

# DERBYSHIRE FIRE & RESCUE SERVICE



Derbyshire  
Fire & Rescue Service  
Making Derbyshire Safer

## SERVICE PROCEDURE

### WHISTLEBLOWING PUBLIC INTEREST DISCLOSURE

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<b>INTRODUCTION</b>	<p>Derbyshire Fire and Rescue Service (DFRS) is committed to high standards of corporate governance, ensuring that it is transparent and accountable. To assist the Service to achieve a high standard of probity, employees/workers need to be able to raise concerns about fraud, crime, breaches of policies and serious risks that undermine the reputation of DFRS or endanger the public or colleagues. This Service Procedure outlines the process whereby employees/workers, contractors, or agency staff can highlight serious failings of DFRS.</p> <p>There is no qualifying period of employment required to bring a whistleblowing claim. Employees and those falling into a wider definition of 'worker' (including certain agency workers, persons not working at the employer's premises, volunteers, medics, dentists and those undertaking certain work experience) are entitled to protection.</p>
<b>DEFINITION</b>	<p>There are many ways in which employees/workers can identify bad practice or areas for improvement. It is expected that employees/workers do so by raising the issue with the appropriate manager and/or their line manager. There may be some issues that are so serious in nature that an individual may consider that they need another way of raising them which affords a degree of confidentiality and without fear of reprisal. The concerns or allegations</p>

	would be sufficiently serious to be deemed in the public interest. Raising such concerns is referred to as ‘whistleblowing’.
<b>WHISTLE-BLOWING VS GRIEVANCE</b>	<p>Whistleblowing is different from the grievance procedure as the latter refers to an individual’s personal employment relationship with the Service. Whistleblowing by contrast will have a public interest element to it and examples would be would be:</p> <ul style="list-style-type: none"> <li>• health and safety risks which endanger life</li> <li>• fraud</li> <li>• breach of tendering procedures</li> <li>• mis-reporting performance data</li> <li>• dumping damaging material in the environment</li> <li>• receiving material gain or advantage through personal connections.</li> </ul> <p>There may be occasions where a grievance concerns an issue which could be considered as whistleblowing. For example, if an employee/worker complains about being asked to do something which s/he knows to be wrong or is unsafe. In such circumstances a judgment will need to be made as to which procedure is applicable.</p> <p>Allegations about bullying and harassment will be dealt with under the Dignity at Work Policy.</p>
<b>PUBLIC INTEREST DISCLOSURE</b>	<p>If employees/workers bring information about a wrongdoing to the attention of their employers or a relevant organisation, they are protected in certain circumstances under the Public Interest Disclosure Act 1998. This is commonly referred to as ‘blowing the whistle’. The law that protects whistle-blowers is for the public interest – so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as ‘making a disclosure in the public interest’. Disclosures should be made in the public interest.</p>
<b>RAISING A CONCERN</b>	<p>Employees/workers who wish to alert DFRS to a serious issue or risk under the whistleblowing policy are encouraged to do so and will be protected from victimisation or disadvantage.</p> <p>If you are unsure whether or how to raise a concern, you can get free, confidential advice from the independent whistleblowing charity <a href="http://PublicConcernatWork">Public Concern at Work</a> on telephone 020 7404 6609 or at <a href="mailto:helpline@pcaw.org.uk">helpline@pcaw.org.uk</a></p> <p>The ACAS (Advisory, Conciliation and Arbitration Service) provides free, impartial and confidential advice for employees/workers and representatives on a range of employment relations, employment rights, HR and management issues. If you are unsure as to how to raise a whistleblowing concern then you can find further information on their website at: <a href="http://ACASAdviceandGuidance:Whistleblowing">ACASAdvice and Guidance: Whistleblowing</a> or see contact details in ‘Guidance and Contacts’ section.</p> <p>Employees/workers with a hearing or speech impairment may prefer to contact ACAS using the Text Relay service. You can contact the ACAS Helpline using Text Relay by dialling 18001 08457 474747.</p>

	<p>Your questions will be relayed to the helpline adviser who answers the call and a real-time conversation will take place. Information on the Text Relay service is available at <a href="http://www.textrelay.org">www.textrelay.org</a>.</p> <p>You can also call the Employee Assistance Programme Helpline on 0800 1116 387 to talk confidentially at any time of the day to a Counsellor who can provide advice and support to help you deal with bullying. See contact details in 'Guidance and Contacts' section.</p> <p>Employees/workers are encouraged to raise concerns at the earliest opportunity as it assists the Service to take action.</p> <p>It is hoped that the employee/worker would be able to raise the issue with their direct line manager. However an employee/worker may not feel this is appropriate especially where the manager may be implicated. If this is the case the employee/worker can raise the issue with the designated officer for this procedure (the Service Solicitor).</p> <p>Concerns regarding the actions of Fire and Rescue Authority members must be referred to the Service Solicitor (in their capacity as Monitoring Officer).</p> <p>Concerns may be raised verbally or in writing. Employees/workers who wish to make a written report should describe the background and history of the concern (giving relevant dates) and the reasons for the concern.</p> <p>It might be helpful for an employee/worker to discuss their concerns with a colleague and it might be easier to raise the matter together with one or a few colleagues who have had the same experience or concerns.</p> <p>Although the employee/worker is not expected to prove beyond doubt the truth of an allegation, they need to demonstrate that there are reasonable grounds for concern.</p> <p>If employees/workers cannot go to their employer with the disclosure first or if they feel unable to use the organisations procedure the disclosure should be made to a <u>prescribed person</u>, so that employment rights are protected. Further details can be found at <a href="#">ACAS Advice and Guidance: Public Interest Disclosure</a>.</p>
<p><b>GUIDANCE AND CONTACTS</b></p>	<p>Further advice/guidance on how to pursue matters of concern may be obtained from:</p> <ul style="list-style-type: none"> <li> <p><b>Public Concern at Work Helpline and Hotline</b>            If you are unsure whether or how to raise a public interest concern, you can get free, confidential advice from the independent whistleblowing charity <b>Public Concern at Work</b> on telephone 020 7404 6609 or at <a href="mailto:helpline@pcaw.org.uk">helpline@pcaw.org.uk</a>            Website at <a href="http://www.pcaw.org.uk">www.pcaw.org.uk</a></p> </li> </ul> <p>You can also bring a whistleblowing claim through Public Concern at Work which operates as a legal advice centre</p>

	<p>designated by the Solicitors Regulation Authority (SRA). Information that is communicated to them is subject to lawyer-client privilege and is also protected under the Public Interest Disclosure Act 1998 (PIDA). They would not disclose any information without express consent from you. It is important to note that the earlier they are approached, the more likely it is that they will be able to help you raise your concern swiftly and successfully.</p> <ul style="list-style-type: none"> <li>• <b>ACAS Helpline</b> You can find further information on their website at: <a href="#">ACAS Advice and Guidance:Whistleblowing</a>. You can contact them on the free ACAS Helpline on telephone <b>08457 47 47 47</b> (Monday-Friday, 8am-8pm and Saturday, 9am-1pm) or online on the <a href="#">ACAS Helpline</a>. You can also contact the ACAS Helpline using Text Relay by dialling 18001 08457 474747. Information on the Text Relay service is available at <a href="http://www.textrelay.org">www.textrelay.org</a>. Your questions will be relayed to the helpline adviser who answers the call and a real-time conversation will take place.</li> <li>• <b>Employee Assistance Programme Helpline</b> <b>Telephone 0800 1116 387</b> or for more information visit <a href="http://wellness.rightmanagement.co.uk/login">http://wellness.rightmanagement.co.uk/login</a> (Username: DFRSusers)</li> <li>• The Service Solicitor: Louise Taylor Email: <a href="mailto:ltaylor@derbys-fire.gov.uk">ltaylor@derbys-fire.gov.uk</a> Telephone: 01773 305430 Mobile: 07919 046802 At Headquarters, Butterley Hall, Ripley, Derby DE5 3RS</li> <li>• The Chief Fire Officer/Chief Executive, but if this is not appropriate, those listed below</li> <li>• The Director of Finance</li> <li>• Local Government Ombudsman PO Box 4771 Coventry CV4 0EH</li> </ul>
<p><b>ANONYMITY AND CONFIDENTIALITY</b></p>	<p>Employees/workers can submit their concerns anonymously. However employees/workers are encouraged to disclose their identity as this aids the investigation and allows for feedback. Information will be held confidentially and employees/workers will not be victimised or discriminated against where they have highlighted concerns.</p> <p>If you are unsure whether or how to raise a concern, you can get free, confidential advice from the independent whistleblowing charity Public Concern at Work and they would not disclose any information without express consent from you. They can be contacted on:</p>

	<p>Whistleblowing Advice Line: 020 7404 6609          General enquiries: 020 3117 2520          Advice line: <a href="mailto:whistle@pcaw.org.uk">whistle@pcaw.org.uk</a>          Email: <a href="mailto:helpline@pcaw.org.uk">helpline@pcaw.org.uk</a></p> <p>Employees/workers will be offered the opportunity to raise their concerns in confidence through Public Concern at Work. This means that their identity will not be revealed without their consent (unless required to do so by law). The manager who is dealing with the concerns raised must agree who can be told what. Whilst an individual's name and identifying details should not be made known without the employee's/worker's consent, the employee/worker needs to be aware that it may be possible to deduce their identity, particularly if s/he has already voiced their concerns to another party or was the only person how could have had access to relevant information or witnessed an event.</p> <p>It maybe that DFRS may have to breach confidentiality if DFRS is required to report matters to the Police, etc. Such disclosure would be discussed with the employee/worker and every attempt to minimise the breach of confidentiality.</p>
<p><b>HOW THE SERVICE WILL RESPOND</b></p>	<p>The manager who receives the complaint should listen carefully and not pre-judge the issue. It is helpful if the manager establishes:</p> <ul style="list-style-type: none"> <li>• when the concern first arose and, where relevant, what prompted the decision to speak up</li> <li>• whether the information is first hand or hearsay</li> <li>• where the approach to is the designated officer (the Solicitor) whether the employee/worker has raised the concern with their line manager . If not, why they didn't feel able to and if they did what was the outcome?</li> <li>• whether confidentiality is sought and the extent to which that is expected and practical</li> <li>• if the employee/worker is anxious about reprisals.</li> </ul> <p>The recipient of the concern/allegation will acknowledge in writing that the concern has been received. This must be copied to the designated officer (the Solicitor). It may be necessary to remove names to make it anonymous.</p> <p>On the assumption that the information is well-founded the manager should address:</p> <ul style="list-style-type: none"> <li>• how serious and urgent the risk is</li> <li>• whether the concern can best be dealt with under the whistleblowing procedure or another procedure</li> <li>• whether the assistance of referral to senior managers or a specialist function is desirable or necessary</li> </ul> <p>The number of people involved should be kept to a minimum to respect any wish for confidentiality. The independence of the people investigating should be considered so that the investigation is not compromised.</p>

	<p>Where appropriate, the matters raised may:</p> <ul style="list-style-type: none"> <li>• be investigated by management, internal audit or through the disciplinary process</li> <li>• be referred to the appropriate regulatory body for information or assistance</li> <li>• form the subject of an independent inquiry</li> <li>• be referred to the police</li> <li>• be referred to the external auditor</li> </ul> <p>It may be that the employee/worker raising the concern will need to provide evidence or be interviewed as part of the investigation. Meetings can be arranged with the relevant officers or can be kept to the initial recipient of the concerns. Meetings can be off-site and the employee/worker raising the concern can be accompanied by a union or professional association representative or a friend.</p> <p>DFRS will take steps to minimise any difficulties which the employee/worker may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings DFRS will provide or arrange for advice about the procedure.</p> <p>DFRS would wish to assure those raising concerns that they have been properly addressed. Whilst there will be the need to maintain confidentiality in respect of specific disciplinary action and possibly legal constraints the employee/worker raising the concerns will be informed of the outcome of any investigation.</p> <p>DFRS will not allow an individual to be victimised or discriminated against as a result of raising a concern. Any attempt to do so will be the subject to disciplinary processes.</p>
<p><b>TAKING THE MATTER FURTHER</b></p>	<p>This procedure encourages employees/workers to raise any concerns within the Service and seeks to provide assurances that the concerns will be taken seriously and investigated. However if an employee/worker remains dissatisfied, they could raise the issue with outside agencies. The following are possible contact points:</p> <ul style="list-style-type: none"> <li>• a trade union</li> <li>• Local Government Ombudsman</li> <li>• the External Auditor to the Fire and Rescue Authority</li> <li>• relevant professional bodies or regulatory organisations</li> <li>• Chief Executive, Derbyshire County Council</li> <li>• Chief Executive, Derby City Council</li> <li>• the Police</li> </ul>
<p><b>MISUSE OF THE POLICY</b></p>	<p>There is the potential that the facility for an employee/worker to ‘whistle-blow’ could be misused.</p> <p>It maybe that an employee/worker has participated in the wrong-doing and hopes to secure immunity from disciplinary action. Whilst it might be beneficial for the Service to be aware of further evidence and that</p>

	<p>this could be taken into account when considering any sanction that might be applied, it is not acceptable for those who defraud or damage the Service to escape sanction.</p> <p>Equally an employee/worker, who is in a vulnerable situation, may seek personal advantage from raising an issue of serious concern. The fact that an individual does 'blow the whistle' should not guarantee them a privileged position in any redundancy nor should it stop any managerial or disciplinary action in progress.</p> <p>An employee/worker could raise a concern with malicious intent to create trouble for a colleague. If the allegations were proven then the motive of the whistleblower is not a matter for the Service. However, if the allegations were unfounded then it can be deemed a misuse of the whistleblowing policy. Disciplinary action would be considered in cases where the concern is found to be false <i>and</i> it was raised in bad faith.</p>
<b>DATA PROTECTION COMPLIANCE</b>	<p>With regard to Data Protection compliance:</p> <ul style="list-style-type: none"> <li>• Employees/workers making a whistleblowing claim are encouraged to supply their own personal details on a confidential basis when making a disclosure. However, this does not prohibit the submission of anonymous complaints.</li> <li>• Employees/workers can make disclosures without being required to make allegations against specific, named individuals</li> </ul> <p>The General Data Protection Regulation 2016 (the GDPR) will be directly applicable and fully enforceable in all EU Member States from 25 May 2018. The GDPR will introduce substantial amendments to data protection law in the UK, replacing Data Protection Act 1998 and the Data Protection Directive.</p>
<b>RECORD KEEPING AND REPORTING</b>	<p>It is the responsibility of the recipient of the initial concerns to ensure a record is made. For any investigation the Designated Officer (the Solicitor) must ensure adequate arrangements for keeping the file complete and secure. The Solicitor is responsible for reporting to the Fire and Rescue Authority and keeping arrangements for whistleblowing procedures under review.</p>
<b>RELEVANT DOCUMENTS</b>	<p>Data protection Act 1998  General Data Protection Regulation 2016  Guidance from the Article 29 Working Party</p>

## DOCUMENT HISTORY

<b>Version no.</b>	2.5
<b>Replaces</b>	Version 2.4 dated October 2015 which has been removed from the Intranet. All hard copies should be destroyed.
<b>Summary of changes</b>	This Service Procedure has been reviewed and minor changes have been made as follows <ul style="list-style-type: none"> <li>• Reference made to the Public Concern at Work Helpline</li> </ul>
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<b>Department</b>	Legal Services
<b>Approved by</b>	Louise Taylor

### Revision history

Version	Date	Author	Changes
2.5	Oct 2017	L Taylor	<ul style="list-style-type: none"> <li>• Addition of reference to Data Protection compliance</li> <li>• Addition of guidance</li> </ul>
2.4	Oct 2015	L Taylor	<ul style="list-style-type: none"> <li>• Addition of reference to 'Public Concern at Work' Helpline</li> </ul>
2.3	Jan 2014	L Taylor	<ul style="list-style-type: none"> <li>• Notes on Public Interest Disclosure</li> <li>• Removal of reference to 'Public Concern at Work' helpline</li> <li>• Introduction of reference to ACAS helpline</li> <li>• Introduction of reference to EAP Helpline</li> </ul>
2.2	Dec 2011	A Moss	<ul style="list-style-type: none"> <li>• To note that the Designated Officer for reporting purposes is the Solicitor.</li> <li>• To note that the role of the Monitoring Officer has transferred from Derbyshire County Council and under the restructure performed by the in-house Solicitor.</li> </ul>
2.1	July 2011	A Moss	<ul style="list-style-type: none"> <li>• Updated titles for Fire and Rescue Authority, and Deputy Chief Executive.</li> <li>• Replaced reference to the Treasurer to the Director of Finance.</li> <li>• In 'section: How the Service will respond' – clarified that the meetings referred to concerned the 'whistleblower' and not the person subject to disciplinary action.</li> </ul>
2.0	Jan 2010	A Moss	<ul style="list-style-type: none"> <li>• Inform employees of DFRS subscription to an independent helpline; distinguish between grievances and whistleblowing; further guidance on how DFRS will respond to concerns; 'appoint' designated officers; clarify guidance in relation to confidentiality, record keeping and reporting; add a section on misuse of the procedure.</li> </ul>
1.0	Mar 2009	A Spooner	New Service procedure (following recommendation of auditor)

### Review Period

This Service Procedure will be reviewed October 2018.

### Distribution

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