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| Meeting | Audit, Risk and Assurance Committee |
| Date | 28 January 2021 |
| Location | Video Conference |
| Title of Paper | SPA Whistleblowing Policy – Post Publication Update |
| Presented By | Lynn Brown, Interim SPA Chief Executive |
| Recommendation to Members | For Discussion |
| Appendix Attached | No |

PURPOSE

The purpose of this paper is to:

- a) Provide an update on the implementation of the SPA Whistleblowing Policy
- b) Outline proposals to include the outcome of a self-assessment against the Whistleblowing Commission Code of Practice as part of the ARAC annual report
- c) Provide an update on progress towards a single policy for policing with different escalation routes
- d) Provide some commentary in relation to the specific Dame Elish Angiolini recommendations associated with whistleblowing.

1. BACKGROUND

- 1.1 The SPA Whistleblowing Policy was approved at the SPA Board on 25 March 2020. This policy introduced new and more robust governance and reporting arrangements whilst also being supported by the appointment of a SPA Member as the SPA Whistleblowing Champion.
- 1.2 The supporting Board paper also highlighted the views of trade unions that there should be a single policy for policing with differing escalation routes. The SPA Board supported the merit of further exploration of this proposal with Police Scotland to consider the feasibility of this.

2. GOVERNANCE AND REPORTING – SIX MONTHLY ASSURANCE UPDATE

- 2.1 The table below provides a summary of the initial six monthly assessment following the publication of the SPA Whistleblowing Policy

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| 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 |
| Six Monthly Update Findings | <ul style="list-style-type: none">• One whistleblowing case has commenced• 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. |

- 2.2 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 first six monthly assurance update.

3. GOVERNANCE AND REPORTING – ANNUAL UPDATE TO ARAC

- 3.1 The updated policy outlines the requirement to provide an annual update to the ARAC to include the number/types of matters raised, and lessons learned/trends (where applicable).
- 3.2 In light of the level of detail available in section 2, it is proposed that the annual update process is strengthened to include the outcome of a self-assessment process that looks beyond the number of whistleblowing cases and considers policy provision, engagement, training and oversight approaches.
- 3.3 After consideration of the potential self-assessment tools available to the SPA it has been determined that the annual review process will involve an assessment of current policy/practice against the Whistleblowing Commission Code of Practice. The findings of this will be considered in advance of the annual update to the ARAC with clarity being provided on the outcome and planned follow up actions.

4. ENGAGEMENT ON SINGLE POLICY APPROACH

- 4.1 The SPA Whistleblowing Policy was approved at the outset of the first national lockdown in March 2020. The initial impact this had on ways of working and immediate policing priorities have created challenges to progress a single policy.
- 4.2 Whilst the proposal of working towards a single policy approach has not been dismissed by Police Scotland it is their view that the recent updates to their whistleblowing guidance, training and governance should have time to bed-in prior to being subject to a further review and discussions remain ongoing.
- 4.3 Engagement is ongoing with Unions on the ask for a single policy and the outcome of this engagement will be included in the annual update. In March 2020, a single policy was outlined as a preference for Unison, whilst Unite had a stronger view that their endorsement of the policy was contingent on the SPA and other stakeholders being able to demonstrate significant and tangible progress towards a single policy for policing within six months of approval.

4.3 However at this stage it is more important that assurance is provided that SPA and Police Scotland have robust and effective whistleblowing procedures in place.

5. DAME ELISH ANGIOLINI REVIEW – ASPECTS RELATING TO WHISTLEBLOWING

5.1 The table below outlines chief executive considerations in relation to the specific elements of the review that focus on whistleblowing.

| Recommendation | Chief Executive Comments |
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| <p>20. Recommendation: The Police Investigations and Review Commissioner should be added to the list of prescribed persons in The Public Interest Disclosure (Prescribed Persons) Order 2014 in order that people working in Police Scotland and in the Scottish Police Authority are able to raise their concerns with an independent third-party police oversight organisation.</p> | <ul style="list-style-type: none"> • Requires legislative change to formally include the PIRC in the relevant legislation, however Employment Rights Act allows for the employer to outline external organisations not listed in legislation within their policy. • Therefore key question is whether PIRC require to consider internal changes prior to implementation of this recommendation. • Additional channels are welcome, however implementation of this should be supported with encouragement for individuals to feel comfortable to raise concerns internally in the first instance. |
| <p>21. Recommendation: Whistleblowing can be an indicator of what is happening within an organisation and therefore Police Scotland should review and audit its whistleblowing arrangements and data on a regular basis.</p> | <ul style="list-style-type: none"> • ARAC has key role to play in supporting this recommendation through its audit and oversight role of whistleblowing for policing as a whole. • Essential that the annual update approach is meaningful and effective. |
| <p>Although not a formal recommendation due to the view that the greater gap relates to recommendation 20, comment was made that</p> | <p>Any consideration to provide PIRC with such a role would need to consider how this could operate alongside the clear role that the ARAC has in relation to audit/oversight of whistleblowing.</p> |

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| PIRC could have an audit/oversight role over whistleblowing in Policing. | |
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3. FINANCIAL IMPLICATIONS

- 3.1 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.

4. PERSONNEL IMPLICATIONS

- 4.1 This policy seeks to ensure that staff work in an open, transparent and safe working environment where people feel able to speak up.
- 4.2 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.

5. LEGAL IMPLICATIONS

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

6. REPUTATIONAL IMPLICATIONS

- 6.1 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.

7. SOCIAL IMPLICATIONS

- 7.1 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.

8. COMMUNITY IMPACT

- 8.1 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.

9. EQUALITIES IMPLICATIONS

- 9.1 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.
- 9.2 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.

10. ENVIRONMENT IMPLICATIONS

- 10.1 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 of the first six monthly assurance update
- plan to strengthen the SPA annual update to the ARAC with a self-assessment against the Whistleblowing Commission Code of Practice
- current position with regards to discussions exploring a single policy approach to whistleblowing
- relevant links highlighted between the Dame Elish Angiolini Review and whistleblowing.