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APPENDIX B TO REPORT DSFRA/24/18
DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY

“WHISTLEBLOWING” CODE
(CONFIDENTIAL REPORTING POLICY)

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1. **DEFINITIONS**

1.1. In this Code:

"Chief Fire Officer" is the person duly appointed by the Authority as the executive, operational and administrative head of the Devon and Somerset Fire and Rescue Service and shall include such officers of the Service as the Chief Fire Officer specifically authorises for the purposes of this Scheme of Delegations.

"The Clerk" is that person so appointed by the Authority for the purpose of constitutional and administrative tasks related to the business of the Authority.

"Constituent authorities" means Devon County Council, Somerset County Council, Plymouth City Council and Torbay Borough Council.

"Devon and Somerset Fire and Rescue Authority"("the Authority") is the body corporate constituted in accordance with the "Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006" (as amended) (hereafter referred to as the Order).

"Devon & Somerset Fire & Rescue Service", ("the Service"), comprises all staff employed to ensure that the statutory functions of the Authority are effectively and efficiently discharged;

The "Executive Board" (EB) comprises those Service Directors who, together with the Treasurer to the Authority, set the strategic direction of the Devon & Somerset Fire & Rescue Service ("the Service") and provide the most senior officer level of decision making on strategic planning and policy to deliver the organisation's purpose and vision;

"Member" is any councillor from the constituent authorities duly appointed to serve on the Authority. It also includes any Police & Crime Commissioner and any co-opted Member appointed by the Authority;

"Members' Code" means the Members' Code of Conduct approved by the Authority, as required by the Localism Act 2011 and Regulations made under that Act.

"Monitoring Officer" is that person duly appointed by the Authority to discharge those functions specified in Section 5 of the Local Government and Housing Act and who will have responsibility for providing or procuring appropriate legal advice and assistance to the Authority and its Officers to ensure compliance with all legal, statutory and judicial processes.

"Non-uniformed" means a member of staff whose employment terms are conditioned under the National Joint Council for Local Government Services (the "Green Book").

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"Officer" shall mean all employees of the Authority including uniformed and non-uniformed staff of the Devon & Somerset Fire & Rescue Service.

The "Service Leadership Team" (SLT) comprises those uniformed Area Managers and non-uniformed Heads of Department responsible for the day-to-day running of the Service and making recommendations to the Executive Board on strategic change, based on service delivery and support experience and feedback.

"Treasurer" is that person duly appointed by the Authority with responsibility for the administration of the Authority's financial affairs.

"Uniformed" means a member of staff whose employment terms are conditioned under the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions of Service (the "Grey Book") OR the National Joint Council for Brigade Managers of Fire and Rescue Services Constitution and Scheme and Conditions of Service (the "Gold Book") as appropriate.

2. PREAMBLE

- 2.1. As an employee, you may be the first to suspect there may be something seriously wrong within the Service but may be reluctant to express your concerns because you feel that speaking up would be disloyal either to your colleagues or to the Service as a whole. You may also fear harassment or victimisation. In these circumstances, it may be easier to ignore your concern rather than report what may just be a suspicion of wrongdoing.
- 1.2. The Service is committed to creating a safe, open and transparent workplace culture, where employees are encouraged to raise concerns at the earliest opportunity. It is important to the Service that any fraud, misconduct or wrongdoing by workers or officers of the Service is reported and properly dealt with. The Service is committed to tackling malpractice and wrongdoing. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. If any cases of wrongdoing are upheld they will be seriously dealt with.
- 2.2. In line with that commitment, the Service has adopted this "Whistleblowing" Code (Confidential Reporting Policy) to enable you to report any serious concerns you have about any aspect of the operation of the Service (subject to those conditions set out in paragraph 3.3 below).
- 2.3. The Service encourages staff to use internal mechanisms for reporting malpractice or illegal acts or omissions by employees or ex-employees. Employees will be listened to and serious concerns will be investigated.

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- 2.4. This Code has been discussed with and has the support of the relevant trades unions and professional organisations.
- 2.5. This Code allows staff to take the matter further if they are dissatisfied with the management response and aims to reassure staff that they will be protected from harassment or victimisation from co-workers or from the Service for raising concerns.

3. SCOPE OF THE CODE

3.1. This Code applies statutory protections contained in the Public Interest Disclosure Act 1998 (as amended) (“the Act”). To benefit from the protections offered by the Act and this Code, the concern you raise must comply with the statutory definition of a “protected disclosure”, that is:

- (a) you must **reasonably believe** the disclosure you are making is true;
- (b) the disclosure must be made **in the public interest**; and
- (c) the disclosure must relate to one or more of the six types of wrong-doing as specified in the Act.

3.2. The six types of wrong-doing as specified by the Act are:

- that a criminal offence is being, is likely to be or has been committed;
- that a person is failing, is likely to fail or has failed to comply with a legal obligation to which they are subject;
- that a miscarriage of justice is or is likely to occur, or has occurred;
- that the health and safety of an individual is being, is likely to be or has been endangered;
- that the environment is being, is likely to be or has been damaged; and
- that information tends to show that any issue covered in the above bullet points is being, or is likely to be or has been concealed deliberately.

3.3. Examples of wrongdoing might include (but are not restricted to) :

- unsafe working conditions;
- lack of, or poor, response to a reported safety incident;
- inadequate induction or training for staff;
- suspicions of fraud.

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3.4. It is not necessary for the member of staff to have proof that wrongdoing is being, has been, or is likely to be committed. A reasonable belief is sufficient to disclose the concern. The member of staff has no responsibility for investigating the wrongdoing. It is the Service's responsibility to ensure that an investigation takes place.

3.5. Please note that this Code does **not** cover:

- Issues relating to the quality of a service provided/failure to provide a service, where a separate **COMPLAINTS PROCEDURE** exists (*NOTE* it is more likely that this would be used by a member of the public rather than an employee of the Service);
- Issues solely concerned with your personal position in the Service, where a separate **APPROVED GRIEVANCE PROCEDURE** exists;
- Issues relating to bullying or harassment in the workplace which are subject to a separate procedure;
- Issues relating to allegations of discrimination which are subject to separate policies and statutory provisions;
- Allegations of abuse of children by those who work with children, for which a separate Management of Allegations against Staff guidance document exists;
- Allegations of misconduct by Member for which a separate **CODE OF CONDUCT AND PROCEDURE** exists.

3.6. Provided you are acting genuinely, in good faith and in the public interest, you may raise any issue covered by this Code without fear of victimisation, subsequent discrimination or disadvantage.

3.7. ***This "Whistleblowing" Code is intended to encourage and enable you to raise serious concerns within the organisation rather than overlooking a problem or 'blowing the whistle' outside. Consequently, issues raised under this Code will – as far as is practicable – be treated in the strictest confidence – see Section 6 below.***

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4. APPLICATION OF THE CODE

4.1. This Code applies to all Service personnel (including temporary, casual and agency staff) and those contractors working for the Authority on any Authority premises (e.g. builders, drivers). It also covers suppliers and those providing services under a contract with the Authority. This Code will be drawn to the attention of all persons/organisations the Authority deals with directly on a contractual basis. Similarly, contractors will be required to draw this Code to the attention of any sub-contractors they may employ.

4.2. This Code aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for you to raise those concerns and receive feedback on any action taken;
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
- reassure you that you will be protected from possible reprisals or victimisation *if* you have a reasonable belief that the disclosure you are making is true, that the disclosure is made in the public interest and that you have made any disclosure in good faith.

5. SAFEGUARDS

Protection from Harassment or Victimisation

5.1. The Service is committed to good practice and high standards and wants to be supportive of employees.

5.2. The Service recognises that the decision to report a concern can be a difficult one to make. If you have reasonable grounds for believing that what you are saying is true and you are making the disclosure in good faith and in the public interest, you have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

5.3. The Service will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern genuinely, in good faith and in the public interest.

5.4. Any investigation conducted under this Code will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

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Untrue Allegations

- 5.5. If you make a disclosure in good faith on an issue which you reasonably believe to be true but subsequently this is not confirmed by the investigation, no action will be taken against you.
- 5.6. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

6. CONFIDENTIALITY

- 6.1. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. If, however, a situation arises where it is not possible to resolve a concern without revealing your identity (e.g. because your evidence is needed in court), the Service will discuss with you whether and how it can proceed.
- 6.2. You should also be aware that the Data Protection and Freedom of Information Acts both **require** the Service to disclose certain types of information. This may include disclosure of the fact that a disciplinary investigation is under way and the nature of the allegation.
- 6.3. These Acts **do not require**, however, disclosure of a copy of the letter, envelope or information which could lead to the identification of an informant. This is third party personal data and as such is exempt from disclosure.

7. ANONYMOUS ALLEGATIONS

- 7.1. This Code encourages you to put your name to your allegation whenever possible.
- 7.2. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Service.
- 7.3. In exercising this discretion the factors to be taken into account would include:
 - the seriousness of the issues raised;
 - the credibility of the concern;
 - the likelihood of confirming the allegation from attributable sources;
 - the Authority's best interests; and
 - the protection of the Authority's assets.

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- 7.4. You should also bear in mind that if you do choose to raise a concern anonymously it will be more difficult for this to be investigated and to provide you with feedback.
- 7.5. Please refer also to Section 6 above on confidentiality.

8. HOW TO RAISE A CONCERN

- 8.1. As a first step, you should normally raise concerns with your immediate line manager or their superior who should then alert the Monitoring Officer to the issue. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.
- 8.2. For example, if your concern is about your line manager you may wish to approach directly the officer on the Service Leadership Team with overall day-to-day responsibility for the functional area in which your line manager works. If you suspect that an officer of the Service Leadership Team is involved you may wish to approach one of the officers of the Executive Board. If you suspect that an Executive Board officer is involved you may wish to contact an Authority Member and/or the Devon Audit Partnership (which provides an Internal Audit function for the Authority). Details of how to contact these people are set out in the appendix to this Code.
- 8.3. While concerns may be raised verbally they are best made in writing (including email). You are encouraged, therefore, to make your allegations in writing setting out, in as much detail as possible, the following information:
- the background and history of the concern (giving any appropriate names, places and dates where possible),
 - the reason why you are particularly concerned about the situation.
- 8.4. The earlier you express the concern the easier it is to take action.
- 8.5. Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that you have a reasonable belief in the grounds for your concern. The test for a “reasonable belief” will be an objective test i.e. how would a reasonable person respond to the information available at the time the disclosure was made?

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- 8.6. If you require advice/guidance on the scope and operation of this Code you should, in the first instance, contact either:
- the Monitoring Officer; or
 - the Treasurer to the Authority.

contact details for which are set out in the appendix to this Code.

- 8.7. Alternatively, if you would prefer to seek independent advice/guidance on how to pursue matters of concern you may wish to contact Protect (formerly Public Concern at Work). Protect is a registered charity whose services are free and confidential. Contact details for Protect can be found in the appendix to this Code.

- 8.8. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

- 8.9. You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

9. HOW THE SERVICE WILL RESPOND

- 9.1. The Service will respond to your concerns but please be aware that testing out your concerns is not the same as either accepting or rejecting them.

- 9.2. Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process;
- be referred to the police;
- be referred to the external auditor; or
- form the subject of an independent inquiry.

- 9.3. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The main consideration in reaching this decision will be what best serves the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, discrimination issues; grievances etc.) will normally be referred for consideration under those procedures. In this event, you will be notified accordingly.

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- 9.4. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 9.5. Within ten working days of a concern being raised, the Monitoring Officer (or their designated representative) will write to you:
- acknowledging that the concern has been received;
 - indicating how it is proposed to deal with the matter;
 - giving an estimate of how long it will take to provide a final response;
 - telling you whether any initial enquiries have been made;
 - supplying you with information on staff support mechanisms, and
 - telling you whether further investigation will take place and if not, why not.
- 9.6. The amount of contact between those considering the issues you raise and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from you.
- 9.7. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 9.8. The Service will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Service will arrange for you to receive advice about the procedure.
- 9.9. The Service accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will be informed of the outcome of any investigation.

10. ROLES AND RESPONSIBILITIES

- 10.1. The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. The Monitoring Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Authority.
- 10.2. The Executive Board and the Service Leadership Team have responsibility for demonstrating a commitment to developing an open culture within the Service, through actions and strategy.

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10.3. Line managers have responsibility for:

- ensuring all staff are aware of this Code and their responsibilities under it;
- fostering an open culture within their teams
- ensuring any whistleblower is not subject to detriment; and
- escalating issues and engaging the support of designated officer/s where required.

10.4. Finally, all staff have a duty to report wrongdoing (whistleblow) under the circumstances as set out in Section 3 of this Code.

11. **HOW THE MATTER CAN BE TAKEN FURTHER**

11.1. This policy is intended to provide you with a way within the Service to raise concerns and provide a satisfactory outcome to any concerns raised. If you are dissatisfied, though, and feel it is right to take the matter outside the Service, the following are possible contact points:

- The Devon Audit Partnership (contact details as set out in the Appendix to this Code) (if you believe there has been financial impropriety);
- your Trades Union;
- your local Citizens Advice Bureau;
- One (or more) of prescribed persons and bodies for whistleblowing as shown on the UK government website at www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies;
- a relevant voluntary organisation;
- the police (if you feel a criminal act has been committed); or
- your solicitor.

11.2. If you do decide to take the matter outside the Service you should ensure that, in making your allegation, you do not make public any confidential or sensitive information that it is not necessary to reveal. You may, therefore, wish to seek the advice of a solicitor or someone else from the list of contacts set out in paragraph 11.1 above.

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(CONFIDENTIAL REPORTING POLICY)

CONTACT POINTS

(A) EXECUTIVE BOARD

NAME	POSITION	TEL. NO.	
Gavin Elis	T/Chief Fire Officer	01392 872201	gellis@dsfire.gov.uk
Gerald Taylor	Assistant Chief Fire Officer Director of Service Delivery	01392 872202	gtaylor@dsfire.gov.uk
Nicky Bottomley	T/Assistant Chief Fire Officer Director of Service Delivery - Support	01392 872202	nbottomley@dsfire.gov.uk
Maria Phillips	T/Assistant Director – Corporate Services	01392 872202	mphillips@dsfire.gov.uk

(B) SERVICE LEADERSHIP TEAM

NAME	POSITION	TEL. NO.	E-MAIL
Damien Borlase	Area Manager – Corporate Services	01392 872513	dborlase@dsfire.gov.uk
Paul Compton	Head of Communications and Engagement	01392 872313	pcomptom@dsfire.gov.uk
Daren Cripps	Area Manager – Service Delivery Support	01392 876874	dcripps@dsfire.gov.uk
Andrew Furbear	Head of Finance (Authority Treasurer)	01392 872317	afurbear@dsfire.gov.uk
Chris Howes	Head of Human Resources		chowes@dsfire.gov.uk

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NAME	POSITION	TEL. NO.	E-MAIL
David Lang	Head of Estates	01392 872213	dlang@dsfire.gov.uk
Julie Morgan	Head of Organisational Assurance		jmorgan@dsfire.gov.uk
Vicky Moss-Crump	Head of Data & Digital Services		vmosscrump@dsfire.gov.uk
Mike Porter	Area Manager – Service Delivery (Devon)		mporter@dsfire.gov.uk
Wayne Rawlins	Area Manager – Service Delivery Risk	01392 872391	wrawlins@dsfire.gov.uk
Samantha Sharman	Democratic Services Manager (Authority Clerk & Monitoring Officer)	01392 872393	ssharman@dsfire.gov.uk
Melanie Walsh	Head of Fleet and Procurement	01392 872159	mwalsh@dsfire.gov.uk
Jon Worsley	Area Manager – Service Delivery (Somerset)	01392 872202	jworsley@dsfire.gov.uk

(C) MEMBERS OF THE AUTHORITY

An up to date list of Members of the Authority can be accessed via the Service Intranet and Internet.

Alternatively, details of membership of the Authority can be obtained on request from the Democratic Services Section:-

- Sam Sharman (Authority Clerk and Monitoring Officer)
(ssharman@dsfire.gov.uk; tel: 01392 872393)

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(D) OTHER CONTACT POINTS

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Barrie Morris	Director - Grant Thornton	01173 057600

(E) MORE INFORMATION AND SUPPORT

Protect is the UK's whistleblowing charity that aims to stop harm by encouraging safe whistleblowing. They provide a legal advice service we offering free expert and confidential advice on how best to raise a concern and protection as whistleblower.

<https://protect-advice.org.uk>

Protect Advice Line: whistle@protect-advice.org.uk

Protect Advice Line: 020 3117 2520 (* option 1)

UK government advice on 'Whistleblowing for employees'
www.gov.uk/whistleblowing

Acas guidance on 'Whistle-blowing – Public Interest Disclosure'
<https://archive.acas.org.uk/index.aspx?articleid=1919>