Juniper

MODEL POLICY

HR



Whistleblowing Policy

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Changes to previous edition

1.1	Inclusion of sexual harassment as a protected disclosure

Contents

1. Introduction 3
2. Raising concerns/making a disclosure 4
3. Other issues.....6
4. Protecting ‘whistle-blowers’ 6
5. Malicious allegations/disclosures 6
6. Data Protection 7

Introduction

It is important to the board that any suspected fraud, misconduct, malpractice or wrongdoing by workers or employees of the school is reported and properly dealt with. The board is committed to creating an open and supportive environment where individuals feel able to “speak up” about any genuine concerns regarding the alleged wrongful conduct of the employer, or about the conduct of a fellow employee, or any third party.

This policy sets out the framework for how issues can be raised confidentially internally, and/or if necessary, outside the management structure of the school to a prescribed body (see 2.1 below). All disclosures will be handled consistently and fairly and appropriate action will be taken by the school to resolve the issue in line with this policy.

This policy applies to all employees and Governors/Trustees of the school. Volunteers and other individuals engaged to work at or provide services to the school, including agency workers and contractors, are encouraged to use it where appropriate.

1.1 The law (Public Interest Disclosure Act 1998) provides protection for employees or workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by an employee or worker who has a reasonable belief that there has been or is likely to be:

- a breach of any legal obligation;
- a miscarriage of justice;
- a criminal offence;
- a danger to the Health and Safety of any individual;
- damage to the environment;
- sexual harassment; or
- deliberate concealment of information about any of the above

Some examples of qualifying disclosures in a school context may include:

- Fraudulent acts (e.g. manipulation of accounting records/finances, inappropriate use of funds, decision making for personal gain, abuse of position to influence decisions);
- Breaches of acceptable professional and ethical standards;
- Breaches of the school’s Health and Safety policy entailing danger to staff or pupils; and/or
- Breaches of any of the school’s policies or the Code of Conduct
- Failure to take reasonable steps to prevent sexual harassment or failure to deal appropriately with concerns raised.

It is not necessary for the employee or worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient.

For the purposes of this policy the term “whistle-blower” refers to the individual making the disclosure.

1.2. The whistle-blower must reasonably believe they are making the disclosure in the public interest (i.e. it affects others such as pupils in the school or members of the public). This means that personal grievances and complaints (e.g. a concern about their own contractual terms, treatment of their child) are not usually covered by this policy and should be dealt with:

- By employees through the Grievance Procedure

- By other parties through the Complaints Procedure.

2. Raising concerns/making a disclosure

2.1. Initial concern

The board encourages the "whistle-blower" to raise the matter internally in the first instance. Concerns should normally be raised with a senior manager, responsible officer, the headteacher or the Chair of Governors.

Members of the school community are particularly reminded of their obligation to report all safeguarding concerns, immediately as set out in the school's safeguarding policy and code of conduct.

If the whistle-blower considers the matter too serious or sensitive to raise it internally, they may refer the matter to an external prescribed body. A prescribed body is an organisation, normally with some regulatory function (for example the Health and Safety Executive), which is prescribed by the Secretary of State for the purposes of the Public Interest Disclosure Act who an individual may make a protected disclosure to. Any such disclosure to a prescribed body will qualify for protection under the Act. A list of prescribed bodies is available at the following link:

https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies

In the event that the whistle-blower feels a disclosure should be referred to an external prescribed body some of the relevant bodies are also set out below:

Nature of disclosure:	**External reporting/Prescribed body:**
Fraud or financial malpractice (see 3.2 below)	(Academies:) Education & Skills Funding Agency https://www.gov.uk/government/organisations/education-and-skills-funding-agency (Maintained schools only:) Counter Fraud Manager Karen Bellamy 0333 0138 420
Child Protection/ **Safeguarding issues**	Local Authority Designated Officer (LADO) lado@essex.gov.uk NSPCC Whistleblowing helpline: 0800 028 0285 Email: help@nspcc.org.uk
Data protection issues	Information Commissioner https://ico.org.uk/
Health and Safety issues	Health and Safety Executive http://www.hse.gov.uk/

If a concern is raised verbally, it should be followed up in writing wherever possible.

The whistle-blower has no responsibility for investigating the matter - it is the school's responsibility to ensure that an appropriate investigation takes place.

Where the complaint is serious, for example involving fraud, theft or other potential gross misconduct by an employee, the whistle-blower should act quickly to report it but should not mention it to the subject of the complainant or other colleagues as this could affect the investigatory process.

The timescales for handling disclosures will differ depending on the nature of the disclosure made but all disclosures (whether formal or informal) will be acknowledged within 2 working days.

2.2 Investigation

The manager/Governor will arrange an investigation into the matter either by investigating the matter themself or immediately passing the issue to an appropriate person (except where they are the subject of the disclosure where an alternative suitable person will be appointed). The investigation may involve the whistle-blower and other individuals involved giving a written statement. Any investigation will be carried out promptly and confidentially.

If a whistle-blower wishes to remain anonymous this should be raised with the person to whom the initial disclosure is made. In some cases, this may be possible but in more serious cases where disciplinary action may have to be taken against others this may be more difficult. The school is committed to protecting the well-being of the whistle-blower whilst this policy is followed.

The whistle-blower's statement (where available) will be taken into account, and they will be asked to comment on any additional evidence obtained. The person responsible for the investigation may ask the whistle-blower to attend a meeting to gather all the information needed to ensure a clear understanding of the situation.

Where a meeting is held, the whistle-blower should be permitted to be accompanied by a trade union representative or work colleague if they wish and where possible the dates/times will be agreed to facilitate this, or in the case of a third party, by an appropriate person (e.g. friend, family, colleague). Legal professionals will not normally be allowed to attend such meetings.

2.3 Outcome of the investigation

The person who carried out the investigation will take any necessary action, which may include reporting the matter to the Headteacher or Chair of Governors or an appropriate prescribed body (if this has not already taken place).

On conclusion of any investigation, the whistle-blower will be told the outcome of the investigation (in as much detail as is deemed appropriate in the circumstances) and what action is to be taken or is proposed. If no action is to be taken, the reason for this will be explained.

Where a concern is raised anonymously the school will not ordinarily be able to provide feedback to the whistle-blower and any action taken as a result of an anonymous disclosure may be limited. The school will take all appropriate steps to investigate such a disclosure in line with the level of information provided. If an anonymous whistle-blower wishes to seek feedback from the school an appropriate anonymised email address should be provided.

2.4 Further action

Where having raised an initial concern and the whistle-blower has a genuine belief that the school has failed to take appropriate action or investigate the issue properly and they wish to pursue the matter further, they may report their concern to the Headteacher/Chair of Governors or in exceptional circumstances, if the concerns relate to a maintained school to the Local Authority or to an appropriate prescribed body (if this has not already been reported).

The Headteacher/Chair of Governors may arrange for further investigation to be carried out, make any necessary further enquiries and/or make their own report. On the conclusion of any

further investigation, they will take appropriate action which may include reporting the matter to a prescribed body if this has not taken place at an earlier stage in the process.

3. Other issues

3.1 Concerns raised by member of the public

Where complaints are received from members of the public, the school's formal complaints procedure will be followed, unless the complaint relates to the specific conduct or performance of an individual employee/worker in which case the Disciplinary Procedure may need to be instigated.

3.2 Criminal issues/fraud

In the event of the allegation being of a very serious nature, for example relating to a fraud or other potential gross misconduct offence, there may be a need to involve the school's auditors and/or the police or other appropriate authorities. This should normally be agreed initially by [the Headteacher/Chair of Governors] who should, in turn, and where appropriate, keep the [Local Authority/Education and School Funding Agency] informed in view of any possible implications concerning public monies.

Maintained schools:
The school must notify the Counter Fraud Manager within their home Council (see 2.1 above) of any instances of fraud, theft or financial irregularity. Any unusual or systematic fraud, regardless of value, must also be reported.

4. Protecting whistle-blowers

4.1 Any whistle-blowers who make protected disclosures in line with this procedure have the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. This means continued employment and opportunities for promotion or training will not be affected because the whistle-blower has raised a legitimate concern.

4.2 Whistle-blowers should report any harassment or victimisation to an appropriate manager as soon as practicable. The school will take all reasonable steps to prevent/address such harassment or victimisation. Victimisation of a whistle-blower for making a protected disclosure will be considered a disciplinary matter and will be dealt with under the Disciplinary Procedure.

4.3 Whistle-blowers may find the process of reporting an issue/wrongdoing difficult and uncomfortable. The school will take all reasonable steps to support the whistle-blower which may include access to an external counselling service. The whistle-blower may also be referred to the charity Protect (previously known as Public Concern at Work) https://protect-advice.org.uk/ for information and advice.

5. Malicious allegations/disclosures

5.1 If, following appropriate investigation it is considered that an employee has made a malicious allegation without real substance and/or which could not be reasonably considered to be in the public interest; this will be taken as a serious matter and may potentially lead to disciplinary action in line with the Disciplinary Procedure.

5.2 Where other individuals engaged by the school make a malicious allegation, the school will investigate the allegation thoroughly and take appropriate action, which may include terminating the contract/arrangements with the individual.

5.3 If disciplinary action is required, the person who carried out the investigation will report the matter to a relevant manager to start the disciplinary procedure.

5.4 If a third party has made a malicious allegation the board may take legal advice about steps open to it where appropriate.

6. Data Protection

6.1 When an individual makes a disclosure, the school will process any personal data collected in accordance with its data protection policy and General Data Protection Regulation (GDPR) and the Data Protection Act 2018. Data collected from the point at which the individual makes the disclosure is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.