


## REPORT TO AUDIT AND RISK ASSURANCE COMMITTEE

08 November 2018

<b>Subject:</b>	Response from the Crown Prosecution Service
<b>Director:</b>	Director - Monitoring Officer - Surjit Tour
<b>Contribution towards Vision 2030:</b>	
<b>Contact Officer(s):</b>	Peter Farrow Audit and Risk Assurance Services Manager <a href="mailto:Peter_farrow@sandwell.gov.uk">Peter_farrow@sandwell.gov.uk</a>

### DECISION RECOMMENDATIONS

That the Audit and Risk Assurance Committee note the contents of the response from the Crown Prosecution Service and consider any further action.

#### 1 **PURPOSE OF THE REPORT**

- 1.1 At a previous meeting the Audit and Risk Assurance Committee agreed that a letter should be sent to the Home Secretary and Director of Public Prosecutions expressing the Committee's concerns that it was not in the interest of the electorate that legal action, relating to misconduct in public office, should be so difficult to pursue and that that current legislation be reviewed. The Crown Prosecution Service has subsequently responded to this letter.

## **2 IMPLICATIONS FOR SANDWELL'S VISION**

- 2.1 This action supports Ambition 10 of Sandwell's Vision: Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 This relates to the ongoing investigations into allegations of fraud, misconduct and related issues.

## **4 THE CURRENT POSITION**

- 4.1 The response from the Crown Prosecution Service is attached at Appendix A.

## **5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

- 5.1 No consultation is required.

## **6 ALTERNATIVE OPTIONS**

- 6.1 To consider if any further action needs to be taken.

## **7 STRATEGIC RESOURCE IMPLICATIONS**

- 7.1 There are no Strategic Resource Implications.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 The Chair of the Audit and Risk Assurance Committee wrote to the Home Secretary and the Director of Public Prosecutions in order to bring the Committee's concerns to their attention in the hope that the relevant guidance issued to police forces in relation to the threshold criteria for Misconduct in Public Office offences could be reviewed.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 Not required.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

- 10.1 Not required.

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

- 11.1 Not required.

**12 SUSTAINABILITY OF PROPOSALS**

12.1 Not applicable.

**13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

13.1 Not applicable.

**14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

14.1 Not applicable

**15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

15.1 To improve the powers of the Police in relation to Misconduct in Public Office offences by bringing the issue to the attention of both the Home Secretary and the Director of Public Prosecutions.

**16 BACKGROUND PAPERS**

16.1 None

**17 APPENDICES:**

Appendix A – Response from the Crown Prosecution Service

**Surjit Tour**  
**Director – Monitoring Officer**

### Response from the Crown Prosecution Service

Dear Mr Preece,

Thank you for your letter of 27 September 2018.

It may assist if I explain that the Crown Prosecution Service (CPS) and the police are separate authorities. The CPS is responsible for reviewing and, where appropriate, prosecuting most criminal cases in England and Wales following an investigation by the police. The CPS is also responsible for providing legal advice to the police about cases, although we cannot provide legal advice to members of the public.

It is for the police to decide whether or not, or how, they will investigate an allegation that is referred to them. Following an investigation, the police may decide to take no further action. Your letter suggests that your local police force made this decision without referral to the CPS. The CPS has no power to direct them or to insist that a file of evidence is referred to us. The CPS will therefore be unable to consider this case until such a time as it receives a file of evidence from the police.

You may wish to ask the concerned police force if they offer a Victim's Right to Review (VRR) scheme. The Police's VRR scheme relates to the right of a victim of a crime to ask for a review of a decision by the Police not to prosecute. Requests for review of such decisions by the police must be addressed to the relevant Police Force.

I hope that this information is of assistance to you.

Yours sincerely,

Enquiries  
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[www.cps.gov.uk](http://www.cps.gov.uk)