WHISTLEBLOWING – A REPORTING POLICY AND PROCEDURE FOR SCHOOL EMPLOYEES

This policy is available for use by:

- **All workers within a school, including headteachers, temporary and agency staff.**
- **Members of school governing bodies**
- **Volunteers**
- **Consultants, contractors and suppliers.**

1. Introduction

1.1 The Public Interest Disclosure Act 1998 was introduced to facilitate the early detection of malpractice within the workplace. Employees are often the first to realise that there may be something seriously wrong within their place of work but do not express their concerns for fear of reprisal or victimisation.

1.2 The Act sets out a framework for public interest 'whistleblowing' which provides individual employees and workers with full protection from victimisation and dismissal where they raise genuine concerns about malpractice i.e. make a qualifying disclosure.

1.3 Qualifying disclosures are disclosures of information where the worker 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. To be protected a disclosure should first amount to a qualifying disclosure.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above.

1.4 This policy and procedure sets out the application of those statutory provisions within the school enabling employees to raise serious concerns rather than overlooking them or raising them outside of the school.

1.5 This policy should also be read in conjunction with the Code of Conduct – Guidelines for Safe Working Practices, the Child Protection Policy and the procedure for 'Dealing with allegations of abuse against members of staff and volunteers'. Taken together the four documents recognise the school's commitment towards safeguarding children.

1.6 This policy has been prepared following consultation with the recognised trade unions.

2. Scope

2.1 This policy applies to all school based employees but also covers 'workers' (see Appendix 1, Legal Context).

2.2 It is recommended for all school Governing Bodies for adoption.

2.3 The Local Authority will not accept liability for any actions, claims, costs or expenses arising out of a school's decision not to follow this recommended policy or procedure where it is found that the school's Governing Body has been negligent or has acted in an unfair or discriminatory manner.

3. The Policy

3.1 The Headteacher and Governing Body are committed to the highest possible standards of probity and accountability within the school and to making decisions that comply with school policies and that are transparent and to the benefit of the school.

3.2 The Headteacher and Governing Body are also committed to safeguarding the welfare of children at [insert name] School and will take steps to ensure that children are safe and free from abuse.

3.3 This policy will ensure that employees are able to question and act upon concerns about practice in the school and that they feel able to raise those concerns within the school in line with the procedure set out below.

3.4 This policy is intended to cover the disclosure of information which relates to suspected serious wrongdoing or dangers at work. Some examples where the whistleblower may be protected are set out below:

- Criminal activity
- Child protection and/or safeguarding concerns
- Miscarriage of justice
- Danger to health and safety
- Damage to the environment
- Failure to comply with any legal or professional obligation or regulatory requirements
- Financial fraud or mismanagement
- Negligence
- Breach of the school's internal policies including the Code of Conduct
- Conduct likely to damage the School's reputation
- Unauthorised disclosure of confidential information

- The deliberate concealment of any of the above

3.5 Where an employee raises a concern that does not meet the definition of whistleblowing, the employee will be told and advised to raise their concerns in line with the appropriate procedure.

3.6 Complaints about an individual's own contract of employment or personal situation are excluded from the Whistleblowing policy as a consequence of the ''public interest' requirement. Such complaints should be addressed using the appropriate school policy e.g. Grievance or Fairness and Dignity at Work.

3.7 The Governors will not tolerate any harassment or victimisation against members of staff who have raised concerns and will take appropriate action in order to protect employees who raise concerns in accordance with this policy and procedure.

3.8 The Governors will protect the school and its employees from frivolous, false or malicious expressions of concern, or concerns raised for personal gain, by taking disciplinary action where appropriate against any employee making such a complaint.

4 The Procedure

4.1 How to raise a concern

4.1.1 An employee should inform the Headteacher immediately if they have any serious concerns that they consider fall within the scope of this policy. This applies to all concerns and especially to concerns about child safety.

4.1.2 If the employee believes that the Headteacher or other senior staff at the school may be involved in the matter of concern, an approach may be made direct to Governors.

4.1.3 Concerns may be raised verbally but it is more effective if employees put their concerns in writing. Employees are encouraged to put their name to their allegation. Concerns expressed anonymously will be considered at the discretion of the Governors.

4.1.4 Any written concerns should set out:

- The background and history of the concern (giving relevant names, dates and places where possible)
- The reason why the employee is particularly concerned about the situation
- Details of any other possible witnesses to the concern

4.1.5 Although an employee is not expected to prove, beyond doubt, the truth of an allegation, they will need to demonstrate to the person they contact that there are sufficient and reasonable grounds for their concern.

4.1.6 Employees are encouraged to contact their Trade Union representative for support and guidance on how to raise a concern.

4.1.7 Where a concern relates to possible criminal activity, employees can raise matters directly with the Police.

4.2 How the School will respond

4.2.1 The Headteacher or Governor who has been notified of a concern by a member of staff has a responsibility to ensure that the concern is fully considered and that appropriate action is taken. Advice can be sought initially from the Local Authority Employee Relations team.

4.2.2 To protect the employee and the school an initial investigation may be carried out to decide whether a full investigation is appropriate and, if so, which form it should take. This will normally be undertaken by the Headteacher unless the concerns raised are about him/her in which case it will be undertaken by the Chair of Governors. In some circumstances it may be appropriate for an investigation to be undertaken by a third party.

4.2.3 If an investigation is required, a decision will be made as to whether the matter will be addressed internally and by whom, be referred to the Police or to Internal Audit (now the South West Audit Partnership) or form the subject of an independent inquiry. In cases where the safety of a child may be at risk, it may be more appropriate to follow the Child Protection Policy or procedure for 'Dealing with Allegations of Abuse against Members of Staff and Volunteers' and to refer the concern to the Local Authority Designated Officer.

4.2.4 All initial enquires will be made on a sensitive and confidential basis to decide whether an investigation is appropriate and, if so, what form it should take. However, if a situation arises where a concern cannot be resolved without revealing the identity of an employee, this matter will be discussed further with the employee concerned before any further action is taken.

4.2.5 If any meeting is held in connection with the concerns raised by an employee, they are entitled to be accompanied by a work colleague or Trade Union representative. They can also request that this meeting is held away from their place of work.

4.2.6 If urgent action is required (e.g. suspension of another member of staff) this will be taken before any investigation is carried out. Alternatively, where immediate suspension is not deemed appropriate, the decision to suspend can be taken at any point during the investigation.

4.2.7 It should also be noted that some concerns may be resolved by agreed action without the need for a full investigation.

4.2.8 Within 10 working days of a concern being raised, the Headteacher or Governors will let the employee know in writing:

- That the concern has been received
- How they propose to deal with the matter
- Give an estimate of how long it will take to provide a final response

If the decision is that no investigation is to take place, the reasons for this will be explained to the employee.

4.2.9 Depending on the nature of the matters raised and the clarity of information provided, it may be necessary to ask the employee for further information relating to the concern.

4.2.10 The Governors will take steps to minimise any difficulties that the employee may experience as a result of raising a concern and take all reasonable action to support and protect them from, for example, victimisation.

4.2.11 The Governors recognise that the employee needs to be assured that the matter has been properly addressed. Subject to legal constraints they will be advised of ongoing progress and kept informed about the outcomes of any investigation and remedial action proposed.

5. Taking the matter further

5.1 It is expected that employees based in schools who have concerns will follow the internal routes available first.

5.2 If however, they are not satisfied with the action taken by the Governors or the Headteacher they can approach the Director for Children's Service within Dorset County Council. The Director for Children's Services has the overall responsibility for education within the County. Where there are safeguarding concerns, an individual can contact the Local Authority Designated Officer who is responsible for dealing with allegations or concerns about people who work with children.

5.3 The Director for Children's Services has access to the Dorset County Council Chief Financial Officer and the Monitoring Officer who are responsible for financial, legal and compliance within the Local Authority and ensuring that maintained schools operate delegated budgets within the scheme prescribed by the LA.

5.4 Where an employee follows this route for reporting concerns, the Director will need to consider what action to take and whether to contact the school's Governing Body. Every effort will be made to maintain the anonymity of the whistleblower but it may not be possible to do that. In circumstances where it would not be possible to do so, the employee will be told.

5.5 Where an investigation is required, a decision will be made as to whether the matter will be referred to the school for investigation, be referred to the police, be passed to an external auditor or form the subject of an independent inquiry. In cases where the welfare of a child may be at risk it may be more appropriate to follow the procedure for 'Dealing with Allegations of Abuse against Members of Staff and Volunteers' in conjunction with the Local Authority Designated Officer.

6. Outcome

6.1 Whilst the school or the Local Authority cannot always guarantee the outcome a particular member of staff is seeking, the school will try to deal with the concern fairly and in an appropriate way. Any member of staff raising a

concern under the procedure will be kept informed of progress including, where appropriate, the final outcome. However, in certain circumstances, e.g. where disciplinary action under the school's Disciplinary Procedure has resulted from the concern, it may not be appropriate to provide specific details due to the confidentiality and sensitivity of such matters.

6.2 The law recognises that in some circumstances it may be appropriate for staff to report their concerns to an external body such as a regulator and it will be for the employee to decide whether to follow that route. It will very rarely, if ever, be appropriate to alert the media.

7 Safeguards

7.1 Harassment or Victimisation

7.1 It is recognised that the decision to report a concern can be a difficult one to make. The Governors will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action in order to protect employees who raise a concern in good faith.

7.2 Confidentiality

7.2.1 As far as possible, the Governors will protect the identity of any employee who raises a concern and does not want their name to be disclosed. However, it must be appreciated that any investigation process may reveal the source of the information and a statement by the person reporting the concern may be required as evidence.

7.2.2 Employees may also be required to give evidence at a disciplinary hearing or to act as a witness at court.

7.3 Anonymity

7.3.1 Concerns expressed anonymously will be considered at the discretion of the Governors. In exercising this discretion the factors to be taken into account include:

- the likelihood of obtaining the necessary information;
- the seriousness of the issues raised;
- the specific nature of the complaint;
- the credibility of the concern;
- the school's best interests.

7.3.2 Employees also have to bear in mind that if they raise a complaint anonymously it may not be possible to provide a response/feedback.

7.4 Support

7.4.1 The member of staff against whom an allegation has been made will be kept informed of the progress of any investigation. Consideration will also be given to what other support may be appropriate for them.

7.4.2 If allegations are proved to be unfounded and/or no action is to be taken, consideration will be given as to what support may be appropriate for the member of staff.

7.5 Monitoring and Review

7.5.1 The Governors have a responsibility for registering the nature of all concerns raised and recording the outcome.

7.5.2 This policy and procedure will be kept under periodic review and any amendments will be subject to full consultation with trade union representatives.

Appendix 1

Legal Context

The Public Interest Disclosure Act 1998 gives legislative protection for 'whistleblowers' where there is a qualifying disclosure.

The Act applies to 'workers' which not only includes employees, but also contractors providing services, most agency workers, home workers and trainees on vocational and work experience schemes.

Qualifying disclosures are those which, in the reasonable belief of the employee, relate to one or more of the following categories:

- a miscarriage of justice;
- an individual's health and safety being endangered;
- the environment being damaged;
- failure to comply with a legal obligation (whether contractual under public law or otherwise);
- the commission of a criminal offence;
- information relating to those issues being deliberately concealed.

Legislation protection under the Act for qualifying disclosures relate to:

- unfair dismissal protection;
- compensation;
- no detriment.

There is no qualifying period for protection for workers making a claim and no upper limit on the level of compensation that can be awarded.

Employees should be able to show good grounds for their claims in order for these protections to apply.

To gain the protection of the law, the employee must make their disclosure following one of a number of prescribed routes, in particular:-

- disclosure to your employer (as set out in Stage 1 of the procedure);
- disclosure to a legal adviser;
- disclosure to a 'prescribed person', in the case of schools the most appropriate body listed in the legislation is Ofsted)

Internal Contacts

Director for Children's Services	Local Authority Designated Officer

Possible External Contact Points

	The Police
Your Trade Union	A solicitor or legal adviser
Local Citizens Advice Bureau	The Local Government Ombudsman
Relevant professional bodies or regulatory organisations, e.g. Children's Commissioner	Public Concern at Work (registered charity that provides free confidential advice)
Relevant voluntary organisation	The Health and Safety Executive