

Meeting	Audit, Risk and Assurance Committee
Date	15 July 2021
Location	By Video Conference
Title of Paper	SPA Whistleblowing Annual Update
Presented By	Lynn Brown, SPA Chief Executive
Recommendation to Members	For Discussion
Appendix Attached	No

PURPOSE

The purpose of this paper is to:

- a) Demonstrate how the ARAC discussion in January 2021 influenced the approach to the annual update.
- b) Outline the overall outcome and planned actions for 2021/22 as a result of the recent SPA self-assessment against the Whistleblowing Commission Code of Practice
- c) Provide an update in relation to the outcome of the six monthly assurance process.

1. BACKGROUND

- 1.1 A post-publication update was provided to the ARAC in January 2021 following publication of the SPA Whistleblowing Policy on 25 March 2020. As part of this discussion it was confirmed that the original policy intention to provide an annual update to the ARAC would be strengthened to move beyond simply reporting on the number/types of matters raised, and lessons learned/trends (where applicable).
- 1.2 It was confirmed that the annual update would now include the outcome and confirmed actions as a result of a self-assessment process against the Whistleblowing Commission Code of Practice. This related to the fact that this would help to move beyond the numbers and also consider policy provision, engagement, training and oversight approaches against good practice.

2. KEY LEARNING FROM PREVIOUS ARAC DISCUSSION

- 2.1 The following expectations from the ARAC were drawn from the discussion in January 2020 and influenced the approach to training, and the annual update:
 - Whistleblowing is a key aspect of organisational culture as to how people feel and the process must work effectively alongside different avenues for raising concerns
 - The policy must be well communicated and it must be ensured that people are supported and feel valued throughout the process
 - The policy and process must be inclusive and accessible
 - Success is not about the number of issues raised but more about confidence in the policy and evidence of a lessons learned approach.
 - Important to identify trends and common themes where they exist, however each case must be considered in its own right and on its own merit.
 - The first annual report should detail next steps and what is sought to be achieved in 2021/22.
- 2.2 It is viewed that the self-assessment process outlined in this paper captures all of the above points.

3. SELF-ASSESSMENT OUTCOME AND FOLLOW UP ACTIONS

3.1 The Whistleblowing Commission (now known as Protect) developed a Code of Practice for effective whistleblowing arrangements. The table below outlines the outcome of the self-assessment for 2020/21 against key categories within this Code of Practice:

Code of Practice Category	Overall Outcome	Further Detail
Written Procedures	The current policy is aligned to the code of practice	<ul style="list-style-type: none"> Provides channel for employees to raise a serious concern Concise, well presented and clear Includes appropriate alternative contacts beyond line manager Clearly outlines how and who employees can report concerns to externally
Training	The current approach is aligned to the code of practice, although elements of the approach still require to be implemented.	<ul style="list-style-type: none"> Clear plan in place to ensure the effective implementation of whistleblowing arrangements SPA Corporate all-staff session has taken place (focused on positive open and transparent culture) All-engagement proposals under development for SPA Forensics Longer term and sustainable approaches under development in relation to annual refresher/induction and embedding into relevant management and leadership training.
Oversight	The current approach is aligned to the code of practice	<ul style="list-style-type: none"> Six monthly assurance process in place to ensure internal governance and whistleblowing champion engagement Self-assessment process in place to ensure periodic audits with outcome of approach reported to ARAC as part of Annual Update
Anonymity and Confidentiality	The current approach is aligned to the code of practice	<ul style="list-style-type: none"> Current policy encourages open disclosure Policy clear on drawbacks that may mitigate ability to resolve issues
No Detriment	The current approach is aligned to the code of	<ul style="list-style-type: none"> Policy very clear re no detriment approach

	practice	
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- 3.2 Further assessments of the effectiveness of the written procedures and approaches to anonymity and confidentiality will take place as part of any post case reviews taking place after each whistleblowing case is concluded. Any learning will be captured through the six monthly assurance review process and the next annual update to the ARAC.
- 3.3 In order to ensure continuous improvement the key follow up actions for 2021/22 will be:
- Engagement with Police Scotland and PIRC on the potential to include PIRC as an external organisation to report concerns prior to any change to legislation that makes this a requirement
 - Implementation of the full training plan with a focus on longer term approaches to annual refresher/induction and embedding appropriate training into relevant management and leadership training.
 - Considering the option to use Protect’s Whistleblowing Benchmark’ to support continuous improvement and an improved approach to self-assessment
 - To consider ARAC feedback from the 2020/21 annual update to improve the approach to 2021/22.
 - To ensure post-case reviews inform improvements to the policy and approach.
 - To engage with trade unions on planned activity
 - To develop a structured approach to ongoing engagement with Police Scotland to share lessons learned and good practice.
 - To consider the potential benefits and learning that may come from investing in the purchase of the upcoming ISO 37002 Whistleblowing Management Systems

4. SIX MONTHLY ASSURANCE PROCESS

- 4.1 The table below provides a summary of the learning/position as part of the ongoing six monthly assurance process.

Policy Requirements	<ul style="list-style-type: none">• Six monthly update to SPA Corporate/Forensics Executive and SPA Whistleblowing Champion (based on specific success criteria)• Need for post-case reviews
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Six Monthly Update Findings	<ul style="list-style-type: none"> • One whistleblowing case still ongoing • Case raised through separate channels and subsequently identified as having elements relating to whistleblowing • Case ongoing with post-case review planned to ensure effective learning, particularly in relation to running grievance, complaints and whistleblowing processes currently.
Required Actions	<ul style="list-style-type: none"> • Nomenclature changes required to policy to reflect changes to post titles on the replacement of the Audit Committee with the ARAC.

4.2 It was anticipated that due to the size of the SPA there may be a limited number of whistleblowing cases which therefore places a greater emphasis on the importance of establishing appropriate learning as part of the post-case review. As the current case is ongoing, limited specific learning has been drawn from the six monthly assurance update since the implementation of the policy.

4.3. The lack of meaningful information that has been able to be drawn from the six monthly assurance process to date demonstrates the importance of having a complementary self-assessment process that seeks to go beyond an assessment of the number of cases.

5. ENGAGEMENT ON SINGLE POLICY APPROACH

5.1 In January 2021 it was confirmed to the ARAC that engagement was ongoing with the unions on the 'ask' for there to be a single whistleblowing policy for policing.

5.2 On the basis that both organisations have carried out a self-assessment process as part of their annual update with a commitment to continuous improvement it is intended that engagement takes place with unions to confirm the following:

- SPA/PS are committed to implementing a structured approach to sharing of lessons learned (where appropriate) and good practice
- SPA/PS are committed to continuous improvement through an annual self-assessment process.

If as part of the annual update it was confirmed that the ARAC are assured that both SPA and Police Scotland have effective

whistleblowing processes in place this would also be outlined to unions.

- 5.3 It is hoped that the information above would mitigate the need for unions to focus on the delivery of a single policy as a key success criteria, with greater importance being placed on the fact that SPA and Police Scotland have robust and effective whistleblowing procedures in place.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no direct financial implications, however an open and transparent culture will help to mitigate the associated costs of malpractice and poor financial decision making.

7. PERSONNEL IMPLICATIONS

- 7.1 This policy seeks to ensure that staff work in an open, transparent and safe working environment where people feel able to speak up.
- 7.2 It also seeks to ensure that there is a clear understanding amongst employees how to whistleblow along with a clarity on the commitment to ensure they are appropriately protected, supported and communicated with throughout.

8. LEGAL IMPLICATIONS

- 8.1 Processes put in place internal controls and processes to ensure SPA compliance with the relevant legislation.

9. REPUTATIONAL IMPLICATIONS

- 9.1 An effective whistleblowing policy and oversight is essential in detecting and deterring wrongdoing, whilst also raising the bar on standards and quality. The reputational benefit of having an open, transparent and safe working environment is clear.

10. SOCIAL IMPLICATIONS

- 10.1 Seeks to embed a proactive approach to avoiding or addressing concerns in the public interest relating to policing and policing governance, which may have an impact on wider society.

11. COMMUNITY IMPACT

11.1 Seeks to embed a proactive approach to avoiding or addressing concerns in the public interest relating to policing and policing governance, which may have an impact on the communities of Scotland.

12. EQUALITIES IMPLICATIONS

12.1 The EQHIRA supporting the policy made reference to the fact that particular groups may generally be more reluctant to raise concerns and that such concerns could be mitigated through the provision of multiple internal options, anonymous and external reporting along with commitments in relation to protection and confidentiality.

12.2 The recommendation to consider the PIRC as a further mechanism to report concerns along with a robust and effective self-assessment process should hopefully support the further creation of an environment where all individuals feel comfortable to raise concerns.

13. ENVIRONMENT IMPLICATIONS

13.1 A specific category for raising whistleblowing concerns relates to damage to the environment. No issues have yet been identified through the updated whistleblowing policy.

RECOMMENDATIONS

Members are requested to note the outcome and planned actions for 2021/22 following the self-assessment process and confirm the extent to which the Annual Update provides relevant assurances of an effective and robust approach to whistleblowing within SPA.