



Whistle Blowing Policy (Procedure for Protected Disclosures)

Policy approved and adopted: October 2019

Review date: October 2021

Introduction

Cove Junior School, in conjunction with Hampshire County Council, is committed to the highest standards of openness and accountability and takes malpractice seriously. All staff, governors and volunteer helpers have a right and duty to report concerns of malpractice that are in the public interest

Scope

This procedure applies to all staff in the school and governors, and is intended to encourage staff, governors and volunteers to raise concerns within the school as a first priority, rather than make a wider disclosure outside of the school. This policy also applies to agency staff, contractors and suppliers of services beyond the school.

Policy Outcomes

The aims of this policy are to:

- Provide a mechanism for raising concerns believed to be in the public interest.
- Ensure that concerns are investigated promptly, thoroughly and effectively.
- Enable critical information to be shared appropriately.
- Ensure that a worker who raises a genuine concern is not victimised.
- Ensure that concerns raised are taken seriously and dealt with proportionally.
- Minimise external disclosures by encouraging a worker to report malpractice concerns internally.
- Ensure compliance with legal obligations.
- Improve trust and confidence and create a culture of honesty and openness.
- Maintain the Council's reputation.

Key Definitions

Whistleblowing is 'making a disclosure in the public interest' and occurs when a worker raises a concern about a danger, illegality or malpractice that affects others, for example members of the public.

For the purposes of this policy a 'worker' is defined as an employee, temporary member of staff, governors, volunteers, agency staff, contractor and suppliers of services.

What the Law Says

The legislative framework for this policy is the **Public Interest Disclosure Act 1998 (PIDA)**, incorporated into the **Employment and Rights Act 1996**, and amended by the **Enterprise and Regulatory Reform Act 2013**.

The PIDA gives protection from detrimental treatment of workers who disclose reasonable concerns about serious misconduct or malpractice at work. Under PIDA, workers are protected from detrimental treatment from another employee if their disclosure qualifies as a 'protected disclosure' / In order to ensure that they qualify for protection, the worker should follow a certain procedure, as detailed in the HCC 'Employee How to Guide'.

The Data Protection Act 1998 aims to protect the rights of living individuals regarding information about them held by other people. It requires an employer to comply with the eight principles governing the use and processing of personal data and retention of records.

Safeguarding

Concerns of a child or vulnerable adult being at risk of harm must be reported to the school's DSL, unless it concerns said person. In either case the county LADO should be informed and Children's Services or Adult Services contacted immediately.

Making a Disclosure

A worker who has a whistleblowing concern should report it to their line manager verbally and in writing in the first instance and at the earliest opportunity.

The following principle apply:

- All employees have a duty of confidentiality to the school and to the Council.
- The confidentiality of a worker who raises a concern is respected as far as possible.
- The worker is encouraged to give their name as anonymous concerns are much less powerful and are more difficult to investigate.
- There will be no adverse consequences for a worker who raises a genuinely-held concern.
- Victimisation and/or deterring a worker from raising legitimate concerns constitutes serious misconduct and will be addressed.
- Concerns raised frivolously, maliciously, for personal gain, or where they are known to be untrue, constitute serious misconduct and will be addressed and may result in disciplinary action or termination of a contract.

Responding to a Disclosure

The manager must assess the nature and seriousness of the concern and respond appropriately and proportionally. If a concern is raised anonymously, the manager must decide, based on the seriousness of the issue, whether to investigate it further.

Investigation

An investigation which is proportionate to the concern that is raised is undertaken and completed. **If urgent action is required, such a referral to the Police, this takes place before an investigation starts.** The investigation is completed as promptly as possible, however, it is not always possible to provide an exact timescale at the start of an investigation due to the varied nature of whistleblowing concerns. The worker who has raised the concern is kept informed during the investigation as appropriate.

Representation

Workers are entitled to representation by a professional association / trade union representation or a 'friend', who will normally be another worker, at any meetings or interviews that are held in relation to the disclosure made. Therefore meeting dates should be scheduled in such a manner to allow the facilitation of this representation.

Outcome of the Investigation

The outcome(s) of the investigation should be:

- Shared with the worker who raised the concern (subject to legal and confidentiality constraints).
- Referred to the appropriate manager, governing body committee or HCC department to progress any actions that may be required.
- Reviewed to ensure that the actions taken have resolved the original concern.

If an allegation is found to be true the appropriate action will be taken. This may include

- Advice being sought from EPS.
- A full internal investigation, possibly resulting in disciplinary action. This should be reported in the full to the governing body.
- Referral to Social Services or the Police.
- Referral to Internal Audit or other HCC department.

Record Keeping

Details of all whistleblowing concerns and investigations are retained for 6 years plus the current year from the close of the investigation, except where separate retention rules apply, e.g. child protections records.

Examples of Malpractice

Examples of the types of malpractice that could be disclosed under the policy are:

- Fraud or corruption
- Financial irregularities
- Unauthorised use of public funds
- Physical, emotional or sexual abuse by a worker
- Deficiencies in the care of vulnerable people
- Serious breaches of professional codes of conduct/practice
- Failure to comply with a legal obligation
- Risks to health and safety
- Environmental damage
- A criminal offence
- Failure to follow financial and contractual procedure rules
- Showing undue favour to a contractor or a job applicant
- Miscarriages of justice
- Deliberate concealment of information relating to any of the above
- Other dangers or illegalities which may affect a member of the school community or member of the public.

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 Governing Body, if they have 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 Governors 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. The Chair of Governors should then set up a committee to investigate the concerns. The Chair of Governors will then inform the worker of the outcome of their investigation.

Making a Disclosure Externally

A worker should only raise a concern externally in the following situations:

- The concern has been raised internally, including with the Governing Body, but the worker believes the issue remains unresolved.
- The worker believes that they have been or will be placed in a vulnerable position by raising the concern internally.

In these situations, the worker may wish to raise the concern externally by contacting;

- The district manager
- The school's School Improvement Partner (LLP)
- The County Education Officer
- The Chief Executive

If a worker is dissatisfied with the response of the School's Leadership Team, Governing Body or the County Council, and subjects to the concern being a matter covered by the Acts mentioned earlier, they can raise the matter (as appropriate) with one of the following agencies:

- An elected Member of the County Council
- A local Member of Parliament
- The Police
- Public Concern at Work
- Local Government Ombudsman
- Ofsted

Failure to Follow this Procedure

Any worker who breaches confidentiality, or who unreasonably and without justification raises such issues on a wider basis, such as with the press or in Social Media, without following the steps and advice in this policy may be liable to disciplinary action.

Whistle Blowing Flowchart

