

Service Confidence

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Policy Statement

Summary

West Yorkshire Police expects all its police officers and police staff to have high levels of honesty and integrity in both their employment and their private lives.

The requirement for structured guidance to deal with the loss of confidence has arisen following cases where the Force has received information about the conduct or activities of its officers or staff, which calls into question that individual's integrity. The information may be such that although there is no doubt about its veracity and provenance, it could not be used in either a disciplinary or criminal hearing. Such information may include material that is subject to Public Interest Immunity or which is 'source' sensitive, where disclosure of the information as evidence would necessitate revealing the 'source' of the information or revealing covert policing tactics.

This may cause unacceptable risk to individuals or policing operations. However, the Force retains its duty of care to the public and its employees and its responsibility to the criminal justice system.

Therefore it would be wrong to ignore any concerns raised by the receipt of sensitive information simply because it cannot be used as evidence.

The Force recognises that it is legally accountable and subject to public scrutiny in respect of its delivery of policing services. It also acknowledges that in order to maintain and enhance public confidence in the Force it must create an ethically robust, corruption-resistant, organisation.

This policy introduces an ethical framework for dealing with loss of confidence in individual members of staff. The Force will take positive action to protect its staff, members of the public and its assets from risk.

Scope

This policy applies to all officers and staff working for or with WYP, including agency staff and partners.

Aims

- The main aims of this policy are to:
 - Address loss of confidence by the Force in any particular individual/s when **serious concerns** arise as to their suitability to perform a specific role or duty.
 - Protect the integrity of the Force, individuals and operations.
 - To ensure the safeguarding of the public, all officers and staff and the individual subject of this process
- The policy is designed to ensure individuals are fully aware of their respective and joint responsibilities regarding confidence issues. It is

underpinned by procedures that detail the steps to be taken at all relevant stages.

Objectives

The primary objective is to provide a framework that helps the Force deal with loss of confidence issues. Associated objectives are to:

- Protect the Force from organised groups or individuals who would benefit in any way from corrupting its staff.
- Protect all Force staff from being subjected to unnecessary or unwarranted pressures, from organised groups or individuals, to compromise their professionalism and integrity.
- Protect the public from any potential reduction in efficiency of the Police service or any increase in non-legitimate activities of any organised groups or individuals.
- Establish an ethical framework for dealing with those situations where management intervention is necessary without overt criminal or misconduct proceedings and where the reason for the intervention is based on information or intelligence that raises serious concerns about an individual occupying a particular post or carrying out a particular role.
- Limit the amount of damage in the trust placed in policing when serious concerns are raised about an individual.
- Establish the need to apply fairness, objectivity and proportionality in the application of the procedure.

Principles

Serious Concerns

The identification of serious concerns will include, but is not limited to, consideration of the following:

- The damage to the credibility of the individual as a witness of truth in police prosecutions and requirements for disclosure.
- The nature of the individual's current role and duties and an assessment of the potential risk to the public, colleagues and operations if the individual remains in post.
- The risk posed by improper association with criminals and potential corruption.
- Any suspected unethical or dishonest conduct or corruption.
- A risk assessment of the likelihood and impact of reoccurrence.
- Whether the alleged action of the individual(s) appears to have been undertaken knowingly or recklessly.

Context

- Whenever any member of staff comes into possession of any information or material that raises concerns about the integrity of any other member of the Force, they are under a duty to report it to the Professional

Standards Directorate (PSD) either directly or via the confidential 'anonymous messenger' reporting system.

- It must be emphasised that criminal or misconduct procedures will always remain the preferred course of action, and only when they prove to be unsuitable will this Service Confidence procedure be invoked.

Achieving a Balance

- Concerns about achieving a balance between the needs of the Force and the rights of the individual will be addressed by:
 - Adopting an open and transparent system within legal constraints;
 - Allowing individuals to be represented;
 - Adoption of a review process; and
 - Maintaining a clear position that the use of this policy is about the protection of employees and the Force by management intervention and not misconduct procedures or sanction.
- There will be occasions when verifiable confidential or source-sensitive material comes to the notice of investigators, which brings into question the suitability of an individual to continue to perform their current role or duties. When the circumstances cannot be addressed in criminal or misconduct proceedings yet are such as to raise serious concerns that require immediate management intervention both for the protection of individuals and the Force, individuals will be considered for temporary transfer to a less vulnerable post.

Four Stage Process

One – Referral

Initial Action

Where ...	Then ...
following misconduct / discipline proceedings, serious concerns are raised regarding the integrity of the individual in question;	the Chair of the Panel has a duty to make a report to the Head of the Counter Corruption Unit.
information or intelligence becomes available which raises serious concern that an individual's integrity is in question;	the recipient has a duty to make a report to the Head of the Counter Corruption Unit. This includes confidential or source sensitive information.

Head of Counter Corruption Unit (CCU)

- Upon receipt, the Head of the Counter Corruption Unit will make a risk assessment based on all the material, including source sensitive material, and will, where appropriate, recommend that a case conference be called.

Two – Case Conference

Head of PSD	<ul style="list-style-type: none"> • The papers will be forwarded to the Head of PSD, who will review the recommendation for a case conference and decide whether to support or reject it.
Membership	<ul style="list-style-type: none"> • If the Head of PSD supports the recommendation they will call a meeting which will involve all of the following, as appropriate <ul style="list-style-type: none"> ○ The Head of Counter Corruption Unit; ○ The Force Vetting Officer; ○ The District or Departmental Commander (or nominated Deputy) of the individual concerned; ○ A senior representative from the People Directorate; and ○ The Head of Legal Services adviser (or nominated solicitor). • It may be that any other personnel that the Head of PSD believes can give material assistance can attend. This may include representatives from the Trade Unions or Staff Associations.
Confidentiality	<ul style="list-style-type: none"> • The meeting will be closed and confidential with the aim of a free and frank exchange of information and intelligence about the employee. Everyone invited will be expected to sign a confidentiality agreement.
Meeting Considerations	<p>This meeting will decide whether to carry on with the procedure and if so to consider:</p> <ul style="list-style-type: none"> • What can be discussed beyond the closed meeting; Nothing will be disclosed which would; frustrate any criminal or misconduct investigation or the prevention or detection of crime; damage national security; breach any statute; or compromise or endanger any operation or individual; • The detail of what protection measures, such as 'action plans' to address issues; or not to permit the subject to work on specific tasks, or redeployment. (In relation to police officers, such actions will be based on their conditions of service which dictate that they shall serve wherever they are ordered to serve); • If there are any vetting implications; • What can and cannot be disclosed to the individual and / or his or her representative; and • Whether the matter needs to be referred to next stage i.e. to the Deputy Chief Constable (or other COT member deputising).
Minutes	<ul style="list-style-type: none"> • Minutes will be kept of the conference and a full record of the decision-making processes will be maintained and kept on confidential file within the PSD Intelligence Unit.

Three – Decision of DCC

Considerations	<p>On receipt of a referral from a case conference, the Deputy Chief Constable must consider:</p> <ul style="list-style-type: none"> • Whether there is sufficient evidence to support the recommendation; • If the subject of the application is aware of this process the DCC can consider any submissions provided by the individual. (If none is available or the individual requests more time to prepare, this will not preclude the Deputy Chief Constable from making a decision to implement the procedure and recommendations forthwith); and • Whether the action plan, redeployment or other intervention recommended is necessary, proportionate and non-discriminatory.
Deputy Chief Constable	<ul style="list-style-type: none"> • The Deputy Chief Constable will then decide whether to implement the recommendations and will maintain a record of this decision, which will form part of the confidential file held at the PSD Intelligence Unit.
Notifying the Employee	<ul style="list-style-type: none"> • In all cases the individual will subsequently be notified by the District/ Departmental Commander of the Deputy Chief Constable's decision.

Four – Informing the Employee

Introduction	<p>If the DCC agrees the decision to either remove an individual from a particular posting or continue with another course of action, the District or Departmental Commander will meet with the individual concerned to inform him or her of that referral.</p>
Right to be Accompanied	<ul style="list-style-type: none"> • The individual will have the right to be accompanied at this meeting by a friend or a member of a Trade Union or Staff Association. • Minutes will be maintained of this meeting and retained with the confidential file at the PSD Intelligence Unit.
Meeting	<p>The meeting will discuss the:</p> <ul style="list-style-type: none"> • The purpose of the meeting and the procedure being followed; • The reason for the decision to recommend to Deputy Chief Constable that the individual should be subject to the procedure; • The recommended action plan, redeployment or other intervention for the individual, to be implemented with immediate effect; and

- The individual's right to make a written submission to the Chief Constable within 14 calendar days of the meeting (the 'appeal procedure') with the District / Departmental Commander.
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Disclosure

- **Wherever possible** the subject will be informed of the reasons for the recommended action plan, redeployment or other intervention. However, nothing will be disclosed which might:
 - Impede the apprehension or prosecution of offenders;
 - Frustrate any investigation or the prevention and detection of crime;
 - Damage national security;
 - Breach any legislation; or
 - Compromise or endanger any operation or individual.
 - When disclosure is not appropriate, the individual will be told that the action recommended is being effected on the basis of source sensitive information for the operational needs of West Yorkshire Police and that further disclosure is not appropriate at the present time for those reasons above.
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Appeals

Grounds and Timescale

- Individuals can appeal against a decision made by the DCC.
 - The appeal must be:
 - In writing, giving reasons and grounds for the appeal request; and
 - Made to the Chief Constable within 14 days of the employee being informed of the decision of the DCC.
 - The Force Staff resolution policy cannot be used to appeal against decisions made under this policy.
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Chief Constable's Decision

- The Chief Constable will within 21 calendar days or as soon as reasonably practicable:
- Decide whether the appeal should be upheld or not; and
 - Inform the District/Departmental Commander so that they can notify the individual of the result of their appeal in person. The decision of the DCC will remain in place until the appeal decision is made.
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Action Plans

Monitoring of Action Plans

- Individuals subject to this policy procedure will be monitored by a supervisor (monitoring officer) nominated by their District/Departmental Commander.
- Progress against the action plan must be reviewed at least every three months and any further development needs identified and addressed.

Action Plan Completed

- If the monitoring officer believes an employee has successfully completed their action plan, they will report this to their District/Departmental Commander who will, in turn, inform PSD.
- A further case conference will be convened with the DCC to consider if the service confidence process should be terminated.

Process Ends

If the process ends, the District/Departmental Commander will review the individual's position to consider if they:

- Can return to the same or similar role they were in before the start of this process; or
- Should be retained in the post which they were transferred into.

Outstanding Prosecution Cases

Introduction

Details of any outstanding prosecutions for which the employee has provided a statement of evidence will be obtained by the district commander or departmental head and reviewed by a nominated officer.

Consider Disclosure to CPS

The nominated officer will:

- Seek help from the head of the Counter Corruption Unit; and
- Consider disclosure to the CPS, in accordance with Chapter 18 of the CPS Disclosure Manual 2005 (Revised in 2018).

In cases where it is deemed necessary to inform the CPS, the individual will be provided with a form of words agreed by the head of Counter Corruption Unit and the CPS for inclusion on the form MG6b.

Responsibilities

Head of Counter Corruption Unit

Head of Counter Corruption Unit (CCU) is responsible for:

- Evaluating all information or material and ensuring that it is correctly investigated and conducting a risk assessment;
- If appropriate, recommending case conferences;
- Maintaining confidential records in relation to the procedure;
- Keeping an overview of all ongoing cases;
- Retaining supporting documents and other material at each stage of the process;
- If it is decided to transfer the employee to a different post, ensuring that the receiving District/Departmental Commander is given an appropriate briefing; and

- Ensuring a redacted briefing paper forms part of the employee's personal file.

Head of PSD

The Head of PSD is responsible for:

- Chairing the case conferences;
- Applying restrictions and conditions; and
- Referring matters to the Deputy Chief Constable.

Senior HR Representative

The Senior People Directorate Representative is responsible for:

- Attending case conferences; and
- Advising on HR matters

Legal Services Advisor

The Force Legal Services Advisor is responsible for:

- Attending case conferences; and
- Ensuring compliance with human rights and employment legislation.

District/ Departmental Commander

The District/Departmental Commander is responsible for:

- Attending case conferences;
- Interviewing the employees concerned;
- Creating an appropriate action plan for the employee in order for them to regain the confidence of the Force;
- Any resulting training, development and monitoring issues; and
- Considering any welfare issues resulting from this process.

Deputy Chief Constable

The DCC is responsible for:

- Reviewing the investigation at regular intervals;
- Convening case conferences;
- Considering the recommendations of case conferences and the outcomes of interviews with the employees concerned; and
- Deciding on the measures to be implemented.

If appropriate, the DCC may appoint a senior investigating officer (SIO).

Chief Constable

The Chief Constable is responsible for:

- Providing the final level of appeal against the decision.

The Chief Constable may appoint a review officer of superintendent rank or above, or equivalent police staff, to assist in the review of the decision.

Monitoring Officer

The monitoring officer must be of inspector rank/police staff equivalent, or at least one rank higher than the employee who is subject of this policy procedure, whichever is the higher.

They are responsible for:

- Hands on management of action plans;
 - Agreeing timescales for monitoring and reviewing performance; and
 - Supervising health, safety and welfare issues.
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Additional Information

Compliance

This Policy complies with the following legislation:

- Data Protection Act 2018
 - The Police and Criminal Evidence Act 1984;
 - The Police (Conduct) Regulations 2020;
 - Police (Complaints and Misconduct) (Amendment) Regulations 2020
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Supporting Information

The supporting information for this policy can be accessed.
