

The Prescribed Persons (Report on Disclosures of Information) Regulations 2017

Whistleblowing: Annual Report 1 April 2019- 31 March 2020

Introduction

The Scottish Environment Protection Agency (SEPA) is designated as a prescribed person for whistleblowing and workers can contact SEPA about matters in relation to acts or omissions which have an actual or potential impact on the environment, or the management or regulation of the environment, including those relating to flood warning systems and pollution.

The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 (the Regulations) require prescribed persons to produce an annual report on whistleblowing disclosures made to them by workers. This report covers the reporting period of 1 April 2019 to 31 March 2020.

Our functions, objectives and statutory powers

Our Statutory Purpose is to protect and improve the environment in ways that, as far as possible, also help create health and well-being benefits and sustainable economic growth. Every day we work to protect and enhance Scotland's environment, helping communities and businesses thrive within the resources of our planet. We call this One Planet Prosperity. We have only one planet but if everyone lived as we do in Scotland, we would need three planets to sustain ourselves.

One Planet Prosperity sets out how we will tackle environmental crime; support businesses in driving up compliance, and help those who want to go beyond compliance to reap the economic and social benefits of environmental excellence.

The other core service we deliver is flooding. To reduce the impact of flooding, we work to avoid new developments in areas of flood risk, protect existing developments from future floods and warn communities and businesses to help them prepare when flooding is likely.

Number of Disclosures

In this reporting period, SEPA received 26 disclosures which were initially identified as whistleblowing matters via its dedicated whistleblowing team and the SEPA contact centre.

Following an initial assessment, it was determined that 3 number of these disclosures did not meet the standard of a qualifying disclosure. These were determined to not meet the standard because they were;

Not made by a worker; 1

Were not sufficiently detailed to be considered a disclosure; 2

Therefore there were 23 disclosures within this reporting period that fell within SEPA's remit and which we considered to be "qualifying disclosures".

Further actions undertaken due to disclosures

Number of disclosures that required further investigation: 23. In some instances there were no evidence of wrongdoing when sites were visited however ongoing monitoring will continue to be undertaken.

Number of enforcement actions taken following evidence of wrongdoing: currently 2. One disclosure resulted in an Enforcement Undertaking¹ being refused with further enforcement

¹ An enforcement undertaking provides an opportunity, primarily to otherwise compliant people or businesses, to remedy non-compliance. The responsible person voluntarily offers to us a solution to non-compliance that provides for:

- the restoration and remediation of environmental harm, where appropriate;
- steps to prevent recurrence;
- the removal of any financial benefit;
- environmental benefits that go beyond the minimum needed to restore the position.

action pending and in the second a s59² notice was issued, the waste was removed with further action is being considered.

In respect of disclosures made towards the end of the reporting period some elements of investigations were delayed due to lockdown and are therefore still ongoing.

The Impact on our work

A number of investigations resulted in useful intelligence information being generated.

Following one disclosure involving Transfrontier Shipment of Waste an application was submitted, once the situation had been explained and before any actual wrongdoing had been committed.

Further work is being undertaken in respect of guidance both externally about how to contact SEPA and internally to staff about how to recognise potential whistleblowing.

It is important to note that an enforcement undertaking is not available for all offences and, even where these are available, we will decide whether or not to accept the undertaking. When considering acceptance, we will consider a number of factors.

² Environmental Protection Act 1990

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<http://contactscotland-bsl.org/>

www.sepa.org.uk

Strathallan House, Castle Business Park, Stirling, FK9 4TZ