

# Testwood School

## Whistleblowing Policy



Key Responsibility	Mr T. Webber/SP&PP
Last Review:	November 2023
Next Review:	November 2025

### Revision History

Version	Date	Amendments	Initials
2.0	28/04/21	Amendments and formatting changes	JP
3.0	20.10.21	Under section 8 – linked policies – Disciplinary policy has been added	JB
3.1	28.01.22	Disciplinary policy added to item 8	JP
3.2	16.11.22	Revised review dates	JP
3.3	24.11.23	Revised revision dates	TW

**This policy fully reflects the guidance in the Hampshire Education Personnel Services Manual of Personnel Practice Volume 1 Section 4**

### 1. Rationale

This procedure is intended to operate in accordance with the provisions of the Public Interest Disclosure Act 1998 (as amended) (hereafter known as “the Act”). The Act gives protection to staff and workers who report colleagues they believe are doing something wrong or illegal, or who are neglecting their duties.

The matters that come within scope of the Act and this procedure are set out in Step 2 of the procedure below.

The 'Whistleblowing' procedure is intended to enable staff to report wrongdoing in the school where it would be in the public interest to do so. The wrongdoing has to be such as to potentially affect the general public, rather than simply being a complaint of an individual nature, such as a personal grievance\*, which is not normally covered under whistleblowing law. [\*An individual personal grievance will normally need to be dealt with via other internal school procedures.]

The 'Whistleblowing' procedure provides for matters to be referred externally where necessary, ultimately to a 'prescribed person'. However, the procedure encourages staff to raise their concerns initially within the school as a first priority, rather than to make a disclosure outside of the school. In the vast majority of cases this will enable matters to be dealt with much more efficiently and speedily.

The Act applies to all workers as well as staff and this procedure applies to all teaching and other staff, whether employed by the County Council or employed directly by the school, external contractors providing services on behalf of the school or the County Council, teacher trainees and other trainees, volunteers and other individuals who work for or provide services on behalf

of the school. These individuals are collectively referred to in this procedure as staff or staff members. The term “employees” in this procedure is intended to cover all of these categories of people.

## **2. Principles**

The Board of Trustees of the school will treat all disclosures made under this procedure very seriously and allegations about such matters will be dealt with quickly, seriously and with appropriate confidentiality.

The procedure gives protection from victimisation, discrimination or disadvantage to staff who make such a disclosure in the public interest.. This protection applies in respect of such a detriment arising from an act, or failure to act, either by the employer or by a fellow worker, whether the latter be with or without the employer’s knowledge. The procedure also ensures that the person making the disclosure receives an appropriate response to their disclosure and is made aware of how they may pursue the matter outside of the school if the response given is not satisfactory.

This procedure should not be confused with other existing procedures such as the individual or collective grievance procedures that exist to enable employees to raise concerns about their own employment. It is designed to deal with major issues that fall outside of the scope of those procedures. Therefore, any matter which is more appropriately covered by those procedures is excluded from being considered under the “Whistle blowing” procedure.

## **3. Time limits**

There are no time limits on raising concerns under this procedure, but they should be raised at the earliest practicable opportunity, since delays in making a disclosure may prevent a full investigation from taking place. Where time limits are included within this procedure, they are there to ensure that disclosures are dealt with as quickly as possible, and to ensure that there is a prompt initial response from management.

The investigation that takes place after a disclosure is made is not time limited, but will be conducted as quickly as possible within the circumstances of the disclosure.

## **4. Representation**

Employees are entitled to representation by a professional association/ trade union representative or a ‘work colleague’, who will normally be another employee, at any meetings or interviews that are held in relation to the disclosure made. Employees should specify that they are making a disclosure under this procedure.

The individual manager hearing the disclosure is encouraged to take advice from an appropriate service that the school subscribes to, such as Education Personnel Services at Hampshire County Council or the school’s legal advisors.

## **5. Unfounded or improperly made allegations**

If an allegation is found to be unfounded or unsubstantiated, (i.e. there is no factual basis or evidence to support the allegation being made), but the employee has made the allegation honestly and on the reasonable belief that it was in the public interest; no action will be taken against the employee.

If an allegation is deemed to have been made falsely, maliciously, frivolously or for personal gain, then the person making the allegation may face disciplinary action. Care should be taken in dealing with such allegations as some facts may not be wholly untrue. Some parts of an allegation may have

been fabricated or exaggerated but elements may be based on truth.

## **6. Model Procedure**

### **Step 1 - Raising a concern**

In the first instance, concerns under this procedure should be raised with the employee's immediate SLT line manager who should then deal with the problem as quickly as possible.

Concerns under this procedure should initially be raised with the staff member's immediate line manager. If the staff member believes their SLT Manager is involved in the malpractice, they may raise their concerns with a more senior member of staff, including the Headteacher. If the staff member believes it is not appropriate to raise the matter with the Headteacher, he/she may approach the Chair of Trustees. (In the event that the matter cannot be raised within the school, the staff member may raise their concerns in accordance with Step 5). The relevant manager is encouraged to take advice from Education Personnel Services who may involve other departments of Hampshire County Council or other relevant external organisations where appropriate.

In cases of sexual or physical abuse of a student by a member of staff, this should be reported immediately to the Headteacher or Designated Safeguarding Lead in their absence, if the employee believes that the SLT line manager is involved in the malpractice, or the incident is of a more serious nature, they may raise their concerns with the Headteacher. If the employee believes it is not appropriate to raise the matter with the Headteacher, he/she may approach the Chair of Trustees.

Within ten working days of a concern being raised, the SLT member of staff hearing the concern will write to the employee 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. Employees must be able to demonstrate to the person hearing the disclosure that there are reasonable grounds for making the allegations.

Although employees 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, employees should be reassured 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.

### **Step 2 – Determine whether the concern raised is a Protected Disclosure**

Qualifying disclosures are disclosures of information where the staff member reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- A criminal offence (e.g. fraud, corruption, sexual or physical abuse of students or others);
- A failure by a person to comply with any legal obligation to which he/she is subject;
- A miscarriage of justice;
- A danger to the health and safety of any individual;
- Damage to the environment, or;

- A deliberate attempt to conceal any of the above matters.

Following disclosure of one of the above matters, the person receiving the disclosure must determine whether it is a 'qualifying disclosure' under the Act, by considering the following:

- Whether any factual information was actually disclosed, as opposed to opinion only, to the employer (or relevant person);
- Whether the individual making the disclosure believed that the information tended to show that one of the matters above has occurred, is occurring or is likely to occur; and
- Whether that belief was reasonable.

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 employee's disclosure was made in good faith, investigations should still take place into the allegations, and the employee 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, where relevant (guidance on disciplinary issues can be found in the Manual of Personnel Practice)

### **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). More about investigations can be found in HCC's Manual of Personnel Practice:

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 (Disciplinary guidance can be found in the Manual of Personnel Practice)
- Referral to Social Services or the Police, or other relevant organisation

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 employee 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 HCC's Manual of Personnel Practice).

### **Step 4 - Communication**

Subject to legal constraints and the need to protect the rights of individuals, the employee 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 employee.

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

mutually agreed.

### **Step 5 - Taking the matter further**

In the event that an employee feels that their concerns have not been resolved through the above process, they may write to the Chair of the Board of Trustees, 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 Trustees will write to the employee 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 Trustees may decide to set up a small group of Trustees, where appropriate, to investigate the concerns. The Chair of Trustees will then inform the employee of the outcome of this process on the same basis as required of the manager above.

In the event that the matter cannot be satisfactorily resolved within the school, the employee may escalate their concerns further. How they do this will depend on the status of the school, as follows:

Employees can raise their concerns, as appropriate, subject to the concern being a protected disclosure (see step 2), with any of the following:

- A local Member of Parliament
- 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 on the gov.uk website under "Whistleblowing: List of prescribed people and bodies.

Employees 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 school, employees must ensure that, as far as possible, the matter is raised without personal information relating to other employees, or confidential information about unrelated matters, being disclosed. An employee who approaches an accredited legal advice centre, e.g. Protect (formally known as Public Concern at Work) (0207 404 6609 or [www.pcaw.org.uk](http://www.pcaw.org.uk)) or Citizens Advice Bureau, must not breach the duty of confidence in this procedure to the Board of Trustees.

### **Step 6- Failure to follow this procedure**

Any employee 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.

All staff will be given refresher training on this policy annually at the start of the academic year. New starters after this will receive training as part of the induction process.

## **7. Monitoring of Policy and Practice**

The effectiveness of this policy and its procedures will be monitored by the Headteacher after each case that has been brought to their attention and its effectiveness reported to the Board of Trustees.

## **8. Linked Policies**

Safeguarding

Staff Conduct policy

Disciplinary policy

Hampshire County Council (HCC) Manual of Personnel Practice (MOPP)

This policy was approved by the Board of Trustees and will be reviewed bi-annually.