Whistleblowing

Model HR Policy and Procedure for Maintained Schools

Last Reviewed: September 2022

Date Adopted by Governing Board:

Policy Outline

Reviewing the Policy

The TfC HR Advice Team will keep the operation of this policy under review and will make such changes to the policy as deemed appropriate following consultation with the trade unions, where appropriate.

Personalising the Policy

The TfC HR Advice Team has developed a number of model policies for schools to consider and adopt as their own. There are no particular sections within this policy which require either amendment and/or deletion to ensure the policy is accurate in setting out your operational requirements. However, we advise that you consider the full contents of this document before a decision is made to formally adopt it.

Consultation with recognised trade unions has been undertaken prior to the issuing of this model policy. Should you wish to make amendments to the contents of this policy (save for those as set-out above in 'Personalising the Policy') then you may need to enter in further consultation with recognised trade unions. Please seek advice from your allocated HR Adviser.

Summary of Changes

The September 2021 Whistleblowing policy has been reviewed and there were no significant changes made to this model policy.

Equality Impact Assessment

As with all policies that affect service users, the wider community or employees, schools should undertake an analysis of the potential equality impacts and record that assessment.

Contacts for help and assistance

Please contact your allocated HR Adviser within the TfC HR Advice Team for help and assistance in applying the content of this policy. Alternatively, you can email the TfC HR Advice Team at;

Email HRAdvice@togetherforchildren.org.uk

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1 Introduction

1.1 The Council and the Governing Board are committed to the highest possible standards of openness, honesty, integrity, and accountability. As part of this commitment the Governing Board is keen that activity, which falls below these standards, is reported to the school (or Council) in order that it can be dealt with promptly.

1.2 The Governing Board acknowledges that the public and staff are often the first to realise that there may be something seriously wrong within the school and wish to encourage those with concerns about any aspect of the school's work to come forward and voice those concerns. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice or dangers to the public, other staff, or the environment, it can be difficult to know what to do.

1.3 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may also fear you may not be taken seriously or be victimised in some way. If you work within the school you may also feel that raising the matter would be disloyal to colleagues. You may decide to say something but find that you are not sure how to raise the issue or are not sure what to do next.

1.4 The purpose of this policy is to:

- encourage anyone (members of the public or school-based staff) to feel confident in raising serious concerns.
- reassure those that if they raise any serious concerns in good faith and reasonably believe them to be true, i.e. "whistle-blow", they will be protected from victimisation and their concerns will be taken seriously.
- provide avenues for members of the public and school-based staff to raise concerns and receive appropriate feedback on any action taken; and
- ensure that those that raise serious concerns get an appropriate response to the concerns they have raised from the Governing Board or Council and, if not satisfied, show how they may take the matter further if they are dissatisfied with the response.

1.5 This policy should enable you to raise your concerns about suspected malpractice at an early stage and in the right way. The Governing Board would rather that you raised the matter when it is just a concern rather than wait for proof.

1.6 If something is troubling you, which you think the Governing Board should know about, or look into, please use the processes described in this policy to report your concern. Please don't ignore the concern.

2 Data Protection

2.1 When it receives a whistleblowing complaint the Governing Board and/or Council will process personal data in accordance with its data protection policy. Data collected from the point at which the complaint is received is held securely and accessed by, and disclosed to, individuals only for the purposes of managing the complaint. However, we will disclose information about the data subject to third parties if we are legally obliged to do so or where we need to comply with our contractual duties, for instance where we need to refer certain information to the Designated Officer, Disclosure and Barring Service or Teaching Regulation Agency, or another public body such as the police. 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 will be dealt with under the school's disciplinary policy.

3 Definition – What is whistleblowing?

3.1 For the purpose of this policy 'whistleblowing' is the raising of a serious concern about a suspected danger, risk, malpractice, misconduct, illegality, or wrongdoing within the school which affects others. The official name for whistleblowing is 'making a disclosure in the public interest'.

3.2 Concerns could be about where:

- a criminal offence (e.g. fraud, corruption etc.) may have or has been committed;
- a miscarriage of justice has been or is likely to occur;
- the health or safety of an individual has been or is likely to be endangered;
- public funds are being used in an unauthorised manner;
- the environment has been or is likely to be damaged;
- the school's own rules have been or are being breached;
- abuse (e.g. physical, sexual) of any worker or service recipient is taking place;
- discrimination to any worker or service recipient, e.g. disability, race etc;
- information relating to any of the above is being deliberately concealed.

The list is not exhaustive.

3.3 'Whistleblowing' is viewed by the Governing Board as a positive act that can make a valuable contribution to the school's efficiency and long-term success.

4 Scope

4.1 This policy may be used by anyone, including members of the public or 'workers' appointed by the school. This includes permanent and temporary employees of the school, agency workers, home workers and school employees seconded to a third party. School 'workers' can also be full-time or part-time.

4.2 A 'member of the public' is any individual who is not a 'worker' in the school. This includes suppliers, contractors, partners, consultants, service providers, Council service recipients, customers, claimants, other Local Authorities or organisations, Councillors, and any members of the general public.

4.3 It is not intended that this policy, and its associated procedures, be used to raise concerns which fall within the scope of other school procedures where more appropriate procedures are available, for example:

- grievances (see Grievance Procedure)
- harassment (see Grievance Procedure)
- complaints (see School Complaints Procedure)

4.4 However, if you are uncertain which procedure to use then please use the procedure described in this policy initially. The Governing Board would rather you raised your concerns than not at all.

5 Safeguards

5.1 The Governing Board recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those who may be responsible for the malpractice. The Governing Board will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith. If you raise a genuine concern under this policy, you will not suffer any detriment in connection with your employment. Therefore, providing you are acting in good faith, it does not matter if you are mistaken.

5.2 However, for school workers this does not mean that if you are already the subject of formal procedures, such as disciplinary, capability or redundancy, for example, that those procedures will be halted as a result of your disclosure.

Confidentiality

5.3 The Governing Board will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent or unless instructed by a Tribunal or Court. If the situation arises where we are not able to resolve the concern without revealing your identity

(e.g. a statement by you may be required as part of the evidence) we will discuss with you whether and how we can proceed.

Anonymous Allegations

5.4 The Governing Board strongly encourages you to put your name to your allegation. Concerns expressed anonymously will be much more difficult for us to look into or to protect your position or to give you feedback. Concerns raised anonymously are much less powerful and less likely to be effective, but they will be considered at the discretion of the Governing Board.

5.5 In exercising discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility and plausibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

Harassment and Victimisation

5.6 If you believe that you are being disadvantaged at work for having raised a serious concern then you should report this to the Headteacher or Chair of Governors, or where this is not appropriate the Council's Director of Children's Services. Activity of this kind could include failure to promote, demotion, denial of training, closer monitoring, ostracism, blocking access to resources, unrequested reassignment, suspension, disciplinary sanction, bullying, victimisation, dismissal, or failing to investigate a further concern. Where proven, we will take appropriate sanctions against those who subject an individual to detriment for raising a concern.

Untrue or Malicious Allegations

5.7 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you if you are a school worker.

6 How to raise a concern within the school

6.1 As a first step, you should normally raise concerns with the Headteacher. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that the Headteacher or the leadership team of the school is involved, then you should approach the Chair of Governors in the first instance, or, if this is inappropriate, then another senior officer in the Council or Together for Children, acting on behalf of the Council:

- Chief Executive, Sunderland City Council
- Director of Children Services, Sunderland City Council / Chief Executive of Together for Children
- Director of Education, Together for Children
- Executive Director of Corporate Services, Sunderland City Council;

- Assistant Director of Law and Governance, Sunderland City Council;
- Assistant Director of People Management, Sunderland City Council;
- Assistant Director of Business and Property Services, Sunderland City Council;
- Senior Manager - Assurance (as the manager of Internal Audit), Sunderland City Council;

6.2 Please say if you want to raise the matter in confidence so the person you contact can make appropriate arrangements.

6.3 Concerns are better raised in writing. You are invited to set out the nature of the concern, the background and history of the concern, giving names, dates, and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.

6.4 Raise your concern immediately or at the earliest opportunity. The earlier you express the concern, the easier it is for the Governing Board (or Council) to take effective action.

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

6.5 In order to aid any subsequent investigation it is advised that, whether a worker or a member of the public, you do not inform others once you have raised concerns under this Whistleblowing Policy as this can undermine any investigation / action and also increase the risk of your identify becoming known where you wish to remain anonymous.

7 How the school will respond

7.1 The action taken by the Governing Board, or Council where relevant, will depend on the nature of the concern. The matters raised may:

- be investigated internally by the school,
- be investigated by an officer of Sunderland City Council or Together for Children acting on behalf of the Council;
- be referred to the Police;
- be referred to the External Auditor.

7.2 In order to protect individuals and the Governing Board, 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, fraud, or corruption) will normally be referred for consideration under those procedures.

7.3 Some concerns may be resolved by agreed action without the need for investigation.

7.4 Within ten working days of a concern being received, the Headteacher or Chair of Governors or the Council will write to you:

- acknowledging that the concern has been received;
- indicating if possible, in overall terms, how they propose to deal with the matter.

7.5 The amount of contact between the officer(s) 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, further information will be sought from you.

7.6 For school workers, when any meeting is arranged, you may, if you so wish, be accompanied by a trade union colleague, a work colleague, a professional association representative or a friend who is not involved in the area of work to which the concern relates.

7.7 The Governing Board will take steps to minimise any difficulties, which you may experience as a result of raising a concern.

7.8 The Governing Board accepts that you may wish to be assured that the matter has been properly addressed and, as such, where possible, we will provide information in this regard when we consider the matter closed.

8 How the matter can be taken further

8.1 This document is intended to provide you with an avenue to raise concerns directly with the Governing Board and to give you the reassurance you need to raise such matters in this manner.

8.2 The Governing Board (or Council, where appropriate) hopes you will be satisfied with its response. If you are not, or if you feel, for whatever reason, you cannot, as a first step, raise the matter directly with the Governing Board or the Council then the following are possible contact points depending on the nature of your concern:

- the Local Authority's Designated Officer (DO) specifically for safeguarding issues.
- your trade union;
- your professional representative;
- relevant regulatory organisations;
- your legal advisor/solicitor.
- the police;
- the local Councillor;
- your local MP;

- Protect (Independent Charity) - *formerly Public Concern at Work*. Tel: 020 3117 2520 https://protect-advice.org.uk/;
- NSPCC Whistleblowing Helpline. Tel: 0800 028 0285 Email: help@nspcc.org.uk
- The Government has produced on-line guidance which lists the prescribed persons and bodies who you can make a disclosure to. There is also a brief description about the matters you can report to each prescribed person. This on-line guidance can be found at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies
- Additional contact details are described in Appendix 2.

8.3 The Governing Board would rather you raised a matter with the appropriate regulator or outside body than not at all.

8.4 If you, as a worker, are thinking of reporting a concern to a body or person outside of the school or Council, appropriate legal advice should be sought prior to raising a concern. Unless certain conditions are satisfied when raising your concern outside the school or Council there is a risk you may not be protected by the Public Interest Disclosure Act 1998. (Please refer to section 9 below for more information).

9 Further information for workers who wish to 'whistleblow'

Legal/Employment Rights and Protection

9.1 The Public Interest Disclosure Act 1998 ("PIDA") makes it unlawful for the Governing Board or Council to dismiss any worker, including a school based worker, or allow them to be victimised on the basis that they have made an appropriate lawful disclosure (i.e. raised a concern) in accordance with provisions of PIDA and have made the disclosure in the public interest.

9.2 This document has been written to take account the relevant provisions of PIDA which protects workers. By following the procedures described in this document to raise a serious concern (i.e. make a disclosure) then you, as a worker, should be legally protected from any form of victimisation for raising a legitimate concern. The relevant provisions include:

i) the worker raises a concern (makes a disclosure) that they reasonably believe to be in the public interest i.e. for the public good, the concern affects others and not the worker raising the concern;
ii) the concern raised (disclosure made) must relate to wrongdoing falling into categories listed in PIDA; and
iii) the concern has been raised (a disclosure has been made) in the correct way to persons or bodies referred to in PIDA.

9.3 As stated in section 8, it is advised that a worker should seek legal advice prior to raising a matter external to the school or Council. As a worker, if you choose not to report a serious concern to the school or Council, i.e. your employer, or to an outside body referred to in Section 8 but to report a concern to another outside body you will only be protected by PIDA if certain conditions are satisfied. These are that:

i) the worker does not make the disclosure for purposes of personal gain;
ii) it is reasonable to make the disclosure in the circumstances;
iii) the worker makes the disclosure in good faith; and
iv) the worker reasonably believes that the information disclosed, and any allegation contained in it, are substantially true.

Sources of Independent Advice

9.4 If you are unsure whether to use this policy or you want independent advice at any stage, you may contact:

- if applicable, your trade union or professional body;
- the independent charity Protect - *formerly Public Concern at Work*. Tel: 020 3117 2520 Website: https://protect-advice.org.uk/. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work; or
- your solicitor/legal advisor.
- the Citizens Advice Bureau

Support

9.5 Throughout the whistleblowing process:

- you will be given full support;
- your concerns will be taken seriously;
- we will do all we can to help you; and
- if you are required to give evidence in criminal or disciplinary proceedings, we will advise you about the procedure etc.

9.6 Prior to raising a concern, if applicable, you may wish to involve your trade union or professional association representative to gain advice. You may also invite your trade union or professional association to raise a matter on your behalf.

9.7 As part of the whistleblowing process when any meeting is arranged with you, you have the right, if you so wish, to be accompanied by a trade union colleague, a work colleague, a professional association representative or a friend who is not involved in the area of work to which the concern relates.

Disclosure of Information

9.8 If, as a worker, you do take the matter outside the Council, you need to ensure that you do not disclose confidential information. School workers should refer to the school's Code of Conduct for employees and clauses

within their contracts of employment relating to the disclosure of confidential information. Council employees should refer to the Council's Code of Conduct which can be viewed at www.sunderland.gov.uk under Part 5 Section 2 of the Council's Constitution. Other workers, e.g. agency workers, should refer to clauses within their contract relating to the disclosure of confidential information.

9.9 A worker will not be protected by PIDA if the worker discloses information which has been obtained by the school or Council whilst obtaining legal advice and is subject to 'legal privilege'. Legal privilege is a fundamental legal right which allows individuals and corporate bodies to resist disclosure of confidential and sensitive material.

10 The Responsible Officer

10.1 The Head of Law and Governance has overall responsibility for the maintenance and operation of the Council's Whistleblowing Policy which this policy is derived from. The Head of Law and Governance will maintain a corporate register of the number and nature of the concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Chief Executive and Council, where appropriate. All persons allocated to look into a concern must ensure the Head of Law and Governance is provided with sufficient details for the corporate register.

10.2 The policy will be reviewed on a regular basis to ensure it remains up to date and effective.

Appendix 1

Whistleblowing Policy

Contact Details (Sunderland City Council)

Contact	Details
Sunderland City Council	Sunderland City Council City Hall, Plater Way, Sunderland, Tyne and Wear SR1 3AA Website: www.sunderland.gov.uk
Complaints and Feedback Team, Sunderland City Council	Tel no: 07827086594 E-mail: complaints@sunderland.gov.uk Website: www.sunderland.gov.uk/
Chief Executive, Sunderland City Council	Tel no: 07824867219
Director of Children Services, Sunderland City Council / Chief Executive of Together for Children	Tel no: 07464923858 Website: https://togetherforchildren.org.uk/
Director of Education, Together for Children	Tel no: 07464923858
Executive Director of Corporate Services	Tel no: 07505113706
Assistant Director of Law and Governance	Tel no: 07435 663083
Assistant Director of People Management	Tel no: 07435753415
Assistant Director of Business and Property Services	Tel no: 07435 663083
Senior Manager - Assurance	Tel no: 07342 704254
Internal Audit	Tel no: 07342704277 E-mail: internal.audit@sunderland.gov.uk Website: www.sunderland.gov.uk

Appendix 2

Whistleblowing Policy

Contact Details (External)

Contact	Details
Protect (Independent Charity) - *formerly Public Concern at Work*.	Tel: 020 3117 2520 https://protect-advice.org.uk/
NSPCC Whistleblowing Helpline	Tel: 0800 028 0285-Email: help@nspcc.org.uk
Government Guidance - List of Prescribed people and Bodies".	https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies
External Auditor	Address: Mazars LLP (Newcastle Office) Bank Chambers 26 Mosley Street Newcastle NE1 1DF United Kingdom Tel: 0191 383 6300
Northumbria Police	Tel no: 101 / Local Police Station (Yellow Pages) Website: https://www.northumbria.police.uk/
Local Councillors	Website: www.sunderland.gov.uk
MP	Website: www.parliament.uk/mps-lords-and-offices/
Relevant regulatory authorities (See Note 1 below)	Website: www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2

Note 1:

A list of regulatory organisations prescribed by legislation to whom a 'whistleblower' could report their concern if they choose not to contact the Council directly is held on the uk government website at www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2).

If a school or Council worker choses to report a concern to one of the regulatory organisations on the prescribed list they will be protected under the provisions of the Public Interest Disclosure Act 1998 provided

- they also reasonably believe that the information, and any allegation when raising a concern, is true; and
- they reasonably believe that the concern being raised relates to the regulatory organisation being contacted.