feel confident to raise concerns when they reasonably believe that 'wrongdoing' is being or has been done. It promotes a healthy workplace culture built on openness and accountability, raises the bar on standards of quality and is a valuable contribution in supporting public trust and confidence in Policing.
- 2.12 A contract was awarded to PROTECT (Whistleblowing Advice) Ltd which provides an independent advice line delivering confidential, expert advice to officers, staff and managers. The current contract runs until 20 February 2024.
- 2.13 Positive engagement is maintained with external partners PROTECT and Whistleblowers UK by Force Executive representatives and PSD senior management. The Police Scotland process, to date, has been recognised as a benchmark for other law enforcement agencies.

2.14 Police Scotland is also working alongside the Scottish Police Authority (SPA) to ensure consistency with Police Scotland guidance being adopted across both organisations.

2.15 Since 2017, Police Scotland has invested in the development of Whistleblowing, including:-

- Provision of an independent advice line (PROTECT)
- A monthly newsletter from PROTECT outlining ongoing work with various organisations, learning, best practice, training etc. (pended during Covid pandemic)
- An online Whistleblowing reporting tool has been created and launched on 10 June 2020
- Gateway staff have received training by PROTECT which has enabled early identification of potential Whistleblowing matters within the organisation, which are flagged to senior management timeously for assessment/consideration
- In 2019, the DCI and DI for Gateway attended an International Whistleblowing conference, networked with organisations, gathered information on good practice and provided learning feedback to Police Scotland via PSD senior management
- A Whistleblowing e-learning training package was developed by internal/external partners to provide better awareness to employees and managers
- PSD and PROTECT co-hosted a 'What is Whistleblowing?' CPD event at the Scottish Police College where all Divisions, Scottish Police Federation and staff associations were represented
- In 2019 the process implemented by Police Scotland was recognised as a benchmark for other law enforcement agencies following a UK Government call for evidence on Whistleblowing, attended by ACC Professionalism and Assurance and the Head of PSD

Opinion and Next Steps

2.16 The processes put in place, to date, have resulted in significant improvements and tangible data capture to better inform Force Executive and the SPA, ensuring transparency and consistency. The improvement in knowledge and awareness within PSD has led to stronger support for Divisions, enhanced information sharing, accountability and consistency in the management of Whistleblowing matters across the organisation.

- 2.17 It is recognised however that there is still a nervousness around Whistleblowing matters by Divisional managers within Police Scotland, in relation to how a Whistleblowing investigation should be progressed, managed and what welfare support should be provided to Whistleblowers.
- 2.18 Due to the ongoing Covid-19 pandemic, the continued development of Whistleblowing process has been pended in 'Year 4' in order to meet the demand on policing the pandemic within Scotland. Moving forward in 'Year 5' of the Gateway (01 April 2021 – 31 March 2022), and in order to further enhance the good work already undertaken by Police Scotland, the following is recommended:-
- Further CPD event(s) should be developed, covering the 'investigation' and 'welfare' processes for Whistleblowing matters. The previous CPD event received positive feedback.
 - Awareness sessions with Divisions to ensure matters raised locally that could potentially be Whistleblowing, are identified as such, are not dealt with informally and are referred to the Gateway at the earliest opportunity (to allow the organisation to formally assess, record, acknowledge rights and protections of Whistleblowers under PIDA 1998 legislation and to ensure a consistent investigation is undertaken).

3. FINANCIAL IMPLICATIONS

- 3.1 The annual financial implication for 'PROTECT' to perform this independent support function on behalf of Police Scotland is £12,000.

4. PERSONNEL IMPLICATIONS

- 4.1 Our service delivery to the personnel of Police Scotland has been improved by providing an external independent transparent support service, increasing confidence to report a Whistleblowing matter, confident that it will be properly addressed.

5. LEGAL IMPLICATIONS

- 5.1 The legislation associated with this report is the Public Interest Disclosure Act 1988.

6. REPUTATIONAL IMPLICATIONS

- 6.1 The adoption of this service has provided the organisation with improved external support mechanisms. Failure to deliver such a

reporting mechanism would significantly increase the risk to the organisation and those working for Police Scotland.

7. SOCIAL IMPLICATIONS

7.1 There is no social implication associated with this paper.

8. COMMUNITY IMPACT

8.1 There is no community impact associated with this paper.

9. EQUALITIES IMPLICATIONS

9.1 The Force commitment to this policy is reflected in our Policing values and it is important that individuals are empowered to raise concerns with confidence and that such concerns are properly addressed, assisting in the organisation achieving the highest possible levels of service and ethical standards in all of its practices.

10. ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are invited to discuss the content of this paper.