



# WHISTLEBLOWING POLICY

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# WHISTLEBLOWING POLICY

## INTRODUCTION

Whistleblowing has been defined as:

**‘the disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employee or his/her fellow employees’**

*(Public Concern at Work Guidelines 1997).*

Statutory protection for employees who whistleblow is provided by the **Public Interest Disclosure Act 1998 (“PIDA”)**. The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns about conduct or practice within the school which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice.

This policy applies to all school staff including full and part time, casual, temporary, substitute staff and to individuals undertaking work experience in the school.

## 1. AIMS AND SCOPE OF POLICY

The governing body is committed to high standards in all aspects of the school and will treat whistleblowing as a serious matter. In line with the governing body’s commitment to openness, probity and accountability, members of staff are encouraged to report concerns which will be taken seriously, investigated and appropriate action taken in response.

This policy aims to:

- give confidence to members of staff about raising concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with school standards and policies so that s/he is encouraged to act on those concerns
- provide members of staff with avenues to raise concerns
- ensure that members of staff receive a response to the concerns they have raised and feedback on any action taken
- offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the PIDA.

This policy covers whistleblowing relating to alleged:

- unlawful conduct
- miscarriages of justice in the conduct of statutory or other processes
- failure to comply with a statutory or legal obligation

- potential maladministration, misconduct or malpractice
- health and safety issues including risks to the public as well as risks to pupils and members of staff
- action that has caused or is likely to cause danger to the environment
- abuse of authority
- unauthorised use of public or other funds
- fraud or corruption
- breaches of financial regulations or policies
- mistreatment of any person
- action that has caused or is likely to cause physical danger to any person or risk serious damage to school property
- sexual, physical or emotional abuse of members of staff or pupils
- unfair discrimination or favouritism
- racist incidents or acts, or racial harassment and
- any attempt to prevent disclosure of any of the issues listed

The PIDA sets out the full statutory rights and obligations of members of staff wishing to whistleblow

## **2. SAFEGUARD AGAINST REPRISAL, HARASSMENT AND VICTIMISATION**

The governing body will not tolerate harassment or victimisation of members of staff when matters are raised in accordance with the PIDA provisions. Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with the whistleblowing policy will be dealt with under the governing body's staff disciplinary procedures.

## **3. CONFIDENTIALITY**

The governing body recognises that members of staff may want to raise concerns in confidence and will do its utmost to protect the identity of members of staff who raise a concern and do not want their name disclosed

However investigation into the concern could reveal the source of the information; and statements may be required from the member of staff as part of the evidence, which would be seen by all parties involved. If the investigation leads to prosecution and the whistleblower is likely to be called in to give evidence in court.

## **4. ANONYMOUS ALLEGATIONS**

Staff should put their name to allegations whenever possible – anonymous concerns are much less powerful. Nonetheless anonymous allegations may be considered under this whistleblowing procedure especially concerns raised relating to the welfare of children. In relation to determining whether an anonymous allegation will be taken forward the governing body will take the following factors into account:

- the seriousness of the issue raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources, and obtaining information provided

## **5. DETERMINE WHETHER THE CONCERN RAISED IS A PROTECTED DISCLOSURE**

Qualifying disclosures are disclosures of information where the staff member reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- a criminal offence (e.g. fraud, corruption, sexual or physical abuse of pupils or others);
- a failure by a person to comply with any legal obligation to which he/she is subject;
- a miscarriage of justice;
- a danger to the health or safety of any individual; damage to the environment, or
- a deliberate attempt to conceal any of the above matters.

Following disclosure of one of the above matters, the person receiving the disclosure must determine whether it is a 'qualifying disclosure' under the Act, by considering the following:

- whether any factual information was actually disclosed, as opposed to opinion only, to the employer (or relevant person);
- whether the individual making the disclosure believed that the information tended to show that one of the matters above has occurred, is occurring or is likely to occur; and
- whether that belief was reasonable.

If the above criteria are met, the disclosure will qualify as a protected disclosure, and the remainder of this procedure will apply. If the criteria are not all met but the staff member's disclosure was made in good faith, investigations should still take place into the allegations and the staff member should not be discriminated against because they have raised such an allegation.

## **6. UNTRUE AND MALICIOUS/VEXATIOUS ALLEGATIONS**

If a member of staff makes an allegation in good faith but it is not confirmed by further inquiry the matter will be closed and no further action taken. If, however, the inquiry shows that untrue allegations were malicious and/or vexatious or made for personal gain then the governing body will consider taking disciplinary action against the member of staff.

## **7. ALLEGATIONS CONCERNING CHILD PROTECTION ISSUES**

If a member of staff raises a concern related to a child protection issue, the Executive Principal (or Chair or Vice Chair of Governors if the concern is about the Executive Principal) should urgently consult the Local Authority Designated Officer (LADO). However, in relation to child protection issues, it is open to the member of staff to make a direct referral to the social services designated manager either before raising their concern with the governing body or where the Executive Principal or Chair/Vice Chair of Governors fails to do so after raising their concern and the member of staff remains concerned about the situation.

## **8. PROCEDURE FOR MAKING A WHISTLEBLOWING ALLEGATION**

Concerns should be expressed in writing to the Executive Principal. If the concern involves the Executive Principal then the Chair or Vice Chair of Governors should be the first point of contact. It is expected that the person receiving the allegation will become the investigating officer. However, it is at the discretion of this person to delegate the investigation to another person if they feel this is appropriate.

If you feel you cannot express your concerns within the school, it is open to you to raise your concern with someone outside the school setting from the list of organisations in the section of this policy 'Taking the Matter Further'. However, it would usually be expected that the Chief Education Officer would be the person to whom you express your concerns outside of the school.

Where the concern relates to a child protection matter, if you do not want to raise this through the school, you must consult the Local Authority Designated Officer (LADO). If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.

Your concern should be in writing for the avoidance of doubt. You should set out the background and history of the concern; giving names, dates and places where possible, and explaining the reason for your concerns. If you feel unable to put the matter in writing you can still raise your concern verbally and should telephone or arrange to meet the appropriate person. You can also ask your trade union or professional association to raise the matter on your behalf or to support you in raising the concern.

## **9. RESPONSE TO WHISTLEBLOWING**

The matter raised may:

- need inquiry internally in the school
- need to be passed to the Police if it relates to alleged criminal activity
- need to be passed to the person in the LEA who deals with complaints about financial management or financial propriety in schools.
- need to be referred to the LEA officer designated to lead on child protection if there is a concern relating to child protection, or if that person is not available the local authority's designated social services manager for child protection.

At this stage concerns/allegations are neither accepted nor rejected.

## **10. TIMESCALE FOR RESPONSE**

You will normally receive a written response within five school days (except in the case of anonymous allegations):

- 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
- advising whether any enquiries have been made
- advising whether further enquiries will take place
- informing you of support available whilst matters are looked into, and
- maintaining confidentiality wherever possible, but also explaining that it may not be possible that you can remain anonymous.

## 11.THE INQUIRY PROCESS

The investigation officer will:

- look into the allegation - seeking evidence and interviewing witnesses as necessary.
- maintain confidentiality wherever possible but will be mindful that there is no guarantee that the whistleblower can remain anonymous.
- if appropriate, bring the matter to the attention of the LA person dealing with complaints about financial management of schools.
- if appropriate, for concerns of criminal behaviour refer the matter to the Police.
- if appropriate, for concerns of child protection, refer the matter to the LA officer designated to lead on child protection/local authority social services designated manager for child protection. The whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.

If the investigating officer needs to talk to you, you are permitted to be accompanied by a trade union or professional association representative or a fellow member of staff not involved in the area of work to which the concern relates.

The target is to complete the inquiry within 15 school days from the date of the initial written response, although the enquiry may extend beyond this timescale.

## 12.THE INQUIRY REPORT

Following completion of the inquiry process the investigating officer will make a written report and if necessary action will be taken. This may result in a trigger for the grievance and/or disciplinary procedure to be implemented against the person reported. The whistleblower will also be notified of the outcome. The report will not contain the whistleblower's name unless you have expressly stated that you wish to be named. The report will also not include confidential details about formal action taken against another staff member.

If the investigation was carried out by a person other than the Executive Principal or Chair of Governors the written report must be submitted to the Executive Principal and Chair of Governors to determine what further action (if any) is required. When considering further actions, the Executive Principal and Chair of Governors **must** act on any recommendations made in the report. If the Executive Principal and Chair of Governors cannot agree on further actions, a panel of three governors (excluding the Executive Principal, Chair of Governors and any governors employed at the school) will be convened to consider the report and agreed further actions.

Following completion of the investigation, and any actions arising from the investigation, a copy of the report (anonymised) will be made available to all governors.

### **13. TAKING THE MATTER FURTHER**

If no action is to be taken and/or you are not satisfied with the way the matter has been dealt with, you can make a complaint under the governing body's complaints procedure or raise your concerns with other organisations as listed below:

- the local authority
- a relevant professional body or regulatory organisation
- a solicitor
- the Police - for concerns of criminal behaviour
- a trade union or professional association
- "Protect" Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Telephone 0207 404 6609 or [www.pcaw.co.uk](http://www.pcaw.co.uk)).

Staff who are dissatisfied after having raised concerns can also raise their concerns, as appropriate, with any of the following, subject to the concern being a protected disclosure

- A local Member of Parliament;
- A relevant professional body or inspectorate (e.g. Ofsted or Health & Safety Executive);
- A 'prescribed person' as designated by the Act, a full list of whom can be found on the Gov.uk website under "Whistleblowing: list of prescribed people and bodies".

Staff can only make a disclosure to a prescribed person if they:

- Make the disclosure in good faith;
- Reasonably believe the information is substantially true;
- Reasonably believe they are disclosing the issue to the appropriate person or body (e.g. Health and Safety issues to the HSE).

In taking their concern outside of the school, staff must ensure that, as far as possible, the matter is raised without personal information relating to other staff, or confidential information about unrelated matters, being disclosed. A staff member who approaches an accredited legal advice centre, e.g. Protect (formerly known as Public Concern at Work, 020 3117 2520 or <https://protect-advice.org.uk>) or Citizens Advice Bureau, must not breach the duty of confidence in this procedure to the Governing Body.

### **14. FAILURE TO FOLLOW THIS PROCEDURE**

Any staff member who unreasonably and without justification raises such issues on a wider basis, such as with the press, without following the steps and advice in this procedure may be liable to disciplinary action.