



Whistle Blowing Policy and Protocol

Foreword

The Council, in conjunction with the Tameside Teachers' Consultative Committee, has developed this model protocol and recommends it to Governing Bodies for adoption.

Introduction

The Governing Body of Livingstone Primary School is committed to achieving the highest possible standards of service and the highest possible standards in public life within a culture of openness, probity and accountability. Accordingly, this Governing Body encourages members of staff to use the procedure outlined in this protocol in order to raise concerns of internal malpractice, illegal acts or omissions without fear of harassment or victimisation. The Governing Body is aware that, more often than not, it is members of staff who first become aware of areas of potential malpractice in relation to the way in which the Governing Body carries out its business. This Protocol sets out the way in which such concerns can, and should, be raised by members of staff without fear of reprisal.

The Aim of this Protocol

This protocol aims to:

- Provide an avenue for members of staff to raise concerns and receive feedback (where appropriate) on any action taken;
- Allow members of staff to take matters further if they are dissatisfied with the Governing Body's response; and
- Reassure members of staff that they will be protected from reprisals or victimisation for 'whistle blowing' in good faith.

The Objectives of this Protocol

This protocol:

- demonstrates that Tameside Schools are committed to ensuring their affairs are carried out ethically, honestly, and to high standards;
- is good employment practice;
- shows that Tameside Schools have introduced procedures to protect public safety and public money;
- will help develop a culture of openness, accountability and integrity;
- will encourage staff to raise matters internally, making wider disclosures less likely;
- will contribute to the efficient running of schools and the delivery of services;
- will help curb corruption, fraud and mismanagement; and
- will help uphold the reputation of Tameside schools and maintain public confidence.

The protocol applies to all employees in schools (including agency staff) with a delegated budget.

The scope of this Protocol

The expression 'whistle blowing' is commonly used to describe circumstances where an employee makes a disclosure of a kind referred to within the Public Interest Disclosure Act 1998. The Act was effected in order to afford protection to employees who report acts or omissions which could be described as falling within the following definitions:

- A criminal offence;
- Breach of a legal obligation;
- A miscarriage of justice;
- A danger to the health and safety of any individual;
- Damage to the environment; or
- Deliberately covering up of information tending to show any of the above five matters.

In the event that a member of staff has concerns that something of this nature has occurred at work then the member of staff should disclose all relevant information in accordance with the reporting mechanisms described later in this protocol.

The Governing Body has a range of policies and procedures, which deal with standards of behaviour at work, covering Discipline, Grievance, Capability, Harassment and Recruitment and Selection. Members of staff are encouraged to use the provisions of these procedures when appropriate.

There may be times, however, when the matter needs to be handled in a different way. This protocol is intended to cover concerns that fall outside the scope of other procedures, for example:

- Malpractice or ill-treatment of a pupil by a member of staff;
- Where a criminal offence has been committed, is being committed or is likely to be committed;
- Suspected fraud;
- Disregard for legislation, particularly in relation to health and safety at work;
- Breach of standing financial instructions;
- Showing improper conduct in matters related to appointment; or
- A breach of a Code of Conduct; and/or information on any of the above which has been, or is likely to be, concealed.

In the event that a member of staff has concerns that something of this nature has occurred at work then they should disclose all relevant information in accordance with the reporting mechanisms described later in this Protocol.

In making such disclosures the member of staff will only be afforded protection by the Act in the event that any such disclosure is made:

- in good faith;
- if it is believed that the disclosure is substantially true;
- if the Whistleblower has not acted maliciously; and /or
- If the disclosure is not for personal gain.

Provided that the disclosure is of a kind described above and, additionally, it is made properly in accordance with those matters referred to in the first and last bullet points above, then the member of staff will be legally protected from suffering any detriment in relation to their employment as a result of having made that disclosure.

Confidentiality

The Governing Body will do its best to protect the identity of a member of staff who decides to make a disclosure in accordance with this protocol and you do not want their name to be revealed. However, if a consequent investigation is initiated, it may be necessary to reveal the source of the complaint, and the Whistleblower may be asked to provide a relevant statement.

Designated Officer

The Governing Body should appoint a Designated Officer to be point of contact for concerns raised under the Whistleblowing Procedure. He/she should be a member of the Senior Management Team. The Designated Officer should be impartial and capable of taking an independent view on the concern raised. At Livingstone Primary School, the Designated Officer will be Rebecca Willard (Headteacher). If the concern involves the Headteacher, the Designated Officer will be Martin Baines (Chair of Governors).

Anonymous Allegations

The Governing Body encourages those making a disclosure to put their name to their allegation. Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Designated Officer. In exercising the discretion, the factors to be taken into account may include:

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

Allegations which do not appear to be motivated by personal animosity and which, if true, would have serious implications for the Governing Body, are more likely to be considered, despite the fact that they have been made anonymously.

Untrue Allegations

If a member of staff makes an allegation, which is made in good faith, but is not confirmed by the investigation, no action shall be taken against the Whistleblower. If, however, the allegation is considered to have been made either maliciously or vexatiously, then disciplinary action may be taken.

How to raise a concern

First Step:

- A member of staff with a concern should usually raise these with his/her immediate line manager first. The manager would then refer the matter to the Designated Officer.

- If the line manager is involved the member of staff should raise the concerns with the Designated Officer.
- If the Designated Officer is involved the line manager should raise the concerns with the headteacher.
- If the headteacher is involved the Designated Officer should raise the concerns with the Chair of Governors.
- If the Chair of Governors is involved the Designated Officer should raise the concerns with the Director of Services for Children and Young People.

Confirmation of concerns

- Concerns should be confirmed in writing setting out the background and history of the concern, giving names, dates and places where possible, and the reason for concern.
- Members of staff who do not initially feel able to put their concerns in writing should meet the Designated Officer.
- Advice and guidance on how matters of concern may be pursued can be obtained from Children's Services, Human Resources or from trade unions or professional associations who may raise a matter on behalf of the member of staff.
- Trade union or professional association representatives will themselves have the protection given to complainants under the procedure, provided that they act in accordance with the procedure with regard to the information so disclosed.

The Governing Body's initial response

- The Designated Officer or line manager, if requested, will arrange an initial interview. At this stage, the Whistleblower will be reassured that he/she will be protected from possible victimisation, and will be asked if he/she wants to make a written or verbal statement. In either case, the Designated Officer or line manager will then write a brief summary of the interview, which will be agreed by both parties.
- As far as possible, the confidentiality of the Whistleblower will be protected; however this cannot be guaranteed.
- The Designated Officer or line manager will report to the headteacher (or Chair of Governors), who may set up any further necessary investigations. This may include an external investigation.

The investigation

- In order to protect individuals and the Governing Body, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- It may be necessary for an investigation to take place in strict confidence (with the employee under investigation not being informed until necessary). If it is necessary to suspend a member of staff while the investigation takes place the procedure in the Disciplinary Policy will be used. Some concerns may be resolved by agreed action without the need for investigation, others may have to be referred to the Police, an external audit or form the subject of an independent inquiry.
- The Governing Body recognises the contribution that trade unions can make to any Inquiry and agrees to consult, where appropriate, with the recognised trade union/s about the issues, such as the scope of any inquiry and the implementation of the recommendations of the inquiry.

The Designated Officer will endeavour to:

- Confirm receipt in writing (within five working days) of a concern being received, acknowledging that the concern has been received; and
- Write (within ten working days) indicating how he/she proposes to deal with the matter, where possible giving an estimate of how long it will take to provide a response, detailing whether any initial enquiries have been made, and whether further investigations will take place, and if not, why not.

The matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to an External Auditor; and/or
- form the subject of an independent inquiry,

In order to protect individuals and the Governing Body, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

How the Governing Body will respond

- Following the investigation, the Designated Officer will (subject to legal constraints) inform both the headteacher (or Chair of Governors) and the Whistleblower of the result of the investigation. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned).
- If the investigation shows there is a case to be answered, the Disciplinary or Capability Procedure may be used.
- If there is no case to answer, the Designated Officer or line manager will inform the headteacher (or Chair of Governors) of this fact.
- Disciplinary action will be taken against the Whistleblower where a false allegation is made maliciously.

Records

A note of the concern raised, how it was resolved and copies of any records associated with the investigation will be stored confidentially for at least 12 months following resolution. This will be determined on a case by case basis.

Further Recourse

This protocol is intended to provide members of staff with a way in which to raise concerns within the Governing Body. If the Whistleblower is not satisfied with the outcome of the investigation, the Whistleblower may make a disclosure to a prescribed person, such as the Health and Safety Executive, Audit Commission, the Environmental Agency, OFTEL, OFFER, OFWAT, OFGAS, Rail Regulator, FSA, Serious Fraud Agency, Inland Revenue, Customs and Excise, DTI, Office of Fair Trading, Trade Union Certification Officer, Charity Commissioners, Data Protection Registrar, the local Council or Public Concern at Work, notwithstanding the result of the investigation. If the Whistleblower chooses to take the matter outside the school, the Whistleblower will need to ensure that he/she will not disclose confidential information; in this regard the Whistleblower should first check with the Designated Officer.

Responsible Officer

The Designated Officer has overall responsibility for the maintenance and operation of this protocol. The Designated Officer will maintain a record of concerns raised, and the outcomes (in a way which does not endanger confidentiality), and shall report as necessary to the Governing Body.

The Law

This policy and procedure has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act is incorporated into the Employment Rights Act 1996, which protects employees who take action over, or raise concerns about, health and safety at work.

How will the school treat whistleblowers?

- Disciplinary action will be taken against any member of staff who tries to stop another employee from raising a concern or who is responsible for any act of recrimination or victimisation against an employee who raises a concern.
- Where an employee may have been party themselves to an act of possible gross misconduct on which they are now 'blowing the whistle' this could be considered in mitigation. They are not, however, exempt from disciplinary action.
- Disciplinary action may be taken against employees if they contact the media with concerns about conduct at work without first following the steps set out in this policy.
- If you raise a concern, you will be given the opportunity to feed back any issues or problems you may have experienced as a result. The purpose of this is to ensure that employees who have raised concerns in good faith do not suffer as a result.