



# Whistleblowing/Speak Out Policy

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Date of next review	Autumn Termly 2021	Author	D Thompson
Type of Policy	Statutory	Approval	Governing Body
Signed by:			
Head Teacher		Date	
Chair of Governors		Date	

Being a Local Authority maintained school, we work in adherence to the guidance contained within the Council's policies and procedures. For reasons of transparency, given that concerns may be raised about anyone working within the school community, we have adopted the Council's Speak Out/Whistleblowing Policy.

### **What is our aim?**

We will protect employees from any detriment, in accordance with the Public Interest Disclosure Act 1998, from reprisals or victimisation for "whistleblowing" where a disclosure is made in good faith and relates to a concern set out in the policy.

We will also protect Health and Safety Representatives and employees under certain provisions contained in the Employment Rights Act 1996 who take action over or raise concerns about health and safety at work.

### **Why do we need a policy?**

Hebburn Comprehensive School is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we encourage employees with certain concerns about any aspect of the school's work to come forward and voice those concerns, as set out below. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that employees can do so without fear of reprisals. The policy is intended to encourage and enable employees to raise certain concerns, rather than overlooking a problem or simply reporting it outside. It should be read in conjunction with the expectations in relation to staff conduct, outlined in the Staff Handbook, as well as Standards of Conduct already issued to employees, and the Council's Anti-Fraud Corruption and Illegality Strategy Statement.

The policy will help us to comply with the Public Interest Disclosure Act 1998 (the 1998 Act) and the Employment Rights Act 1996 (the 1996 Act) and set out the procedure for employees to follow to comply with the Act.

### **Who is responsible?**

The Chair of Governors has overall responsibility for the maintenance and operation of this policy and maintains a record of concerns raised and the outcomes (but in a form which does not endanger employees' confidentiality) and will report, if considered appropriate, to the Standards Committee at the Local Authority.

### **The Whistleblowing/Speak Out Policy**

#### **1. What are the aims of the 1996 and 1998 Acts?**

- To protect employees who make certain disclosures ('whistle-blow') to the school.
- To protect Health and Safety Representatives who take action in performing their health and safety functions under the 1996 Act.

- To protect an employee who has reported a danger to health or safety, where it was not reasonably practicable to raise the matter with the Health and Safety Representative, and subsequently takes certain actions under the 1996 Act.

## 2. When can an employee 'whistle-blow' under the 1998 Act?

Whistleblowing disclosures are protected when they relate to any action of the school or Council employee that:

- Is a criminal offence;
- Relates to a failure to comply with a legal obligation;
- Is about a miscarriage of justice;
- Is about endangering the health and safety of another;
- Is about damage to the environment; or
- Indicates that there is or is likely to be concealment of any of the matters set out above.

This does not stop staff from raising other issues of concern with the relevant Line Manager or Head Teacher, but **should not** be voiced in any other forum.

## 3. When can an employee take action under the 1996 Act?

- A Health and Safety Representative can act in performing his/her health and safety functions without suffering detrimental treatment or being unfairly dismissed.
- Employees are protected from suffering detrimental treatment or being unfairly dismissed where:
  - the Health and Safety Representative cannot reasonably be informed of a danger or potential danger to health or safety of the employees;
  - they reasonably believe there is serious and imminent danger which they cannot reasonably be expected to prevent, necessitating leaving work or refusing to return because of the danger, or taking appropriate steps to protect themselves or others from the danger and where they have informed the school of the danger.

## 4. What are the aims and scope of this Policy?

- To encourage and provide avenues for staff to raise concerns and receive feedback on any action taken.
- To allow staff to take the matters further if dissatisfied with the response.
- To reassure staff that they will be protected from reprisals or victimisation for whistleblowing in accordance with the 1998 Act, where the disclosure is made in good faith and relates to a concern listed in paragraph 2 above.
- To reassure staff that they will be protected for acting in accordance with the 1996 Act as set out in paragraph 3 above.

## 5. How to raise your concern

- Concerns are better raised in writing. Staff are requested to set out the background and history of the concern, giving names, dates and places where possible, and the reason why they are particularly concerned about the situation.
- The earlier members of staff express the concern, the easier it is to take action. Staff may also wish to involve their Trade Union representative at this stage.
- Although not expected to prove the truth of an allegation, staff will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- A Trade Union representative or a colleague may accompany staff when meeting the appropriate officer. A colleague will be permitted a reasonable amount of time off for this purpose.

## 6. With whom should you raise your concern?

- As a first step, staff should raise concerns in good faith with their immediate line manager or, if the complaint is about the manager, his/her superior.
- However, this depends on the seriousness and sensitivity of the issues involved and who is thought to be involved in the failure or malpractice. For example, if they believe that senior management is involved, staff should approach the Chair of Governors, in the first instance, who may need to involve the Head of Education at the Local Authority.
- Where staff believe **in good faith** that the failure or malpractice arises wholly or mainly from the conduct of some other person or any other matter for which some other person has **legal responsibility**, the disclosure can be referred to the Chair of Governors.
- If you make a whistleblowing disclosure to anyone else, you must make it for all of the following reasons:
  - In good faith;
  - In the reasonable belief that the information disclosed and any allegation contained in it are substantially true;
  - Not for personal gain;
  - In the reasonable belief that the school will subject you to detrimental treatment or will conceal or destroy the evidence; and
  - In all the circumstances of the case, it is reasonable to make the disclosure.
- The above list is an exceptionally high standard to meet and employees are advised **not** to follow this course of action, particularly as courts will have regard for: the reasonableness of the disclosure to this person; the seriousness of the failure; whether there is a breach of confidentiality; and whether you have followed the whistleblowing procedure set out in this policy.

- Where staff disclose an **exceptionally serious failure** to anyone else, it may not be reasonable, depending on the identity of the person to whom it is made. You must make it for all the following:
  - In good faith;
  - In the reasonable belief that the information disclosed and any allegation contained it are substantially true;
  - Not for personal gain;
  - The relevant failure is of an exceptionally serious nature; and
  - In all the circumstances of the case it is reasonable to make the disclosure.
- If staff fail to comply with the above requirements regarding disclosure, the law will not protect their actions, and the school may consider disciplinary action against them including gross misconduct.

## 7. Safeguards

### Harassment or Victimisation

- The school 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 responsible for the failure or malpractice. The school will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith.
- However, this does not mean that, if staff are already the subject of Disciplinary, Grievance or Redundancy procedures, those procedures will be halted as a result of the disclosure.

### Confidentiality

- The school will do its best to protect the identity of staff raising a concern, who wish to remain anonymous; however, the investigation process may reveal the source of the information and a statement by the member of staff may well be required as part of the evidence.

### Anonymous Allegations

- This policy strongly encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful and unlikely to be effective, but they may be considered.
- The factors to be taken into account would include:
  - The seriousness of the issues raised;
  - The credibility of the concern; and
  - The likelihood of confirming the allegation from named sources.

### Untrue or Malicious Allegations

- If staff make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against the member of staff who has made the allegation. **However, if staff make malicious or vexatious allegations, disciplinary action, including gross misconduct may be taken against them.**

## 8. How will the school respond?

- The action taken will depend on the nature of the concern. The matters raised may:
  - Be investigated internally;
  - Be referred to the Police;
  - Be referred to the Local Authority;
  - Be considered under the Disciplinary Procedure if the matters relate to one or more employees.
- 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 that fall within the scope of other specific procedures (for example, child protection) will normally be referred for consideration under those procedures.
- Some concerns may be resolved by agreed action without the need for investigation.
- Within ten working days of a concern being received, the Chair of Governors will write to the member of staff making the allegation.
  - 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 response;
  - Indicating whether an initial enquiry has been made;
  - Saying whether further investigations will take place, and if not, why not.
- The amount of contact between the person considering the issues and the member of staff making the allegation will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person making the allegation.
- When any meeting is arranged, the investigating officer has the right to be accompanied by a Trade Union representative or a colleague.
- The school will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if the whistle-blower is required to give evidence in criminal or disciplinary proceedings, school will ensure that the Council will advise them about the procedure.
- The Council accepts that staff making an allegation need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive general information about the outcomes of any investigations.

## 9. Who are the “Prescribed Persons”?

- This policy is intended to provide you with an avenue to raise concerns within the school and the school and Council. If staff are not satisfied with the internal procedures and the **allegations made are substantially true** and staff feel it is right **in good faith** to take the matter outside the Council, the following are permissible contact points for their areas of regulatory activity:
  - Audit Commission: the proper conduct of public business, value for money, fraud and corruption.
  - Inland Revenue: income tax, maternity and sick pay, tax credits, child benefits, collection of student loans and the national minimum wage.
  - Environment Agency: matters affecting the environment or the management or regulation of the environment, including pollution.
  - Food Standards Agency: matters which may affect the health of any member of public in relation to the consumption of food and any other matters concerning the protection of the interests of consumers in relation to food.
  - General Social Care Council: matters relating to the registration of social care workers under the Care Standards Act 2000.
  - National Care Standards Commission: matters relating to the provision of regulated care services, as defined in the Care Standards Act 2000.
  - Healthy and Safety Executive: matters which may affect the health or safety of any individual at work or member of the public in connection with the activities of persons at work.
  - Information Commissioner: compliance with the requirements of legislation relating to data protection and freedom of information.
  - Occupational Pensions Authority: matters relating to occupational pension schemes.

This is not the exhaustive list, this can be read at [www.hmso.gov.uk](http://www.hmso.gov.uk) - The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 Statutory Instrument 2003 No. 1993, but it comprises the persons most likely to be of relevance to the work of a school maintained by the Local Authority.