



Whistleblowing Policy

Member of Staff Responsible	Alison Alp
Regularity of Review	Every 2 years
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1. Rationale

This procedure has been designed to operate in accordance with the provisions of the Public Interest Disclosure Act 1998, incorporated into the Employment Rights Act 1996 and amended by the Enterprise and Regulatory Reform Act 2013, which gives protection to people who disclose reasonable concerns about serious misconduct or malpractice at work. This is sometimes known as *whistleblowing*.

The procedure applies to all staff in the school and is intended to encourage staff to raise concerns within the school as a first priority, rather than make a wider disclosure outside of the school.

2. Definitions

(a) Allegations:

An allegation, in the context of the statutory obligations, relates to any individual who works or volunteers in any capacity with children and where it is suspected that this person has (or may have):

- Behaved in a way that has harmed a child, or may have hurt a child
- Possibly committed a criminal offence against or related to a child
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children

In all cases where the concern about an individual falls into one of the categories above this will be considered to be an allegation, if it relates to a child, i.e. an individual who has not yet attained the age of 18. In all such cases the allegation must be reported to the Local Authority Designated Officer (LADO) as soon as possible, and always within 24 hours. Under no circumstances should the school carry out any investigation or take any action until the matter has been referred to the LADO.

(b) Complaints:

Complaints are generally expressions of dissatisfaction that relate to:

- The delivery of a service by a team or individual; and/or
- Procedures and policies; and/or
- The way procedures and policies have been implemented by any team, team member or organisation.

When you complain, normally you are saying that you have personally been poorly treated or otherwise suffered harm as a consequence of another person's alleged wrongdoing. The school has a separate complaints policy and all complaints should be addressed by following that policy. Where there is no indication that the complaint relates to harm or potential harm to a child, there is no need to refer to the LADO.

(c) Grievances:

A grievance arises when an employee has a dispute with the organisation about their own employment position. The school has a separate grievance policy and all grievances should be addressed by following that policy.

(d) Concerns:

The term 'concerns' will be used in this policy to refer to all matters of concern that do not meet the definitions of allegations, complaints and grievances set out above.

2. Principles

The Head Teachers of the school will treat all matters of malpractice very seriously and responsible allegations about such matters will be dealt with quickly, seriously and with appropriate confidentiality.

In order to meet the requirements of the Act, in addition to staff in schools, the procedure is applicable to students on placements, volunteers, visitors, contractors and suppliers operating under contract to the school. The term "employees" in this procedure is intended to cover all of these categories of people.

This procedure should not be confused with other existing procedures such as the Complaints Procedure and Grievance Procedure. Therefore, any matter which is more appropriately covered by those procedures is excluded from being considered under the whistleblowing procedure.

Examples of the type of issue that would fall within the scope of this procedure are:

- Allegations that a child has been harmed, or may have been harmed
- Concern that a criminal offence has been committed, is being committed, or is likely to be committed (other than harm to a child)
- Concerns about risks to the health and safety of people
- Concerns about damage to the environment
- Concerns about fraud, corruption or other unethical conduct of a serious nature
- Concerns that information relating to any of the above has been, is being, or is likely to be concealed

The procedure gives protection to people who, in good faith, make such a disclosure, from victimisation, discrimination or disadvantage. It also ensures employees receive an appropriate response to their disclosure and are aware of how they may pursue the matter outside of the school if this response is not satisfactory. It is acknowledged that there are some circumstances in which there may be a statutory requirement to report information to an external agency, such as the police.

Disclosures made under this procedure are likely to be of a sensitive nature and all parties should preserve confidentiality at all times.

3. Practice

Representation

Employees are entitled to representation by a representative or a 'work colleague', who will normally be another employee, at any meetings or interviews that are held in relation to the disclosure made. Employees should specify that they are making a disclosure under this procedure.

The individual manager hearing the disclosure is encouraged to take advice from an appropriate service that the school subscribes to, such as the school's external and/or legal advisors.

4. Time limits

There are no time limits on raising concerns under this procedure, but they should be raised at the earliest practicable opportunity, since delays in making a disclosure may prevent a full investigation from taking place. Where time limits are included within this procedure, they are there to ensure that disclosures are dealt with as quickly as possible, and to ensure that there is a prompt initial response from management.

The investigation that takes place after a disclosure is made is not time-limited but will be conducted as quickly as possible within the circumstances of the disclosure.

4. Unfounded allegations and concerns

If an allegation is found to be unfounded, i.e. no evidence or proper basis that supports the allegation being made, but the employee has made the allegation in good faith; no action will be taken against the employee. However, employees who make allegations maliciously, frivolously or for personal gain may face disciplinary action.

- **Unsubstantiated**: An unsubstantiated allegation means that there is insufficient identifiable evidence to prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
- **False**: An allegation is described as 'false' if there is sufficient evidence to disprove the allegation. Care should be taken in dealing with such allegations as some facts may not be wholly untrue. Some parts of an allegation may have been fabricated or exaggerated but elements may be based on truth.
- **Malicious**: The term 'malicious' means that a false allegation has been made with a deliberate intent to deceive or cause harm. For an allegation to be classified as malicious, it will be necessary to have evidence to prove the intention to cause harm.

6. Model Procedure

Step 1 - Raising a concern

In the first instance, concerns under this procedure should be raised with the Head Teachers, who should then deal with the problem as quickly as possible. The exception is allegations that a child has been harmed or may have been harmed by a member of staff or volunteer. Such allegations should be reported immediately to the Designated Safeguarding Officer, who must report the matter to the Local Authority Designated Officer as soon as possible and always within 24 hours. If the allegation is against the DSO or the Head Teachers, the employee making the allegation may contact the Chair of the Governors' Advisory Board.

Within ten working days of a concern being raised or an allegation being made, Head Teachers or Governance Advisory Board members hearing the concern will write to the employee to acknowledge that the concern or allegation has been received. They should also indicate what initial steps they intend to take to deal with the matter and, where possible, provide an estimate of the time it will take to provide a final response.

Concerns or allegations should be submitted in writing. These disclosures should provide as much information as possible about the matter, including dates, individuals involved, other possible sources of information, etc. Employees must be able to demonstrate that there are reasonable grounds for making the disclosure.

Although employees who wish to make an anonymous disclosure may do so, it may be important for the investigating manager to know the source of the information for a full and appropriate investigation to be possible. Furthermore, the Head Teacher would need to take into account the nature and credibility of a disclosure before deciding whether to proceed with an investigation. However, employees should be re-assured that all disclosures will be treated in confidence and every effort will be made to preserve anonymity. The Act provides protection against victimisation of anyone who makes a protected disclosure in good faith.

Step 2 – Determine whether it is a Protected Disclosure

Following a disclosure made under this procedure, the person who has received the concern must determine whether the disclosure is a 'qualifying disclosure' under the Act, by considering the following:

- Whether any information was actually disclosed, as opposed to opinion only, to the employer (or relevant person);
- Whether the employee believed that the information tended to show that one of the matters in the Act has occurred, is occurring or is likely to occur (see below);
- Whether that belief was reasonable;
- Whether the disclosure is in the public interest.

The following is a list from the Act showing qualifying disclosures, which, if a person discloses them having reasonable belief of their validity, would be a protected disclosure under the Act.

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

If the above criteria are met, the disclosure will qualify as a protected disclosure, and the following procedure will apply.

If the criteria are not all met, the disclosure will not meet the conditions of the Act, but if the employee's disclosure was made in good faith, investigations should still take place into the allegations or concerns, and the employee should not be discriminated against because they have made such a disclosure. If it is found that the disclosure was made for malicious purposes or for personal gain, the school should deal with this under the disciplinary procedure.

Step 3 - Investigation

A preliminary investigation will need to be undertaken to establish whether the incident in question could actually have occurred, be occurring or be likely to occur in the future. The investigation is not, at this stage, to determine whether the allegation has actually occurred, but to determine the facts of the case (e.g. was the alleged individual actually where they were purported to be, what does the evidence show).

Allegations or concerns that have some foundation to them should be followed up with a full internal investigation, which may result in one or more of the following:

- No case to answer
- Disciplinary action taken against the individual in question
- Referral to Social Services or the Police, or other relevant organisation

If the allegations or concerns are found to be false (can be disproven), or unsubstantiated (can neither be proven nor disproven), no action need be taken by the school. In this case, it would

be pertinent to determine why the employee felt the need to raise the allegations or concerns, in the first place, e.g. is there a training need within the school?

If it is found that the allegation was made or the concern raised for malicious purposes or for personal gain, the school should deal with this under the disciplinary procedure.

Step 4 - Communication

Subject to legal constraints and the need to protect the rights of individuals, the employee making the allegation or raising the concern will be informed of the outcome of any investigation at the earliest practicable opportunity, to reassure them that appropriate action has been taken. Such information will not include confidential details about formal action taken against another employee.

For reasons of sensitivity and confidentiality, all communications with an employee who takes action under this procedure will be sent to their home address, unless an alternative arrangement has been mutually agreed.

Step 5 - Taking the matter further

In the event that an employee feels that their concerns have not been resolved through the above process, they may write to the Chair of the Governance Advisory Board (if they have not already been involved), outlining the concern or allegation, the action taken to date and the reasons for their dissatisfaction.

Within 10 working days of a concern being raised, the Governance Advisory Board will write to the employee to acknowledge that the concern has been received and indicate what steps will be taken to deal with the matter, as well as providing an estimate of the time it will take to provide a final response. The Board will then inform the employee of the outcome of this process on the same basis as required of the manager above.

In the event that the matter cannot be satisfactorily resolved within the school, the employee may escalate their concerns further – **subject to the concern qualifying as a protected disclosure (see step 2)** - with any of the following:

- 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 'prescribed persons' can be found here:
- www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowingintheworkplace/DG_175821 - under 'Blowing the whistle to a prescribed person'.

Employees 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

In taking their concern outside of the school, employees must ensure that, as far as possible, the matter is raised without personal information relating to other employees, or confidential information about unrelated matters, being disclosed. An employee who approaches an accredited legal advice centre, e.g. Public Concern at Work (0207 404 6609 or www.pcaw.org.uk) or Citizens Advice Bureau, must not breach the duty of confidence in this procedure to the Governance Advisory Board.

For reasons of sensitivity and confidentiality, all communications with an employee who takes action under this procedure will be sent to their home address, unless an alternative arrangement has been mutually agreed.

8. Failure to follow this procedure

Any employee 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.

All staff will be given refresher training on this policy annually at the start of the academic year. New starters after this will receive training as part of the induction process.

9. Monitoring of Policy and Practice

The effectiveness of this policy and its procedures will be monitored by the Head Teachers after each case that has been brought to their attention and its effectiveness will be reported to the Governance Advisory Board.