

# Guidance for Schools

## Confidential Reporting (Whistleblowing) Policy

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# CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY SCHOOLS

## WHISTLEBLOWING POLICY AND PROCEDURE

### 1. Introduction

- 1.1. This policy applies to anyone working for or on behalf of the school or Council, including employees, governors, casual workers, supply staff agency and trainee teachers, councillors or statutory officer holders.
- 1.2. People working within organisations are often the first to realise that there may be something seriously wrong in the place in which they work. The school is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we encourage employees and others working at or for the school who have serious concerns about any aspect of the school or Council's work to come forward and voice those concerns.
- 1.3. The governing body is responsible for ensuring the operation of this policy with regard to matters relating to this school. The governing body will work in partnership with the Local Authority in dealing with concerns about malpractice and will immediately contact the Local Authority on receiving such information.
- 1.4. The County Council Chief Executive and the Monitoring Officer have overall responsibility for the maintenance and operation of this policy throughout the County Council. Their role is to ensure that matters are investigated properly and to maintain a record of concerns raised together with outcomes and they will report as necessary to the County Council without jeopardising confidentiality.

### 2. Background

- 2.1. The law (Employment Rights Act 1996, Public Interest Disclosure Act 1998, Enterprise and Regulatory Reform Act 2013) provides protection for workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety of pupils, members of the public as well as other employees;
- an act causing damage to the environment;
- possible fraud and/or corruption;
- sexual or physical abuse or harassment of pupils or other workers;
- any concern over the welfare of pupils or workers;
- a breach of any other legal obligation;
- concealment of any of the above; or
- other unethical conduct;

is being, has been, or is likely to be, committed. It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter - it is the school or Council's responsibility to ensure that an investigation takes place.

- 2.2. A worker who makes such a protected disclosure (see paragraph 2.1) has the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. This includes detrimental treatment, bullying or harassment from other employees.
- 2.3. The school encourages workers to raise their concerns under this procedure in the first instance. If, having read this policy, you are uncertain about whether it is the appropriate policy or how to proceed, please feel free to seek informal advice from Children's Services Human Resources on 01905 766188.

### **3. Guiding Principles**

- 3.1. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Workers should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- 3.2. No worker will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future career progression or training of the worker will not be prejudiced because they have raised a legitimate concern.
- 3.3. Victimisation of a worker for raising a qualified disclosure will be considered a disciplinary matter and dealt with accordingly.
- 3.4. If misconduct is discovered as a result of any investigation under this procedure, the school's disciplinary procedure may be invoked (in addition to any appropriate external measures).
- 3.5. Maliciously making a false allegation will be considered a disciplinary matter. If the individual is a contractor, supplier or is employed by another organisation but working on behalf of the school or Council and they make an allegation maliciously or for personal gain, this may result in them being removed from the approved list of contractors or the school or Council may discontinue using their services.
- 3.6. An instruction to cover up wrongdoing is in itself a disciplinary matter. If told not to raise or pursue any concern, even by a person in authority, you should not agree to remain silent. You should report the matter in accordance with section 4 of this policy.
- 3.7. This procedure is not designed to be a substitute for the school disciplinary, grievance and harassment procedures. If you have a concern unrelated to malpractice, please use the school's Grievance and Harassment Policy, copies of which are available from your Headteacher or from Children's Services Human Resources.
- 3.8. This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If you are concerned that your own contract has been, or is likely to be, breached, you should use the school's Grievance and Harassment Procedures.

#### **4. How to Raise a Concern**

##### Step 1

- 4.1. If you have a concern about malpractice, the governing body hopes that you will be able to raise the matter with your Headteacher. If your concern is related to a child protection issue, you must follow the school's Child Protection Policy.
- 4.2. Concerns may be raised verbally and/or in writing. If you wish to make a written report you are advised to include in your letter, the background and history (giving relevant dates) and give the reason why you are particularly concerned about the matter. You may also wish to seek advice from your trade union representative (if applicable) at this stage.
- 4.3. If you are personally involved in the matter you raise, you must state this from the outset. You may invite your trade union, a member of staff from Human Resources or a work colleague to be present during any meetings or interviews (which may be arranged away from your normal workplace if you so wish) in connection with the concerns you have raised.
- 4.4. However, if you feel unable to raise the matter with your Headteacher due to the seriousness and sensitivity of the issues involved, or if you believe that he/she may be involved, you should speak to the Chair of Governors or another governor. Alternatively you may wish to contact an officer of the Local Authority (either Children's Services Human Resources or the School Improvement Adviser).
- 4.5. Where appropriate the Headteacher, governor or LA officer will refer the matter to another County Council officer for example if you have a concern about any financial loss or irregularity this would be raised with the Senior Manager: Audit & Assurance. If your concern relates to either the conduct of a County Councillor or to the working relationship between an officer and a County Councillor, this may be raised with the Head of Legal & Democratic Services or Chairman of the County Council Standards and Ethics Committee.

##### Step 2

- 4.6. If you have followed these channels and you still have concerns or you feel you are unable to discuss the matter with any of the individuals listed in Step 1 you may wish to raise the matter with the Director of Children's Services or alternatively please contact the Monitoring Officer who is the Head of Legal & Democratic Services.
- 4.7. If the concern is related to child protection, you may wish to raise it with the Senior Adviser Safeguarding Children in Education on 01905 728902 or with Children's Services Access Centre on 01905 768054.
- 4.8. The school or County Council will respond promptly to your concerns by assessing what action ought to be taken. This may involve an internal investigation or a more formal inquiry. You will be told who is handling the matter (the Responsible Officer), how you can contact them and whether any more assistance from you will be required. In normal circumstances, the Responsible Officer will write to you acknowledging that your concern has been received within 7 working days of the concern being raised. The letter will also inform you of any relevant staff support mechanisms and agree arrangements for keeping you informed.

- 4.9. Some concerns may be resolved by agreed action without the need for an investigation. If urgent action is required this may be taken before any investigation is conducted.
- 4.10. Thereafter, the Responsible Officer will keep you informed of progress and the outcome of any investigations or decisions on the matter including the content of any reports written.
- 4.11. The school or Council 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 Council will arrange for you to receive advice about the procedure.

#### Step 3 - Raising a Concern Externally

- 4.12. While we hope that this Policy gives you the confidence to raise your concern with your school management team, the governing body or the County Council, we would prefer that you raised your concern with the proper external regulator rather than not at all. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:
- HM Revenue & Customs;
  - the Financial Services Authority;
  - the Office of Fair Trading;
  - the Health & Safety Executive;
  - the Environment Agency;
  - the Audit Commission;
  - the Information Commission;
  - the Commission for Social Care Inspection;
  - the Pensions Regulator;
  - the General Social Care Council;
  - the Standards Board of England;
  - the Director of Public Prosecutions; and
  - the Serious Fraud Office.
- 4.13. A worker can make a disclosure (and still retain protection under the Employment Rights Act 1996) to a non-prescribed person (for example the police, Ofsted or the Department for Education) if certain conditions are met, namely: the worker reasonably believes the information is substantially true; the worker is not making the disclosure for personal gain; and, in all the circumstances, it is reasonable for the worker to make the disclosure. The worker must also: reasonably believe that he or she would be subject to a detriment by the employer if he or she made the disclosure directly to the employer or a prescribed person; reasonably believe that the employer would conceal or destroy evidence if the disclosure were put directly; or have previously made the same disclosure to the employer or a prescribed person to no avail.
- 4.14. You are strongly advised to seek independent advice before you raise any issue outside of the school or County Council. A list of contacts is given in the section below entitled Further Advice.

## **5. Confidentiality**

- 5.1. The County Council undertakes to protect your identity and we will not disclose it without your consent. If the situation arises where it is not possible to pursue your concern without revealing your identity (e.g. the need to give evidence in court or at a disciplinary hearing), we will discuss with you how and if we can proceed.

## **6. The Role of the Trade Unions**

- 6.1. County Council trade unions are committed to the effective use of this policy. If you are considering raising concerns using this procedure you may wish to seek advice from your trade union representative (if applicable) before doing so, particularly if you believe that the only course of action open to you is to raise your concern with an external body (see paragraphs 4.11 and 4.12).

## **7. Further Advice**

- 7.1. You may of course seek advice from any of the Council's officers listed below by telephoning the County Council main switchboard on 01905 763763:
- The Chief Executive;
  - Director of Resources;
  - Monitoring Officer (the Head of Legal & Democratic Services);
  - Senior Manager: Audit & Assurance;
  - Corporate Health & Safety Manager.

You may also wish to contact Children's Services Human resources at County Hall on 01905 766188.

- 7.2. However, if you want independent advice at any time you may contact your trade union (if applicable) or the independent charity, [Public Concern at Work](#) on 020 7404 6609. They provide independent and confidential advice to workers who are unsure whether or how to raise a public interest concern.