

Sharps Copse Primary School

Policy for Protected Disclosure (Whistleblowing)

1. ACCESSIBILITY

This policy is available in large print or Braille. Please contact the school office who will be happy to arrange this for you.

2. PURPOSE OF POLICY

This policy has been designed to operate in accordance with the provisions of the Public Interest Disclosure Act 1998 (as amended) (hereafter known as 'the Act'), which gives protection to people who disclose reasonable concerns about serious misconduct or malpractice at work. This is sometimes known as **Whistleblowing**.

3. APPROVAL

Approval date: 10th March 2015

4. INTRODUCTION

The policy applies to all staff (which will include all agency staff, students on placements, supply staff, volunteers, contractors and suppliers operating under contract to the school) and is intended to encourage staff to raise concerns within the school as a first priority, rather than make a wider disclosure outside of the school. In this policy, the use of the word "person" refers to staff.

5. REFERENCES

- ☐ Public Interest Disclosure Act 1998 (as amended)
- ☐ Manual of Personnel Practise Procedure for Protected Disclosures (Whistleblowing) issued by Education Personnel Services

6. CONTENT

6.1 Step 1 - Raising a Concern

In the first instance, concerns should be raised with the immediate line manager, who should then deal with the problem as quickly as possible. If the immediate line manager is involved in the malpractice, the concerns can be raised with a more senior member of staff, including the Headteacher. If it is felt that this is not appropriate, the matter can be raised with the Headteacher, who then may approach the Chair of Governors.

Within ten working days of a concern being raised, the person who has received the concern will write to the person to acknowledge that the concern has been received. They should also indicate what initial steps they intend to take to deal with the matter and, where possible, provide an estimate of the time it will take to provide a final response.

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

Although persons who wish to make an anonymous disclosure may do so, it may be important for the investigating manager to know the source of the information for a full and appropriate investigation to be possible. Furthermore, the manager would need to take into account the nature and credibility of an allegation before deciding whether to proceed with an investigation. However, persons 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 of anyone who makes a protected disclosure in good faith.

6.2 Step 2 – Determine whether it is a Protected Disclosure

Following a disclosure made under this procedure, the person who has received the concern must determine whether the disclosure is a 'qualifying disclosure' under the Act, by considering the following:

- ☐ Whether any information was actually disclosed, as opposed to opinion only, to the employer (or relevant person);
- ☐ Whether the person believed that the information tended to show that one of the matters in the Act has occurred, is occurring or is likely to occur (see below); and
- ☐ Whether that belief was reasonable.

The following is a list from the Act showing qualifying disclosures, which, if a person discloses them having reasonable belief of their validity, would be a protected disclosure under the Act.

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

If the above criteria are met, the disclosure will qualify as a protected disclosure, and the following procedure will apply. If the criteria are not all met, the disclosure will not meet the conditions of the Act, but if the person's disclosure was made in good faith, investigations should still take place into the allegations, and the person 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.

6.3 Step 3 – Investigation

A preliminary investigation will need to be undertaken to establish whether the allegation 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 allegation 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).

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

If the allegations are found to be 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 person 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 – link as above).

6.4 Step 4 - Communication

Subject to legal constraints and the need to protect the rights of individuals, the person raising the concern will be informed of the outcome of any investigation at the earliest practicable opportunity, to reassure them that appropriate action has been taken. Such

information will not include confidential details about formal action taken against another person.

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

6.5 Step 5 - Taking the matter further

In the event that a person 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 person to acknowledge that the concern has been received and indicate what steps will be taken to deal with the matter, 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 person of the outcome of this process on the same basis as required of the manager above.

Where appropriate, the Chair of Governors should involve the relevant Diocese at an early opportunity.

In the event that the matter cannot be satisfactorily resolved within the school, the person may escalate their concerns further. Persons should raise their concerns, in writing, within the County Council's Children's Services Department, in the following order:

- a. with the Area Director
- b. with the Director of Children's Services
- c. with the Chief Executive

These officers will follow the same basic procedure outlined above in the same timescales and will feed back the outcome to the person. Contact Children's Services Department, Hampshire County Council, Elizabeth II Court East, The Castle, Winchester, SO23 8UG or childrens.services@hants.gov.uk.

If a person is dissatisfied with the response of the Governing Body and the County Council, and subject to the concern being a protected disclosure, they can raise the matter, as appropriate, with any of the following:

- ☐ An elected Member of the County Council
- ☐ A local Member of Parliament
- ☐ The Local Government Ombudsman
- ☐ 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 'prescribed persons' can be found here:
www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowing/ntheworkplace/DG_175821 - under 'Blowing the whistle to a prescribed person'.

Persons 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 County Council, persons must ensure that, as far as possible, the matter is raised without personal information relating to other persons, or confidential information about unrelated matters, being disclosed. A person who approaches an accredited legal advice centre, e.g. Public Concern at Work (0207 404 6609 or

www.pcaw.org.uk) or Citizens Advice Bureau, must not breach the duty of confidence in this procedure to the Governing Body nor the County Council.

6.6 Step 6 - Failure to follow this procedure

Any person 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.

7. APPENDICES

None.