

Whistleblowing Policy

Policy approval date	**April 2018**
Policy review date	**April 2020**
Policy Lead	**Ian Hawkins (Headteacher)**
Governor or SLT approval	**SLT Approval**
Governor committee responsible for policy	**Personnel**

This policy was adapted from the model policy from Herts for Learning dated April 2018. The model policy was negotiated with the relevant professional associations and trade unions and is recommended for adoption

1. Introduction

This policy and procedure applies to all employees (which throughout this policy and procedure includes workers as defined and extended by the Employment Rights Act 1996) and governors.

It is important to the school that any fraud, misconduct or wrongdoing by employees or governors of the school is reported and properly dealt with. The governing body will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the school, **which are in the public interest**. This policy and procedure sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

1.1 The school expects the highest standards of conduct from all employees and governors and will treat seriously any concern raised about illegal or improper conduct

1.2 Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Headteacher (or the chair of governors if the concerns relate to the Headteacher) any serious impropriety or breach of procedure.

1.3 Employees who do not follow the steps identified in this procedure or other agreed internal procedures, and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation

1.4 This policy does not form part of any employee's contract of employment and it may be amended at any time. The school may also vary any time limits as appropriate in any case

2. Background

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by the employee who has a reasonable belief that:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach of any legal obligation
- a concealment of any of the above

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

2.1 Where the concerns are about **safeguarding children or young people**, the school's designated senior person for Child Protection must be notified (see 7 below).

2.2 It is a procedure in which the Headteacher or chair of governors will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the school's disciplinary procedure

2.3 Concern about a colleague's professional capability should **not** be dealt with using this policy (but see section 7 below).

3. When should it be used?

This policy and procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, breached he/she should use the school's grievance procedure.

Where a disclosure is merely an expression of opinion or a generalised allegation that fails to show that one of the six categories of wrongdoing has been or is likely to occur, it **cannot** amount to a protected or qualifying disclosure for the purposes of the whistleblowing legislation.

A qualifying disclosure means any disclosure of information that in the reasonable belief of the worker is made in the public interest.

3.1 This policy and procedure is not designed to replace or be used as an alternative to the school's grievance procedure, which should be used where an employee is only aggrieved about their own situation. This policy and procedure will also not apply where the employee simply disagrees with the way the school is run

3.2 Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour

3.3 An employee who makes such a protected disclosure has the right not to be subjected to detrimental treatment which includes, dismissal, disciplinary action, threats or other unfavourable treatment, because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this policy and procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns

3.4 An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed should contact their professional association/trade union or Public Concern at Work, an independent charity who offer a confidential helpline. Their contact details are at the end of this policy.

3.5 Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to Internal Audit for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Headteacher or chair of governors (but see section 5), who will in turn report it to Internal Audit.

Similar principles apply to academies where the Funding Agency must be informed.

4. Principles

4.1 Any matter raised under this policy and procedure will be investigated thoroughly, promptly and confidentially. Whilst the school will aim to keep the employee informed of the progress of the investigation and likely timescales sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed

4.2 No employee will be victimised for raising a matter under this policy. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern

4.3 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence

4.4 If misconduct is discovered as a result of any investigation under this policy the matter will be considered under the school's disciplinary procedure, in addition to any appropriate external measures

4.5 Maliciously making a false allegation is a disciplinary offence

4.6 An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent

5. Procedure

5.1 In the first instance, unless the employee reasonably believes their Headteacher to be involved in the wrongdoing, in which case concerns should be raised with the chair of governors, any concerns should be raised with the employee's Headteacher.

5.2 The Headteacher/chair of governors will arrange an investigation into the matter (either by investigating the matter himself/herself or immediately passing the issue to someone in a senior position or external to the organisation). The investigation may involve the employee and others involved giving written statements. Any investigation will be carried out in accordance with the principles set out above.

Employees who want to use the procedure but feel uneasy about it may wish to consult their professional association/trade union initially and bring a colleague professional association/trade union representative along to any discussions. This is permitted as long as the third party is not involved in the issue

Employees are not encouraged to make disclosures anonymously. Proper investigation may be more difficult or impossible if further information cannot be obtained from the employee. It is also more difficult to establish whether any allegations are credible.

Employees who are concerned about possible reprisals if their identity is revealed should come forward to one of the contacts listed in section 8 of this policy and appropriate measures can be taken to preserve confidentiality although no guarantee can be given that this will always be possible

5.3 The Headteacher (or the person who carried out the investigation) will then report to the chair of governors/governing body who will take the necessary action, including reporting the matter to any appropriate department or regulatory agency. If disciplinary action is required this will be taken forward by the Headteacher/chair of governors/governing body in consultation with the School's HR advisory team. On conclusion of any investigation, the employee will be told the outcome of the investigation and what the next steps will be (subject to issues of confidentiality). If no action is to be taken the reason for this will be explained.

The aim of this policy and procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the school. In most cases employees should not find it necessary to alert anyone externally and employees are strongly advised to seek advice before reporting a concern in this way. Employees who feel unable to follow this internal route, for whatever reason, have the option of contacting a prescribed person and the Public Interest Disclosure (Prescribed Persons) Order 2014 lists the prescribed persons and the matters within their remit. For education issues this is likely to include Her Majesty's Chief Inspector of Children's services and skills, the Secretary of State for Education and the Office of Qualifications and Examinations Regulator. A full list can be obtained from the charity, Public Concern or the BEIS website.

6. What should be done if an issue is raised with a member of staff?

6.1 If a member of staff, other than the Headteacher, is approached by a colleague on a matter of concern as defined in this document, he/she is advised to take the matter to the Headteacher (but see 5).

7. Safeguarding children and young people

7.1 Separate to the obligations under this policy, all employees have a duty to report concerns about the safety and welfare of pupils/students

7.2 Concerns about any of the following should be reported to the school's designated senior person for Child Protection (DSP):

- physical abuse of a pupil/student
- sexual abuse of a pupil/student
- emotional abuse of a pupil/student
- neglect of a pupil/student
- an intimate or improper relationship between an adult and a pupil/student

7.3 The reason for the concern may be the actions of a colleague (including a more senior colleague), a governor, another pupil/student or someone outside the school. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself, a disciplinary matter.

Generally

The legislation protecting individuals who makes a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

Section 43J of the Employment Rights Act 1996 provides that a settlement agreement made between an employee and employer cannot prevent future protected disclosures.

Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.

8. Contacts

Herts HR (HCC)
Assistant Director
Tel: 01992 556653

Legal, Member & Statutory Services
Chief Legal Officer
Tel: 01992 555527

County Internal Audit
Head of Assurance Services
Tel: 01438 845502

Or via your professional association or trade union representative.

Or the independent whistleblowing charity Public Concern at Work;
Helpline (020) 7404 6609
E-mail: whistle@pcaw.co.uk