

# School Governing Bodies - Public Interest Disclosure Act 1998

## Procedure for Protected Disclosures (“Whistleblowing”)

### 1. Introduction

This procedure is intended to operate in accordance with the provisions of the Public Interest Disclosure Act 1998 (as amended) (hereafter known as ‘the Act’). The Act gives protection to staff and workers who report colleagues they believe are doing something wrong or illegal, or who are neglecting their duties. The matters that come within scope of the Act and this procedure are set out in Step 2 of the procedure below.

The 'Whistleblowing' procedure has been developed for use in maintained schools and can also be adopted by, and used in, Academy schools. It is intended to enable staff to report wrongdoing in the school where it would be in the public interest to do so. The wrongdoing has to be such as to potentially affect the general public, rather than simply being a complaint of an individual nature, such as a personal grievance\*, which is not normally covered under whistleblowing law. [\*An individual personal grievance will normally need to be dealt with via other internal school procedures.]

The 'Whistleblowing' procedure provides for matters to be referred externally where necessary, ultimately to a 'prescribed person' (see Step 5.2 of the procedure below).

However, the procedure encourages staff to raise their concerns initially within the school as a first priority, rather than to make a disclosure outside of the school. In the vast majority of cases this will enable matters to be dealt with much more efficiently and speedily.

The Act applies to all workers as well as staff and this procedure applies to all teaching and other staff, whether employed by the County Council or employed directly by the school, external contractors providing services on behalf of the school or the County Council, teacher trainees and other trainees, volunteers and other individuals who work for or provide services on behalf of the school. These individuals are collectively referred to in this procedure as staff or staff members.

### 2. Principles

The Governing Body of the school will treat all disclosures made under the procedure very seriously and allegations about such matters will be dealt with quickly and with appropriate confidentiality at all times.

The procedure gives protection from victimisation, discrimination or disadvantage to staff who make such a disclosure in the public interest. This protection applies in respect of such a detriment arising from an act, or a failure to act, either by the employer or by a fellow worker, whether the latter be with or without the employer’s knowledge. The procedure also ensures that the person making the disclosure receives an appropriate response to their disclosure and is made aware of how they may pursue the matter outside of the school if the response given is not satisfactory.

This “Whistleblowing” Procedure should not be confused with others, such as individual or collective grievance procedures that exist to enable staff to raise concerns about their own employment. It is designed to deal with issues that fall outside of the scope of those procedures and therefore excludes all matters that are more appropriately covered by them.

### **3. Time limits**

There are no time limits on raising concerns under this procedure, but they should be raised at the earliest opportunity. Where time limits are included within this procedure, they exist to ensure that disclosures are dealt with as quickly as possible, and to ensure a prompt initial response from management. The investigation that takes place after a disclosure is made is not time limited, but will be conducted as quickly as possible within the circumstances of the disclosure.

### **4. Representation**

Staff are entitled to representation by a professional association/trade union representative/work colleague at any meeting or interview held in relation to the disclosure made. Staff should specify that they are making a disclosure under this procedure.

### **5. Unfounded or improperly made allegations**

- If an allegation is unfounded or unsubstantiated (i.e. there is no factual basis or evidence to support the allegation) but the staff member has made the allegation honestly and in the reasonable belief that it was in the public interest, no action will be taken against them.
- If an allegation is deemed to have been made falsely, maliciously, frivolously or for personal gain, then the person making the allegation may face disciplinary action. Care should be taken in dealing with such allegations as some facts may not be wholly untrue. Some parts of an allegation may have been fabricated or exaggerated but elements may be based on truth.

## Model Procedure

### Step 1 - Raising a concern

Concerns under this procedure should initially be raised with the staff member's immediate line manager. If the staff member believes their manager is involved in the malpractice, they may raise their concerns with a more senior member of staff, including the Headteacher. If the staff member believes it is not appropriate to raise the matter with the Headteacher, he/she may approach the Chair of Governors. (In the event that the matter cannot be raised within the school, the staff member may raise their concerns in accordance with Step 5). The relevant manager is encouraged to take advice from Education Personnel Services who may involve other departments of Hampshire County Council or other relevant external organisations where appropriate.

Within ten working days of a concern being raised, the person receiving it will write to the staff member acknowledging receipt and indicating what initial steps will be taken to deal with it. Where possible an estimate will be given of the time it will take to provide a final response.

Concerns may be raised orally or, preferably, in writing. These disclosures should provide as much information as possible about the matter, including dates, individuals involved, other possible sources of information, etc. Staff must be able to demonstrate to the person hearing the disclosure that there are reasonable grounds for making the allegations.

Staff may wish to make anonymous disclosures although it may be important for the investigating manager to know the source of information to enable a full investigation. The manager would also need to consider the nature and credibility of an allegation before deciding to proceed with an investigation. However, staff should be re-assured that all disclosures will be treated in confidence and every effort will be made to preserve anonymity. The Act provides protection against victimisation to anyone who makes a protected disclosure in good faith.

If the concern relates to an 'allegation' of a safeguarding nature then the 'allegation against a member of staff working with children' section of the Child Protection Policy should be followed. An extract is copied here for reference:

#### ***Annex 5 - Allegations against adults who work with children***

*(Please also see the Lower Level Concerns procedure within the school's Safeguarding policy).*

*Working Together to Safeguard Children (2023) states that organisations should have clear policies for dealing with allegations against people who work with children. Those policies should make a clear distinction between an allegation, a complaint or a concern about the quality of care or practice.*

*Allegations as defined by KCSiE should be reported to the LADO. Complaints or concerns can be managed independently by the school or college under internal procedures.*

*Complaints could include: -*

- *Breaches of the code of Conduct*
- *Any breach of data protection or confidentiality*
- *Poor behaviour management*

- *Inappropriate use of social media*
- *Misadministration of medication*

*Concerns could include: -*

- *Inappropriate use of language, shouting or swearing*
- *Discussing personal or sexual relationships with, or in the presence, of pupils*
- *Making (or encouraging others to make) unprofessional comments which scapegoat, demean or humiliate children, or might be interpreted as such.*

*Lower Level Concerns LLC's, which do not reach the allegations harm threshold (or complaints criteria) should be dealt with under a school LLC procedure.*

### ***Procedure for Allegations that meet the harm threshold.***

*This procedure should be used in all cases when it is alleged a member of staff, supply staff, volunteer, Governor, or another adult who works with children has either:*

- ***behaved in a way that has harmed a child, or may have harmed a child; or***
- ***possibly committed a criminal offence against or related to a child; or***
- ***behaved towards a child or children in a way that indicates he or she would pose a risk of harm to children; or***
- ***behaved or may have behaved in a way that indicates they may not be suitable to work with children.***

*When considering allegations of suitability, (the fourth criteria above) the LADOs would consider the following situations:*

- *Parents of children who are placed on a CIN plan or are receiving Early Help;*
- *Arrests for offences against adults;*
- *Presentation to other professionals around mental health, domestic abuse and/ or substance misuse;*
- *Extreme political or religious viewpoints which could be considered Hate Crime;*
- *Concerns about behaviour in their private lives which may impact on children*

*In any of these situations the LADO criteria for intervention will be assessed against the likelihood and impact of transferable risk to children.*

*In line with our referral process:*

- *Staff will report any concerns about the conduct of any member of staff, supply staff or volunteer to the headteacher as soon as possible.*
- *If an allegation is made against the headteacher, the concerns need to be raised with the Chair of Governors as soon as possible. If the Chair of Governors is not available, then the LADO should be contacted directly.*
- *There may be situations when the headteacher or Chair of Governors will want to involve the police immediately, if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence.*
- *Once an allegation has been received by the headteacher or Chair of Governors, they will contact the LADO on 01962 876364 or [child.protection@hants.gov.uk](mailto:child.protection@hants.gov.uk) as soon as possible and before carrying out any investigation into the allegation.*

- *Inform the parents of the allegation unless there is a good reason not to*

*In liaison with the LADO, the school will determine how to proceed and if necessary, the LADO will refer the matter to Children's Social Care and/or the police.*

*When receiving information from outside agencies about school staff, the LADO will assess the potential for transferable risk, and make a disclosure to the school where there is the likelihood of transferable risk to children and there is a pressing need.*

*If the matter is investigated internally, the LADO will advise the school to seek guidance from their personnel/HR provider in following procedures set out in Part 4 of 'Keeping Children Safe in Education' (2024) and the HSCP procedures.*

### **Supply Staff**

*While supply staff are not employees of the school, it is still required that the school report the allegation to the LADO.*

*If the matter requires an internal investigation, this will be carried out by the school in liaison with an HR rep (acting as the employer) from the supply agency.*

### **Lower Level Concerns (LLCs)**

*The LLC policy is part of the whole school approach to safeguarding. The purpose of the policy is to encourage an open and transparent culture, which enables the school or College to identify concerning, problematic or inappropriate behaviour at an early stage. It should also empower staff to share LLCs with the DSL. LLCs will be managed independently by the school or college under internal procedures.*

*Examples of LLCs include, but is not limited to: -*

- *being over friendly with children;*
- *having favourites;*
- *taking photographs of children on their mobile phone;*
- *engaging with a child on a one-to-one basis in a secluded area or behind a closed door;*
- or,*
- *using inappropriate sexualised, intimidating or offensive language.*

*The LLC policy will:-*

- *Ensure that staff are clear about what constitutes appropriate behaviour, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others;*
- *Empower staff to share any low-level safeguarding concerns with the DSL*
  - *Address unprofessional behaviour and support the individual to correct this at an early stage.*
- *Provide a responsive, sensitive and proportionate handling of such concerns when they are raised.*
- *Help identify any weakness in the school or colleges safeguarding system.*

*In line with the LLC policy: -*

- *All LLCs will be shared responsibly with the DSL, recorded in writing and dealt with in an appropriate and timely manner.*
- *All LLCs will be reviewed, so that potential patterns of concerning, problematic or inappropriate behaviour can be identified.*

- *If LLCs are found to be escalating and are reaching the harm threshold, A referral will be made to the LADO.*

***If there is any doubt about the level at which behaviour needs to be addressed, LADO advice will be taken.***

## **Step 2 – Determine whether the concern raised is a Protected Disclosure**

Qualifying disclosures are disclosures of information where the staff member reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- a criminal offence (e.g. fraud, corruption, sexual or physical abuse of pupils/students or others);
- a failure by a person to comply with any legal obligation to which he/she is subject;
- a miscarriage of justice;
- a danger to the health or safety of any individual;
- damage to the environment, or
- a deliberate attempt to conceal any of the above matters.

Following disclosure of one of the above matters, the person receiving the disclosure must determine whether it is a ‘qualifying disclosure’ under the Act, by considering the following:

- whether any factual information was actually disclosed, as opposed to opinion only, to the employer (or relevant person);
- whether the individual making the disclosure believed that the information tended to show that one of the matters above has occurred, is occurring or is likely to occur; and
- whether that belief was reasonable.

If the above criteria are met, the disclosure will qualify as a protected disclosure, and the remainder of this procedure will apply. If the criteria are not all met but the staff member’s disclosure was made in good faith, investigations should still take place into the allegations and the staff member should not be discriminated against because they have raised such an allegation. If it is found that the disclosure was made for malicious purposes or for personal gain, the school should deal with this under the disciplinary procedure, where relevant ([guidance on disciplinary issues](#) can be found in the Manual of Personnel Practice).

## **Step 3 - Investigation**

A preliminary investigation will need to be undertaken to establish whether the alleged act or omission could actually have occurred, be occurring or be likely to occur in the future. The investigation is not, at this stage, to determine whether the alleged act or omission has actually occurred, but to determine the facts of the case (e.g. was the alleged individual actually where they were purported to be, what does the evidence show). More about [investigations](#) can be found in the Manual of Personnel Practice:.

Allegations that have some foundation to them should be followed up with a full internal investigation, which may result in one or more of the following:

- no case to answer;

- disciplinary action taken against the alleged individual;
- referral to Social Services or the Police, or other relevant organisation;
- referral to Internal Audit or other County Council departments (for County Council maintained schools).

If the allegations are unfounded (no evidence or proper basis that supports the allegation), or unsubstantiated (can neither be proven nor disproven), no action need be taken by the school, although it would be pertinent to determine why the staff member felt the need to raise the allegation in the first place, e.g. is there a training need within the school?

If it is found that the allegation was made for malicious purposes or for personal gain, the school should deal with this under the disciplinary procedure ([guidance on disciplinary issues](#) can be found in the Manual of Personnel Practice).

#### **Step 4 - Communication**

Subject to legal constraints and the need to protect the rights of individuals, the staff member raising the concern will be informed of the outcome of any investigation at the earliest practicable opportunity. Such information will not include confidential details about formal action taken against another staff member.

For reasons of sensitivity and confidentiality, all communications with a staff member who takes action under this procedure will be sent to their home address, unless an alternative arrangement has been mutually agreed.

#### **Step 5 - Taking the matter further**

In the event that a staff member feels that their concerns have not been resolved through the above process, they may write to the Chair of the Governing Body, if he/she has not already been involved, outlining their concern, the action taken to date and the reasons for their dissatisfaction.

Within 10 working days of a concern being raised, the Chair of Governors will write to the staff member to acknowledge that the concern has been received and indicate what further steps will be taken, as well as providing an estimate of the time it will take to provide a final response. The Chair of Governors may decide to set up a small group of governors, where appropriate, to investigate the concerns. The Chair of Governors will then inform the staff member of the outcome of this process on the same basis as required of the manager above. Where appropriate, the Chair of Governors should also involve the relevant Diocese at an early opportunity.

In the event that the matter cannot be satisfactorily resolved within the school, the staff member may escalate their concerns further. How they do this will depend on the status of the school, as follows:

##### **5.1 Hampshire County Council maintained schools**

Staff should raise their concerns, in writing, with the following officers of the County Council, and in the following order:

- a. Area Director for the relevant school
- b. Director of Children's Services

c. Chief Executive of Hampshire County Council

These officers will follow the same basic procedure outlined above in the same timescales and will feed back the outcome to the staff member. The address for all of the above is: Children's Services Department, Hampshire County Council, Elizabeth II Court West, The Castle, Winchester, SO23 8UG or [childrens.services@hants.gov.uk](mailto:childrens.services@hants.gov.uk).

If a staff member is dissatisfied with the response of the Governing Body and the County Council, and subject to the concern being a protected disclosure (see step 2 above), they can raise the matter, as appropriate, with any of the following:

- an elected Member of the County Council;
- the Local Government Ombudsman;
- others as set out below.

## 5.2 Hampshire County Council Maintained and Academy and Independent schools

Staff in Hampshire County Council maintained schools who are dissatisfied after having raised concerns under 5.1 above, and staff in Academy and Independent schools, can also raise their concerns, as appropriate, with any of the following, subject to the concern being a protected disclosure (see step 2 above):

- a local Member of Parliament;
- a relevant professional body or inspectorate (e.g. Ofsted or Health & Safety Executive);
- A 'prescribed person' as designated by the Act, a full list of whom can be found on the Gov.uk website under "[Whistleblowing: list of prescribed people and bodies](#)".

Staff can only make a disclosure to a prescribed person if they:

- make the disclosure in good faith;
- reasonably believe the information is substantially true;
- reasonably believe they are disclosing the issue to the appropriate person or body (e.g. Health and Safety issues to the HSE).

In taking their concern outside of the school, staff must ensure that, as far as possible, the matter is raised without personal information relating to other staff, or confidential information about unrelated matters, being disclosed. A staff member who approaches an accredited legal advice centre, e.g. Protect (formerly known as Public Concern at Work, 020 3117 2520 or <https://protect-advice.org.uk>) or Citizens Advice Bureau, must not breach the duty of confidence in this procedure to the Governing Body.

## 6. Failure to follow this procedure

Any staff member who unreasonably and without justification raises such issues on a wider basis, such as with the press, without following the steps and advice in this procedure may be liable to disciplinary action.



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