



CONFIDENTIAL REPORTING STANDARD OPERATING PROCEDURE (SOP)

STANDARD OPERATING PROCEDURE			
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1 INTRODUCTION

- 1.1 This procedure enforces and is subject to the conditions of the Confidential Reporting Policy (178/09).
- 1.2 This procedure applies to workers in England, Wales and Scotland.
- 1.3 This procedure applies to all Employees and other workers as set out in the policy body.

2 KNOWLEDGE

2.1 Legislation and Other Policies

- 2.1.1 This policy does not constitute a full statement of the law or policies that apply, or might be applied, to matters that fall within the scope of this policy. It represents only a balanced interpretation of the current legal position as understood by British Transport Police.

2.2 Confidentiality

- 2.2.1 In general terms Employees owe a duty of confidentiality to their employer. This restricts the disclosure of information that is not in the public domain and which they have acquired knowledge of during the course of their work. The law in this area is complex but it has its foundations in common law. Additional requirements for confidentiality are imposed by the terms of employment contracts and by legislation such as the Data Protection Act 1998 and the Official Secrets Act 1989. All persons that fall within the scope of this policy will be subject to all or some of these restrictions. It is therefore expected that most reports received pursuant to this policy will be made via internal processes. Nevertheless it is recognised that, in exceptional circumstances, it may be appropriate for an Employee to raise concerns with an appropriate external body where the Employee genuinely believes that it is in the public interest to do so.

2.3 Legislative Framework

2.3.1 The Public Interest Disclosure Act (PIDA) 1998 exists to provide protection to individuals who make certain disclosures about Wrongdoing or safety in the workplace where it is in the wider public interest to do so. This protection from dismissal or Detriment is dependent on any disclosures being made in good faith and in a prescribed way. The Employment Rights Act 1996 (as amended by the PIDA) sets out how workers may make such disclosures in a way that will attract the protection provided by the PIDA.

2.4 Protected Disclosures

2.4.1 There are only specific types of disclosures which may attract the statutory protection afforded to the Reporter by PIDA. This is where a genuine belief is held that the information disclosed relates to an actual, suspected or likely:

- Commission of a criminal offence
- Breach of legal obligation
- Miscarriage of justice
- Danger to health and safety of any individual
- Damage to the environment
- Deliberate covering up any of the above matters.

2.5 Prescribed Persons

2.5.1 It must be emphasised that such disclosures will only attract protection to the Reporter where they are made to bodies identified within The Public Interest Disclosure (Prescribed Persons) Order 1999. In general these 'persons' are regulatory or supervisory bodies. Some examples are: The Criminal Case Review Commission, The Independent Police Complaints Commission, The

Health & Safety Executive, The Serious Fraud Office and The Information Commissioner.

2.6. Terms and Definitions

2.6.1 **Wrongdoing** - The widest possible interpretation should be attributed to this term. It applies to unlawful, improper or unethical behaviour of any kind. It includes, but is not limited to, any behaviour that undermines, or may undermine, any BTP policies, procedures, practices or any other expected, or otherwise established, standard of conduct.

2.6.2 **Whistleblowing** - This term is universally used to denote the disclosure of information by an Employee, worker or inside agent, with the intention to prevent or end malpractice, and/or criminal or unethical behaviour in the workplace, or to prevent or remove dangers to the public. The individual concerned is said to be 'the whistleblower'. These terms are used sparingly in this policy with the terms 'Reporting' and 'Reporter' being the preferred alternatives.

2.6.3 **Employee** - Any police officer, staff member, agency worker, contractor, supplier, volunteer, and any other party who has a working relationship with the British Transport Police but which does not necessarily constitute a formal employment relationship. It is intended that the term Employee should equate for all purposes to that of worker within the meaning of the PIDA.

2.6.4 **Reporter** - An Employee who makes, or is considering whether to make, a Report of Wrongdoing to which this policy applies.

2.6.5 **Report** - This is a report that falls within the ambit of this policy. It may be made in writing or verbally. It may be made directly by the Reporter or via a third party. Alternatively it may be made anonymously.

2.6.6 **Receiver** - This term identifies the Employee to whom a Report is made or directed by the Reporter. In most cases this will be a supervisor or manager, but it may be a mentor or someone of similar standing.

2.6.7 **Detriment** - This term has an encompassing meaning. It includes receiving less favourable treatment, being disadvantaged, or being victimised, bullied or harassed. Detriment may be shown to occur even after a period of employment has ended. In order to show Detriment it is only necessary for the Reporter to establish that a reasonable person would consider any act, or deliberate failure to act, to have put them at a disadvantage if they were in the position of the Reporter. It is not necessary to prove an actual physical or economic loss.

3 RESPONSIBILITIES

3.1 All Employees

3.1.1 All Employees are responsible for being aware of the existence and purpose of this policy. The requirement for individuals to report their involvement in any legal proceedings is to be particularly noted.

3.2 All Supervisors and Line Managers

3.2.1 All Employees with a supervisory responsibility are responsible for ensuring that they are able to recognise situations where the application of this policy may be relevant and to advise and direct more junior Employees in an appropriate way.

3.3 Senior Managers and Departmental Heads

3.3.1 Senior managers must (a) be able to identify the circumstances in which this policy may apply, and (b) know how to invoke the process where the issues raised extend beyond the normal scope of their assigned or delegated management responsibilities.

3.4 Head of Professional Standards

3.4.1 The Head of Professional Standards is responsible for the overall management of the investigation of any matters that fall within the scope of this policy. That officer will also oversee any measures taken to maintain confidentiality and action taken in support of the Reporter.

3.5 Head of HR Services

3.5.1 The Head of HR Services is responsible for ensuring that appropriate advice and support is provided both to managers and individuals. This will ensure that any actual or potential impact in the workplace associated with an investigation or subsequent management action is assessed and managed in a positive and effective way.

3.6 Equal Opportunities Statement

3.6.1 There is a legal responsibility on BTP to ensure that no discrimination of any kind occurs against the Reporter as a result of making a Report to which this policy applies. This responsibility is in addition to the requirement contained within the BTP Diversity SOP whereby all Employees have a responsibility to ensure that no unlawful discrimination occurs on the grounds of age, colour, disability, ethnic origin, family commitments, gender, gender dysphoria, marital status – marriage or civil partnership, nationality, national origins, political beliefs, race, religion or belief, sexual orientation, trade union activity or any other unacceptable grounds.

3.6.2 Any conduct that is alleged to constitute discrimination or to have been intended to occasion Detriment within the meaning of this policy may be regarded as gross misconduct for the purposes of investigation and related disciplinary procedures.

4 PROCEDURES

4.1. Making a Report

4.1.1 **General principle** - All Employees are encouraged to report Wrongdoing of which they become aware. It is incumbent on the organisation to ensure that individuals may do this with the full support of their colleagues, supervisors and managers. BTP will always strive to ensure that an Employee who acts responsibly and in good faith suffers no Detriment as a result of making such a report.

4.1.2 **Specific responsibility** – It is important that BTP is able to both maintain and demonstrate integrity in all actions taken by its Employees. It is therefore important that any potential threat to BTP's ability to do this is identified at an early stage. To this end, Employees who become involved in any criminal or civil proceedings must report the fact. This applies to Employees who are arrested, charged with an offence, reported for summons, or who are issued with a fixed penalty notice for a criminal offence (including an endorseable traffic offence). Similarly an Employee who becomes involved in formal legal proceedings relating to any civil matter, whether as a plaintiff, witness or a defendant must also report that fact. Such reports must be made in writing by the individual to the Deputy Chief Constable via the Head of Professional Standards.

4.1.3 **Internal disclosures** - Any Employee who wishes to make a confidential disclosure in relation to Wrongdoing is encouraged to do so to a line manager in the first instance. In deciding to whom the disclosure is to be made the Employee will need to have confidence that the alleged Wrongdoing is not being supported or acquiesced to at the chosen reporting level.

- 4.1.4 Where the Reporter lacks confidence in their own line management the individual may choose to make a disclosure to a trusted manager of their own choosing. It is a fundamental tenet of this policy that Reporters have the unfettered option to make disclosures to appropriate persons outside of their own line management.
- 4.1.5 The Reporter may choose to make a disclosure directly to the Head of Professional Standards or to a member of staff within the Professional Standards Department (PSD).
- 4.1.6 **Confidential Anonymous Reporting System (CARS)** - This is an internal system that enables an Employee to report misconduct issues or general integrity concerns to the PSD without having to reveal their identity. It allows a two way communication between an Employee and a PSD representative through a secure mailbox system without the Reporter being either identified or identifiable. Details of the process, and instructions on how to use it, may be accessed via the PSD intranet site.
- 4.1.7 **Crimestoppers Integrity Line** - This is a telephone service provided by the Crimestoppers charity to organisations in both the public and private sectors. It is a fully independent and entirely anonymous telephone reporting system with lines answered by specially trained persons. Reports can be made on the dedicated line (Tel: 0800 111 444). Further information may be accessed via the Crimestoppers website (www.crimestoppers-uk.org). Information given via this system is passed confidentially in written form to PSD. Crimestoppers will offer an option to set up indirect two way communication with PSD. Selection of this option by the Reporter will allow PSD to seek clarification or further details in

relation to any information provided in the initial call without compromising the caller's anonymity.

4.1.8 **Crimestoppers** - Where the suspected Wrongdoing relates to the commission of a criminal offence by an Employee of BTP, whether related to their work or otherwise, a Reporter always has the option of reporting the matter anonymously via the main Crimestoppers number (0800 555 111).

4.1.9 **External disclosures** - It is only in the most serious cases, where perhaps the underlying integrity issue is considered to be endemic within the organisation, or where it is seen to rest with its most senior managers, that it should be necessary for a Reporter to contemplate making an external disclosure. It must be borne in mind that the protection afforded by the PIDA will only apply to such a disclosure where the specific criteria apply (Section 2.4). It will not, for example, provide protection where the Reporter chooses to make a disclosure to the media, where a disclosure is made for the purposes of causing embarrassment or where the intention is to secure a personal gain or advantage of any kind. A disclosure made in these, or similar, circumstances could constitute an unnecessary breach of confidentiality and may result in disciplinary action. A potential Reporter is therefore strongly encouraged to seek independent advice before choosing this option. Possible sources of such advice are identified elsewhere in this document (Section 4.9).

4.2 Receiving a Report

4.2.1 All employees in supervisory positions have an obligation to support Employees who are considering whether or not to make a confidential report. The potential Reporter should be apprised of the existence of this policy and the advice, obligations, options and expectations contained herein. It is essential that the

- individual is not placed under any pressure or duress to come forward as this may have the potential to ‘taint’ any disclosure.
- 4.2.2 A supervisor or manager who is the Receiver of a Report to which this policy applies must give the highest regard to the maintenance of confidentiality. Any initial actions taken must reflect this by confining the passing of information only to that required to reasonably meet their obligations under this policy. This restriction will always be maintained as far as it proves possible to do so. Nevertheless the Reporter should be made aware that it may not be possible to achieve this at the same time as undertaking an investigation in an ethical manner. Advice and guidance is available direct from PSD at all times in relation to all aspects of this policy.
- 4.2.3 The Receiver to whom a disclosure of suspected Wrongdoing is made will first establish the full nature and extent of the concern, drawing on all the information that is available to them. That individual will then determine whether it is appropriate for the issues identified to be dealt with within their remit as managers, seeking advice as necessary. Where the issues raised are clearly outside of such remit, or where there is any doubt, the Receiver will escalate the matter in accordance with the following instructions. Irrespective of the determination made immediate steps must be taken by the Receiver to secure and preserve any relevant evidence that may be available. Examples include the preservation of CCTV coverage and ensuring that custody records, prosecution files and other relevant documents are protected from interference or potential loss.
- 4.2.4 The Receiver will ensure that the disclosure is recorded. The method of recording will be proportionate to the nature and seriousness of the disclosed misconduct. Minor matters will be documented using existing local procedures.

Serious matters will be recorded within the professional standards database. It is also essential that the actions and decisions that are taken and the rationale that is applied is properly documented.

- 4.2.5 The transmission of related documents should be under confidential cover using a double sealed envelope system. Each envelope should be addressed and marked '*Addressee only*' with the confidential marking on the inner envelope only. Additional advice on storage and transmission of documents is contained within the Protective Marking Scheme Standard Operating Procedure (SOP/111/08) found at <http://a00-cms/btpintranet/pdf/PROTECTIVE%20MARKING%20SOP%20v.1.1.pdf>

4.3. Investigating a Report

- 4.3.1 As a guiding principle any Report that falls within the terms of this policy should be escalated at an early stage to the most appropriate level for action or investigation, e.g. where there is an allegation of criminal conduct, corruption or other gross misconduct it should be reported to PSD without delay. The type and scale of investigation will be determined, taking into account necessity, proportionality and the likely outcome along with any other identified factors.
- 4.3.2 Some concerns may be deemed suitable for investigation as conduct matters or unsatisfactory performance. This may be at local or force level.
- 4.3.3 Where an allegation amounts to unfair treatment of the Reporter, the invocation of the formal grievance procedure may be the most suitable way forward.
- 4.3.4 In any case that is referred to PSD, the Head of Professional Standards will determine the strategy and mode of investigation. That officer will appoint, or

secure the appointment of, an investigating officer and determine the strategy in each case. In doing this, that officer will consult with the Head of HR Services, local managers and any other parties as necessary. A case management meeting may be convened at any point. The need to preserve confidentiality will always be a primary factor in all decisions.

4.3.5 Where any conflict arises between the parties in relation to the planned approach the Deputy Chief Constable will be asked to make a determination of the strategy to be adopted.

4.3.6 Insofar as it is achievable within the constraints imposed by the circumstances surrounding an individual Report, the investigating officer, or other responsible person, will write to the Reporter within 10 working days to:

- Acknowledge receipt of the report
- Outline the initial enquiries made or other steps taken
- Indicate the proposed method of dealing with the concern
- Provide an estimate of the timescales involved
- Provide an explanation for not pursuing an investigation when this applies.

4.4. Outcome of Investigations

4.4.1 The outcome of an investigation and the available sanctions or remedial action associated with this will, in all cases, be determined by the process utilised to undertake the enquiry. Where Wrongdoing or malpractice is established, options available will range from a decision to take no further action against any individual right through to criminal proceedings and / or discipline proceedings for gross misconduct, potentially leading to dismissal.

4.4.2 Subject to any legal constraints that might apply, the Reporter will be provided with information about the outcome of their Report and any associated investigation. The information provided should be sufficient to enable the Reporter to be satisfied that their Report has been properly considered and / or acted upon.

4.5. Maintaining Confidentiality

4.5.1 The maintenance of confidentiality is at the heart of this policy and permeates all aspects of it.

4.5.2 All those who are privy to information disclosed via the procedures contained in this policy have a duty to maintain confidentiality. Where information is passed to others the reasons must be clearly and unequivocally stated. In any case where there is considered to be a risk of compromise within line management procedures, issues may be raised directly with the Head of Professional Standards or their representative.

4.5.3 It must be recognised however that there may be situations where the ethical investigation of serious Wrongdoing may not be compatible with this duty. A decision to breach confidentiality will not be made without reference to the Head of Professional Standards or a more senior officer.

4.6 Supporting the Reporter

4.6.1 **General** - An Employee who has made a protected disclosure within the provisions of the PIDA will be entitled to seek redress through an employment tribunal if they consider that they have suffered any Detriment as a result. Detriment has a wide meaning. In order to minimise the risk of Detriment occurring, positive and tangible action is required. A Reporter may expect some or all of the following considerations to be applied to this end (see Section 2.6.7).

4.6.2 **Leadership (Support by line managers & supervisors)** - In the first instance line managers must display positive leadership and in particular must never discourage the proper reporting of concerns or the airing of grievances by their words, actions or conduct. Where Employees have trust in their immediate line manager and are confident that they will be supported from the outset, the overall efficacy of this, and related processes, is enhanced. Following the receipt of a Report, an assessment will be carried out at an appropriate level and a strategy determined, documented and applied. This initial assessment will be reviewed in the light of any significant development in the case. An identified senior manager will be assigned responsibility for reporting on and managing any identified risk to the Reporter.

4.6.3 **Meaningful & tangible support** - Support will always need to be tailored to the situation and to the needs of both the individual and of the organisation. It is impossible to be prescriptive but it is essential that the Reporter is aware of whom they should report any concerns to, and of their obligation to do so. This is essential to enable BTP to take any remedial action that may be necessary. The relevant managers must maintain a record of issues raised, any support offered and any that is taken up. It must be particularly noted that a Reporter may be suffering increased levels of stress either within or outside the workplace. Managers and supervisors should be particularly alert to the potential effects of this on an individual. Where individuals are absent from work as a result of such effects, support will be given to enable them to return to work as soon as possible. Consideration will be given to discounting such periods of absence when making decisions in relation to the deployment or promotion of the individual where attendance is a usual criterion for selection.

4.6.4 ***Amnesty from conduct proceedings*** - Limited and defined amnesty for conduct offences may be given for Employees who are able to give evidence of criminal activity and serious breaches of conduct. Criteria to be applied include:

- whether such evidence is essential to progress an investigation;
- whether it is required to support a successful prosecution;
- whether the Reporter has been a party to the commission of a criminal offence or to serious misconduct; and
- whether the Reporter has made any personal gain from their actions.

4.6.5 ***Mitigation in crime and serious conduct cases*** - In suitable cases it may be appropriate to apply the protocols set out in the BTP policies relating to the handling of Covert Human Intelligence Sources and / or Confidential Contacts in respect of the Employee concerned. This might include a confidential letter to a judge detailing the assistance provided to the prosecution or a written testimonial presented to a discipline hearing etc.

4.6.6 ***Case management meetings*** - The investigating officer, acting on behalf of the Head of Professional Standards, may call a case management meeting at any time. The primary purpose of this meeting will be to inform managers of the existence or progress of the investigation and to ensure that appropriate support is being made available to the Reporter. No persons will be present at these meetings without the agreement of either the investigating officer or the Head of Professional Standards. In cases where the meeting is not chaired by the Head of Professional Standards, it is expected that the Senior Area or Departmental line manager involved will undertake this role. A record of decisions made at such meetings will be maintained by the investigating officer on the case file. It should be noted that it may be necessary to continue providing support to the Reporter long after any investigation has been concluded.

4.6.7 **Updates** - Following the initial response to the Reporter (as detailed at 4.3.6) the investigating officer will provide the Reporter with periodic updates on the progress of the investigation. The frequency and timing of such updates will depend on the pace and complexity of the investigation. Periods between such updates will not normally exceed one calendar month.

4.6.8 **Role of HR** - HR will provide continuing information, advice and support to Reporters and their supervisors and line managers in accordance with the Employee Care Policy. The support provided may be by way of:

- Confidential referral to the HR Wellbeing Section
- Advice on self referral to an appropriate Support Group
- Intervention at the request of HR business partners where a negative impact has been identified in the workplace
- Confidential referral to occupational health practitioners or counsellors.

4.6.9 **Appointment of Chief Officer** – If requested and where deemed appropriate by the Chief Officer, the Reporter will be given access to a designated ACPO Chief Officer (or equivalent) whom has no direct responsibility for any related investigation. This will, in serious cases, provide a means for a Reporter to express any concerns about the investigation or make observations on the support that they are receiving or have received. Unless there are good reasons for not doing so, the full detail of these meetings will be made available to the investigating officer.

4.6.10 **Caveat** - BTP recognises that the decision to report a concern is a difficult one. While BTP will provide support as detailed in this policy a Reporter must not make assumptions that making a Report will cause any proceedings against that individual to be halted, suspended or otherwise invalidated. Each case will be

subject to individual consideration, assessment and determination in this respect.

4.7 Anonymous Reports

4.7.1 The facility to make anonymous reports is provided as part of the reporting process as issues of Wrongdoing may not otherwise be brought to light. As a self-evident principle it is better to have some information than no information in relation to suspected Wrongdoing. Nevertheless the absence of attributable and documented information may inhibit or restrict the effective conduct of any related investigation.

4.7.2 All such information will be subject to an assessment based on seriousness, credibility and the perceived likelihood of securing supporting evidence. This will determine what, if any, action to take. It must be particularly noted that the possibility that information is assessed as likely to be false or malicious is higher where the source of the information is not known.

4.7.3 One option to be considered before making a decision not to investigate might be a general appeal for information relating to the concern identified. This may cause either the initial Reporter or others to come forward. In some cases there could be a risk of alerting wrongdoers in advance of a full investigation with potential negative consequences and this will need to be taken into account.

4.8 False or Malicious Reports

4.8.1 The possibility that an individual may use the confidential reporting system to make false or malicious allegations always exists and this must be guarded against. A false or malicious allegation can have devastating effects on an individual who is unjustly accused.

4.8.2 Where a Report is investigated and the concerns detailed are found to be unsubstantiated or untrue, no action will be taken against the Reporter. This is subject always to the proviso the Reporter has acted throughout in good faith and without seeking to secure any personal advantage.

4.8.3 Nevertheless when an investigation establishes that a Report or allegation was clearly false, and / or was not made in good faith, the actions of the Reporter may be considered to amount to gross misconduct. If this is proven the sanction of dismissal is likely to be applied.

4.9 Sources of Information

4.9.1 **Staff Associations** – Most employees can obtain advice from their Police Federation, Superintendents' Association or TSSA representatives. Advice and support is usually available from these sources at any stage of the process. In certain circumstances such representatives may act for the Reporter in bringing issues to notice on their behalf. In addition there are a number of internal support groups (AMP, DESA, LINK, SAME and others) that are likely to be able to provide advice and support. Details of these groups and how to contact them are available on the BTP intranet.

4.9.2 **Public Concern at Work (PCW)** - This organisation is an independent charity. PCW lawyers are available to give free confidential advice at any stage about how to raise a concern about malpractice within the workplace. Details can be obtained from their website at www.pcaw.co.uk.

4.9.3 **Other external sources** - Generally advice is available from those organisations to which disclosure may provide the protection of PIDA for the Reporter. More details of these organisations and how to identify them can be found in Section 2.5.1 of this policy.

4.10 Learning the Lessons

4.10.1 **Feedback & debriefing** - At the end of the process the Reporter will be debriefed by a senior manager acceptable to the Reporter for the purpose of identifying organisational learning issues. A record of the debriefing will be made and information may be disclosed to others for the purpose of securing improvements. One route to be considered would be through the PSD “Lessons Learned” process.

4.10.2 **Organisational learning** - Where appropriate, organisational learning issues will be disseminated throughout BTP by the Head of Professional Standards using processes established for this purpose. Such information will not identify any of the individual(s) concerned unless this is unavoidable, or there has been a formal outcome that justifies this.

5 MONITORING AND COMPLIANCE

5.1 Reporting

5.1.1. Aside from the requirement for Employees to report their involvement in legal proceedings, the submission of a Report to which this policy applies is an optional activity and therefore there are no compliance issues. Where it is identified that an Employee failed to notify their involvement in legal proceedings this will be treated as a failure to comply with a written instruction and dealt with accordingly.

5.2 Investigation

5.2.1 Each case will be reviewed on finalisation by the Head of Professional Standards or their nominee. Any issues identified with the receipt or investigation of a Report will be acted upon as appropriate, unless already addressed during the progress of the investigation.

5.3 Management of Records

- 5.3.1 All records relating to issues raised through the procedures set out in this policy will be protectively marked as 'Confidential' and treated accordingly. Core records will normally be managed on the secure Professional Standards server within the Force Intelligence System. Copies and other documentation will only be created where necessary to support processing of the information within BTP.
- 5.3.2 Generally all records will be retained in accordance with the Record Retention Schedule attached to the Record Management Standard Operating Procedure.
- 5.3.3 Where reports are received and assessed as being incapable of supporting action these will be retained for a minimum period of one full calendar year following the date on which the assessment was made. Following this individual reports will be reviewed on a periodic basis, not less than annually, and weeded when appropriate.
- 5.3.4 Where reports result in the activation of grievance, unsatisfactory performance, or misconduct procedures etc, retention of the relevant information necessary to support those procedures will be in accordance with the guidelines that apply to those procedures.

6 APPENDICES

- 6.1 There are no appendices. Reports should be made on general report forms, protectively marked as confidential.