



NEU Whistleblowing - Model policy

1. What is whistleblowing?

1.1 Whistleblowing is the term used when a worker passes on information concerning wrongdoing – making a disclosure or blowing the whistle. The wrongdoing will be typically, although not necessarily, something they have witnessed or believe to be happening at work.

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

- That a crime has been committed, is being committed, or is likely to be committed.
- That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject.
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That the health and safety of an individual has been, is being, or is likely to be endangered.
- That the environment has been, is being or is likely to be damaged.
- That information tending to show any of the above has been concealed, is being, or is likely to be deliberately concealed.

2. Employer commitment

2.1 Employees might not express their concerns if they feel that speaking up would be disloyal to their colleagues or their workplace. They may fear harassment or victimisation and think that it would be easier to ignore their concern rather than report it.

2.2 Our organisation is committed to achieving a high standard of integrity and accountability with an open and honest culture of co-operation. In line with this commitment, we encourage employees with serious concerns about any aspects of the organisation's work to come forward and voice those concerns with us.

Employees can raise concerns without fear of harassment or detriment and we will ensure that all complaints will be given full and proper consideration.

2.3 Confidentiality will be maintained as far as is possible. It is guaranteed at the point of making a protected disclosure and will be maintained during investigations and hearings, other than when there is a need for disclosure of identity due to cross-examination of the staff member as a witness in any subsequent procedure. In some cases, where the individual is considered to be at risk, evidence may be given in such a way as to protect the identity of the individual concerned.

2.4 The person making the disclosure and the person the disclosure is about have the right to be accompanied and/or represented by their trade union representative or a work colleague at all stages of the procedure.

2.5 The organisation will implement training, mentoring, advice and other support systems to ensure employees can easily approach a range of people within the organisation.

3. Aims and scope of the policy

3.1 This policy is intended to encourage and enable employees to raise serious concerns within any part of the organisation, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally. The policy gives the employer the chance to rectify any wrongdoing and allows the employee to take the matter further if dissatisfied with the management response.

3.2 The policy does not override workers' legal rights to make a protected disclosure to certain third parties under the Public Interest Disclosure Act 1998 (PIDA), as incorporated into the Employment Rights Act 1996.

3.3 The whistleblowing policy is designed to sit alongside the grievance policy. Employment-related issues should be raised through the grievance policy and procedure. Where the nature of the disclosure is not included on the list at part 1.2, advice can be sought from human resources (HR) or from a trade union representative.

3.4 This policy may be used by all workers in any of our workplaces to raise concerns where the wellbeing of others or the organisation/workplace itself is at risk. The term worker broadly includes employees, contractors, agency workers, trainees and a person who is or was subject to a contract to undertake work or services.

4. How to raise a concern

4.1 In the first instance an employee should raise their concern with their line manager or the head teacher/principal if they feel able to. The line manager/head teacher or principal will then be responsible for taking the matter forward as set out in part 5 of the policy.

4.2 If the employee does not feel comfortable approaching their line manager or the head teacher/principal, or the disclosure relates to the line manager or the head teacher/principal, the employee can approach the chair of governors or someone else within the organisation but external to their place of work. This could be a senior manager of the academy chain, or a head teacher/principal of another school or academy.

4.3 Concerns should ideally be raised in writing although this is not mandatory. The letter should set out the background and history of the concern, giving names, dates and places where possible, and the reason why the employee making the disclosure is particularly concerned about the situation.

4.4 If the employee does not feel able to put their concerns in writing, the employee should arrange to meet with the person they have decided to make the disclosure to. The manager/head teacher/principal or whoever the complaint is raised with should seek advice from HR about how to deal with the matter.

5. Next steps

5.1 The action taken will depend on the nature of the concern. The matters raised may:

- be investigated by the line manager/head teacher/principal or by the manager with whom the employee raised the matter as appropriate, either in conjunction with other employees or alone
- be investigated internally by an appropriately skilled and experienced individual, knowledgeable in the area concerned
- be referred to an external auditor or ombudsman
- form the subject of an independent enquiry.

5.2 In order to protect individuals, 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 specific procedures (for example, child protection or discrimination) will normally be referred for consideration under those procedures.

5.3 Some concerns may be resolved by agreed action by the manager with whom the employee raised the matter without the need for investigation.

5.4 Within ten working days of a concern being received (excluding anonymous disclosure), the manager with whom the employee raised the matter will write to the employee:

- 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 final response
- telling the employee whether any initial enquiries have been made
- telling the employee whether further investigations will take place, and if not, the reason why.

5.5 The amount of contact between the manager(s) considering the issues and the employee who made the disclosure 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 employee in a discreet manner.

5.6 When any meeting is arranged, the employee has the right to be accompanied by a trade union representative or work colleague. The meeting can be 'off site', if requested.

5.7 Any employee who is the subject of the allegation should be given details of the allegation in order to respond and to be adequately represented during the investigation. Any employee in this position is strongly advised to seek advice/representation from their trade union.

5.8 We accept that the employee making the disclosure needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, s/he will receive information about the outcomes of investigations. In addition s/he will be informed as to what action has been taken to correct working practices where they have been found to be at fault by the investigation.

5.9 If the employee is dissatisfied with the response, s/he can put their concerns in writing to the chief executive of the academy trust or chair of governors who will arrange any further investigation as appropriate. If the chair of governors has already been involved in the case, they should not be approached at this stage. Instead the employee can put their concern to someone else within the organisation but external to their place of work. This could be a senior manager of the academy chain, or a head teacher/principal of another school or academy not previously involved. HR can provide advice if necessary.

5.10 Within ten working days of a concern being received (excluding anonymous disclosure), the person the disclosure was made to will write to the employee:

- 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 final response
- telling the employee whether further investigations will take place, and if not, the reason why
- explaining that this stage represents the final stage of the internal process.

5.11 Where a meeting is arranged as part of this stage, the employee has the right to be accompanied by a trade union representative. The meeting can be 'off site', if requested.

5.12 Steps will be taken to minimise any difficulties which the employee may experience as a result of raising a concern, and appropriate support will be provided. For instance, if the employee is required to give evidence in disciplinary or criminal proceedings, HR will advise the employee about the procedure.

6. Blowing the whistle externally

6.1 In some circumstances an employee will want to 'blow the whistle' outside of the organisation. In all cases the employee is encouraged to exhaust all internal procedures before contacting external agencies. This whistleblowing policy is designed to reduce the need for external disclosure and to encourage co-operation, cohesiveness and honesty.

6.2 An employee may make an external disclosure to an outside agency without losing their rights to make a protected disclosure to certain third parties under the Public Interest Disclosure Act 1998 (PIDA), as incorporated into the Employment Rights Act 1996.

6.3 One option for external whistleblowing is via 'prescribed persons'. Prescribed persons are mainly regulators and professional bodies. A complete list of prescribed persons can be found at: gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies

6.4 Any employee who approaches the media with their concerns is likely to lose their rights under whistleblowing law. In doing so an employee cannot be acting for personal gain and must reasonably believe the information they disclose is substantially true. If an employee bypasses this internal procedure or a prescribed person before contacting the media, they must reasonably believe that the organisation will subject them to detriment for making the disclosure internally.

7. Harassment or victimisation

7.1 We recognise 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 malpractice. We will not tolerate harassment or victimisation and will take action to protect the employee when s/he has raised a concern.

7.2 This does not mean that if the employee is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of confidential reporting.

7.3 If an employee feels they have been treated unfairly as a result of making a disclosure, they can decide to take the case to an employment tribunal. It is strongly advisable for any employee considering this course of action to seek advice from their trade union representative.

8. Confidentiality

8.1 Confidentiality at the point of raising a complaint with the person who it is made to is guaranteed and all steps will be taken to ensure that confidentiality is maintained throughout the process. However, it must be appreciated that the investigation process may reveal the source of the information if it required by law to reveal it.

9. Anonymous allegations

9.1 It may be appropriate for anonymous complaints to be made although employees are encouraged to make their identity known. Concerns expressed anonymously will still be investigated but the process may be hampered if there need to be follow-up enquiries but the employee making the disclosure cannot be contacted.

9.2 If an employee makes an anonymous allegation it can be more difficult for them to qualify for protection as a whistleblower. This is because there would be no documentary evidence linking the worker to the disclosure for a tribunal to consider.

9.3 In the case of an anonymous allegation, the following factors will be taken into account when establishing the scope and depth of the investigation:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources and information.

9.4 Employees can make a disclosure via their trade union rather than personally, in order to further maintain confidentiality. In this circumstance the employee making the disclosure will still be protected by the workers' legal right to make a protected disclosure to certain third parties under the Public Interest Disclosure Act 1998 (PIDA), as incorporated into the Employment Rights Act 1996.

9.5 The trade union representative whom the employee approaches will also have protection given to complainants under PIDA – provided they act in accordance with this procedure.

10. Malicious allegations

10.1 If an employee makes a malicious or vexatious allegation, disciplinary action may be taken against him or her under the disciplinary policy.

10.2 In determining whether an employee has acted in a malicious and/or vexatious way, the investigator will consider whether the employee was motivated to make the allegation(s) simply out of a desire to pursue a personal vendetta or grudge.

11. Equality monitoring

11.1 To ensure that we are meeting our public sector equality duty we will monitor annually the impact of this policy by reference to the protected characteristics of staff (age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and sexual orientation). The results will be shared (anonymised where appropriate) with the recognised trade unions.

Revised February 2019