

<b>Meeting</b>	<b>Audit, Risk and Assurance Committee</b>
<b>Date</b>	<b>14 July 2022</b>
<b>Location</b>	<b>Video Conference</b>
<b>Title of Paper</b>	<b>SPA Whistleblowing Update</b>
<b>Presented By</b>	<b>Chief Executive Officer</b>
<b>Recommendation to Members</b>	<b>For Discussion</b>
<b>Appendix Attached</b>	<b>No</b>

**PURPOSE**

The purpose of this paper is to provide an annual update and assessment on the effectiveness of whistleblowing arrangements within the SPA.

## 1. BACKGROUND

- 1.1 The SPA Whistleblowing Policy outlines the requirement to provide an annual update to the Audit, Risk and Assurance Committee with a particular focus on concluded whistleblowing cases and lessons learned as a result.
- 1.2 This annual update goes beyond the specific policy commitment with further information to ensure a full and rounded assessment of the effectiveness of whistleblowing arrangements. This is particularly important given that there was only a single case in 2021/22.

## 2. POLICY ASSURANCE PROCESS

- 2.1 A six monthly SPA assurance process is in place ensuring the SPA Chief Executive, Director of Forensic Services and SPA Whistleblowing Champion (SPA Board Member) receive an update of the effectiveness of the policy against set out criteria. The table below provides a summary of key areas from the two six monthly assurance assessments during 2021/22.

Policy Requirements	Update
Number of whistleblowing concerns that are outstanding, how they are being dealt with and for how long they have been outstanding	One concern was raised through the whistleblowing process during the time period. Whilst it is a concern that is being looked into, it does not meet the definition of whistleblowing and will be looked at outwith this process.
Number of whistleblowing concerns that have been closed, along with the outcome, lessons learned and improvements made as a result of the concern being raised	One case was closed and a specific lessons learned update is included at section 3. The key issues relate to the fact the case was multifaceted with elements of grievance, discipline and whistleblowing.

Policy Requirements	Update
Extent to which there have been any concerns in relation to fair treatment	No issues identified, however lessons learned from case demonstrates importance of ensuring decisions taken don't lead to perception of unfairness e.g. an improvement is proposed to ensure Single Point of Contact is appraised of any potential changes to agreed employee safeguarding arrangements prior to implementation.
Extent to which issues raised could have been resolved earlier before concern was raised	The issues raised primarily relate to grievance issues and therefore consideration is outwith scope of this report.

### 3. CASE LEARNING

- 3.1 A lessons learned exercise was carried out at the conclusion of the single case closed during 2021/22. The majority of the lessons stem from the fact the case was multi-faceted and had elements that related to grievance, discipline and whistleblowing.
- 3.2 The SPA Chief Executive and Director of Forensic Services have endorsed a series of process improvements to be implemented in 2022/23 as a result of learning from the case. Key elements of the plan are outlined below with a more detailed version of the action plan included at Appendix A.
- Ensure shared awareness and approach within policing as to how disciplinary/grievances processes interacts with the SPA Whistleblowing policy.
  - Develop quality assurance process to ensure effective assessment where concerns are raised which do not specifically reference 'whistleblowing', but meet the legal definition (and vice-versa where specific reference is made, but where concerns clearly do meet the definition).
  - Ensure assessment take places, where subsequent correspondence is received following initial protected disclosure, on whether or not additional matters raised require to be treated as a separate complaint.
  - Ensure Single Point of Contact under policy is appraised of any potential changes to agreed employee safeguarding arrangements prior to implementation to ensure these do not result in undue risk.

- Progress planned training and ensure training on the SPA Whistleblowing Policy is rolled out to improve understanding of reporting routes

3.3 All of the above will be delivered via stakeholder engagement, implementation of training and a review of the policy.

#### **4. POLICY/PRACTICE SELF-ASSESSMENT**

4.1 In July 2021, the annual report to the ARAC reported the outcome of a self-assessment with the Whistleblowing Commission Code of Practice. This assessment identified the SPA approach was well aligned to the code, the only caveat being the recognition that, whilst training has been provided, a longer term and sustainable approach requires to progress in relation to induction/refresher training and embedding into relevant management and leadership training.

4.2 As a follow up to this the SPA Corporate Business Plan 2022/23 confirms a further review of the whistleblowing policy/practice will be undertaken evaluating its implementation against current good practice guidelines and taking any required improvement against this as appropriate.

4.3 This will involve a review of the policy, practice and training against ISO 37002, the whistleblowing management system standard published in July 2021.

4.4 Identified improvements will be progressed in 2022/23 alongside plans outlined at section 3.

## 5. MEASURING KNOWLEDGE AND CONFIDENCE RELATED TO WHISTLEBLOWING

- 5.1 As well as being a key issue for the SPA Executive, the confidence of staff to raise whistleblowing concerns has been a key area of interest for the ARAC.
- 5.2 Following a recent pulse survey within SPA Corporate (February 2022) there is data to allow for an assessment of confidence. The survey received an 88% response rate (44 out of 50). The table below outlines the results for those that responded

<b>Survey Statement: I understand what constitutes a whistleblowing concern and how to bring this to the attention of the organisation</b>	
Strongly Agree	31.8% (14)
Agree	63.6% (28)
Neither	2.3% (1)
Disagree	2.3% (1)
Strongly Disagree	Nil

<b>Survey Statement: If I had a whistleblowing concern, I am confident to raise this</b>	
Strongly Agree	29.5% (13)
Agree	54.5% (24)
Neither	6.8% (3)
Disagree	4.5% (2)
Strongly Disagree	2.3% (1)
Not answered	2.3% (1)

- 5.3 Of the seven individuals that did not 'Agree' or 'Strongly Agree', only one of them disagreed that they would raise general day to day concerns with their line manager.
- 5.4 While the results are positive it is recognised that there is always room for improvement with plans to progress training, communication and guidance seeking to ensure all staff feel comfortable to raise concerns going forward.
- 5.5 SPA Forensic Services have confirmed that they would plan to ensure similar survey work takes place during 2022/23.
- 5.6 An action was taken from the ARAC in January 2022 by ACC Professionalism and Assurance to seek to embed relevant questions

into the regular staff survey for policing. This was followed up with an action update confirming that there will be engagement with People and Development to incorporate Whistleblowing into (any) new Staff Surveys.

## **6. TRAINING PLAN**

- 6.1 The current focus is on the development of e-learning packages that are designed for those who raise concerns and those who form part of the response to the concern being raised. This work is intended to form part of the induction and refresher training going forward.
- 6.2 The intention is for the package to be developed and implemented in 2022/23. There are challenges that are being worked through in terms of demands currently being placed on the team that carry out the development work for e-learning.

## **7. ASSESSMENT OF EFFECTIVENESS**

- 7.1 This assessment considers the policy and practice, based on the detail above.

### Policy

- Policy very clear in relation to benefits of raising concerns and encourages individuals to raise concerns
- Policy was developed in line good practice and has been subject to self-assessment with conclusion re alignment to the Whistleblowing Commission Code of Practice.
- Evidence that lessons learned in practice will continue to inform policy development.

### Practice

- Experience has demonstrated need to ensure approaches to managing multifaceted cases linked to disciplinary/grievance/whistleblowing needs to be clearer.

### Staff Confidence

- SPA Corporate survey demonstrates confidence to raise concerns with strong knowledge of the whistleblowing procedure.
- Continued commitment to ensure all staff within SPA Corporate fell comfortable to raise concerns
- Commitment from Forensic Services to carry out similar survey work in relation to confidence and knowledge.

### Training

- Training has been progressed with SPA Corporate as part of Staff Briefing and survey identified that there is a high level of knowledge of what constitutes whistleblowing and how to raise concerns.
- SPA Corporate and Forensics are working on development of sustainable approach to induction/refresher training through e-learning packages that support those who raise concerns and those who are recipients of concerns.

7.2 In summary the whistleblowing arrangements are effective with identified areas for development being progressed within 2022/23.

## **8. FINANCIAL IMPLICATIONS**

8.1 There are no direct financial implications. However, an open and transparent culture will help to mitigate the associated costs of malpractice and poor financial decision making.

## **9. PERSONNEL IMPLICATIONS**

9.1 The SPA approach to whistleblowing seeks to ensure that staff work in an open, transparent and safe working environment where people feel able to speak up.

## **10. LEGAL IMPLICATIONS**

10.1 The policy seeks to ensure internal controls and processes are in place to enable SPA compliance with the relevant legislation. The work in relation to the implementation of the training plan seeks to build on this.

## **11. REPUTATIONAL IMPLICATIONS**

11.1 An effective approach to whistleblowing is essential in detecting and deterring wrongdoing, whilst also raising the bar on standards and quality. The reputational benefit of having an open, transparent and safe working environment is clear.

## **12. SOCIAL IMPLICATIONS**

12.1 No social implications.

## **13. COMMUNITY IMPACT**

13.1 No community implications

**14. EQUALITIES IMPLICATIONS**

14.1 Developments in relation to training will be supported by an EqHRIA and further consideration will be given to any research that indicates varying confidence levels to raise concerns based on protected characteristics.

**15. ENVIRONMENT IMPLICATIONS**

15.1 A specific category for raising whistleblowing concerns relates to damage to the environment. No issues have yet been identified through the updated whistleblowing policy.

**RECOMMENDATIONS**

Members are requested to discuss the report.

**APPENDIX A – WHISTLEBLOWING ACTION PLAN**

<b>Issues</b>	<b>Proposed Improvement</b>	<b>Owner and Action</b>	<b>Intended Timescale</b>
Lack of co-ordinated approach where case is multifaceted (grievance/disciplinary/whistleblowing)	Engage with Police Scotland P & D to ensure SPA Corporate/Forensics management are informed of any disciplinary/grievance matters raised directly in respect of SPA staff.	Workforce Governance Lead to engage with Police Scotland to set up process.	End of Q2
	Engage with Police Scotland to propose the Case Allocation Review Panel (CARP) is split into two sections (i.e. a Police Scotland section and SPA section), with view to appropriate SPA officer involvement in such discussions.	Workforce Governance Lead to engage with Police Scotland to set up process.	End of Q2
Overly-cautious assessment of what meets definition of protected disclosure.	SPA to ensure assessment takes place where concerns are raised which do not specifically reference 'whistleblowing', but which meet the legal definition (and vice-versa where specific reference is made, but where concerns clearly do not meet the definition).	Workforce Governance Lead to liaise with Complaints Team in relation to carrying out quality assurance role. Policy to be updated to reflect.  Training to support clarity as to what is and isn't included within definition of whistleblowing.	End of Q2

<p>Delays as a result of consideration as to whether case needed to go to the Complaints and Conduct Committee</p>	<p>Reconfirm responsibilities within the SPA Whistleblowing Policy in respect of the role of the Complaints &amp; Conduct Committee</p>	<p>Workforce Governance Lead to liaise with Complaints and Conduct Team</p>	<p>End of Q4</p>
<p>Delays from further considerations as a result of subsequent correspondence being received following the initial protected disclosure</p>	<p>Where subsequent correspondence is received following an initial protected disclosure, an assessment should be undertaken on whether or not additional matters raised require to be treated as a separate complaint.</p>	<p>Workforce Governance Lead to liaise with Complaints and Conduct Team to consider role they could play in ensuring consistent and appropriate approach.</p>	<p>End of Q2</p>
<p>Unintentional impact on employee safeguarding arrangements.</p>	<p>Ensure that the SPOC under the SPA Whistleblowing Policy is appraised of any potential changes to agreed employee safeguarding arrangements prior to implementation to ensure that these do not result in undue risk.</p>	<p>Workforce Governance Lead to consider update to policy to clarify role of SPOC and consider how this can be captured in training.</p>	<p>End of Q4</p>

<p>Police Scotland PSD considered the case from a whistleblowing perspective when the SPA policy does not provide a locus for this.</p>	<p>Ensure review of Code of Conduct progressed imminently to clarify Integrity Matters applies only to police staff.</p>	<p>Workforce Governance Lead to engage with Police Scotland on review of Code of Conduct.</p>	<p>End of Q2</p>
	<p>Provide further clarification in SPA Whistleblowing Policy that matters should not be raised via PSD (or Integrity Matters).</p>	<p>Workforce Governance Lead to consider amendment to policy to explicitly clarify this.</p>	<p>End of Q4</p>
	<p>Progress planned training and ensure training on the SPA Whistleblowing Policy is rolled out to Forensic Services to improve understanding of reporting routes.</p>	<p>Workforce Governance Lead to ensure covered as part of training, which is under development (see section 7.</p>	<p>End of Q4</p>
	<p>Liaise with Police Scotland to confirm that PSD (nor CAAPD) has no locus in respect of whistleblowing concerns raised in relation to SPA Corporate/Forensics staff, and that any such concerns received by them should be referred back to SPA Corporate/Forensics in the first instance, who will progress in accordance with the applicable policy.</p>	<p>Head of Workforce Governance.</p>	<p>Complete</p>