



# **Whistleblowing Policy & Procedure**

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## **Policy**

This policy has been introduced to enable employees, contractors, external partners and others who have dealings with the school, to confidentially voice serious concerns over malpractice and wrong doing within the School in the public interest.

### **1. Introduction**

- 1.1 Employees are sometimes the first to realise that there may be something seriously wrong within their School. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the School; or they may fear harassment, victimisation or other reprisals. In these circumstances it may be easier to ignore the concern rather than report what may be just a suspicion of malpractice.
- 1.2 The School and Local Authority (LA) are committed to the highest possible standards of service provision and for full accountability for those services. In line with that commitment employees are encouraged to come forward and voice any serious concerns they may have about the School's work. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that any individual can do so without fear of reprisals. This policy is intended to encourage and enable an individual to raise serious concerns within the School rather than overlooking a problem or "blowing the whistle" outside.
- 1.3 The policy applies to all employees and those contractors working for the School on School premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the School.
- 1.4 The Public Interest Disclosure Act 1998 is a key piece of legislation protecting individuals who 'blow the whistle' about wrongdoing in the public interest. It makes provision about the kind of disclosures, which may be protected; the circumstances in which the disclosures are protected; and the persons who may be protected. The provisions introduced by the Act protect most employees from detrimental treatment and victimisation by their employer or other employees. Detriment may take a number of forms, such as denial of promotion, facilities or training opportunities which the employer would otherwise have offered. Employees may make a claim for unfair dismissal if they are dismissed for making a protected disclosure.

- 1.5 Provisions from the Act also protect whistle-blowers from suffering a detriment, bullying or harassment from another employee. Work colleagues or other employees must not mistreat a whistle-blower.

## **2. Aim and Scope**

- 2.1 This policy aims to:

- a) provide avenues for the complainant to raise concerns and receive feedback on any action taken;
- b) allow the complainant to take the matter further if they are dissatisfied with the School's response to the concerns expressed; and
- c) reassure the complainant that they will be protected from possible reprisals or victimisation.

- 2.2 This policy does not replace the School's complaints procedure. There are also existing procedures in place relating to Disciplinary, Grievance, and Capability etc. The Whistle blowing Policy is intended to cover concerns that fall outside the scope of these procedures eg malpractice or wrongdoing. Any complaints about breaches of employees own contracts of employment should be raised as a grievance.

- 2.3 Thus any serious concern that the complainant may have regarding the suspicion of malpractice or wrongdoing in any aspect of the School provision, or the conduct of staff within School, or others acting on behalf of the School, can and should be reported under this policy. Employees are expected to report malpractice and wrongdoing. They may be liable to disciplinary action if they knowingly and deliberately do not disclose information relating to malpractice or wrong doing in any aspect of the School's provision or the conduct of staff or others acting on behalf of the School.

## **3. What is Malpractice or Wrongdoing?**

- 3.1 Malpractice and wrongdoing may be about something which:-

- is unlawful; or
- against the School 's or LA's policies; or
- is not in accordance with established standards of practice; or
- amounts to improper conduct by an employee.

The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions to be applied.

The following are examples of issues which could be raised under this policy. It is not intended to be an exhaustive list and there may be other matters which could be dealt with under this policy:

- any unlawful act or omission, whether criminal or a breach of civil law
- maladministration, as defined by the Local Government Ombudsman
- breach of any statutory code of practice
- breach of, or failure to implement or comply with any policy determined by the School or LA.
- failure to comply with appropriate professional standards or other established standards of practice
- corruption or fraud
- actions which are likely to cause physical danger to any person, or give rise to a risk of significant damage to property
- failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income, to the School or would otherwise seriously prejudice the School or LA
- abuse of power, or the use of the School's powers and authority for any unauthorised or ulterior purpose
- unfair discrimination in the School's employment or provision
- dangerous procedures risking health and safety
- abuse of clients
- damage to the environment
- other unethical conduct

## **4. Safeguards**

### **4.1 Harassment or Victimisation**

The School and LA recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice or from the School as a whole. The School will not tolerate any harassment or victimisation and will take appropriate action in order to protect an employee if they raise a concern, that, in the belief of the employee, is in the public interest.. In addition an employee is protected by law by the Public Interest Disclosure Act, which gives employees protection from detriment and dismissal where they have made a protected disclosure, provided the legal requirements of the Act are satisfied.

This does not necessarily mean that if an employee is already the subject of disciplinary procedures that those procedures will be halted as a result of a concern being raised under this policy.

### **4.2 Confidentiality**

It will be easier to follow up and to verify complaints if complainants are prepared to give their names. However, wherever possible the School will protect those who do not want their names to be disclosed. It must be appreciated that any investigation process may reveal the source of the information and a statement from the complainant may be required as part of the evidence.

### 4.3 Anonymous Allegations

Concerns expressed anonymously are much less powerful, but they will be treated with caution and considered at the discretion of the School. In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of obtaining the necessary information and confirmation of the allegation.
- Whether the concerns are in the public interest.

### 4.4 Deliberately False or Malicious Allegations

The School will view very seriously any deliberately false or malicious allegations it receives, and will regard the making of any deliberately false or malicious allegations by any employee as a serious disciplinary offence which could result in dismissal.

If an allegation is made in the public interest but it is not confirmed by the investigation, no action will be taken against the complainant.

The School will try to ensure that the negative impact of either a malicious or unfounded allegation about any employee is minimised. However, it must be acknowledged that it may not be possible to prevent all of the repercussions potentially involved.

## 5. How to Raise a Concern

### 5.1 If the complainant suspects wrongdoing in the workplace:

- **they must not** approach or accuse the individuals directly
- **they must not** try to investigate the matter themselves
- **they must not** convey their suspicions to any one other than those with the proper authority but **they must do** something

### 5.2 As a first step, the complainant should normally raise concerns with their immediate line manager or supervisor. However, the most appropriate person to contact will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if the complainant believes that the Headteacher is involved in the matter of concern, or the normal channels of communication are inappropriate for some reason, they should approach the Chair of Governors. If, for some significant reason, the complainant does not feel comfortable raising the concern within the School, they should approach one of the Nominated Officers' identified within this policy.

- 5.3 Concerns may be raised verbally but are better raised in writing. The complainant is invited to set out the background and history of the concern giving relevant names, dates and places where possible, and the reason why they are particularly concerned about the situation.
- 5.4 The earlier a concern is expressed; the easier it is to take appropriate action.
- 5.5 Although the complainant is not expected to prove the truth of an allegation that is made, it will be necessary for them to demonstrate to the person contacted that there are sufficient grounds for concern and they are acting in the public interest.
- 5.6 Advice and guidance on how matters of concern may be pursued can be obtained from the Local Authority HR Service Team.
- 5.7 Alternatively, the complainant may wish to seek advice from their Trade Union or professional association.

## **6. How the School will Respond**

- 6.1 The action taken by the School will depend on the nature of the concern. Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process
  - be referred to the Police
  - be referred to the external Auditor
  - need to be the subject of a referral to the Teaching Regulation Agency (TRA)
  - need to be the subject of a referral to the Disclosure and Barring Service (DBS)
  - form the subject of an independent enquiry
- 6.2 In order to protect individuals and the School, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example child protection or capability issues) will normally be referred for consideration under those procedures.
- 6.3 Some concerns may be resolved by agreed action without the need for investigation.
- 6.4 Within 10 working days of a concern being raised under this procedure the Officer considering the issues will write to the complainant:
- a. acknowledging that the concern has been received;
  - b. indicating how it is proposed to deal with the matter;
  - c. giving an estimate (so far as reasonably practicable) as to how long it will take to provide a final response;
  - d. informing them whether any initial enquiries have been made; and

- e. informing them whether further investigations will take place and if not, why not
- 6.5 The amount of contact between the complainant and the Officer considering the issues will depend on the nature of the matters raised; the potential difficulties involved and the clarity of information provided. If necessary, further information will be sought from the complainant.
- 6.6 Where any meeting is arranged, the complainant has the right, if they so wish, to be accompanied by a trade union or professional association representative or a colleague who is not involved in the area of work to which the concern relates.
- 6.7 The School will take appropriate steps to minimise any difficulties the complainant may experience as a result of raising a concern. For example, if they are required to give evidence in criminal or disciplinary proceedings the School will advise them about the procedure.
- 6.8 The School accepts that the complainant needs to be assured that the matter has been properly addressed. Therefore, subject to any legal restraints, the complainant will receive as much information as possible about the outcomes of any investigation.

## **7. How can the matter be taken further?**

- 7.1 This policy is intended to provide employees and other persons with an avenue to raise concerns within the School and it is hoped that they will take this option in the first instance. The School hopes they will be satisfied but if not, and the complainant feels it is right to take the matter outside the School, then depending upon the nature of the issue involved, the following are possible contact points:
- 1) the District Auditor
  - 2) relevant professional bodies or regulatory organisations
  - 3) the Police
  - 4) the Local Government Ombudsman
  - 5) the Teaching Regulation Agency (TRA)
  - 6) the Disclosure and Barring Service (DBS)
  - 7) the local Citizen Advice Bureau
  - 8) an independent legal adviser within the meaning of the Public Interest Disclosure Act 1998
  - 9) a prescribed person or body as listed on GOV.UK
- 7.2.1 If the complainant does wish to take the matter outside the School, they must first ensure that they do not disclose confidential information. In addition, if the complainant wishes to secure the protections afforded by the Public Interest Disclosure Act, they must ensure that their disclosure is protected within the meaning of the Act and that it complies with a set of specific conditions which vary according to whom the disclosure is made.

7.2.2 If necessary the complainant may wish to seek advice from the Local Authority HR Service Team, their Trade Union or Professional Association.

7.2.3 In the case of an issue where an individual does not feel comfortable raising concerns within School, officers have been nominated for the purpose of dealing with concerns raised under this policy.

The Nominated Officers within Hartlepool Borough Council are:

- Director of Children's and Joint Commissioning
- Assistant Director of Education

## **8. Responsibility for the Policy**

8.1 The responsibility for the effectiveness and efficiency of this policy rests with the Governing Body. The Governing Body will be advised about and maintain records of concerns raised and the outcomes (but in a form which does not endanger the complainants confidentiality) and will report if necessary to the LA.