

CONFIDENTIAL REPORTING (WHISTLEBLOWERS') POLICY

FOR TEACHING AND NON-TEACHING EMPLOYEES

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Lead Area	HR

**CONFIDENTIAL REPORTING (WHISTLEBLOWERS') POLICY FOR TEACHING
AND NON-TEACHING EMPLOYEES**

1. INTRODUCTION

- 1.1. This policy has been produced to ensure that the governing body complies with the Public Interest Disclosure Act 1998.
- 1.2. Employees are often the first to realise that there may be something seriously wrong within the school. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the school itself. They may also fear harassment or victimisation. In these circumstances they may feel that it might be easier to ignore the concern rather than to report what may just be a suspicion of malpractice.
- 1.3. The governing body is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others with whom we deal, who have concerns about any aspect of the school's work, to come forward and voice those concerns. Generally, cases will proceed on a confidential basis, although this may not be possible if legal proceedings result from the disclosure.
- 1.4. This Confidential Reporting (Whistleblowers') Policy makes it clear that employees can state their concerns without fear of victimisation, subsequent discrimination or disadvantage. Its aim is to encourage and enable employees to raise concerns within the school rather than to overlook a problem or take it outside.
- 1.5. Nothing in this policy must remove the obligation of staff with respect to child protection issues.

2. SCOPE

- 2.1 The policy applies to all employees and those contractors working for the Council or governing body on school premises, for example: agency staff. It also covers suppliers and those providing services under a contract with the school in their own premises and volunteers.

3. AIMS OF THE POLICY

- 3.1. The policy aims to:
 - encourage individuals to feel confident in raising concerns and to question, and act upon concerns about, practice;
 - provide avenues for individuals to raise those concerns and receive feedback on any action taken;

- ensure that individuals receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied;
- reassure employees that they will be protected from possible dismissal/detriment or victimisation if they have a reasonable belief that they have made any disclosure in good faith.

4. ROLE OF THE MONITORING OFFICER

4.1. Section 5 of the Local Government and Housing Act, 1989, defines the duties of the monitoring officer, who, in the case of the school, would be the chair of governors.

As a result of the Act it is the duty of the monitoring officer, if at any time it appears that any proposal, decision or omission by the school, by any committee, or officer of the school, has given rise to or is likely to give rise to:-

- (a) a contravention by the school, by any committee, or officer of the school of any enactment or rule of law or of any code of practice made or approved by or under any enactment; or
- (b) any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974 (Local Commissioners)...

to prepare a report to the LEA/Governing Body with respect to that proposal, decision or omission".

5. RESPONSIBILITY OF GOVERNORS

5.1 Governing bodies are responsible for ensuring that managers in their school, who are involved in drawing up contracts, liaising with suppliers and other providers of services and dealing with service provision (see paragraph 2 above) make those groups aware of the existence of this policy and the accompanying procedure.

6. TRADE UNION AGREEMENT

6.1 This policy has been discussed with the relevant trade unions and has their support.

CONFIDENTIAL REPORTING (WHISTLEBLOWERS') PROCEDURE

WHISTLEBLOWING IN RELATION TO OTHER PROCEDURES

PART ONE

1.1. The Confidential Reporting (Whistleblowers') Policy is not intended to cover complaints for which there are existing procedures, such as matters of individual discipline, staff grievances, complaints about poor standards of service, personal harassment, equal opportunities complaints. The Confidential Reporting (Whistleblowers') Policy is intended to cover other concerns, which a member of staff may have about the school/City Council, its employees or its practices. Such concerns could include:

- financial malpractice, financial impropriety, or fraud
- failure to comply with the School's regulations and procedures
- failure to observe safety obligations
- endangering health and safety, including risks to the public as well as other employees and pupils
- damaging the environment
- criminal activity at the school
- deliberate miscarriage of justice
- academic malpractice
- abuse of authority for illegal or unethical purposes
- willful failure to declare a relevant interest in the Registers of Interests
sexual or physical abuse of clients covering up any of the above.

1.2 Cases arising from the Confidential Reporting (Whistleblowers') Policy may be routed through appropriate school procedures or investigated by a specially constituted panel or the headteacher. Unless there is a good reason to the contrary, the school will proceed on the basis that investigation of disclosure in parallel with other procedures will be avoided.

1.3 Concerns may include such actions as have already occurred, are occurring, or are likely to occur.

2 Who can use the procedure

2.1 This procedure is open to all members of the school and others, defined below:-

- Governors of the school
- Current employees of the school including casuals and agency employees
- Staff working for departments or units of the school who may not be formally employed by the school
- Providers of goods and services for the school

2.2 A discloser need not be personally or professionally affected by the malpractice, which is to be disclosed by him or her.

2.3 This policy does not replace the governing body's non-curriculum complaints procedure.

3 PROTECTION OF DISCLOSURE – SAFEGUARDS

3.1 If s/he complies in full with this procedure, the discloser will:

- a) be protected as far as possible from their identity being revealed, although there may be occasions when the type of information revealed will be such that the identity of the discloser can be inferred by others;
- b) be protected from reprisal or unfair treatment attributable to the making of the disclosure;
- c) be kept informed at all stages of the procedure;
- d) have a choice of impartial individuals in the school to contact for an initial assessment. Fairness is ensured in that none of these persons may make the initial assessment if they are themselves the subject of a public interest disclosure inquiry, or thought by the discloser not to be impartial; or have a later part to play in the procedure;
- e) be assured that any malpractice will be thoroughly but quickly investigated.

3.2 These protections apply even if it is concluded that there is no action from a disclosure. In accordance with the Act, the protections apply, provided that: the discloser makes the disclosure in good faith; and in the reasonable belief that the disclosure tends to show malpractice; and not maliciously or for personal gain. The school procedure does not offer protection in the case of a vexatious disclosure.

4. Type of protection given to someone named in a disclosure

4.1 The identity of a person who is subject of a public interest disclosure under this procedure will be protected as far as possible. If the case against him/her is heard under the Confidential Reporting (Whistleblowing) Procedure, his/her rights to respond to accusations or to remain silent and to have representation, will be the same as under the relevant disciplinary procedure. If a person chooses to remain silent, the school reserves the right to investigate the disclosure by any means at its disposal.

5 Protection for officers designated in the procedure

5.1 No officer designated in the procedure shall be held personally liable for any errors in, or consequences arising from, the commission of his/her duties under this procedure.

6 If a member of the school knows of wrongdoing, is making a disclosure about it obligatory?

6.1 The Public Interest Disclosure Act and in turn, the school's procedure is intended to facilitate disclosure. It affords protection to an individual who wishes to disclose information and therefore it is intended to permit the school to deal with malpractice as it arises. The spirit of the procedure is to protect individuals who wish to make a disclosure in the interest of the public and of the school. It does not constitute an obligation to disclose information. This however does not apply to the child protection procedures.

7. What happens if a discloser changes his or her mind

7.1 Once the disclosure has been made it may be retracted at any time. The school reserves the right to proceed with the investigation by any other means at its disposal, and to take action in light of its findings, even if the discloser does not wish to proceed further.

8. Confidentiality: outside of the school

8.1 Depending on the circumstances, the school might be obliged to make a report to the police or other appropriate public body. This will not affect the protection afforded to the discloser.

8.2 If an individual chooses to disclose externally, this procedure will afford protection if he or she:

- a) reasonably believes that the information tends to show malpractice; and
- b) acts in good faith; and
- c) is not making the disclosure for personal gain; and
- d) reasonably believes that the information is substantially true; and
- e) makes the disclosure to an appropriate external statutory body, such as the Department for Education and Employment (DfEE), the National Audit Officer (NAO) or the Health and Safety Executive.

8.3 The confidentiality of any discussions with a lawyer, for the purpose of legal advice in connections with a disclosure under this procedure, is protected under legal advice and client privilege.

8.4 The discloser should not reveal any part of his or her disclosure outside the school until all steps in this procedure have been exhausted, except: to a public body; or to a professionally qualified lawyer for the purpose of taking legal advice.

8.5 The discloser will be responsible for ensuring that any representative or lawyer, whom he or she has informed of the disclosure, observes the provisions of this procedure as well as those listed in Part 2 paragraph 9.1.

9. Confidentiality: within the school

9.1 The school will treat the identity of a person making disclosures as confidential, (subject to 8.1), unless the discloser always fails to comply fully with this procedure; the school's officers are legally obliged to reveal the identity, or the discloser's identity is introduced to the public domain by other means.

9.2 The chair of the governing body will keep records of the disclosure and all proceedings. S/he will if possible, consult the discloser before granting at any time during or subsequent to the disclosure procedure access to the papers for any person not privy to the papers. Unless there is a legal obligation to reveal the papers, they will be revealed to other parties only in conformity with school procedures and prevailing legislation.

10. Anonymous Allegations

10.1 Disclosers will be expected to put their name to any disclosures they make, on the understanding that great care will be taken to protect their identity as provided for in this procedure. Disclosures made anonymously will only be considered if the LEA or for voluntary aided schools the Diocese thinks it warranted based on:

- a) the gravity of the issues raised; and
- b) the amount of evidence provided; and
- c) the likelihood of confirming the allegation from alternative credible sources.

10.2 The Hull Citizen's Advice Bureau has agreed to act as a representative for those who wish to remain anonymous, during the reporting procedure (see Part 2 paragraph 2.2).

11. Untrue Allegations — Disciplinary Offences

11.1 Under this procedure it will be a disciplinary offence to:

- a) make a disclosure found to be vexatious or malicious; or
- b) obtain pecuniary benefit from a disclosure.

11.2 If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the discloser.

12. The Public Interest

- 12.1 The overriding principle, which the school will have in mind, is the public interest. Concerns or allegations, which fall within the scope of specific procedures (for example, child protection or discrimination issues), will normally be referred for consideration under those procedures.

PART TWO:

Implementation of the Procedure

1. Purpose

- 1.1 This document is intended as a procedural statement. Issues of principles and guidance on when it is appropriate to use this procedure are found in Part One of this document, which should be read in conjunction with this procedural section.

2. Obtaining Advice and Guidance

- 2.1. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two, or more, of you who have had the same experience or concerns.
- 2.2 Advice and guidance on how to pursue matters of concern may be obtained from:-
- chair of governors
 - your line manager or headteacher your trade union
 - Hull Citizen's Advice Bureau
 - The Audit Commission's confidential anti-corruption hotline (tel: 0203 630 1019)
 - Public Concern at Work
 - LEA (Personnel)

The external organisations will hold a copy of this procedure, for information. You should be aware that any concerns you do raise might have to be referred to the Chief Financial Officer, the Chief Personnel Officer or the Chief Legal Officer for their advice or action.

3. How to make a disclosure under the procedure

- 3.1 Public Interest disclosures should be notified in the first instance to one, or if the discloser wishes, to more than one of the following receiving officers:
- 3.2 Your immediate manager or, if for some reason that is not possible, his/her manager. This depends, however, on the seriousness and sensitivity of the

issues involved and who is suspected of the malpractice. For example, if you believe that management is involved you should approach your chair of governors, headteacher, LEA/Diocesan Directors (voluntary aided schools).

3.3 Concerns may be raised verbally, or in writing, if you wish to make a written report you are invited to use the standard reporting form, which is attached at Appendix 1. In any event, the report should take the following format:

- the nature, background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.
- names of those alleged to be involved in the malpractice

3.4 The earlier you express the concern the easier it is to take action.

3.5 Although you are not expected to prove, beyond doubt, the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

4.0 How the school will respond

4.1. The school will respond to your concerns and the receipt of your report will be acknowledged, in writing, within 5 working days. You should be aware that further enquiries may be made, possibly leading to a formal investigation, but this does not indicate that your concern has been either accepted or rejected. The governing body will take an objective and fair view, until clear evidence emerges.

4.2. Where appropriate, following initial enquiries, the matters raised may:

- be investigated by a specially constituted panel, headteacher, internal audit, or through the disciplinary process;
- be referred to the Police;
- be referred to the District Auditor;
- be referred to an independent outside agency, specially appointed to carry out investigations. Arrangements will be made as required, depending upon the nature and circumstances of the case.
- form the subject of an independent inquiry by an appropriate body, depending upon the nature and circumstances of the case;

5 Action by the Receiving Officer

5.1 Within five working days of a concern being raised, the receiving officer will write to you:

- acknowledging that the concern has been received; indicating how it is proposed to deal with the matter;
- giving an estimate of how long it will take to provide a final response;

- telling you whether any initial enquiries have been made;
- supplying you with information on available support, where appropriate, and
- telling you whether further investigations will take place and if not, why not.

5.2 Following this, the amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the officers considering the matter will seek further information from you.

5.3 Other Officers to be informed by the Receiving Officer

5.4 The receiving officer will be responsible for informing other officers, within 5 working days, or sooner if stated below, as follows:

- (a) In the case of legal or financial concerns, the LEA should be informed immediately so that s/he can alert the Chief Legal Officer and/or the Chief Financial Officer.
- (d) In all cases, the chair of governors, for monitoring purposes.

5.5 Some concerns may be resolved by agreeing action without the need for a detailed investigation. If urgent action is required, this will, wherever possible, be taken by the headteacher

6.0 Representation and Advice at Meetings

6.1 During any meetings/interviews, which you attend in connection with the concerns you have raised, you have the right to be accompanied by a friend, trade union representative or other representative, if you so wish. The attendance of any representative or witness who is an employee of the school will require the prior approval of his/her supervisor for absence during his/her normal working hours.

6.2 The school 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 school will arrange for you to receive advice about the procedure.

6.3 The school accepts that you need to be assured that the matter has been properly addressed. You will, therefore, be informed of the outcome of any investigation.

7.0 The Responsible Officer

7.1. The chair of governors, who is also the monitoring officer for the school, has overall responsibility for the maintenance and operation of this policy. The

headteacher or when appropriate the LEA will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality).

8. Assistance from External Agencies

- 8.1. If, for any reason, you do not feel comfortable speaking to someone in the school, about your concerns, the **Hull and District Citizen's Advice Bureau (CAB)** has agreed to receive reports on behalf of the City Council. They will also help clients who wish to remain anonymous and will act on their behalf. A whistleblowing form will need to be requested upon accessing the Hull and District Citizen's Advice Bureau, The Wilson Centre, Hull.
- 8.2. The addresses and telephone numbers of other CAB offices throughout the City are available in the white pages of the local telephone directory.
- 8.3. In addition, the Audit Commission has a confidential anti-corruption hotline, which employees may use.
- 8.4. Arrangements have also been made for you, if you wish, to make your report to an independent charitable organisation known as Public Concern at Work

Their lawyers can give you free confidential advice at any stage on how to raise a concern about a malpractice at work.

9. How the Matter can be taken Further

- 9.1. This procedure is intended to provide you with an avenue within the school to raise concerns. The governing body hopes you will be satisfied with any action taken. If you are not, or if you feel it is right to take the matter outside the school, the following are possible contact points:
 - Hull Citizen's Advice Bureau
 - the District Auditor
 - the Audit Commission's hotline
 - your trade union
 - relevant professional bodies, of which you may be a member, such as the Institute of Management, Institute of Personnel and Development
 - relevant regulatory organisations, such as the Health and Safety Executive where, for example, the issue involves a health and safety matter.