Nottinghamshire School Confidential Reporting/ Whistleblowing Procedure

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HR Advice, Support and Training Services

Everton Primary School

CONFIDENTIAL REPORTING/WHISTLEBLOWING POLICY

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SCHOOL CONFIDENTIAL REPORTING/WHISTLEBLOWING POLICY – Updated April 2021

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Please also note that any changes to the original policy documentation will require your governing body or trust to re-consult with the secretaries of the recognised trade unions and staff in your school.

1. Introduction

1.0 The Governing Body of Everton Primary School adopted this on 7.12.2022. The governing body will review and monitor the impact of the Confidential Reporting and Whistleblowing Policy annually with the head teacher.

1.1 The governing body has adopted the policy set out in this document to provide an agreed framework for the exercise of its powers and discretions in relation to all staff employed in the school and paid from within the school budget.

1.2 The governing body understands its responsibilities and is committed to taking decisions in accordance with the principles of public life as listed in DfE guidance; objectivity, openness and accountability. Governing bodies should ensure that they are fully aware of their responsibilities under employment law in applying this procedure.

1.3 The governing body recognises the legal requirements placed upon them by the Education Act 2002. This Policy acknowledges and incorporates the specific statutory rights and protection given to employees by the Employment Rights Act 1996 and The Public Interest Disclosure Act 1998 http://www.hmso.gov.uk/acts.htm. This document will apply to all staff (including supply staff and volunteers) and apprentices, whether paid or unpair, or temporary or permanent.

1.4 References to the governing body should be taken to refer to the entity that is responsible for exercising governance functions for a maintained school or academy, which in the case of a multi-academy trust may be the trust board. Likewise references to governors should be taken to mean whoever is responsible for fulfilling governance functions. Where maintained schools are federated under a single governing body this will be the federated governing body.

1.5 In fulfilling staffing responsibilities, the governing body may delegate its staffing functions in accordance with its articles of government. In delegating functions, the governing body must not lose sight of the fact that it retains overall accountability for the decisions made by those to whom the function has been delegated. As a result the governing body should regularly review their arrangements for managing staffing functions and that the right people are fulfilling these roles on its behalf.

1.6 The School Staffing (England) Regulations 2009 confers the right of the County Council to send a representative to all proceedings of the governing body of a community or voluntary controlled school relating to the selection or dismissal of any teacher (including the head teacher and deputy) to offer advice. If the County Council decides to send a representative they must be allowed to attend. Any advice offered as a result must be considered by the governing body (or those to whom the function has been delegated) when reaching a decision. This will usually be a senior officer from the HR Service who may also advise the governing body/head teacher as appropriate. The same rights do not automatically apply in respect of maintained foundation, voluntary-aided and foundation special schools.

1.7 The Public Interest Disclosure Act 1998 http://www.hmso.gov.uk/acts.htm provides specific protection against suffering a detriment for making a qualifying disclosure about wrongdoing (e.g. frauds, dangers at work, etc) within their organisation or to other prescribed persons or bodies. Following the legislation, subsequent case law has clearly indicated to employers that they should have an effective Whistleblowing Policy in place. A Corporate Policy on the issue, which applies to all staff within the County Council, but which is not specific to staff working within schools, was approved and introduced in 2001.

1.8 Due to the complexities of this area of the law, governing bodies and other relevant corporate bodies are strongly advised to adopt this document without amendment. If an academy or other school outside the control of Nottinghamshire County Council adopts this procedure, references to the council as employer will need to be replaced by the name of the employing body/trust. Should, exceptionally, the governing body of a school maintained by Nottinghamshire County Council seek to amend the recommended document, it will need to consult and negotiate any changes with the recognised trade unions and confirm any amendments to the local authority. Governing bodies are strongly recommended to seek advice from the HR service in these circumstances.

Consultation and Agreement with the Recognised Trade Unions

1.10 The Nottinghamshire School (name) procedure is recommended for adoption by all community, voluntary aided, voluntary controlled, academy, foundation, and trust schools who purchase their HR Service from Nottinghamshire County Council.

1.11 This procedure has been agreed with the following Nottinghamshire recognised trade unions: NAHT, NASUWT, NEU, UNISON and GMB. ASCL have made contributions that have been incorporated into the procedure, but are unable to agree but acknowledge, without prejudice the adoption of the procedure.

1.12 Due to the complexities of this area of employment and education law, governing bodies are strongly advised to adopt the attached policy without amendment. Should, exceptionally, a governing body seek to amend the recommended policy, they will need to consult/negotiate any changes collectively with all the secretaries of the recognised trade unions and confirm any amendments to the local authority. Governing Bodies are strongly recommended to seek advice from the HR service in these circumstances.

2. Equalities and Equal Opportunities and Equality Impact Assessment

2.0 The governing body recognises its legal responsibilities to staff under the Equality Act 2010 and this policy will ensure equality and fairness regardless of race, sex, sexual orientation, religion or belief, gender re-assignment, pregnancy and maternity, marriage and civil partnership, disability or age. All decisions will be taken in accordance with relevant equalities legislation, including the Employment Relations Act 1999, the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

The governing body is aware of its responsibilities under the Freedom of Information Act 2000 to make available this policy to all staff at the school and its responsibilities to be compliant with the Data Protection Act 2018 and the General Data Protection Regulations 2018.

The governing body should ensure that an equality impact assessment of this procedure is undertaken to ensure that no groups or individuals with protected characteristics are unintentionally disadvantaged by the procedure or practice.

3. Aims of the Policy

3.0 The policy is designed to ensure that employees can raise their concerns about wrongdoing or malpractice within the school without fear of victimisation, subsequent discrimination or detriment. It is also intended to encourage and enable all employees (including volunteers and supply staff) to raise serious concerns within the school rather than ignoring a problem

through fear of repercussions, or 'blowing the whistle' to an external agency or prescribed person.

It should be noted that whistle blowing protection applies to "employees" and "workers". Throughout this document the reference to "employees" also includes "workers".

3.1 This policy aims to:

a) encourage staff to feel confident in raising serious concerns at the earliest and to question and act upon concerns about practice;

b) provide avenues and signposting for them to raise concerns, in confidence if requested, and receive feedback on any action taken;

c) ensure that they receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied;

d) reassure all staff that where issues have been raised in good faith and with reasonable belief', they will be protected from possible reprisals or detriments if they have made any protected and qualifying disclosure in the public interest.

4. Underlying Principles

4.0 With oversight from the governing body, it is the responsibility of the head teacher to ensure that all relevant senior leaders understand their role and have access to appropriate support, advice and training in the application of these procedures. The head teacher should also ensure, in conjunction with the chair of Governors and the training co-ordinator, where appropriate, that in discharging their duties and responsibilities, governors have access to support, advice and training as appropriate.

4.1 Head teachers and governors recognise that a member of staff may be the first to realise if something is wrong within the school. However, they may not want to express their concerns because they feel that speaking up would somehow be disloyal to their colleagues or to the school.

4.2 It is important for staff to know that the school is committed to the highest possible standards of openness, probity and accountability. Part of meeting that commitment is to encourage employees and others with concerns about any aspect of the school's work to feel able to come forward and voice those concerns. The school recognises the need for confidentiality and the fact that the majority of cases will have to proceed on a confidential basis.

4.3 The policy is intended to enable those who have concerns regarding wrongdoing or malpractice to report those concerns in good faith and with reasonable belief at the earliest possible opportunity so that they can be

properly investigated. The policy is not, however, intended to replace existing procedures, for example:

- if the concern relates to someone's own treatment as a member of staff or breaches of their own employment contract, they should raise this under the existing schools procedures so they can be managed through the Grievance or Harassment Procedures, as appropriate. These can be found in or via the Schools handbook;

- if a parent or other user of the school has a concern about services provided by the school, they should raise this within the Schools Complaint Procedure;

- some concerns or complaints have their own specific procedures which need to be carefully followed, this is particularly important for Child Protection issues, as set out in 'Keeping Children Safe In Education' ('KCSIE').

4.4 Where concerns are raised, the subsequent investigation will take place within the appropriate procedure, either internal or external, e.g. an internal school investigation, an audit enquiry or a Police investigation.

4.5 The person who has raised the concern(s) will be kept informed of progress and of the outcome of any investigation, as appropriate.

5. Responsibilities

5.0 The Governing Body must:

(a) Treat all disclosures in confidence.
(b) Seek advice from their HR Business Partner with regard to the application of this Policy.
(c) Provide support to employees making whistleblowing disclosures.
(d) Investigate any whistleblowing disclosures made and ensure that this undertaken without undue delay, properly and objectively.
(e) Inform the employee making the whistleblowing disclosures of the progress being made with any subsequent investigation (or provide a full explanation as to why an investigation will not be taking place). It is not necessary to provide detailed information which may breach the confidentiality of the investigation but rather provide reassurance that the investigation will reach an appropriate outcome.
(f) Where a whistleblowing disclosure is a "qualifying" and "protected" disclosure, (see paragraph 7.0 for definitions) and the disclosure has been made in the reasonable belief 'good faith' of the employee, they will be protected from suffering any detriment in their employment (including dismissal). For example, harassment or victimisation from any other manager or employee, because the employee has made the disclosure.
(g) Where a whistleblowing disclosure is a "qualifying and "protected" disclosure, take all possible steps to protect the employee making the disclosure from suffering any detriment in their employment by

other parties outside the School with an interest in concerns being raised because the employee has made the disclosure.

5.1 The Headteacher must:

(a) Maintain a secure and confidential record of all whistleblowing disclosures and the outcomes reached from the investigations.
(b) Refer all whistleblowing disclosures received to the Chair of the Governing Body and support the Governing Body in meeting their responsibilities under this Policy.
(c) Make employees (including supply staff, volunteers and apprentices) aware of the existence of this Policy.

5.2 Employees should:

(a) Disclose information about suspected wrongdoing within the School (excluding any related singularly to their own contract of employment) which comes to their attention, providing that they have a reasonable belief that their concerns are accurate and that it is the public interest that those concerns should be subject to further scrutiny.
(b) Put their name to any whistleblowing disclosures made.
(c) Fully participate in any investigation following a whistleblowing disclosure.

5.3 HR will:

(a) Provide support and advice to the School in reviewing and implementing this Policy as required.
(b) Consult with the recognised Trade Unions with regard to any future changes to this Policy.

6. Scope - Who can raise a concern under this Policy?

6.0 The provisions of the policy apply to all:

(a) Employees and workers at the school, whether on temporary or permanent contracts
(b) Governors of the school
(c) Employees of contractors working for the school, e.g. agency supply staff
(d) Employees of suppliers
(e) Voluntary workers within the school

7. What should be reported?

7.0 A qualifying disclosure means any disclosure of information that in the reasonable belief of the employee shows a “relevant failure” as set out in legislation and is made in the public interest.

Staff should report any concerns that they have about service provision or about the conduct of employees, including supply staff and volunteers, or governors of the school or others acting on behalf of the school that:

(a) make them feel uncomfortable in terms of known standards, or
(b) are not in keeping with the school's regulations and policies, or
(c) fall below established standards of practice, or
(d) are improper behaviour

7.1 There are 6 "relevant failures" in the ERA 1996:

1. **A criminal offence.**
2. **Failure to comply with any legal or professional obligation or regulatory requirement.**
3. **A miscarriage of justice.**
4. **Danger to the health and safety of an individual.**
5. **Damage to the environment.**
6. **The deliberate concealment of any of the above matters**

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SAFEGUARDS

8 The Legal Framework

8.0 The school is committed to taking any concerns that an employee may raise in any of the above circumstances very seriously.The Public Interest Disclosure Act 1998 and the Employment Rights Act 1996 (the "ERA 1996") provides legal protection, if the disclosure is 'in the reasonable belief' of the employee making the disclosures in the public interest about malpractice.

8.1 The ERA 1996 makes it unlawful for an employer to dismiss anyone or allow them to suffer detriments because of having made a qualifying and protected disclosure in the reasonable belief of the employee and in good faith.

9. Harassment or Victimisation

9.0 The school is committed to good practice and high standards and to being supportive of its staff.

9.1 The school recognises that the decision to report a concern can be a difficult one to make. If a member of staff honestly and reasonably believes what they are saying is true, they should have nothing to fear because they will be doing their duty to the school, their colleagues and those for whom they are providing a service.

9.2 The school will not tolerate any harassment (including any informal pressures) and will take the appropriate action to protect staff when they raise a qualifying and protected disclosure in good faith.

10. Support for the Person Raising Concerns

10.0 Throughout the process the member of staff:

(a) Will be protected from suffering a detriment, bullying or harassment from another employee or management.
(b) Be given full welfare support from the management and governors of the school.
(c) Will have their concerns considered as appropriate.
(d) Will be helped by the school throughout the investigation e.g. provide access to additional support where the individual has no access to Trade Union Support.

10.1 If following discussions and agreement with the member of staff, the head teacher and governors consider redeployment on a temporary basis is appropriate and feasible, the school will seek to arrange for this to take place in school or through liaison with other schools and / or with the County Council.

11. Confidentiality

11.0 All concerns will be treated in confidence and any records relating to the case should be handled in accordance with the General Data Protection Regulation 2018. Every effort will be made not to reveal the identity of the member of staff who raises concerns, should that be their wish.

11.1 If the concerns raised are investigated as part of the disciplinary/grievance/ harassment procedures, it may be that it is not possible to take the appropriate action on the disclosure without the help of the person raising the concerns. As a result, they may be asked to come forward to act as a witness. If they agree to this, they will be offered the appropriate advice and support.

12. Anonymous Allegations

12.0 This policy encourages staff to put their name to their allegation whenever possible. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the school where possible and appropriate. In exercising this discretion, the factors to be taken into account would include:

(a) the seriousness of the issue raised
(b) the initial credibility of the concern; and
(c) the likelihood of confirming the allegation from other sources.

13. Untrue Allegations

13.0 Some concerns raised may, when investigated, prove to be groundless. If a concern is raised or an allegation made in the public interest in good faith by someone reasonably believing it to be true and their concerns are not confirmed by investigation, they should have

nothing to fear as the school will recognise their genuine motives. However, it needs to be stated, should evidence emerge meaning that the school is satisfied that someone making an allegation has acted in bad faith, maliciously or for personal gain, appropriate disciplinary action may be taken against them.

14. RAISING A CONCERN

Who should a concern be raised with?

14.0 As a first step, staff should normally raise concerns with their Head of Department, line manager, senior leader or head teacher. This might depend, however, on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing.

14.1 If this is not appropriate, for example, if they are the person or persons about whom the concerns relate, staff should raise their concerns with the chair of governors.

14.2 If they are not confident that either of the options 14.0 or 14.1 will deal with their concerns properly, then they may raise the issue with the Corporate Director for Children, Families and Cultural Services (CFCS) *or* their HR team who may bring it to the attention of the school so that the matter can be progressed. This may involve the school to investigate or it may request for this to be investigated on the school's behalf.

14.3 If an individual is unsure whether or not to raise a concern or at any stage wants confidential advice, they may wish to consult their Trade Union. Alternatively, they can contact the independent charity Public Concern at Work on 020 7404 6609 or at whistle@pcaw.co.uk. Their lawyers can give individuals free confidential advice on how to raise a concern about serious malpractice at work. It is possible for employers to register for assistance with Public Concern at Work, for a fee. For additional information on Public Concern at Work and how it might help you, please visit www.pcaw.co.uk

How to raise concern(s)

14.4 Staff may raise their concern by telephone, in person or in writing. In the interests of confidentiality, staff may raise concerns via their Trade Union. The earlier they express their concern, the easier it is to take action. They will need to provide the following information:

(a) The background and history of the concern (giving relevant details and dates);
(b) The reason why they are particularly concerned about the situation.

14.5 Although they are not expected to prove beyond doubt the truth of their suspicion, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

14.6 Staff may wish to consider discussing their concern with a colleague first and they may find it easier to raise the matter if there are two (or more) of them who have had the same experience or concerns.

14.7 They may invite their Trade Union, professional association representative or a friend to be present during any meeting or interviews in connection with the concerns they have raised.

How the school will respond

14.8 The school will take their concerns seriously and will respond to them.

14.9 In order to be fair to all employees, including those who may have been wrongly or mistakenly accused, initial enquiries will be made to decide what form the investigation should take.

14.10 Where concerns or allegations fall within the scope of specific school procedures, then they would normally be referred for consideration under those procedures.

14.11 As a result of this, where appropriate, the school may decide, after taking appropriate advice, that the concerns raised may:

(a) Be investigated by the management of the school, internal audit or through the discipline/grievance/harassment processes;
(b) Be referred to the external auditors;
(c) Be referred and dealt with under the established child protection procedures
(d) Form the subject of an independent inquiry.

14.12 Within ten working days of a concern being raised the head teacher (or chair of governors), will write to the person raising the concern:

(a) acknowledging that their concern has been received;
(b) Indicating how the school propose to deal with the issue;
(c) Informing the person whether any further investigations will take place (and if not, explaining, briefly, why this is the case);
(d) Supplying them with information on staff support mechanisms.

14.13 The amount of contact between the person raising the concern and those considering the issues will depend on the nature of the matters raised, the potential difficulties involved, the nature, extent and clarity of the information provided. It is likely that the person raising concerns will be interviewed to ensure that their disclosure is fully understood.

14.14 A meeting can be arranged away from the workplace, if they wish, and a union or professional association representative or colleague, as appropriate may accompany them in support.

14.15 The school will do what it can to minimise any difficulties that staff may experience as a result of raising a concern. For instance, if they are asked

to give evidence in criminal or disciplinary proceedings, the school will provide and arrange appropriate advice and support.

14.16 They need to be assured that their disclosure has been properly addressed. Unless there are any legal reasons why this cannot be done, they will be kept informed of the progress and outcome of any investigation, as appropriate.

15. Record keeping

15.0 The head teacher has overall responsibility for the maintenance and operation of this policy. The head teacher will maintain a record of concerns raised and the outcomes. Records will be kept in such a way so as not to endanger the confidentiality concerning the identity of the person raising concerns and be kept no longer than necessary in accordance with the data protection principles set out in the Data Protection Act 2018.

15.1 The head teacher will report to the governing body as necessary and as required by the articles of government.

16. How the matter can be taken further

16.0 There are six permissible methods of disclosure, which are set out in sections 43C to 43H of the ERA. The manner in which the worker makes the disclosure dictates the ease with which they gain protection. The requirements are structured to impose additional obligations the further removed the recipient of the information is from the worker's employer.

16.1 The aim of the policy is to provide staff with an appropriate way to raise their concerns. Hopefully, they will be satisfied with any action taken as a result of their raising issues. However, should this not be the case and they feel it necessary to take the matter outside the school the prescribed contacts are:

1. **Disclosure to the employer** - A qualifying disclosure to the employer is a protected disclosure. This should be done by writing to the **Director of Children, Families & Cultural Services**, Nottinghamshire County Council, County Hall, West Bridgford, NG2 7QP.
   LADO – Local Authority Designated Officer for child protection, if the concern relates to child protection.

2. **Disclosure to a legal adviser** - Workers can disclose matters to their legal adviser in the course of obtaining advice e.g. **the relevant trade union.**

3. **Wider disclosure** - Wider disclosure is either:
   - An external disclosure for example:.
     The external auditor
     The Independent Office for Police Conduct
     The NSPCC's - what you can do to report abuse dedicated helpline is available as an alternative route for staff who do not feel able to

raise concerns regarding child protection failures internally or have concerns about the way a concern is being handled by their school. Staff can call 0800 028 0285 or email help@nspcc.org.uk
or

- A disclosure of exceptionally serious failures

4. **Disclosure to a Minister of the Crown** - Workers employed by a person or body appointed under statute can report matters to the relevant minister.
5. **Disclosure to a prescribed person** - Parliament has approved a list of "prescribed persons" to whom workers can make disclosures, provided the worker believes the information is substantially true and concerns a matter within that person's area of responsibility (for example, HMRC, the Health and Safety Executive and the Office of Fair Trading).

6. **Disclosure to the person believed to be responsible for the relevant failure** - Where the worker reasonably believes a third party (such as a client or supplier) is responsible for the wrongdoing, they can report it to that third party without telling the employer.

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16.2 If the member of staff raises their concerns outside the school, they should ensure that it is to one of the above prescribed contacts above. A public disclosure to anyone else could take them outside the protection of the ERA 1996 Act and of this policy.

16.3 They should not disclose information that is confidential to the school or to anyone else, such as a client or contractor of the school, except to those included in the prescribed list of contacts above.

17. Review of policy

17.0 Before its publication, the contents of this policy were subject to consultation with the relevant Trade Unions and the school will continue to regularly review this policy in line with legislation.

17.1 As part of this process, views will be sought from employees and relevant Trade Unions, with regard to how effectively the policy has operated and whether any revision is needed.

17.2 In the meantime, should any member of staff wish to suggest any addition/revision to the policy, they should speak to the head teacher, who will consider their suggestions and if necessary, put them forward at the time of the overall review.

18. Exceptional Cases

18.0 In the vast majority of cases, it will be appropriate for a member of staff to raise an issue of concern either directly with the head teacher or with the Chair of the Governing Body. The school will then be in a position to decide how the concern is resolved using the appropriate school procedure.

18.1 If an employee genuinely believes that it is not appropriate for a complaint to be raised via this route, then it may be raised in line with 16.1.

Document History

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