

## Whistleblowing

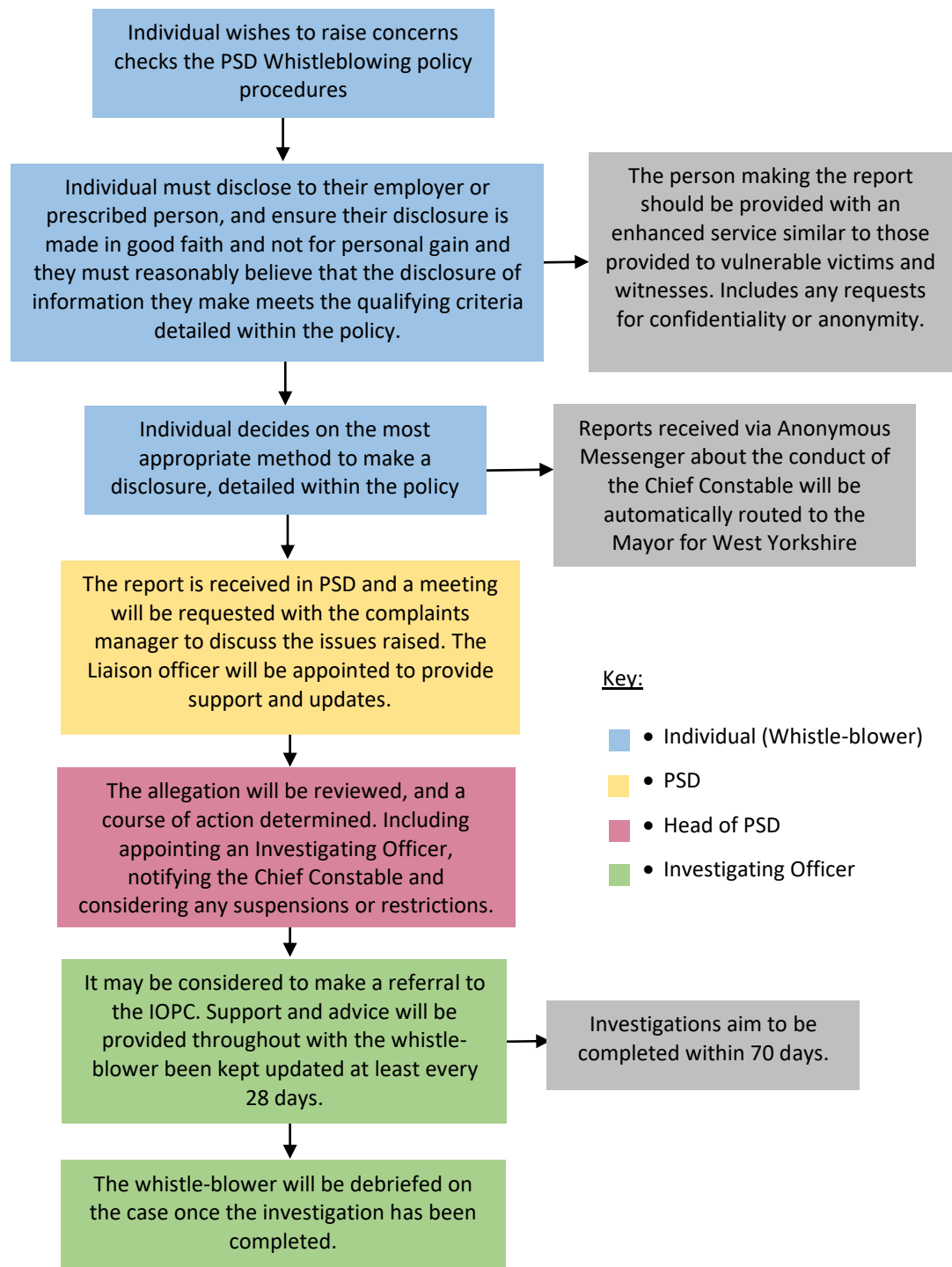
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## Flowchart



## Policy Statement

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### Summary

West Yorkshire Police (WYP) officers and staff are expected to maintain high standards at all times in all aspects of their roles. However, there is a risk of things going wrong from time to time, or instances of unknowingly operating in an unethical or illegal way. A culture of openness and accountability is essential within the Force in order to prevent such situations occurring and to address them when they do occur.

Whistleblowing is the reporting either openly or confidentially, of breaches of expected professional standards, which includes criminal activity, malpractice, dishonesty, unethical behaviour, omissions at work and breaches of the College of Policing's Code of Ethics and the Code of Conduct force policy.

This policy aims to reassure officers and staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken; therefore, improving the confidence of internal systems and the willingness to report. To ensure support to these individuals by colleagues and line managers is provided, valuing the reports they make in good faith. All which will allow the Force to address allegations of corruption and malpractice where required.

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### Scope

This policy applies to all police officers and police staff, apprentices, special constables, and volunteers of West Yorkshire Police.

It does not apply to partner organisations which share police premises.

- If an allegation is regarding an agency worker or contractor, District or Department Senior Leadership Team (SLT) will contact the relevant employer.
  - If an allegation is regarding the treatment received by management or colleagues, separate to any criminal or dishonest behaviour, the Staff Resolution policy should be referred too.
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## Principles

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### General

- The Public Interest Disclosure Act 1998 provides police staff and the Police Reform Act 2002, Section 37 provides police officers with statutory protection when disclosing information to a third party providing the disclosure contains an alleged wrongdoing in defined circumstances.
- Officers and staff, who have reason to believe they have information pointing to a breach of professional standards must report it as soon as practicable, in the way which they feel is right to report the matter.
- The Force is committed to providing an enhanced service to those who are

reporting, therefore the member of staff, usually a supervisor, who receives the information initially will:

- Help identify the most suitable way of formally reporting the breach of professional standards;
  - Provide positive support throughout the process, particularly where an 'open report' is made i.e. the identity of the whistle-blower is made known, including involvement of relevant Trade Unions and Police Federation, Superintendents Association etc.; and
  - Ensure that any request made for confidentiality and anonymity is given the highest priority.
- Every effort will be made to ensure that the integrity and accuracy of information is fully investigated. In all cases, but especially where the information is anonymous, evidence or other intelligence will be sought at the earliest opportunity to corroborate, or otherwise, the information received.
  - For an 'open report', all documents referring to it will carry a protective marking which limit access to those people who have a legitimate need to see them.
  - For a 'confidential' case, any knowledge of the whistle-blower's identity will be kept to an absolute minimum.
  - The legal rules governing disclosure will apply to all cases under this procedure. Where confidential information has been received, regarding disclosure, this will be handled in a similar way to criminal intelligence.
  - Individuals who believe their allegation is true, have nothing to fear. If a report is made in good faith but is not confirmed by the subsequent investigation, no action will be taken against them for whistleblowing.
  - Individuals who make allegations for personal gain and/or are frivolous or malicious will be investigated and disciplinary or misconduct action may be taken against them if their allegation is proved to be false.
  - Debriefing will take place at the end of the investigation for those involved, including the whistle-blower. It is a therapeutic and two-way process with PSD to identify any good and bad practice and raise any issues.
  - Details of all reports will be securely held with the Professional Standards Directorate (PSD).

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#### **Confidentiality and Anonymity**

- Individuals who are whistleblowing must make their wishes regarding confidentiality or anonymity clear at the outset when making a report.
- Everything possible will be done to maintain confidentiality and/or anonymity, however this cannot be fully agreed. It will be of paramount importance to maintain it with any information divulged.
- Individuals who wish to be kept informed, their requested confidentiality will be maintained as much as possible without compromising or imposing undue burdens on the investigation.
- Reporting via the Anonymous Messenger system guarantees anonymity unless an individual elects to identify themselves.

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**Immune from Discipline or Misconduct Proceedings**

- Limited and defined immunity from discipline or misconduct proceedings may be given to an individual if they are able to give evidence of criminal activity or serious breaches of discipline.
  - The Head of PSD will base the decision on whether:
    - The evidence is essential;
    - The evidence is needed to support a successful prosecution; and
    - If the individual has taken part in the criminal offence or serious breach of discipline, or have gained from it.
  - Every incident will be fully reviewed by the Head of PSD regarding any future action to be taken against the whistle-blower. Such decisions will be fully recorded in a policy log.
  - Police Federation, Superintendents Association, Trade Union or support group representatives can provide advice and clarification regarding limited and define immunity.
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**Harassment or Victimisation**

- WYP will not tolerate harassment or victimisation and will take appropriate action to protect individuals who raise concerns in good faith.
  - Where there is evidence an individual of WYP has been harassed or victimised, the Force will vigorously pursue misconduct proceedings or criminal prosecution.
  - It is understandable that individuals may be worried about possible repercussions of making a professional standards report. The Force will not tolerate any detrimental treatment (harassment or victimisation) as a result of raising a concern.
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**Witness Protection**

- It is anticipated that issues of witness protection will only arise in the most serious cases, however the Force Witness Protection Unit and staff within PSD are trained in this area.
  - A risk assessment will be undertaken at an early stage and the appropriate facilities and support provided.
  - A range of tactical options will be made available and tailored to meet any requirements, commensurate with the risk assessment.
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**Return to Work Following an Absence**

- An individual may experience a greater level of stress and anxiety as a result of being a whistle-blower. There will be support provided for this individual however there may be occasions where there is an absence from work.
- In exceptional cases, it may be necessary to make special arrangements to enable an individual to return to work.
- To assist with the decision making process the Head of PSD or District or Department head may wish to convene a meeting. Each incident will be considered on its merits.
- The Head of Workforce Planning will consider all the circumstances. They

may decide to ignore such periods of sickness absence where absence is a qualifying factor in deployment/promotion decisions.

- This decision can only be made at the end of the PSD investigation and subsequent court case or discipline panel.

## Protection – Qualifying Disclosures

### Principles

- There are 6 categories of disclosures where an individual will qualify for protection. In all circumstances, the whistle-blower must reasonably believe that the disclosure of information tends to show one or more of the following:
  - A criminal offence has been, is being or is likely to be committed;
  - A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
  - A miscarriage of justice has occurred, is occurring or is likely to occur;
  - The health and safety of any individual has been, is being or is likely to be endangered;
  - The environment has been, is being or is likely to be damaged; or
  - Information tending to show any matter failing with any of the above has been, is being or is likely to be deliberately concealed.
- Individuals will still be given protection regardless of whether the above occurred in the UK or elsewhere.
- Whistle-blowers must meet the **general criteria** when disclosing, which are:
  - That they reasonably believe their allegation is substantially true,
  - They are not disclosing information for personal gain;
  - If in all circumstances it is reasonable to disclose, and
  - Make the disclosure in good faith to their employer or other prescribed person.
- Individuals can make their disclosure to a prescribed person if they reasonably believe that the failure related solely or mainly to the conduct of a person other than WYP, or any other matter which the person in question has legal responsibility.
- Examples of a prescribed person may be:
  - Legal advisor;
  - Minister of the Crown; or
  - Regulatory person or body prescribed by an order made by the Secretary of State. For these cases, the failure needs to fall within the remit of that person or body.
  - Further information on prescribed persons can be found.
- Individuals will receive **no protection** if when making their disclosure, they:
  - Commit an offence by making the disclosure e.g. a breach of the Official Secrets Act; or
  - Disclose information which was revealed to them in the course of

obtaining legal advice where legal professional privilege could be claimed and maintained during legal proceedings.

#### External Disclosure and/or Exceptional Cases

- Individuals may feel the need to make an external disclosure, in an exceptional case. This must be made to a person or regulatory body who is knowledgeable with the subject of the allegation, e.g. IOPC.
- Individuals making an external disclosure will still be protected if their disclosure meets the general criteria and also meets one of the following conditions:
  - The individual reasonably believes that they will be subject to detriment by their employer if they make a disclosure to their employer or prescribed person.
  - There is no prescribed person and the individual reasonably believes that evidence relating to the malpractice will be concealed or destroyed if the disclosure is made to their employer.
  - A disclosure has previously been made by the individual to their employer or any prescribed person containing substantially the same information.
- Individuals who have previously disclosed the allegation internally will only be protected if it is reasonable, in all the circumstances, to repeat the allegation externally. Reasonableness may be for example, evidencing the seriousness of the disclosure, or indicating that the failure is continuing or is likely to continue in the future.
- Individuals disclosing information relating to an exceptionally serious nature, may bypass the internal method of reporting. However the disclosure must still meet the general criteria to qualify the whistle-blower for protection.

## Methods of Reporting a Qualifying Disclosure

#### Anonymous Messenger

- The Anonymous Messenger System is available to all officers and staff via the Force Intranet.
- This system allows for a confidential email to be sent to the Professional Standards Intelligence Unit (PSIU), who will reply via the system. **This is not done via personal email accounts.**
- Encryption software ensures that whistle-blowers will remain completely anonymous, even to PSIU.

#### Line Manager or Other Manager

- Discussing concerns with a line manager or other appropriate manager will allow individuals to receive an immediate response and direct feedback.
- If the breach of professional standards involved direct line management, it is advised to make the report to another manager.

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**Police Federation, Superintendents Association, Trade Unions and Support Groups**

- The Police Federation, Superintendents Association and Trade Unions can offer independent advice on whether a particular case merits formal reporting, and if they are bound by their own internal rules regarding confidentiality and the need for a member's consent before forwarding the information.
  - There are also various support groups within Force that can assist individuals if required.
  - If individuals wish to remain anonymous a representative from the police federation, superintendents association, trade union or support group may report the allegation to PSD on the individual's behalf.
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**Confidential Telephone Line**

- Individuals can disclose information via the confidential telephone line, by internally or externally calling.
  - **Please note**, the line isn't continually monitored, and therefore matters which require an immediate response, individuals can either contact on call staff at PSD or another method of reporting must be chosen as required.
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**Professional Standards Directorate (PSD)**

- Individuals can contact PSD directly, by internally calling or by email.
  - It will be agreed between the Individual and PSD the status of the report and the degree of confidentiality. This will be recorded in writing.
  - Individuals making a report anonymously via this method, the information they disclose will be treated with caution until it is corroborated or otherwise at the earliest opportunity.
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**Independent Office of Police Conduct (IOPC)**

- WYP officers and staff cannot make a public complaint about the actions of another serving WYP officer or staff member.
  - For other matters, contact can be made to the IOPC via telephone or email.
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**Internal Audit**

- Individuals can contact the Director of Corporate Services at West Yorkshire Combined Authority who commissions audits and investigations of possible fraud in relation to the Mayor's police funds and property.
  - All allegations are dealt with by experienced investigators.
  - Criminal cases are referred, after an initial investigation, to an appropriate investigating officer within PSD.
  - Police staff misconduct cases are referred, after investigation, to the appropriate PSD investigating officer.
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**Criminal Case**

- The Public Interest Disclosure Act 1998 and 2004 amendment identifies the



**Review  
Commission**

Criminal Case Review Commission (CCRC) as the body to which police officers and police staff can report allegations of a miscarriage of justice without fear of recrimination or retribution.

- The CCRC is the body designated by the Criminal Appeal Act 1995 for the review of miscarriages of justice.
  - Individuals can raise concerns with the CCRC in accordance with this procedure via email.
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## Initial Meeting

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**Principles**

- A PSD Senior Investigating Officer (SIO) or Investigation Officer (IO) will request a meeting with the district or department complaints manager in all cases where an investigation into a suspected breach of professional standards is started as a result of a professional standards 'open' report.
  - All meetings will be:
    - Closed and confidential
    - Allow the free exchange on the subject
    - Inform managers of the investigation, its scope and seriousness
    - Enable discussions about appropriate action and ways forward; and
    - Decide on actions which could include witness protection, what can be disclosed beyond the closed meeting etc.
  - A record of decisions made at the meeting will be kept as a policy log by SIO/IO at PSD and it will be subject to the appropriate protective marking.
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## Responsibilities

### Liaison Officer

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**Responsibilities**

The liaison officer can be a line manager or any other appropriate manager within WYP or a representative from the Police Federation, Superintendents Association, Trade Unions or support groups.

The liaison officer is responsible for:

- Recording and submitting the information to PSD;
- Providing support to the member of staff who is a whistle-blower; and
- Notifying them of the progress and eventual outcome of the investigation.

The liaison officer will also:

- Maintain confidentiality at all times,
- Ensure the services of Occupational Health (OH) are available to the member of staff and other confidants if required,
- Not disclose any information to their line manager if they weren't initially involved in the disclosure of the allegation and

- Honour any request for anonymity.

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## Line Managers

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### Responsibilities

Line managers are responsible for:

- Developing and maintaining an environment where members of staff are confident in coming forward to make such reports;

In open cases:

- Visibly demonstrating active leadership when dealing with the person;
- Responding to reports promptly, genuinely and with sensitivity;
- Acknowledging that they have done the right thing and the approach to them is both supportive and positive;
- Immediately forwarding a 'confidential' report, outlining the circumstances and initial action taken, to the PSD;
- Taking initial action which may include requesting the appointment of an investigating officer, as well as the actions normally taken at the start of an internal investigation;
- Providing protection and take positive and robust action against victimisation or harassment and act to prevent any other adverse repercussions;
- Including only positive and supportive comments in their personal file, and then only when they have agreed to their inclusion; and
- In cases of doubt, contacting the PSD, initially by telephone.

In confidential cases:

- Dealing with the individual as in point 2 but **not take any action which would identify the individual.**
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## Professional Standards Directorate (PSD)

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### Responsibilities

PSD are responsible for:

- Ensuring compliance with this procedure;
- Depending on the contents of the report, ensure it is investigated by themselves;
- Referring the matter to the IOPC on a voluntary or mandatory basis if the report warrants this;
- Providing support, guidance and advice at every stage of the process;
- Ensuring confidentiality issues are properly handled;
- Where appropriate, keeping the person who has made the report, or their liaison officer, updated;
- Monitoring progress of each case from beginning to end;
- Where appropriate, collating, analysing and disseminating intelligence; and
- Identifying good practice and lessons learned.

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## Head of Professional Standards

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- Responsibilities** The Head of PSD assisted by the Senior Investigating Officer (SIO) is responsible for:
- Receiving and review the allegation determine the appropriate course of action;
  - Appointing the investigating officer (if appropriate);
  - Notifying the Chief Constable (or appointed deputy) and Head of Corporate Communications so that any media attention into the investigation might be allayed;
  - Considering if the alleged offender should be suspended or put on restricted duties and brief the DCC or ACC People and Diversity accordingly;
  - Receiving recommendations and authorise the implementation of actions arising from the investigation; and
  - Deciding if the alleged conduct requires referral to the Crown Prosecution Service.
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## Investigating Officer

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- Responsibilities** The investigating officer will be appointed by the SIO and selected according to the nature of the allegation. They are responsible for:
- Taking every reasonable step to maintain confidentiality unless it impacts on the ability to investigate the allegation comprehensively and fairly;
  - Reporting on the progress of the investigation either verbally or via email, at least once every 28 calendar days, to the:
    - Head of PSD/SIO; and
    - Person who made the report, or their liaison officer, if they have asked to be kept informed;
  - Assessing whether there has been some wrongdoing on their part and, if appropriate, report to the head of PSD of the potential for relevant disciplinary investigative procedures being invoked;
  - Attempting to complete the investigation within 70 days;
  - Implementing actions as determined by the head of PSD/SIO; and
  - Filing all the case papers with the PSD after the actions from the investigation have been implemented.
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## Internal Audit

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- Responsibilities** If there has been an alleged or suspected case of abuse of funds from the

Mayor for West Yorkshire, West Yorkshire Police Internal Audit will be responsible for:

- Assessing whether adequate controls are place to ensure compliance with the procedure and in particular confidentiality;
  - Liaising with PSD;
  - Providing support, guidance and advice, as appropriate;
  - Monitoring the progress of each case from beginning to end; and
  - Identifying and disseminate best practice regarding financial systems and controls.
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## Occupational Health

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### Responsibilities

- Occupational Health (OH) provide information, advice and support to managers and individuals on a range of health, safety and welfare matters.
  - Support in this context will be offered to the individual, their partner and the district or department. It will include formal referral to OH.
  - Where confidentiality is paramount, an individual may request a referral to OH through their line manager without stating for what reason they require a referral.
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## Police Federation, Superintendents Association, Trade Unions and Support Groups

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### Responsibilities

- The Police Federation, Superintendents' Association and Trade Unions are experienced in providing support for officers and staff in these circumstances.
- It may be that the initial professional standards report is made to one of these bodies. Initially they will advise individuals to contact the local representative. If this is not suitable, individuals should be directed to contact the relevant secretary at branch or headquarters.
- There are many other groups within the Force that support both officers and staff and it may be that the initial professional standards report is made to one of these.
- Representatives can also act on an individual's behalf to highlight perceived organisational shortcomings. The Police Federation, Superintendents' Association or Trade Union representative, support group member or work colleague is entitled to attend any meeting which they are specifically invited
- If the individual wishes to remain anonymous, the representative, support group member, manager or work colleague is entitled to attend a meeting in order to report the allegation on the individual's behalf. They will act as the liaison officer.

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## Additional Information

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### Compliance

This policy complies with the following legislation, policy and guidance:

- Data Protection Act 2018
  - Police Reform Act 2002
  - Public Interest Disclosure Act 1998
  - Police (Conduct) Regulations 2020
  - Police (Complaint and Misconduct) Regulations 2020
  - Police (Performance) Regulations 2020
  - Public Interest Disclosure (Prescribed Persons) Order 2014
  - Public Interest Disclosure (Prescribed Persons)(Amendment) Order 2010
  - Public Interest Disclosure (Prescribed Persons)(Amendment) Order 2013
  - Public Interest Disclosure (Prescribed Persons)(Amendment) Order 2014
  - College of Policing's Code of Ethics
  - HMI Thematic Inspection: Securing and Maintaining Public Confidence
  - HMI Thematic Inspection: Good Practice Guide
  - Capability – procedure performance policy
  - Code of conduct for police staff policy
  - Chief Officer Team expenses, hospitality and use of corporate cards policy
  - Discipline – police staff policy
  - Gifts and hospitality policy
  - Inappropriate and notifiable associations policy
  - Medical capability – police staff policy
  - Grievance policy
  - Drug and alcohol misuse in the workplace policy
  - Financial assistance and unmanageable debt policy
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