

<b>Meeting</b>	<b>Audit, Risk and Assurance Committee</b>
<b>Date</b>	<b>15 July 2021</b>
<b>Location</b>	<b>By Video Conference</b>
<b>Title of Paper</b>	<b>Police Scotland – Whistleblowing Annual Report</b>
<b>Presented By</b>	<b>Alan Speirs, ACC Professionalism and Assurance</b>
<b>Recommendation to Members</b>	<b>For Discussion</b>
<b>Appendix Attached</b>	<b>Yes Appendix A – Internal communications - World Whistleblower Day</b>

**PURPOSE**

The purpose of this paper is:-

- to provide an update in relation to Police Scotland’s Whistleblowing data for Financial Year 2020/21, and
- to outline Police Scotland’s planned actions for Financial Year 2021/22 in relation to the governance of Whistleblowing matters

Members are invited to discuss the contents of the report.

## **1. BACKGROUND**

- 1.1 This paper provides an overview of the current Whistleblowing process in place by Police Scotland, a Year-end update for 2020/21 and proposed key areas of focus for 2021/22. This will enhance embedded process and support Policing for a safe, protected and resilient Scotland.

## **2. INTRODUCTION**

- 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 of concerns raised involving Police Officers or Members of Police Staff. This provides a consistent assessment and management of internal referrals ensuring a fair, proportionate, transparent and reasonable approach is maintained across the organisation.
- 2.2 Matters referred to the Gateway 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 members 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 the 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.

### **3. POLICE SCOTLAND - WHISTLEBLOWING**

- 3.1 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). This sets out Police Scotland's responsibilities and response to reports of Whistleblowing and further provides details of the reporting mechanisms available to raise concerns. The document also highlights that grievances and complaints are not usually covered by Whistleblowing and can/will be addressed via other established processes including grievance and conduct.
- 3.2 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, have no self-interest in matter(s) reported and that the disclosure tends to show past, present or likely future wrongdoing, and which falls 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 a deliberate concealment of information in relation to any of the above.

**4. WHISTLEBLOWING DATA**

4.1 Since the establishment of the Gateway in February 2017, the referral data is as follows:-

<b>Year</b>	<b>Total No. of Referrals Received by Gateway</b>	<b>Total No. of Referrals Assessed (in Part or Full) as Whistleblowing</b>
<b>2017/18</b>	<b>1175</b>	<b>1*</b>
<b>2018/19</b>	<b>2168</b> 86% increase on previous year	<b>6*</b>
<b>2019/20</b>	<b>2419</b> 11.6% increase on previous year 107.6% increase since Year 1	<b>13*</b>
<b>2020/21</b>	<b>2743</b> 13.4% increase on previous year 134% increase since Year 1	<b>5**</b>

**\* This includes anonymous reports received that have reasonably been assessed as Whistleblowing, whereby the reporter was unknown and therefore could not be formally recognised and/or afforded rights and protection**

**\*\* Two reports from 2020/21 remain live investigations**

4.2 Two of the investigations from Year 2020/21 have resulted in individual, local and organisational learning which have been shared and actioned through the relevant internal channels, however, given the Whistleblower numbers are low, there is a significant risk of identification of Whistleblowers, if the specific detail(s) were to be documented within this report.

## **5. POLICE SCOTLAND'S WHISTLEBLOWING PROCESS TO DATE**

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

- Provision of an independent advice line by PROTECT (Whistleblowing Advice) Ltd which provides independent, expert advice to officers, staff and managers in relation to Whistleblowing matters. PROTECT are a third sector organisation, recognised as a leading charity on Whistleblowing matters
- The creation of an online Whistleblowing reporting tool
- Gateway staff have received Whistleblowing training which has enabled early identification of Whistleblowing matters, which are flagged to senior management timeously for assessment
- A Whistleblowing e-learning training package was developed and cascaded to all officers/staff
- An awareness CPD event was held at the Scottish Police College where representatives from 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
- Circulation of internal awareness communications for World Whistleblower Day on 23 June 2021 (see Appendix A).

5.2 The processes implemented 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 within PSD has led to stronger support for Divisions, enhanced information sharing, accountability and consistency in the investigation of Whistleblowing matters.

**6. NEXT STEPS – 2021/22**

- 6.1 In 2020/21, the continued development of Police Scotland’s Whistleblowing process was paused in order to meet the demands on Policing the global Covid-19 pandemic within Scotland (Operation Talla).
- 6.2 In June 2021, Police Scotland undertook a benchmark Whistleblowing self-assessment. The breakdown of the self-assessment was, as follows:

<b>Governance</b>	<b>Topics self-assessed against</b>	<b>Score(s)</b>
Accountability	Whistleblowing Champion Senior Leaders Whistleblowing Lead/Team Line Managers	94%
Written Policy and Procedures	Written police and procedures Policy review Policy accessibility Policy language Types of concerns Where concerns can be raised Investigation process Raising concerns openly, confidentially or anonymously Protection from victimisation	88%
Review and Reporting	Periodic review Independent review and oversight External reporting on arrangements	56%

<b>Engagement</b>	<b>Topics self-assessed against</b>	<b>Score(s)</b>
Communications and Training	Communication to staff and stakeholders Encouraging concerns Testing awareness Staff and relevant stakeholders aware of reporting mechanisms Testing confidence Staff and relevant stakeholders have confidence in the arrangements Staff training Line management training Accountable and operational staff training	50%

Operations	Topics self-assessed against	Score(s)
Support, Protection, Resolution and Feedback	Support Confidentiality Victimisation: protection and sanction Settlement agreements Resolution Feedback to Whistleblowers Feedback from Whistleblowers	73%
Recording and Investigations	Recording Investigations	100%

6.3 This benchmark assessment will contribute to the next steps for the year ahead for Police Scotland’s Whistleblowing policy and process (2021/22) and will focus on three key areas, to ensure continuous improvement in current process/practice, as follows:

Governance

A review of Police Scotland’s Whistleblowing Guidance (three years since last review).

Engagement

Engagement with internal partners in relation to embedding Whistleblowing into relevant training courses (staff/officer, line management and operational staff training).

Operations

The development of a feedback process to test/develop the effectiveness of Police Scotland’s Whistleblowing policy, procedures and operations.

**7. FINANCIAL IMPLICATIONS**

7.1 There are no direct financial implications however Police Scotland strive to create a transparent culture within the organisation, in line with our Values of Fairness, Integrity, Respect and Human Rights, to minimise potential legal costs attributed to wrongdoing within the workplace.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 Police Scotland's policy seeks to ensure staff and officers feel enabled and empowered to report wrongdoing with the confidence that any reports made will be taken seriously and thoroughly investigated, whilst affording employees legislative protection.

## **9. LEGAL IMPLICATIONS**

- 9.1 Processes put in place will ensure Police Scotland's compliance with the Employment Rights Act 1996 and the Public Information Disclosure Act 1988.

## **10. REPUTATIONAL IMPLICATIONS**

- 10.1 In 2019 Police Scotland was recognised as a benchmark for other law enforcement agencies by the UK Government call for evidence into Whistleblowing. We endeavour to develop and strengthen our process, to have a workforce that is listened to, feel empowered to report wrongdoing and create a safe working environment/culture. This, in turn, will build public trust and confidence in policing, as these matters are in the public interest.

## **11. SOCIAL IMPLICATIONS**

- 11.1 By strengthening existing process, we will create an open, honest and transparent culture which meets the needs and encompasses our full workforce and the wider communities we serve.

## **12. COMMUNITY IMPACT**

- 12.1 A strong Whistleblowing process within the organisation will enhance public trust and confidence in Policing.

## **13. EQUALITIES IMPLICATIONS**

- 13.1 None

## **14. ENVIRONMENT IMPLICATIONS**

- 14.1 *None*



## RECOMMENDATIONS

Members are invited to discuss the contents of this report.

### Appendix A



#### **World Whistleblower Day**

Police Scotland is supporting World Whistleblower Day today, Wednesday, 23 June.

Whistleblowing is a term used when a worker passes on information concerning wrongdoing, commonly referred to as 'making a disclosure' or 'blowing the whistle'.

Examples of what could be considered Whistleblowing include disclosing; a crime, or a failure to comply with a legal obligation, a miscarriage of justice, a health and safety failing or an abuse of the environment.

Whistleblowing is an important source of information that can highlight serious risks to the effectiveness and efficiency of the organisation, with individuals often being best placed to identify deficiencies and problems at the earliest opportunity.

Police Scotland has a range of options available for individuals to raise concerns, such as reporting to Line Managers, Department Heads, Professional Standards Department and using Police Scotland's online confidential reporting system, Integrity Matters.

Formal Whistleblowing can be made through the online Reporting Form which should be forwarded to the Professional Standards National Gateway Assessment Unit.

Should anyone feel unable to raise a concern within the organisation, concerns can be raised with another body. Further information about Prescribed Persons under the Public Information

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Disclosure Act 1998 can be found here <https://www.gov.uk/government/publication/blowing-the-whistle-list-of-prescribed-people-and-bodies>

Independent Advice is also available via Trade Unions, Staff Associations or the Employee Assistance Programme (EAP).

Additionally, an independent Whistleblowing advice line operated by PROTECT is also available for Police Scotland employees which provides confidential, expert advice to officers, staff and managers.

The number is 0800 221 8926 and the line will be staffed 9am to 6pm on working days with an answer machine service outwith these times.

Our Whistleblowing Guidance can be read here <https://spi.spnet.local/policescotland/guidance/Documents/Whistleblowing%20Guidance.pdf>

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