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Whistleblowing Policy

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1 Introduction

All of us at one time or another has concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice and similar wrongdoings, it can be difficult to know what to do.

The School has introduced this policy to enable employees to raise concerns about malpractice/wrongdoing at an early stage and in the correct way. The Whistleblowing Policy is to be used for reporting concerns where the employee holds a reasonable belief that the concern is within the public interest or where the organisation, and/or members of it, may be at risk.

1.1 Aims of the Policy

This policy aims to:-

- Inform employees on how to appropriately take issues of concern forward, using the correct policies and procedures;
- Provide a clear procedure for employees to raise concerns and receive feedback on any action taken;
- Ensure that confidentiality of the disclosure is maintained as far as possible;
- Reassure employees that they will be protected from reprisals or victimisation for 'Whistleblowing' in good faith and in accordance with this procedure.

1.2 Scope

This policy applies to all employees and governors of the School. Contractors, partner agencies, agency workers, Apprentices/trainees and volunteers who wish to raise whistleblowing concerns can do so through this policy.

2 What is Whistleblowing?

Someone "blows the whistle" when they tell their employer, regulator, customers, the police or media about a dangerous or illegal activity they are aware of through work. The disclosure must be made in the public interest, i.e. a public interest disclosure is a disclosure by a worker concerning a wrongdoing on the part of his or her employer.

Whistleblowing legislation is in place to protect workers from dismissal or victimisation at work in the event that they disclose some sort of wrongdoing to the employer or another appropriate body.

The Public Interest Disclosure Act 1998 and the Employment Rights Act 1996 clearly define what types of disclosure qualify the person making them for protection against dismissal and detrimental treatment by their employer. These are known as 'protected' disclosures.

A qualifying disclosure can be where any of the following is being, has been, or is likely to be, committed:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- a disclosure will also be protected if the information disclosed is of a nature that shows that any of the above is likely to be deliberately concealed.

The law also protects the individual from detrimental treatment by work colleagues for raising a concern. The School is 'vicariously' liable for any wrongdoing of this nature unless it can prove that it took all reasonable steps to protect the individual who raised the concern from detrimental treatment by their co-worker.

2.1 What is the difference between making a complaint and blowing the whistle?

When someone blows the whistle they are raising a concern about danger or illegality that affects others (for example pupils, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern – they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice, but to give clear, factual information about the concern. He or she is a messenger raising a concern so that others can address it.

This is very different from a complaint or grievance. When someone complains or raises a grievance, they are saying that they have been personally treated poorly. This poor treatment could involve a breach of their individual employment rights or unacceptable behaviour and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and for this reason, is expected to prove their case.

Some examples showing the differences are as follows:-

Grievance	Protected disclosure
An employee's complaint about the type of work that he or she is being asked to do, for example if it is not covered by his or her contract	A disclosure that an individual has been instructed to carry out actions that he or she genuinely believes to be illegal, e.g. to falsify tax returns
An employee's complaint that he or she has received insufficient safety training	A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety of pupils, employees or the public.
An employee's complaint about the hours that he or she is expected to work	A disclosure that the requirements imposed by the organisation on a group of employees represent a breach of the working time legislation.

Where an employee has an individual complaint relating to their employment, for example, their contract of employment, pay, conditions, he/she should raise this under the {School's} Grievance procedure. For complaints regarding unacceptable behaviour or discrimination, please refer to the Acceptable Behaviour policy. Both policies are available in the school/School induction pack/ on the staff room notice board/ on the school/ School website/ Intranet pages (please delete where applicable).

3 Safeguarding Whistleblowers

In accordance with the law, the School undertakes that no employee who reports a concern in the public interest under this procedure will be subjected to any detriment as a result. In the event that the employee believes they are

being subjected to a detriment by any person within the School, they have the right to raise any concerns of harassment via the School's Acceptable Behaviour policy.

3.1 Confidentiality

The School will do its utmost to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be acknowledged by the employee raising the concern though that the investigation process itself may well reveal the source of the information and depending on the outcome, a formal witness statement by the individual may be required as evidence within a Court.

3.2 Anonymous Allegations

This policy is designed to encourage staff to put their names to allegations. Concerns expressed anonymously are much less powerful and more difficult to investigate, but they will be considered at the discretion of the Governing Body. In exercising this discretion, the factors to be taken into account would include:-

- The seriousness of the issue(s) raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

3.3 Untrue Allegations

If an employee makes an allegation but it is not confirmed by the investigation, no action will be taken against them. If, however, there is reasonable evidence that an allegation has been made maliciously, or with the primary intent of personal gain, action will be taken in line with the School's Disciplinary procedure.

4 Procedure

The following procedure is to enable employees to raise a concern directly with the School and for it to be addressed directly. Employees have the right to report a whistleblowing concern outside of the School and this procedure if they so wish. This should be done by contacting the relevant external organisation and following their published procedure. A list of external contacts is given at the end of this policy.

4.1 Raising a Concern

Employees who have a whistle blowing concern should address their concern in writing to their immediate line manager or the Headteacher. If the concern relates to their line manager/ Headteacher, or if the individual does not feel at ease raising the concern through this route, the Chair of Governors may be contacted. Employees who are members of a recognised trade union may also wish to approach their representative. The concern should be put in writing, giving clear details of the concern and either emailed to head@watcombe-primary.torbay.sch.uk or alternatively cog@watcombe-primary.torbay.sch.uk.

4.2 How the Complaint will be Dealt With

The nominated Committee of the Governing Body will take overall responsibility for action in regard to the complaint, including formal written response to the matter.

Within ten working days of a concern being received, the School will write to the employee:-

- Acknowledging that the concern has been received;
- Indicating how the matter will be dealt with;
- Telling the employee whether any initial enquiries have been made;

- Telling the employee whether further investigations will take place and if not, the reason for this;
- Give some indication of timescales.

Following the initial investigation should the appointed Investigating Officer consider that the complaint falls outside of the scope of this policy the employee will be advised of alternative courses of action to take, for example, to raise the complaint under one of the School's other policies. If after initial investigation it becomes clear that the matter uncovers criminal activity or welfare/safeguarding concerns, these will be reported directly to the Police and/or other relevant external organisations for further action. The Governing Body and the employee will be advised of this course of action and the School shall take no further action in respect of the complaint unless requested by the Police or external organisation the complaint has been referred to.

4.3 How the School will Respond

Following its initial investigation the action recommended by the Governing Body will be dependent on the nature of the concern raised and may:

- Be resolved by agreed action without the need for further investigation
- Be further investigated
- Be referred to the Police
- Form the subject of an independent inquiry
- Be referred to an external auditor

Should an investigation be necessary, the Governing Body will appoint an appropriate investigation team from within the School either internally or externally commissioned (it may be possible to utilise the Local Authority). The investigation will be dealt with as expeditiously as possible with an estimated timescale for completion to be provided to the employee at the start by the investigation team.

Where the employee is called to an investigation meeting, they may be accompanied by a Trade Union representative or work colleague and such representative or colleague will be required to formally agree to any matters arising at that meeting being kept confidential.

Following the outcome of the investigation process, the investigating team will inform the Governing Body and/or the Headteacher of the outcome and an appropriate course of action will be agreed.

The investigating team will put the formal response in writing to the individual at the earliest opportunity.

The employee is not entitled to be able to determine the outcome of the investigation process or to insist that disciplinary action must be taken or a prosecution instigated. There is no further recourse under this policy, however, should the employee wish to pursue the matter further, they have the right to report their concerns to an external organisation or one of those listed at the end of this policy.

5 Further Support

It is the School's objective to ensure that due regard and sensitivity will be exercised by all involved in the process to ensure that the employee raising the concern does not suffer detrimental treatment as a result of raising a complaint.

6 Monitoring of the Policy

The policy will be monitored by The Governing Body, who has overall responsibility for the maintenance and operation of this policy. The School will maintain a record of concerns raised and the outcomes (in a form which does not endanger confidentiality) and will report as necessary to the Headteacher.

7 Raising a Complaint outside of the School

If an employee wishes to take the matter outside the School, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. This can be checked with the Local Government Ombudsman who will also advise on ways to proceed.

(Local Government Ombudsman Local Government Ombudsman Advice line:- 0300 061 0614) www.lgo.org.uk

The Government has produced a document “Blowing the Whistle to a Prescribed Person – List of Prescribed people and Bodies”. It lists the appropriate organisations to handle whistleblowing complaints and should be referred to for up-to-date advice and guidance about who to contact:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404330/bis-15-43-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed.pdf

7.1 Other contacts:-

The Local Authority Designated Officer (LADO) (Torbay Council) Tel: 01803 208562 (*specifically for safeguarding issues*)

Public Sector Audit Appointments Ltd (for External Audit contact) for England and Wales:-
<http://www.psa.co.uk/about-us/contact-us/whistleblowing/>

Public Disclosures Hotline Tel: 0845 0522 646

Devon and Cornwall Police Tel: 101 www.devon-cornwall.police.uk

OFSTED www.ofsted.gov.uk/contact-us/whistleblower-hotline

Prescribed People and Bodies

www.gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowing-the-whistle-to-a-prescribed-person.pdf

Public Concern at Work Tel: 020 7404 6609

www.pcaw.org.uk/

ACAS Tel: 0300 123 1100

www.acas.org

8 Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy mailbox –

HRpolicy@torbay.gov.uk

8.1 History of Policy Changes

Date	Page	Details of Change	Agreed by:
Sep 2017	All	Layout change	

This policy was produced by Education HR and is intended for paying subscribers only

Education HR

educationhr@torbay.gov.uk
01803 207 361

Business Development

businessdevelopment@torbay.gov.uk
01803 207 366

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