

# Education Lifelong Learning and Skills Committee

## ELLS(2) 09-06(p1) Annex B

### CONSULTATION ON DRAFT GUIDANCE FOR SCHOOL GOVERNING BODIES ON PROCEDURES FOR WHISTLEBLOWING IN SCHOOLS AND MODEL WHISTLEBLOWING POLICY

**Title of Document: Consultation on draft Guidance for School Governing Bodies on Procedures for Whistleblowing in Schools and Model Whistleblowing Policy.**

Audience: 10% sample of governing bodies of maintained schools; local education authorities; teaching and other unions; diocesan authorities; Governors Wales; The Children's Commissioner for Wales and other statutory and voluntary bodies concerned with children's rights and local and national education organisations.

Overview: This document consults on proposed guidance for governing bodies on developing whistleblowing procedures for school staff and on a model policy for governing bodies to adopt.

Action required: Consultees to respond to this draft guidance by ...

Responses should be made on the enclosed proforma and returned to the address below or electronically to:

[SMD2@wales.gsi.gov.uk](mailto:SMD2@wales.gsi.gov.uk) or completed on the Assembly's website: [www.learning.wales.gov.uk](http://www.learning.wales.gov.uk) .

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or in writing from the address below.

Related documents: The Clywch Inquiry – Report of the Examination of the Children’s Commissioner for Wales into allegations of child sexual abuse in a school setting, June 2004.

Postal address:

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## **CONSULTATION ON DRAFT GUIDANCE FOR GOVERNING BODIES ON THE PROCEDURES FOR WHISTLEBLOWING IN SCHOOLS**

### SUMMARY

This consultation invites comments on proposed guidance for governing bodies of maintained schools in Wales to assist them in putting whistleblowing procedures in place for school staff and on a draft model policy for governing bodies to adopt.

The Children's Commissioner for Wales in his report to the Clywch Inquiry published in June 2004 made the following recommendation:

Recommendation 21.5 - 'I recommend that the Welsh Assembly Government issues guidance, within

6 months of the publication of this report, which requires the governors of all schools, whether they be community, voluntary aided, voluntary controlled, foundation or independent schools and further education colleges to have a whistleblowing policy in place and that all teachers and non teaching staff are informed as to its operation’.

The Welsh Assembly Government’s response to this recommendation in relation to maintained schools was a commitment to the Children’s Commissioner to prepare and consult on ‘best practice’ guidance to assist governing bodies to put in place whistleblowing procedures for all school staff.

This document consults on such draft guidance. The document covers what is meant by ‘whistleblowing’, the legal framework, the aim, scope and content of a whistleblowing procedure which allow teaching and non teaching staff in schools to raise concerns about a matter that they consider to be illegal or underhand in a safe and professional way.

The document also includes a draft model policy for governing bodies to adopt.

## **SECTION 1: INTRODUCTION AND LEGAL BACKGROUND**

### Introduction

1.1 The Children’s Commissioner for Wales set out a number of recommendations in his Clywch Inquiry report, published in June 2004, aimed at the Welsh Assembly Government. One of the recommendations set by the Children’s Commissioner was that:

Recommendation 21.5 - ‘... the Welsh Assembly Government issues guidance, within 6 months of the publication of this report, which requires the governors of all schools, whether they be community, voluntary aided, voluntary controlled, foundation or independent schools and further education colleges to have a whistle blowing policy in place and that all teachers and non teaching staff are informed as to its operation’.

1.2 The Children’s Commissioner also recommended that

Recommendation 21.6 - ‘... on appointment in any school or further education college in Wales, every teacher and member of non teaching staff should receive written and oral instruction on whistle blowing procedures and how to operate them. This should be reinforced on a regular basis’.

### Legal Background

1.3 Whistleblowing is a matter between employers and employees. For maintained schools this means that members of staff, both teaching and support, are encouraged to raise concerns about practice within the school which could have a damaging effect on the employer, other members of staff or the pupils of the school. It is recognised however that staff may feel inhibited from reporting concerns about colleagues in the confined setting of a school and may be worried that their concerns may not be dealt with properly.

1.4 The statutory protection for employees who whistleblow is included in the Public Interest Disclosure Act 1998 (PIDA). The Act protects employees/members of staff against victimisation if they make a protected disclosure and speak out about corruption and malpractice at work. The Act also makes it clear that it would be automatically unfair to dismiss or make any employee/member of staff redundant because they have made a protected disclosure and it would be unlawful to subject them to any other detriment, such as demotion or a fine. Employment Tribunals have the power to award re-deployment or compensation to successful claimants. The PIDA also clarifies that public disclosure of information can only occur in certain circumstances and there is no automatic right for an employee/member of staff to 'go public'.

1.5 A disclosure of information is not a qualifying disclosure:

- if the person making it commits an offence by doing so, or
- a claim to legal professional privilege could be maintained in legal proceedings, if it is made by a person to whom the information has been disclosed in the course of obtaining legal advice.

1.6 The Welsh Assembly Government in response to the Clywch Inquiry report accepted Recommendations 21.5 and 21.6. Whilst this is an employer issue, section 40 of the Government of Wales Act enables the Assembly to do anything to facilitate or is conducive to, or incidental to the exercise of any of its functions. In this context the Assembly Government is seeking to assist governing bodies in the effective discharge of their duties as employers.

## Research on Whistleblowing Procedures

1.7 As part of the Welsh Assembly Government's research into whistleblowing procedures, we have established that all local authorities have a comprehensive whistleblowing policy or a similar policy in place for its employees within the authority. Some local authorities have circulated those policies to the governing bodies of the schools they maintain. What is less clear is whether governing bodies of voluntary aided and foundation schools who are the direct employers of their staff have such policies and procedures in place for their staff.

1.8 This document aims to provide guidance for governing bodies of all maintained schools to assist them in putting in place whistleblowing procedures which will enable all members of staff to raise issues of concern within the school rather than ignoring matters.

Q1. For governing bodies of maintained voluntary aided or foundation schools, if you have a whistleblowing policy in place could you please provide a copy to us for consideration in preparing guidance.

## **SECTION 2: WHAT IS WHISTLEBLOWING**

### Definition of Whistleblowing

2.1 Whistleblowing has been defined as:

‘the disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employee or his/her fellow employees’ (Public Concern at Work Guidelines 1997)

2.2 Whistleblowing can therefore be described as giving information (usually to a public body) about potential illegal and/or underhand practice or wrong doing.

2.3 Members of staff are often the first to realise that there may be something seriously wrong within the school, or to see the signs of inappropriate behaviour, or that things are not as they should be. However they may not be prepared to express their concerns because they feel that speaking up would be disloyal to their colleagues, the governing body or to the local education authority (LEA). They may also fear victimisation or harassment which could mean them ignoring the concern rather than reporting a suspicion of illegal activity or malpractice.

2.4 To come forward and speak up can be difficult and can place individuals in an awkward position. It is important therefore that schools establish a supportive culture in which members of staff can express their concerns in the confidence that the governing body/headteacher will assist in the elimination of illegal activity, inappropriate behaviour or malpractice. Schools should therefore respect confidentiality where possible and ensure members of staff are aware of appropriate channels to raise a whistleblowing issue, and should give members of staff an assurance that they can raise such concerns without fear of reprisals.

2.5 In the event that a member of staff/employee becomes aware of activities which the employee considers to be illegal, improper, unethical or otherwise inconsistent with the standards set within the school, the employee/member of staff should report the matter in accordance with the established procedures.

2.6 The whistleblowing procedure to be followed to report a concern should not be confused with other procedures that a governing body has put in place to deal with complaints, staff grievance, staff disciplinary etc. These procedures are in addition to such procedures and should be read in conjunction with them. The whistleblowing procedure is intended to cover the notification of concerns by staff and the initial investigation to establish whether there is a matter to be dealt with. Following this, action to deal with concerns raised should be taken forward under the appropriate governing body policy.

## **SECTION 3 – PRINCIPLES OF A WHISTLEBLOWING PROCEDURE**

### **Aims and Scope of a Whistleblowing Procedure**

3.1 The aim of a whistleblowing procedure is to:

- encourage an employee/member of staff to feel confident in raising concerns about illegal, improper, unlawful or other practices inconsistent with school standards and policies and to question and act upon those concerns.

- provide an employee/member of staff with avenues to raise a concern and receive feedback on any action taken.
- ensure that an employee/member of staff receives a response to the concerns they have raised and set out the process that will be followed if the matter cannot be dealt with immediately by agreed action.
- offer re-assurance that members of staff/employees are protected from reprisals or victimisation for whistleblowing in good faith.

3.2 The procedure applies to all teaching staff and non teaching staff and applies equally to casual, temporary or work experience staff.

3.3 The procedure should cover concerns such as:

- Conduct which is unlawful,
- Disclosures relating to miscarriages of justice,
- A failure to comply with a statutory or legal obligation,
- Maladministration, misconduct or malpractice,
- Health and safety issues including risks to the public as well as pupils and members of staff,
- Damage to the school environment,
- Abuse of authority,
- The unauthorised use of public funds or other funds,
- Fraud and corruption,
- Mistreatment of any person,
- Actions likely to cause physical danger to any person or the risk of serious damage to school property,
- Sexual or physical abuse of members of staff or pupils,
- Unfair discrimination or favouritism,
- Racist incidents or acts, or racial harassment ,
- Any attempt to prevent disclosure of any of the issues listed.

3.4 In considering whether to blow the whistle, the over-riding concern of the member of staff/employee should be that it would be in the public interest for malpractice to be revealed.

Q2. Can you think of any other issue that should be added to the list of issues that a whistleblowing procedure should cover?

### Whistleblower's Safeguard Against Harassment and Victimisation

3.5 A governing body must recognise that the decision to report a concern can be a difficult one to make for members of staff/employees but that by reporting it, they could be doing the school a service. The Public Interest Disclosure Act 1998 (PIDA) will protect all members of staff/employees from any reprisals as long as they meet the following rules which are set out in PIDA. These include:

- Disclosing the information in good faith,
- Believing the concern to be substantially true,

- Not acting maliciously or making false allegations,
- Not seeking personal gain.

3.6 Governing bodies should not tolerate harassment or victimisation and should take action to protect employees/ members of staff when matters are raised in good faith. They should also make it clear that anyone who victimises/harasses an employee/member of staff as a result of their raising a concern under the whistleblowing policy will be dealt with under the governing body's agreed disciplinary procedures.

#### Links to Other Procedures

3.7 If the employee/member of staff who raises the concern is already the subject of disciplinary or redundancy procedures or staff grievance procedures or has made a complaint which is being considered by the governing body, those procedures will not necessarily be halted as a result of the whistleblowing. The action must be reviewed to see if there is a link between the whistleblowing issue and those cases. This review could conclude that action taken should continue because there is no link or that the case should be put 'on hold' whilst the concerns raised by the member of staff/employee are investigated.

#### Confidentiality

3.8 The governing body should do its utmost to protect the identity of members of staff/employees when they raise a concern and do not want their name disclosed. However it has to be understood by employees/members of staff raising a concern that investigation into the concern could reveal the source of the information and statements may be required from the member of staff/employee as part of the evidence, which would be seen by all parties involved. If the governing body is unable to proceed without the evidence from the employee/member of staff and revealing the source, the governing body must discuss how best to proceed in these circumstances.

Q3. Do you consider that a whistleblower's details should remain confidential even where this means an investigation into the concern could not proceed without revealing the source of the concern?

#### Anonymous Allegations

3.9 Governing bodies should encourage members of staff/employees to put their name to allegations whenever possible as anonymous concerns are much less powerful. Nonetheless wherever possible anonymous allegations should be considered by the governing body who should take the following factors into account to consider the concern raised:

- The seriousness of the issue raised,
- The credibility of the concern,
- The likelihood of confirming the allegation from attributable sources and information provided.

3.10 If no substantiating information can be found but the governing body/headteacher remain



concerned with the seriousness of the allegation they should report this back to the employee/member of staff (where there are contact details) and ask if they would consider putting their name to the allegation in order that it can be taken forward. In such circumstances the employee/member of staff should not be placed under pressure to do so.

Q4. Do you agree that anonymous allegations should be considered in this way? If not, why not?

#### Untrue and Malicious/Vexatious Allegations

3.11 If an allegation is made in good faith but it is not confirmed by investigation the matter should be closed and no further action taken. If, however, the investigation shows that untrue allegations were malicious and/or vexatious or made for personal gain then disciplinary action may be taken against the employee/member of staff who made them.

Q5. Do you agree with the approach for untrue allegations? If not, why not?

#### Allegations Concerning Child Protection Issues

3.12 If the concern raised relates to a child protection issue the governing body/headteacher must report the matter to the local education authority officer responsible for child protection matters who will contact the statutory authorities and initiate the usual action for the handling of such allegations.

## **SECTION 4 – PROCESSES FOR RAISING A CONCERN**

### How to Raise a Concern

4.1 As a first step, a member of staff/employee should normally raise a concern with their immediate line manager, headteacher, chair of governors or other governor. The person to be approached will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the concern. For example, if you believe that the headteacher is involved, staff should approach the chair of governors.

Q6. Do you agree with the points of contact for raising a concern in paragraph 4.1?

Q7. Can you think of a situation where someone else not listed above should be the first point of contact for the whistleblower?

4.2 The earlier the concern is raised the easier it is to take action. Concerns are better raised in writing, and the member of staff/employee should set out the background and history to the concern, giving names, dates and places where possible, and the reason why they are concerned. If the member of staff/ employee feels unable to do this they can telephone or arrange to meet the appropriate person. They may also ask their Trade Union or professional association to raise a matter on their behalf or to support them in raising the concern.

4.3 Although members of staff/employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern. In determining what action to take the person who receives the member of staff/employee's concern will need to assess whether there are sufficient grounds for the headteacher/ governing body to act.

#### Response Following the Raising of a Concern

4.4 The action to be taken will depend on the seriousness of the concern. The matters raised may:

- need investigation internally in the school,
- be passed on to the Police if there is evidence of criminal activity,
- be passed to the named person within the LEA who deals with complaints about financial management or financial propriety in schools if there is evidence of financial impropriety ( see paragraph 4.5),
- form the subject of an independent external inquiry through the Area Child Protection Committees (ACPCs) for child protection matters.

4.5 Within the LEA's scheme for financing schools, regulation 4 (26) of the Education (LEA Financial Schemes) (Wales) Regulations 2004 requires that LEAs must include in their financial scheme, details of the person or persons within the authority to whom complaints must be made by persons working at the school or by school governors about financial management or financial propriety at the school and how such complaints should be dealt with. It would be useful if governing bodies made widely available to all members of staff/employees the contact details of the person within the LEA who deals with complaints about financial management in schools to all staff within schools.

4.6 In order to protect individuals, the headteacher's or governing body's initial enquiries will be made to determine whether an investigation is appropriate and if so what form it should take. Concerns and allegations which fall within the scope of existing governing body procedures, such as staff disciplinary or staff grievance, would normally be referred for consideration under those procedures. Some whistleblowing concerns may however be resolved by agreed action without the need for any investigation or further process.

#### The Investigation Process

4.7 The governing body should appoint an investigating officer i.e. the headteacher, chair of governors or other person. The investigating officer should:

- identify a course of action (what, who, when, how, where) and whether the concern should be pursued under another governing body procedure i.e. staff disciplinary, staff grievance, complaints etc;
- identify a reporting process (who by, to whom, when and how);
- ensure strict confidentiality is maintained;
- if appropriate, bring the matter to the LEA appointed person dealing with complaints about financial management in schools; or

- report the matter to the statutory authorities if appropriate i.e. the Police, ACPCs etc where relevant.

Q8. Is the investigation process acceptable? Can you think of anything else that should be added to this process?

4.8 The investigating officer should keep all papers, notes of telephone and face to face discussions, records and documents reviewed and tests undertaken and results in date order and in a safe place. They should also ensure that the correct form of evidence is obtained and appropriately kept including prime documents; certified copies of papers; physical items; secondary evidence (e.g. discussions); circumstantial and hearsay.

#### Timescale for Response

4.9 The governing body will need to respond to concerns raised and it should be made clear to the staff member that it will most likely be necessary to investigate the concerns. But this is not the same as either accepting or rejecting the concerns/allegations made.

4.10 The Assembly Government considers it good practice that the investigating officer dealing with the concern raised (excluding anonymous concerns) provides a written response to the employee/member of staff within 10 school days:

- 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,
- informing them whether any enquiries have been made,
- informing them whether further investigations will take place, if not, why not, and
- giving them information on support mechanisms.

Q.9 Is the investigating officer the appropriate person to respond? If not who should this be?

Q10. Is 10 days a reasonable time to receive a reply, if not what do you consider a reasonable timescale?

Q11. Is the list of issues to be covered in the reply acceptable? Are there any other issues that ought to be included?

4.11 If necessary further information may need to be sought from the employee/member of staff.

4.12 Where any meeting is arranged, employees have a right to be accompanied by a Trade Union or Professional Association representative or a person who is not involved in the area of work to which the concern relates.

4.13 The governing body should take steps to minimise any difficulties which employees/members of staff experience as a consequence of raising a concern. For example, if an employee/member of staff is required to give evidence in criminal or disciplinary proceedings the governing body should provide advice and guidance. They should also understand that employees/members of staff may need to be assured that the matter has been properly addressed. Therefore subject to any legal constraints and confidentiality issues, employees should receive information on the outcome of any investigations.

## Initial Report

4.14 As soon as the initial investigation process has been completed, an initial, confidential report which may be verbal or written should be made by the investigating officer ( whether that is the headteacher, chair of governors, or other person appointed by the governing body) to the governing body.

4.15 The initial report to the governing body should set out:

- The findings to date,
- The interim conclusions drawn,
- Whether action should be taken under other governing body procedures,
- Whether further investigation needs to take place before decisions can be reached.

The initial report should normally be completed within 10 school days following the initial investigation response.

4.16 If it is decided to continue with the investigation future reporting arrangements and any changes to the planned action should be confirmed by the governing body.

Q12. Is the timescale for the completion of the initial report reasonable? If not, what would be a reasonable timescale?

## Final Report

4.17 This report will supersede all other reports and be the definitive document on which the governing body will base its decisions for action on the concern raised.

4.18 The format of the final report will not always be the same but should set out:

- How the investigation arose
- Who the concerns are raised against
- Their position in the school and their responsibilities
- How the investigation was undertaken
- The facts and evidence which were identified
- A summary of the findings and recommendations in respect of the concern itself and any additional work required on the system weaknesses identified during the investigation.

- The need for disciplinary action or other appropriate action to be taken under other governing bodies procedures.
- If no further action is to be taken, with reasons why.

The final report should be completed within 15 school days following consideration of the initial report.

4.19 The governing body will notify the staff member of the outcome of its consideration the concern within 5 school days of consideration of the final report. This will cover the action to be taken as a result of the concern or if no further action is to be taken state this clearly and give reasons why.

Q13. Are the matters to be covered in the final report comprehensive and acceptable. If not, what issues should be included?

Q14. Are the timescales for the completion of the final report and issue of response reasonable? If not, what would be reasonable timescales?

### Taking the Matter Further

4.20 If no action is to be taken by the governing body following the raising of a concern and members of staff/employees are not satisfied with the way the headteacher or governing body has dealt with the matter, the member of staff/ employee could make a complaint under the governing body's complaints procedure.

4.21 It is also open to staff member/employees to take their concern outside of the governing body. The following are possible contact points to make members of staff/employees aware of:

- The LEA
- a local councillor
- relevant professional bodies or regulatory organisations
- the Local Government Ombudsman
- a solicitor
- the Police
- trade union/professional association
- Citizen's Advice Bureau
- Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Contact on 0207 404 6609 or [www.pcaw.co.uk](http://www.pcaw.co.uk) )

Q12. Is this list acceptable? Are you aware of any other contacts that ought to be added to this list?

4.22 Employees/members of staff should be informed that if the matter is taken outside of the governing body they must not disclose privileged confidential information.

## Liaison with the Police or External Agencies

4.23 The experts at investigating criminal activity/fraud are the Police. The Police welcome early notification of suspected fraud or malpractice. The decision to involve the police should be taken by the headteacher or chair of governors at the stage set out in 4.7.

4.24 If the Police decide that a formal investigation is necessary all members of staff/employees should co-operate fully with any requests or recommendations.

4.25 Where the Police decide to formally investigate, any internal disciplinary action should halt pending the outcome of the Police enquiries.

4.26 Child protection issues will be dealt with by the Area Child Protection Committees.

## **ANNEX A**

### **GUIDANCE NOTE FOR EMPLOYEES**

The following guidance should be followed if you suspect any illegal, corrupt, fraudulent or underhand practice, or other unethical conduct in any area of the school's activities.

#### DO

- Make an immediate note of your concerns.
- Note all relevant details such as what was said in telephone or other conversations, the date, time and the names of any parties involved.
- Convey your suspicions to someone with the appropriate authority and experience.
- Deal with the matter promptly, if you feel your concerns are warranted.

#### DON'T

- Do nothing.
- Be afraid of raising your concerns. You must not suffer any recrimination as a result of voicing a reasonably held suspicion. The headteacher and/ or governing body will treat any matter you raise sensitively and confidentially.
- Approach or accuse any individuals directly.
- Try to investigate the matter yourself. There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case.
- Convey your suspicions to anyone other than those with the proper authority.

Remember the Public Interest Disclosure Act 1998 has the following rules for making a protected disclosure:

- You must disclose the information in good faith
- You must believe it to be substantially true
- You must not act maliciously or make false allegations
- You must not seek any personal gain.

## **ANNEX B**

### **DRAFT MODEL WHISTLEBLOWING POLICY FOR SCHOOL STAFF**

SCHOOL NAME.....

#### Introduction

Whistleblowing has been defined as:

‘the disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employee or his/her fellow employees’ (Public Concern at Work Guidelines 1997)

Whistleblowing is a matter between employers and employees. The statutory protection for employees who whistleblow is included in the Public Interest Disclosure Act 1998 (PIDA). The Act protects employees/members of staff against victimisation if they make a protected disclosure and speak out about corruption and malpractice at work. The Act also makes it clear that it would be automatically unfair to dismiss or make any employee/member of staff redundant because they have made a protected disclosure and it would be unlawful to subject them to any other detriment, such as demotion or a fine. Employment Tribunals have the power to award re-deployment or compensation to successful claimants.

This policy applies to all teaching staff and non teaching staff and also applies to casual, temporary or work experience staff.

#### Aims and Scope of Policy

This policy aims to:

- encourage staff to feel confident in raising concerns about illegal, improper, unlawful or other practices inconsistent with school standards and policies and to question and act upon those concerns.
- provide avenues for staff to raise a concern and receive feedback on any action taken.
- ensure that a response is made to the concerns raised and set out the process that will be followed if the matter cannot be dealt with immediately by agreed action.

- re-assure staff that they are protected from reprisals or victimisation for whistleblowing in good faith.

The whistleblowing policy covers concerns such as:

- Conduct which is unlawful,
- Disclosures relating to miscarriages of justice,
- A failure to comply with a statutory or legal obligation,
- Maladministration, misconduct or malpractice,
- Health and safety issues including risks to the public as well as pupils and members of staff,
- Damage to the school environment,
- Abuse of authority,
- The unauthorised use of public funds or other funds,
- Fraud and corruption,
- Mistreatment of any person,
- Actions likely to cause physical danger to any person or the risk of serious damage to school property,
- Sexual or physical abuse of members of staff or pupils,
- Unfair discrimination or favouritism,
- Racist incidents or acts, or racial harassment ,
- Any attempt to prevent disclosure of any of the issues listed.

### Safeguard Against Harassment and Victimisation

The Public Interest Disclosure Act 1998 (PIDA) protects staff from any reprisals as long as you meet the following rules which are set out in PIDA. These include:

- Disclosing the information in good faith,
- Believing the concern to be substantially true,
- Not acting maliciously or making false allegations,
- Not seeking personal gain.

The governing body will not tolerate harassment or victimisation and will take action to protect staff when matters are raised in good faith. Anyone who victimises/harasses a staff member as a result of their raising a concern under the whistleblowing policy will be dealt with under the governing body's agreed disciplinary procedures.

### Confidentiality

The governing body will do its utmost to protect the identity of staff who raise a concern and do not want their name disclosed. However it must be understood that investigation into a concern could reveal the source of the information and statements may be required from the staff member raising the concern as part of the evidence, which would be seen by all parties involved. If the governing body is unable to proceed without the use of such evidence revealing the source, the governing body will discuss how with the staff member how best to proceed in these circumstances.



## Anonymous Allegations

This policy encourages staff to put their name to allegations whenever possible as anonymous concerns are much less powerful. Nonetheless the governing body will take the following factors into account when considering the concern raised:

- The seriousness of the issue raised,
- The credibility of the concern,
- The likelihood of confirming the allegation from attributable sources and information provided.

If the governing body/headteacher does not find any substantiating information but remains concerned with the seriousness of the allegation, they will report back to the member of staff (where there are contact details) and ask if they will to consider putting their name to the allegation in order that it can be taken forward. However, the staff member will not be placed under pressure to do so.

## Untrue and Malicious/Vexatious Allegations

If a staff member makes an allegation in good faith but it is not confirmed by investigation the matter will be closed and no further action taken. It must however be understood that if a staff member makes malicious and/or vexatious allegations, disciplinary action may be taken against them.

## Allegations Concerning Child Protection Issues

If a staff member raises a concern which relates to a child protection issue, the governing body/headteacher will report the matter to the local education authority officer responsible for child protection matters who will contact the statutory authorities and initiate the usual action for the handling of such allegations.

## Procedure for Whistleblowing

As a first step, a staff member should normally raise concerns their concern with one of the following: immediate line manager, headteacher, chair of governors or other governor. The person you approach will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the concern.

Concerns should normally be made in writing, and you should set out the background and history to the concern, giving names, dates and places where possible, and the reason why the member of staff is concerned. If the staff member is for any reason unable to do this they should telephone or arrange to meet the appropriate person. Staff members may also ask their Trade Union or professional association to raise a matter on their behalf or to support them in raising the concern.

Staff members are not expected to prove the truth of an allegation, however, they are expected to demonstrate to the person contacted that there are sufficient grounds for the concern.

## Action to be taken following Whistleblowing

The action to be taken will depend on the seriousness of the concern. The concern raised may:

- need investigation internally in the school,
- be passed on to the Police if there is evidence of criminal activity,
- be passed to the named person within the LEA who deals with complaints about financial management or financial propriety in schools if there is evidence of financial impropriety ( see paragraph ),
- form the subject of an independent external inquiry through the Area Child Protection Committees (ACPCs) for child protection matters.

Following the raising of a concern, initial enquiries will be made to decide whether an investigation is appropriate and if so what form it should take. Concerns and allegations which fall within the scope of existing governing body procedures such as staff disciplinary, staff grievance bullying etc, will be dealt with under those procedures. Whistleblowing in itself does not necessarily create a separate procedure for action.

Some whistleblowing concerns may be resolved by agreed action without the need for any investigation or further process.

## The Investigation Process

The governing body will appoint an investigating officer ie the headteacher, chair of governors or other person. The investigating officer will:

- identify a course of action (what, who, when, how, where) and whether the concern should be pursued under another governing body procedure i.e. staff disciplinary, staff grievance, complaints etc;
- identify a reporting process (who by, to whom, when and how);
- ensure strict confidentiality is maintained;
- if appropriate bring the matter to the LEA appointed person dealing with complaints about financial management in schools; or
- report the matter to the statutory authorities i.e. the Police, ACPCs etc where relevant.

The investigating officer will keep all papers, notes of telephone and face to face discussions, records and documents reviewed and tests undertaken and results in date order and in a safe place. They will also ensure that the correct form of evidence is obtained and appropriately kept including prime documents; certified copies of papers; physical items; secondary evidence (e.g. discussions); circumstantial and hearsay.

## Timescale for Response

The investigating officer will write to the staff member within 10 school days of a concern being

made:

- 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,
- informing them whether any enquiries have been made,
- informing them whether further investigations will take place, if not, why not, and
- giving them information on support mechanisms.

It may be necessary for further information to be sought from the staff member. It should be noted by the staff member raising a concern that that undertaking further investigation is not the same as accepting or rejecting the concerns raised.

Where any meeting is arranged, the member of staff has a right to be accompanied by a Trade Union or Professional Association representative or a person who is not involved in the area of work to which the concern relates.

### Initial Report

As soon as the initial investigation process has been completed, an initial, confidential report which may be verbal or written will be made by the investigating officer ( whether that is the headteacher, chair of governors, or other person appointed by the governing body) to the governing body.

The initial report to the governing body will set out:

- The findings to date,
- The interim conclusions drawn,
- Whether action should be taken under other governing body procedures,
- Whether further investigation needs to take place before decisions can be reached.

The interim report should normally be completed within 10 school days following the initial investigation process.

If it is decided to continue with the investigation future reporting arrangements and any changes to the planned action will be confirmed by the governing body.

### Final Report

This report will supersede all other reports and be the definitive document on which the governing body will base its decisions for action on the concern raised.

The format of the final report will set out:

- How the investigation arose
- Who the concerns are raised against
- Their position in the school and their responsibilities
- How the investigation was undertaken
- The facts and evidence which were identified
- A summary of the findings and recommendations in respect of the concern
- The need for disciplinary action or other appropriate action to be taken under other governing body procedures.
- If no further action is to be taken, with reasons why.

The final report should normally be completed within 15 school days following consideration of the initial report.

The governing body will notify the staff member of the outcome of its consideration the concern within 5 school days of consideration of the final report. This will cover the action to be taken as a result of the concern or if no further action is to be taken state this clearly and give reasons why.

#### Taking the Matter Further

If no action is taken by the governing body following raising a concern and the member of staff is not satisfied with the way the headteacher or governing body dealt with the matter, they make a complaint under the governing body's complaints procedure.

Staff members may also pursue their concern outside of the school. The following are possible contact points:

- The LEA
- a local councillor
- relevant professional bodies or regulatory organisations
- the Local Government Ombudsman
- a solicitor
- the Police
- trade union/professional association
- Citizen's Advice Bureau
- Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Contact on 0207 404 6609 or [www.pcaaw.co.uk](http://www.pcaaw.co.uk) )

CHAIR OF GOVERNORS .....

CONTACT TELEPHONE NUMBER.....