1. **Summary of Changes**

Version:1.10.0.3

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This procedure has been rewritten on its review. It details the different ways a member of staff can report actual or suspected wrongdoing, and the process that may follow.

**2.0 What this Procedure is about**

This procedure encourages staff and officers to report wrongdoing, suspected wrongdoing or unethical behaviour without fear of reprisals and with confidence that any such report will be taken seriously and dealt with appropriately.

This procedure describes the mechanisms available to allow staff to report wrongdoing and what action will be taken.

This procedure details what constitutes a ‘protected disclosure’ and informs the handling of ‘qualifying disclosures. It encompasses the protection afforded to staff under *Part IVA Employment Rights Act 1996 (as inserted by the Public Interest Disclosure Act 1998),* relating to protected disclosures.

This procedure does not cover reporting grievances within the workplace as this is covered in the specific grievance procedure.

***Compliance with this procedure and any governing policy is mandatory.***

**3.0 Challenging and Reporting Wrongdoing**

**3.1 Wrongdoing**

Essex Police is committed to the highest standards of openness, integrity and transparency. It is therefore essential that all staff feel empowered and supported to report any concerns of wrongdoing or behaviour that is not in keeping with the values of Essex Police.

The Standards of Professional Behaviour for officers and staff and the College of Policing’s Code of Ethics reflect the values and behaviours that are expected of all staff by the Chief Constable, as well as the public we serve.

The Standards of Professional Behaviour and the Code of Ethics places a responsibility on all staff to *challenge and report improper conduct*. According to these standards and principals, officers and staff cannot ignore unethical or unprofessional behaviour by a colleague, regardless of their rank or position within the organisation.

Essex Police will take reports of vexatious reporting seriously and any reports of wrongdoing that are made dishonestly may be a breach of the standards of professional behaviour.

**3.2** **Methods of Reporting Wrongdoing**

It is hoped that the majority of concerns of suspected wrongdoing can be reported through an officer’s / staff member’s **line management**. However, it is recognised that there may be times where a person is not comfortable in doing so, for example where there are fears of involvement or complicity.

It is also possible for people to report concerns of wrongdoing through their relevant [staff association](https://kpep.sharepoint.com/sites/connEXion-Diversity-and-Inclusion/SitePages/Support-Networks.aspx). Representatives of the Police Federation, Unison or the Superintendents’ Association can offer support, guidance and confidential advice and support the person to make the appropriate disclosure or make it on their behalf.

Reports of wrong doing can be made to the **Professional Standards Department**, either openly or anonymously. There is an expectation that senior leaders will report wrongdoing that does not directly affect them through identifiable reporting channels and not anonymously.

Concerns can be emailed to the Professional Standards Department at psdintelligenceunit@essex.police.uk. This method will identify the sender and will allow open dialogue about the concerns so that all relevant information can be gathered.

People can also call the **Confidential Reporting Line** on (01245) 452106 or 151 151 (internally). This line will be answered between 08.00 and 16.00 on Monday to Friday.

The **PSD Anonymous Mailboxes** also allows people to anonymously report concerns or wrongdoing. This mechanism is confidential and there is no way that information can be traced back to the recipient unless the recipient identifies themselves in the message. This mechanism allows a two-way confidential conversation between the sender and Counter Corruption Staff. This mechanism is accessed through the [Essex Police intranet](http://connexion.ecis.police.uk/teams/dcc/psd/psd-annon-contact.html).

**3.3 Public Interest Disclosure**

The Employment Rights Act (1996) gives specific protections to employees of public and private bodies, including the police, who report wrongdoing in defined circumstances which create a risk, or perceived risk, that they may later be treated detrimentally by the employer.

The Public Interest Disclosures Act (1998) should be consulted before making a disclosure in the public interest (commonly referred to as *whistleblowing*). There are parameters on when, how and to whom such a disclosure should be made.

A protected disclosure is a defined as a qualifying disclosure that is made in a certain way.

**3.3.1** **Qualifying Disclosure**

These are disclosures of information which the disclosing staff member reasonably believes tends to show one or more of the following is either taking place, has taken place, or is likely to occur in the future:

* Criminal offence;
* A breach of a legal obligation;
* A miscarriage of justice;
* A danger to the health or safety of any individual;
* Damage to the environment; or
* Deliberate concealing information relating to any of the above.

Any staff member who makes a disclosure must have a **reasonable belief** that the information disclosed tends to show one or more of the offences or breaches listed above. This belief need not be correct; it is immaterial whether the relevant failure occurred, occurs or would occur.

**3.3.2 Protected Disclosures**

A qualifying disclosure will become a **protected disclosure** where certain criteria are met. These are outlined below and taken from *Part IVA Employment Rights Act 1996 (as inserted by the Public Interest Disclosure Act 1998).*

A member of staff who makes a protected disclosure is protected from suffering a detriment, including victimisation by colleagues or agents of the organisation, as a result of having made the disclosure.

A member of staff who is concerned about malpractice or unethical behaviour is encouraged to raise these first through internal mechanisms described in [3.2](#three_two) wherever possible.

It is also possible for a member of staff to make disclosures to a person or body which has been prescribed by the Secretary of State or other external person for the purpose of receiving disclosures about the matters concerned. If a member of staff makes a ‘qualifying disclosure’ to such persons, it will be a protected disclosure provided the staff member:

* Makes a disclosure of information i.e., one of facts;
* It is a qualifying disclosure i.e., one that they reasonably believe that the information and any allegation it contains are substantially true, the disclosure is made in the public interest and tends to show that one of more of the six “relevant features” as contained in section [3.3.1](#three_three_one) had occurred or is likely to occur; and
* It must be made in accordance with one of the specified methods of disclosure as described under section [3.3.3](#three_three_three).

**3.3.3** **Qualifying Methods of Disclosure/Reporting**

**3.3.3.1 To Essex Police via Internal Procedures**

A qualifying disclosure will be a protected disclosure where it is made to one of the prescribed persons who act on behalf of the Chief Constable.

* Head of PSD – Detective Superintendent;
* PSD Prevention lead– Detective Chief Inspector;
* Deputy Chief Constable.

The only additional requirement on the staff member is that they should **act in the public interest**. No other requirement is necessary to qualify for protection. Disclosure within Essex Police will, in most cases, ensure that concerns are dealt with quickly and by the person who is best placed to resolve the problem.

**3.3.3.2 To Another Person Whom the Staff Member Reasonably Believes to be Solely or Mainly Responsible for the Relevant Failure**

For example, if a nurse employed by an agency in a council run care home raises a concern about malpractice with the council. It would also protect a worker in an auditing firm who raises a concern with the client or someone who works for a local authority highway contractor raising a concern with the local authority that the performance of the contract exposes the authority to negligence claims from injured pedestrians.

**3.3.3.3 To a Prescribed Person**

Where a disclosure is made to an external body the individual making that disclosure must reasonably believe that the matter falls within the description of matters for which the person or body has been prescribed. For example, breaches of health and safety regulations can be brought to the attention of the Health and Safety Executive or appropriate local authority. Environmental dangers might properly be notified to the Environment Agency.

The only additional requirement on the staff member is that they should **act in the public interest**. No other requirement is necessary to qualify for protection.

The Independent Office for Police Conduct cannot investigate a matter without a referral from the force in question so any referral to them will not be investigated without prior contact with the force. They can be contacted at on 08458 770 061 or at enquiries@policeconduct.gov.uk

Other “prescribed persons” include, but are not limited to, the Criminal Cases Review Commission, the Financial Conduct Authority, Health and Safety Executive, the Office of the Police and Crime Commissioner and a number of others listed in *Schedule 1, Public Interest Disclosure (Prescribed Persons) Order 1999.*

Independent advice is available at any stage of the process from the charity *Protect* who can be contacted for free confidential advice on 020 3117 2520 or at <https://protect-advice.org.uk>

**3.3.3.4 To a Legal Adviser**

A qualifying disclosure will be a protected disclosure if it is made to a legal adviser in the course of obtaining legal advice. There are no further conditions attached.

**3.4 Management of Protected Disclosures**

The Detective Chief Inspector responsible for Prevention within the Professional Standards Department is the Single Point of Contact (SPOC) for all protected disclosure or potential protected reports.

Anyone who receives or becomes aware of a protected disclosure will inform the DCI PSD-Prevention at the earliest opportunity. The SPOC will ensure that the disclosure is recorded in PSD and will consider the nature of the wrongdoing alleged.

If the protected disclosure relates to the Professional Standards Department, the disclosure should be made directly to the Deputy Chief Constable.

The DCI PSD Prevention will be responsible for ensuring there is an appropriate Investigative Strategy and Protective Strategy and identifying suitable personnel to manage these two aspects. In certain cases, this responsibility may be held by the Deputy Chief Constable or delegated to another senior officer by the Deputy Chief Constable.

**3.4.1 The Investigative Strategy**

The **Investigative Strategy** will detail how the case will be investigated and will take account of the need to be thorough and proportionate. It may include:

* A Case Action Plan;
* Lines of Enquiry;
* Other strategies, where appropriate, such as media, witness, forensic etc;
* Full and detailed justifications for particular decisions, recorded in a policy book.

**3.4.2 The Protective Strategy**

The **Protective Strategy** will detail the actions and steps that will be taken to ensure the person who has made the disclosure is protected. It will be recorded in a policy book and include details of:

* The appropriate level of inclusion and decision making, e.g., for serious cases a Gold Group with appropriate representation may be considered appropriate;
* How it is intended to consult with and update the person who makes the disclosure;
* The frequency and method of contact;
* Who will be included in the knowledge of the identity of the person making the disclosure?
* What steps will be taken to maintain the covert or confidential nature of the disclosure;
* How the person’s welfare needs will be identified and met, and external support might they need;
* Agreement with the person making the disclosure on the course of action to take, should any perceived detriment occur or be about to occur.

If at any stage it is apparent to the SPOC that the person making the disclosure has suffered or may be about to suffer a detriment, this should be reported immediately to the Head of PSD who will convene an appropriate group to review the protective strategy and address any issues.

**3.5 Settlement Agreements**

The following is an excerpt from the Advice, Conciliation and Arbitration Service (ACAS) Guidance:

“Problems in the workplace are usually best resolved in open conversations, including, as appropriate, through the use of performance management, informal and formal disciplinary or grievance procedures, workplace mediation or ACAS conciliation. However, settlement agreements are also a tool that can be used to deal with workplace problems. Most commonly they are used to help end an employment relationship in a mutually acceptable way”.

Settlement agreements often contain clauses relating to confidentiality whereby the parties agree to keep the agreement itself confidential and not disclose its details to third parties (usually with limited exceptions such as close family members and professional advisers, or an exception that makes it clear that the parties can disclose details where they are required to do so by law). Such confidentiality clauses are voluntary and are a matter for the parties to agree during the course of the settlement discussions.

It is important to note that any part of the agreement which is aimed at keeping the agreement confidential will not prevent the individual from making a protected disclosure under whistleblowing legislation, as any provision which attempts to prevent protected disclosures is unenforceable.

Further information on settlement agreements can be obtained from the [ACAS website](http://www.acas.org.uk/index.aspx?articleid=4395).

**4.0 Equality Impact Assessment**

* [EIA](https://intranet.netr.ecis.police.uk/PolicyDevelopmentCenter/Associated%20Documents/EIA%20C%203015%20Reporting%20Wrongdoing%20-%20March%202022.docx) – March 2022

**5.0 Risk Assessment**

There is no specific risk assessment or health and safety consideration considered relevant to the content of this procedure.

Officers and members of police staff engaged within the process must remain aware that they must follow the procedure correctly otherwise the risk to the organisation of a possible employment tribunal could be raised. A failure to fully adopt the principles set out in this procedure could have a detrimental effect upon the reputation of the organisation*.* Decision making will follow guidance as provided by the National Decision Making Model (NDM) and due regard will be given to the principles and standards contained in the Policing - Code of Ethics.

**6.0 Consultation**

The following have been consulted during the formulation of this document:

* Unison
* Police Federation
* Essex Diversity and Inclusion Manager
* Health & Safety
* Head of Operational Change
* PSD D/Superintendent
* Risk
* Policy
* Superintendents Association
* Strategic Force Crime & Incident Registrar
* DPO/Temp Head of Info Management
* HR
* Support Network
* Legal Dept

**7.0 Monitoring and Review**

The application of this procedure will be monitored by the Head of Professional Standards. The procedure will be reviewed every 2 years.

**8.0 Governing force policy
Related force policies or related procedures (Essex) / linked standard operating procedures (Kent)**

* [C 3000 Policy – Professional Standards](https://intranet.netr.ecis.police.uk/PolicyDevelopmentCenter/PublishedPolicies/Policy%20-%20Professional%20Standards.docx)

**8.1 Data Security**

Essex Police have measures in place to protect the security of your data in accordance with our Information Management Policy – [W 1000 Policy – Information Management](https://intranet.netr.ecis.police.uk/sharedpolicies/SharedPublishedPolicies/Policy%20-%20Information%20Management.docx).

**8.2 Retention & Disposal of Records**

Essex Police will hold data in accordance with our Records Review, Retention & Disposal Policy – [W 1012 Procedure/SOP - Records Review, Retention and Disposal](https://intranet.netr.ecis.police.uk/sharedpolicies/SharedPublishedPolicies/Procedure%20-%20Records%20Review%2C%20Retention%20and%20Disposal.docx).

We will only hold data for as long as necessary for the purposes for which we collected. Victims/public should be reminded that Essex Police take the protection of personal data seriously as described in the privacy notice <https://www.essex.police.uk/hyg/fpnessex/privacy-notice/>.

**9.0 Other source documents, e.g., legislation, Authorised Professional
Practice (APP), Force forms, partnership agreements (if applicable)**

* [EIA](https://intranet.netr.ecis.police.uk/PolicyDevelopmentCenter/Associated%20Documents/EIA%20C%203015%20Reporting%20Wrongdoing%20-%20March%202022.docx) – March 2022

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