

Whistleblowing Policy

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Date:	

Relevant Policies and Documents

- Code of Conduct for Staff
- Complaints Procedure
- Equalities Policy
- Health and Safety Policy
- Health and Safety Procedures
- Grievance Policy
- Safeguarding Policy
- Harassment Policy

Explanation of Terms

Trust	=	Seckford Education Trust
School(s)	=	schools within the Trust

SECTION A - POLICY

A1 Purpose of the Policy

This policy outlines the Trust's position in respect of whistleblowing across all its schools. This policy covers the Trust and all its schools and as such there is no need for each school to have its own policy.

This policy applies to all employees and others who may work in the Trust or schools including trustees, students on placement, volunteers, agency/contract staff. This includes contractors working on site, suppliers and those providing services either to the students, the Trust or its schools. For the purposes of this policy all such individuals will be referred to as staff.

The Trust has adopted this policy and the accompanying procedure on whistleblowing to enable members of staff to raise concerns internally and confidentially about fraud, malpractice, health and safety, criminal offences, behaviour or unethical conduct. The policy also provides, if necessary, for such concerns to be raised outside the organisation.

This policy is non-contractual and can be changed at any time by the Trust or as legislation dictates.

A2 Introduction

The Public Interest Disclosure Act (PIDA) 1998 came into force in 1999 to encourage workers to report wrongdoing at work by providing protection from victimisation when they “blow the whistle” inside and – where there is a good reason – outside an organisation.

The PIDA was amended by the Enterprise and Regulatory Reform Act 2013 so that, from June 2013 onwards, any concerns raised must also be in the public interest for the employee or worker to qualify for protection. Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have ‘blown the whistle’.

Whistleblowing is the terms used when a worker passes on information concerning wrongdoing. This is often referred to as ‘making a disclosure’ or ‘blowing the whistle’. The wrong doing will typically (although not necessarily) be something they have witnessed at work.

To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by the whistleblowing law. Whistleblowing is not intended to cover matters relating to an individual’s own employment, and the Trust has a range of other policies that may be more relevant to other categories of malpractice or concern, such as those set out in 1 above.

The second thing that a worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- Criminal offences (this may include, for example, types of financial impropriety such as fraud)
- Failure to comply with an obligation set out in law
- Miscarriages of justice
- Endangering of someone’s health and safety
- Damage to the environment
- Covering up wrongdoing in the above categories

The Trust recognises that those who work in our schools are often the first to realise that there may be something seriously wrong and this policy aims to encourage staff to feel confident to raise their concerns at an early stage, and to question and act upon concerns about practice by providing clarity about the right procedure to follow and reassurance that they will be supported, and protected from possible reprisals or victimisation, when doing so.

A3 Policy Statement

The Trust Board is committed to the highest possible standards of conduct, openness, honesty and accountability in the Trust and its schools. Staff are expected to conduct themselves with integrity, impartiality and honesty and as such are expected to report any serious concerns they might have about malpractice within the Trust schools.

In accordance with Lord Nolan's Second Report of the Committee on Standards in Public Life, the Trust's whistleblowing policy confirms that:

- Malpractice will not be tolerated;
- Confidentiality of staff raising concerns will be respected and procedures will maintain confidentiality so far as is consistent with the progressing of issues effectively;
- Opportunity will be provided to raise concerns outside the normal line management structure where this is appropriate;
- The disciplinary policy and procedure will be invoked in the case of victimisation of staff who "blow the whistle" or in cases of false, malicious, vexatious or frivolous allegations;
- A clear and simple procedure for raising concerns will be provided, which is accessible to all staff.

The Trust wishes to encourage all staff to feel confident to raise serious concerns and confirms that staff who do so in good faith using this policy and procedure will be able to express concerns without fear of being victimised or penalised in any way.

A4 Complaints

Any complaints about this policy from outside the Trust should be made in accordance with the Trust's Complaints Policy. Any other complaints should be brought to the attention of the Headteacher of the relevant school in the first instance.

A5 Compliance and Performance Monitoring

The Trust Board will review this policy every two years and ensure that practice across all schools is in line with this policy.

The Trust has identified a range of Assurance Methodologies as tools by which compliance with policies can be tested. Those most relevant to this policy include:

- External Audit
- Internal Audit
- Random testing by line managers
- Governor visit/report

SECTION B - PROCEDURE

This procedure is to encourage and enable staff to express legitimate concerns regarding suspected malpractice within the Trust or Schools.

Malpractice is not easily defined; however, it includes:

- conduct which has failed, or is likely to fail, to comply with a legal obligation;
- disclosure related to miscarriages of justice;
- actions which endanger the health or safety of any individual, including risks to students or the public as well as other workers;
- damage to the environment;
- theft or misuse of Trust schools property or assets;
- the unauthorised use of public funds;
- possible fraud or corruption;
- serious departure from professional standards;
- sexual or physical abuse of students / service users / workers;
- neglect or emotional abuse of children in the Trust / attending its schools;
- serious breach of Trust, its school, or other relevant regulations.

B1 Confidentiality

The Trust acknowledges that the whistleblower may wish to raise their concern confidentially and assures the whistleblower that all reports of a breach will be dealt with in a confidential manner and will be maintained to the fullest extent possible, consistent with the need to conduct an adequate investigation. The whistleblower is expected to keep the matter confidential to allow any investigation to be handled promptly and effectively.

The Trust encourages all staff to raise concerns directly and openly with their line manager, the Headteacher or a Trustee, depending on whom the whistleblower believes to be most appropriate. However, the Trust acknowledges that the whistleblower may find this difficult in some circumstances and the whistleblower may therefore raise their concern anonymously, although this may make a thorough investigation more difficult.

The Trust commits to protect the identity of the whistleblower as far as is practicable, and if it becomes necessary to ask the whistleblower to give evidence in the open to allow a full investigation this will be discussed with the whistleblower. The whistleblower should be aware that it is possible in cases such as abuse or fraud that records might have to be used as evidence in court and it is not therefore possible to retain anonymity.

B2 Raising the Concern

As a first step, staff should raise concerns verbally with their immediate manager or his / her superior. This may depend, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that person is involved you should approach the Headteacher. However, if for some reason this first Page 6 step is inappropriate then the concern should be raised with the Chair of the Trust Board.

If the concern is raised verbally, the person receiving the information should put it in writing as soon as practicable to ensure that it properly reflects the concerns that have been raised.

A written allegation should be confirmed with the whistleblower, and should set out the background and history of the concern (giving names, dates and places where possible) and the reason why the whistleblower is particularly concerned about the situation. It is preferable for the staff member to record this in writing themselves. Although the member of staff is not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

If the whistleblower wishes to retain anonymity, a representative will need to be nominated to whom correspondence may be directed in order to keep the whistleblower informed. The amount of contact between investigating officers and the whistleblower 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 the whistleblower. When any meeting is arranged, the whistleblower has the right to be accompanied by a colleague or representative of a professional association, if they so wish.

B3 Investigating Concerns Raised

The action taken by the Trust will depend on the nature of the concern. Where appropriate, the matters raised may:

- be investigated internally;
- be referred to the police;
- be referred to the relevant Local Authority department and / or Regulatory Body;
- be referred to the Disclosure and Barring Service (DBS) or Teaching Agency;
- form the subject of an independent inquiry.

If urgent action is required in response to a concern this may well be taken before a full investigation is completed. In any event of a concern being received, the Trust will write to the whistleblower within a reasonable period:

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling the whistleblower whether any initial enquiries have been made;
- supplying information on support available to the whistleblower; and
- telling the whistleblower whether further investigations will take place, and if not, why not.

The Trust accepts that the whistleblower needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the whistleblower will receive information about the outcome of any investigations and / or proceedings.

B4 Safeguarding (Students)

If a member of staff has concerns about the behaviour of another member of staff towards a student, he or she should report it at once to the Headteacher and to the Designated Safeguarding Lead (DSL) (or to the Chairman of the Trust Board where the concern relates to the Headteacher or a Trustee or a member of the Local Advisory Body). Any concern will be thoroughly investigated under the whistleblowing procedure.

If a member of staff has concerns in relation to Safeguarding of a child they must report this as outlined above but may also wish to contact the NSPCC (contact details set out in section 15 of this policy).

Further information can be found in the Trust's Safeguarding Policy.

B5 External Procedures

Although the Trust prefers employees not to take concerns to someone outside the Trust or Schools without first going through the internal procedures where all internal procedures have been exhausted, a member of staff shall have a right of access to an external body/person.

This may include (depending on the subject matter of the disclosure):

- HMRC;
- The Audit Commission;
- The Health and Safety Executive (HSE);
- Local authority Designated Officer (where the disclosure relates to a child protection issue);
- The Local Authority Safeguarding Unit (when the disclosure relates to a service user abuse issue);

- Ofsted;
- Department for Education

It should be noted that under the PIDA 1998, there are circumstances in where a staff member may be entitled to raise a concern directly with an external body where they reasonably believe;

- That exceptionally serious circumstances justify it;
- Where they believe they will be victimised by the Trust if they raise the matter internally;
- The Trust or school would cover up relevant evidence;
- Where the Secretary of State has ordered it.

For more information about who the appropriate prescribed body person or body is, please go to the link below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510962/BI-S-16-79-blowing-the-whistle-to-a-prescribed-person.pdf

Staff who decide to take the matter outside the school need to be aware that they should be careful not to reveal any confidential information. Contracts of employment usually stipulate a duty not to disclose any matters that could be considered confidential. This prevents employees from publicly disclosing employers' confidential information unless it is in the public interest to do so, or unless the Trust or school has failed to deal with the issue properly.

Staff should not approach elected members of Local Councils unless they can show without doubt that their concerns are not being addressed, even at the highest officer level.

B6 Protection from Reprisal or Victimisation

No member of staff will suffer detriment or be disciplined for raising a genuine and legitimate concern, providing they do so in good faith and following the Whistleblowing procedures.

In the event that the whistleblower believes they are being subjected to a detriment by any person within the Trust as a result of their decision to invoke this procedure the whistleblower should inform a member of the HR office, Headteacher/Head of School, or a Trustee immediately and appropriate action will be taken to protect the whistleblower from any victimisation.

B7 False or Malicious Allegations

If allegations are made in good faith but it is not confirmed by the investigation no action will be taken against the whistleblower. If, however, the allegation was considered to be made frivolously, maliciously or for personal gain, disciplinary action may be taken against the individual.

B8 Contacts/ Further Information

Any member of staff who is not sure whether to use these procedures, or who wants independent advice at any stage, can contact the charity, Public Concern at Work. The issue needs to be of public concern and affect a third party. Their lawyers offer free, confidential advice at any stage to people who are worried about something that is going on at work, or who are unsure about what to do next. They also advise people who have already raised concerns that have not been addressed and where the risk remains.

Public Concern at Work can be contacted on their website at www.pcaw.co.uk by email at helpline@pcaw.co.uk or by calling 020 7404 6609.

Details of who the Trustees are, may be found on the Trust's website at www.seckfordeducation.org.uk/

Internal and external contacts for Safeguarding can be found in the Trust's Safeguarding Policy.

The NSPCC can be contacted in relation to Safeguarding concerns relating to children via their website NSPCC's website. Staff can also call 0800 028 0285 from 8am – 8pm Monday – Friday or email help@nspcc.org.uk

Further information on whistleblowing can be found on the Government's website www.gov.uk/whistleblowing