



# Whistleblowing

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## Model HR Policy and Procedure for Independent Schools

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# Contents

1	<a href="#"><u>Introduction</u></a>
2	<a href="#"><u>Data protection</u></a>
3	<a href="#"><u>Definition – What is whistleblowing?</u></a>
4	<a href="#"><u>Scope</u></a>
5	<a href="#"><u>Safeguards</u></a>
	<a href="#"><u>Confidentiality</u></a>
	<a href="#"><u>Anonymous Allegations</u></a>
	<a href="#"><u>Harassment and Victimisation</u></a>
	<a href="#"><u>Untrue or Malicious Allegations</u></a>
6	<a href="#"><u>How to raise a concern with the school</u></a>
7	<a href="#"><u>How the school will respond</u></a>
8	<a href="#"><u>How the matter can be taken further</u></a>
9	<a href="#"><u>Further information for workers who wish to whistleblow</u></a>
	<a href="#"><u>Legal/Employment Rights and Protection</u></a>
	<a href="#"><u>Sources of Independent Advice</u></a>
	<a href="#"><u>Support</u></a>
	<a href="#"><u>Disclosure of Information</u></a>

## Appendices

Appendix 1 - [Contact Details](#)

# 1 Introduction

- 1.1 The Trust is committed to the highest possible standards of openness, honesty, integrity, and accountability. As part of this commitment, the Trust is keen that activity, which falls below these standards, is reported to the school in order that it can be dealt with promptly.
- 1.2 The Trust 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 your 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 Trust 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 Trust would rather 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 Trust 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 Trust 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 Trust 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 Trust would rather you raised your concerns than not at all.

## 5 Safeguards

- 5.1 The Trust 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. They 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 Trust 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 Trust 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 Trust.
- 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 the Governing Board, or where this is not appropriate then one of the bodies listed in Appendix 1. 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 the Trust Board in the first instance, or, if this is inappropriate, then another body listed in Appendix 1.
- 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 Trust 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.
- 6.6 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 Trust will depend on the nature of the concern. For example, the matters raised may:
  - be investigated internally by the school,
  - be investigated by a representative of an external body;
  - be referred to the police; or
  - be referred to an external auditor.
- 7.2 In order to protect both individuals and the Trust, 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, Chair of the Governing Board or someone acting on behalf of the Trust 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 Trust will take steps to minimise any difficulties, which you may experience as a result of raising a concern.
- 7.8 The Trust 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 Trust and to give you the reassurance you need to raise such matters in this manner.
- 8.2 The Trust hopes you will be satisfied with the response. If you are not, or if you feel, for whatever reason, you cannot, as a first step, raise the matter directly with the Trust 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](mailto: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 1.

- 8.3 The Trust 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 Trust, appropriate legal advice should be sought prior to raising a concern. Unless certain conditions are satisfied when raising your concern outside the school or Trust 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 Trust to dismiss any 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 you should seek legal advice prior to raising a matter external to the school or Trust. As a worker, if you choose not to report a serious concern to the school or Trust, 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.
- 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 Trust 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. Other workers, e.g. agency workers, contractors etc 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.

# Whistleblowing Policy

## Contact Details

Contact	Details
Sunderland City Council	Sunderland City Council City Hall, Plater Way, Sunderland, Tyne and Wear SR1 3AA Website: <a href="http://www.sunderland.gov.uk">www.sunderland.gov.uk</a>
Director of Children Services, Sunderland City Council / Chief Executive of Together for Children	Tel no: 07464923858  Website: <a href="https://togetherforchildren.org.uk/">https://togetherforchildren.org.uk/</a>
Director of Education, Together for Children	Tel no: 07464923858
Sunderland City Council's Internal Audit	Tel no: 07342704277  E-mail: <a href="mailto:internal.audit@sunderland.gov.uk">internal.audit@sunderland.gov.uk</a> Website: <a href="http://www.sunderland.gov.uk">www.sunderland.gov.uk</a>
Protect (Independent Charity) - <i>formerly Public Concern at Work.</i>	Tel: 020 3117 2520 <a href="https://protect-advice.org.uk/">https://protect-advice.org.uk/</a>
NSPCC Whistleblowing Helpline	Tel: 0800 028 0285 Email: <a href="mailto:help@nspcc.org.uk">help@nspcc.org.uk</a>
Northumbria Police	Tel no: 101 / Local Police Station (Yellow Pages)  Website: <a href="https://www.northumbria.police.uk/">https://www.northumbria.police.uk/</a>
Local Councillors	Website: <a href="http://www.sunderland.gov.uk">www.sunderland.gov.uk</a>
MP	Website: <a href="http://www.parliament.uk/mps-lords-and-offices/">www.parliament.uk/mps-lords-and-offices/</a>
Relevant regulatory authorities (See Note 1 below)	Website: <a href="http://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2">www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2</a>

**Note 1:**

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

If a school 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.