West Northamptonshire Council

Whistleblowing Policy for Schools (Protected Disclosure)

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V2.0	15 August 2024	Policy updated to mirror WNC policy. Section 7 amended to include referral to Fraud Team.

Consultees

Internal	External
Management Team	Trade Unions

Distribution List

Internal	External
WNC Local Authority maintained schools	

Links to other documents

Document	Link
Disciplinary Policy	Disciplinary Policy for Schools v1.1.pdf

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1. Policy Statement

The Public Interest Disclosure Act 1998 (the 'Act') places a legal responsibility on employers to ensure that matters of serious public concern can be addressed.

The School is committed to the highest standards of openness, probity and accountability. In line with this commitment we encourage individuals with serious concerns about an activity, to voice those concerns. This also applies to concerns about the actions of employees, Governors, Councillors and external organisations in their dealings with us.

This policy is provided as a reference document to outline how issues can be raised internally, and if necessary, outside the management structure. It documents our assurance that concerns will be seriously considered and appropriate action taken. Additionally, it:

- Provides the basis on which individuals can raise serious concerns they may have and receive feedback on action taken.
- Allows individuals to take the matter further if they are dissatisfied with our response.
- Outlines the protection from reprisals or victimisation for `whistleblowing.'

It should be noted that any clause within a worker's contract of employment is void if it attempts to prevent an individual from making a protected disclosure under the Act. This code does not remove or diminish the existing contractual or statutory rights of employment.

2. Scope of Whistleblowing Policy

This policy applies to all employees. It also covers casual workers, agency workers, contractors working for the School on its premises, suppliers and those providing services under a contract with the School in their own premises. The term 'individual' used throughout this document is used to include all of the above.

3. The Principles of the Policy

There are existing procedures in place to enable individuals to raise grievances about their own employment. This policy is intended to cover concerns that fall outside the scope of individual grievances and relates to both employees and workers.

This policy is in addition to the School's Complaints Procedure and other statutory reporting procedures, and seeks to encourage individual's to raise their concerns internally within the organisation.

If individuals are unsure about whether or not to use this policy/procedure, or if they need independent advice at any stage, they can contact Protect (formerly Public Concern at Work) which is an independent charity able to give free confidential advice at any stage on how to raise a concern about serious malpractice at work. Please refer to Appendix 1 for further details.

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A 'qualifying disclosure' is any disclosure of information that is made in the public interest and in the reasonable belief of the individual may show that one or more of the following is either happening at the present time, took place in the past or is likely to happen in the future:

- 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 other legal obligation.
- Concealment of any of the above.

An individual does not have to raise a grievance in order to make a 'protected disclosure'. However, if the employee intends to raise the matter as a grievance, this intention must be clearly stated.

4. Safeguards in Place to Protect Whistleblowers

In making the disclosure, an individual must have a reasonable belief that the information disclosed shows one or more of the offences or breaches listed above. The belief need not be correct, but the individual must show that they held the belief and that it was a reasonable belief, in the circumstances, at the time of the disclosure.

Individuals are encouraged to come forward with genuine concerns in the knowledge that they will be taken seriously. We recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisals from those responsible for the malpractice. As far as possible, we will seek to respect the confidentiality and anonymity of the individual raising the concern and will seek to protect them from reprisals. In this regard, we will not tolerate any harassment or victimisation of the individual who has raised the concerns, nor will any attempt to prevent individuals from raising concerns be acceptable.

5. Confidentiality

We encourage individuals to put their name to allegations made. Concerns expressed anonymously are much less powerful as our ability to gather crucial information from the complainant is not possible. However, such complaints will be considered at the School's discretion and in exercising this discretion, the factors below will be taken account and include the:

- Seriousness of the issue raised.
- Credibility of the concern.
- Likelihood of being able to confirm that the allegation is from attributable sources.
- Ability to trace the source of unfounded or malicious allegations.

We will endeavour to protect the identity of individuals who raise concerns and do not want their name to be disclosed. It must be appreciated, however, that the investigation and statements made by the individual(s) who raised the issue may reveal the source of the information.

6. Raising a Concern

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The earlier concerns are expressed by individuals, the easier it is to take action. As a first step, we encourage individuals to initially raise concerns with their immediate line manager, their line manager or Headteacher to allow those in positions of responsibility and authority an opportunity to address the issue and seek an explanation for the behaviour or activity. This will depend upon the nature of the concerns, the seriousness and sensitivity of the issues involved and who is alleged to be involved.

Individuals who feel that they cannot approach any of the managers within their School should approach the:

- Chair of Governors or
- Contact WNC on 0300 126 7000 to speak to the:
- WNC School's Finance Officer or
- Assistant Director, Education or
- Head of Audit and Risk Management who should be contacted for matters of fraud or malpractice

If an individual so wishes, advice may also be sought from a Trade Union or Professional Association. The individual should consider who would be the most appropriate person to deal with the matter, however, care is needed to ensure that this will not result in a breach of confidentiality or the disclosure of exempt information.

Concerns raised under this policy should, where possible, be submitted in writing, setting out the background and history of the concern, giving names, dates and places, and the reason why the individual is concerned about the situation. Individuals who do not feel able to put their concerns in writing, can telephone or meet with the appropriate officer instead.

Individuals may invite their Trade Union representative or Professional Association to raise the matter internally on their behalf. However, they should ensure that any disclosures made are protected disclosures under the Act.

7. The School's Approach

The action taken by the School will depend on the nature of the concern. The matters raised may, for example, be:

- Investigated internally.
- Referred to the Police or other appropriate body.
- Referred to the External Auditor.
- Form the subject of an independent inquiry.

In order to protect individuals, and the School, initial enquiries will be made to determine whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other or specific procedures (for example, child protection or unlawful discrimination issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for further investigation.

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The preliminary investigation will need to be undertaken by an appropriate officer appointed by the Relevant Senior Officer (RSO) according to the nature and or the issues raised or area of the concern.

The preliminary investigation may identify the need to involve third parties to provide further information, advice or assistance; for example, the involvement of other members of staff, legal, Human Resources, the police, or another appropriate external body.

Consideration is required for Counter Fraud input to include:

- The securing of evidence.
- Coordination of the investigation.
- Referral of any matter to outside organisations such as the police and Home Office, securely with adherence to relevant protocols and guidance including Criminal Procedures Investigations Act 1996.

Records will be kept of work undertaken and actions taken throughout the investigation. The investigating officer(s) will consider how best to report the findings and what (if any) corrective action needs to be taken. This may include instigating some form of disciplinary action or third party referral.

Within 14 working days of a concern being received, the RSO will write to the individual, if known, and in accordance with the communications channel agreed with the individual, who raised the issue. They will:

- Acknowledge that the concern has been raised.
- Indicate how they or the School propose to deal with the matter.
- Give an estimate of how long it will take to provide a final response (where possible).
- Tell the individual whether further investigations will take place, and if not, why not.

The amount of contact between the officer(s) considering the issue and the person who has raised the issue will depend on the nature of the matter(s) raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.

When any meeting is arranged with the individual, they will be given the right to be accompanied by a Trade Union, representative from a Professional Association or a work colleague who is not involved in the area of work to which the concern relates.

We accept that individuals need to be assured that the matter has been properly addressed. Thus, subject to legal or contractual constraints, individuals will receive appropriate information about the outcomes of any investigations.

8. Dissatisfaction with a Response

This policy is intended to provide individuals with an avenue to raise relevant concerns. If the individual is dissatisfied with the resolution of the matter or has genuine concerns that the matter

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has not been dealt with appropriately, these concerns should initially be raised with the investigating officer.

Where the concern is of a particularly serious nature, the individual may feel that it is more appropriate to take the matter outside of the organisation. To obtain independent advice about how to raise serious concerns constructively, they should contact Protect (formerly Public Concern at Work).

There are a number of bodies which have been prescribed by the Secretary of State for the purpose of receiving disclosures. Further details can be found on the GOV.UK website: www.gov.uk/whistleblowing

Or in pdf format at: https://gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowingthe-whistle-to-a-prescribed-person.pdf

The worker must believe that the information given and the allegations made are substantially true and ensure that they are not acting for personal gain.

If an individual does take the matter to an outside organisation, they must ensure that they do not disclose confidential information which is unrelated to the issue being raised.

In making a disclosure to an outside prescribed body, individuals should be aware that the disclosure must be made to an appropriate prescribed person or organisation and the individual must believe that the information disclosed and any allegations made are true.

9. Raising Unfounded or Malicious Concerns

If an allegation is made but is not confirmed by the investigation, no action will be taken against the individual raising the concern and we will endeavour to protect the individual from reprisals or victimisation.

However, if an individual makes an allegation which – through the internal investigation process - is found to be malicious, mischievous or vexatious, or a disclosure made for personal gain, such actions will be considered as disciplinary offences and are likely to result in disciplinary action being instigated/taken against the individual.

Whistleblowers making untrue allegations may expose themselves to actions for libel or slander which together make up the civil wrong of defamation. This is a complex area of law. In essence, a person puts themselves at risk of being sued for damages if, without justification, they publish or communicate a false statement or statements about someone which may injure their reputation in the eyes of ordinary members of society.

However, a whistleblower will not generally be liable provided that they had a legal, moral or social duty or interest in making the statement to a person with a similar interest.

10. Responsible Officer

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The Chair of Governors has overall responsibility for the maintenance and operation of this policy. They will also maintain a record of concerns raised and outcomes, reporting as necessary to the Governing Body, and/or the Council.

11. Monitoring and Review

The policy will be reviewed periodically to allow the Council to monitor, investigate or make changes to ensure it meets its objectives. Any material change or deviation from this policy will be subject to consultation with the relevant Trade Union representatives.

Any data collected as part of employing and managing an employee is held securely. It is accessed by, and disclosed to, individuals only for the purposes of completing that specific procedure, process or activity.

Records are retained and destroyed in accordance with the School's Retention Schedule.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the School's Data Protection Policy immediately. It may also constitute a disciplinary offence, which may be dealt with under the Disciplinary Policy and Procedure.

12. Appendix 1

Advice Line | Protect - Speak up stop harm (protect-advice.org.uk)

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