



Whistleblowing Policy

ISSR. Ref

Last Reviewed: November 2018

Policy owner: Deputy Head

Review Cycle

This document will be reviewed:

- biannually
- after incidents that relate to, or impact on, whistleblowing in school
- any time there is an update or change to associated legislation or guidance.

Associated Policies and Documents

- Lyndhurst School Staff Code of Conduct
- Lyndhurst School Safeguarding Policy.

This policy has been developed with reference to principles outlined in *Working Together to Safeguard Children (July 2018)* and *KCSIE (September 2018)*.

The Public Interest Disclosure Act 1998

The Public Interest Disclosure Act 1998 created a right to redress in the event of a worker being dismissed or subjected to a detriment by their employer, or other responsible third party, as a result of “whistleblowing” – making a disclosure in the public interest. The Act offers a right to redress in the event of victimisation or dismissal if workers raise their concerns in the ways specified in the legislation.

Purpose

Lyndhurst School’s whistleblowing policy is to protect staff members who report colleagues they believe are doing something wrong or illegal, or who are neglecting their duties. The school whistleblowing policy has a key role to play in safeguarding children.

The School encourages those with concerns to raise them with their line manager or other senior member of staff. This policy and procedure explains how to do that and, having exhausted those avenues, how to make an external disclosure.

It is designed to assess and deal with concerns raised about allegations of serious malpractice or of a serious failure to meet a legal obligation that could potentially be of public concern.

It also protects employees and volunteers who ‘blow the whistle’ about serious wrong-doing within the School.

The key principles are:

- a culture of safety and of raising concerns;
- a culture of valuing staff and of reflective practice;



- procedures for reporting and handling concerns, including about poor or unsafe practice and potential failures in the school's safeguarding regime, provision for mediation and dispute resolution where necessary;
- training and support are provided for staff;
- transparency and accountability in relation to how concerns are received and handled.

Whistleblowing

Whistleblowing is when a worker reports suspected wrongdoing at work. A whistleblowing disclosure within the context of this policy and as determined by the requirements of the Public Interest Disclosure Act 1998 (the 'Act') concerns situations where there is reasonable suspicion that serious malpractice has occurred, is occurring, or is likely to occur in one of the following areas:

- someone's health and safety is in danger
- damage to the environment
- a criminal offence
- not obeying the law
- covering up wrongdoing
- miscarriages of justice
- damage to the environment
- failure to comply with any legal obligation
- serious business malpractice
- the cover up of any of the above

Examples of disclosures that could be made by a worker could include:

- procurement fraud
- embezzlement
- breach of the School's Code of Conduct
- payments in exchange for awarding contracts
- observed bullying and harassment
- actions that negatively affect the welfare of children

Note: the whistleblower may or may not be directly or personally affected by the reported serious malpractice.

Safeguarding & Whistleblowing

Working Together to Safeguard Children (2015) and Freedom to Speak Up report;

Refer [Appendix 1](#)

refer to the [School Safeguarding Policy](#) for all matters regarding safeguarding



Excluded Issues

This policy and procedure does not cover the following:

Personal grievances concerning an employee's terms and conditions of employment, or other aspects of the working relationship, complaints of bullying and harassment, or disciplinary matters, which should be addressed under the appropriate HR policy and procedure.

Complaints made by parents, customers, suppliers about the service or policy of the School, or the conduct of someone for whom we have corporate responsibility (e.g. employees, volunteers, trustees). Such matters will be dealt with under the School's complaints policy.

Suspensions or concerns relating to the protection of children and vulnerable adults. These will be dealt with under the appropriate Safeguarding Policy and should be directed to the person named in that policy, in response to a whistleblowing disclosure.

General Information

The School is committed to the highest standards of openness, probity and public accountability. It recognises that effective and honest communication is essential to our business values and to ensure that instances of business malpractice are detected and dealt with.

This policy applies to all employees, contractors, volunteers, agency workers and trainees (including work experience students) who are henceforth referred to as 'workers'.

All workers have a duty to speak up about any genuine concerns they have about serious malpractice within the School.

This policy and procedure is bound by the following guiding principles:

Confidence about raising a disclosure

This policy is designed to create confidence and to promote a culture whereby an individual, who has a whistleblowing concern, feels it both safe and acceptable to raise the concern openly.

Anonymity

This policy does not encourage individuals to raise concerns anonymously (where individuals do not identify themselves at any stage to anyone).

This is because anonymity makes it difficult to investigate the concern and to deter misuse; and makes it impossible to liaise with the individual (to seek clarification or more information, to assure them or to give them feedback).

Confidentiality

While openness is the ideal, in practice some individuals will have good reason to feel anxious about identifying themselves at the outset, so our procedures allow individuals to approach someone confidentially.

This means that their name will not be revealed without their consent, unless required by law. While the default should be that concerns are raised openly, it is accepted that where a



concern is raised beyond line management e.g. with a Director or Governor, the disclosure will be treated in confidence.

Protection

Under the terms of the policy, any individual who raises a genuine concern will not suffer any detriment or victimisation as a result of making a disclosure. They will be protected from any action e.g. dismissal or termination of volunteer agreement, which could otherwise follow from a breach of confidentiality.

However, any worker who is found to have made a malicious allegation or a deliberately false disclosure, will be subject to disciplinary action which could include dismissal or termination of volunteer agreement.

Any act of retaliation or victimisation against a whistleblower will result in disciplinary action being taken against the perpetrator, up to and including the termination of employment or volunteer agreement.

Maintaining trust and confidence

A worker should not make a disclosure to external sources in a manner that would undermine mutual trust and confidence, unless covered as a 'qualifying disclosure' under the Act. Where this occurs, appropriate management action will be taken.

Procedure

Raising a disclosure

Our procedures promote the airing of genuine concerns about suspected serious malpractice in a safe and supportive way.

The flowchart in [Appendix 2](#) details the main steps in the procedure.

As a first step an individual should normally raise an issue with their immediate line manager. However, this may depend on the seriousness and sensitivity of the issue involved and who is suspected of malpractice.

Where an individual does not feel confident about raising an issue with their line manager (whether or not they suspect the concern implicates the manager in some way) or where it has been raised with the line manager but the individual does not think it has been properly addressed they can raise their concern with the Head or a Governor.

The Chair of Governor's should be notified of disclosures made in all cases, either by the individual raising the disclosure or by the manager to whom the disclosure is reported.

If the suspected irregularity is in relation to the Head, a member of the Governor team or a member of the Board of Trustees, the whistleblowing complaint will be referred to the Chair of the Board as appropriate.

A disclosure can be raised verbally. It is not necessary to require the issue to be submitted in writing. If the individual chooses to submit their disclosure in writing they should be asked to:



- provide the background and history of the concern, giving any relevant dates, where possible.
- the reason for their concern about the disclosed allegation.

Individuals should raise their concerns at an early stage. It is preferable that a whistleblowing disclosure is raised as soon as the individual has reasonable suspicion of serious malpractice.

Individuals are not expected to investigate the matter themselves or to prove that their concern is well-founded.

The number of people involved in addressing any whistleblowing concern should be kept to a minimum and, where the implications are potentially serious or far-reaching, the independence and oversight of any investigation should also be considered.

It is also important that, where confidentiality relating to the identity of the whistle blower has been promised, it should be respected. However, the employee should know that the information given may necessarily need to be disclosed to others in order to investigate, resolve or manage the issue.

Addressing a disclosure

Where an individual raises a disclosure, the person to whom the disclosure has been made will assess how best to progress the matter.

If the manager does not feel able to take responsibility for the matter, they should refer the issue to a more senior manager.

Where the disclosure needs to be referred on to a more specialist function such as internal compliance and risk management or health and safety, this should be done without undue delay.

As part of the Whistleblowing Policy, the Head is the person designated to:

- be available for individuals to confide in outside of line management.
- determine whether a complaint made falls under the Whistleblowing Policy.
- give advice on whistleblowing disclosures.
- oversee individual cases.
- inform the Chair of Governors and/or the Chair of the Board of serious cases as soon as possible and, if relevant, identify where there is a potential reputational risk.

The first matter that will need to be decided is whether the issue should be treated as a whistleblowing concern. When considering this, the responsible manager or investigator will consider the following factors:

Whistleblowing presupposes that there is a legitimate interest to investigate that could be of public concern.

A whistleblower is best viewed as a witness who is putting the organisation on notice of risk.

Whistleblowing is an aspect of good citizenship. The individual is speaking up for and on behalf of people who are at risk but are usually unaware of it.



Assessing a disclosure

On the assumption that the information received is well-founded, the manager or investigator should assess:

- how serious and urgent the risk is.
- whether the concern can best be dealt with under the whistleblowing policy or some other procedure.
- whether the assistance of, or referral to, senior managers or an internal specialist.
- function e.g. Health and Safety or internal compliance and risk management will be necessary.

Where an individual raises a concern with their manager or at a higher level, the responsible manager should establish as soon as possible:

- if the individual is anxious about reprisals.
- when the concern first arose and, where relevant, what is prompting the decision to speak up now.
- whether the information is first hand, is supported by physical evidence or is hearsay.
- where the approach is to a higher level of manager, whether the individual has raised their concern with their line manager and (a) if not, why and (b) if so, with what effect.
- whether confidentiality is sought.
- whether and when the individual wants feedback.
- whether there is anything else relevant the individual should mention.

The person or persons against whom an allegation is made will be told of the allegation and the evidence supporting it (except where external advice, e.g. by the Police, is not to do so initially), and will be given the opportunity to offer refutation, explanation or mitigation before the investigation is concluded.

Feedback and follow-up procedure

The 'responsible manager' will, as soon as possible, confirm to the individual who has raised the concern, the following:

- summarise the key issue(s).
- note whether it was raised openly or confidentially.
- indicate how the School proposes to deal with the matter, to the extent that the whistleblower needs to know.
- give an estimate of how long it will take to provide a final response.
- indicate whether any initial enquiries have been made.
- supply information on support available from within the organisation.
- ask whether they would like an update (but it may not be possible to accede to this request).
- request the reporting of any further evidence that wrongdoing is continuing.



- assess if the individual is anxious about perceived or actual reprisal.
- say whether further investigations will take place and if not, why not.

It should however be made clear that, whilst the organisation will give as much feedback as it properly can, due to the legal obligations of confidentiality it owes to other employees, it may not be able to provide feedback on the outcome of any disciplinary action taken against another employee.

The amount of contact between the 'responsible manager' considering the issues and the individual who has raised the concern will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided, and this should be explained to the individual raising the issue.

External disclosure

If, having exhausted this policy internally, an individual is not satisfied with the School's response and reasonably believes that the information disclosed, and any allegations contained in it, are substantially true, they can take the matter further by raising it with a "prescribed person". A prescribed person is so prescribed by the Secretary of State and is a body or office to which disclosures can be made. There are a number of such bodies, those most likely to be relevant to The School are:

- Environment Agency - for matters relating to acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment.
- Health and Safety Executive - for matters which may affect the health or safety of any individual at work; or matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.
- Information Commissioner - for matters relating to compliance with the requirements of legislation relating to data protection and to freedom of information.

Prescribed persons make appropriate arrangements for receiving disclosures and investigate as and how they see fit. However, it is up to an employment tribunal to decide after the event whether or not a disclosure was protected under the Act and therefore whether a dismissal was automatically unfair or whether a detriment was unlawful. Prescribed persons do not determine whether a disclosure is protected, intervene in employment relations, or provide legal advice.

Helpline

Alternatively, the whistleblower can obtain free confidential advice from an independent charity, Public Concern at Work. The helpline number of Public Concern at Work is 020 7404 6609 and their website, www.pcaw.co.uk. This organisation has practical experience of whistleblowing and can advise on whether and how to raise a concern.

As the purpose of a helpline is to provide a safe haven where an employee can confidentially discuss their whistle blowing concern, the information given and advice provided are confidential between the helpline provider and the employee.



The helpline provider will try and establish that there are safe and constructive ways to raise a whistleblowing concern internally and guide the employee on how best to communicate the concern clearly.



Appendix 1 -

Safeguarding & Whistleblowing

Working Together to Safeguard Children (2015) Chapter 2, paragraph 4 says that organisations should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children, including: 'clear whistleblowing procedures, which reflect the principles in Sir Robert Francis's Freedom to Speak Up review and are suitably referenced in staff training and codes of conduct, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed'.

Freedom to Speak Up Report – Sir Robert Francis

In February 2015, the Freedom to Speak Up report was published. This report written by Sir Robert Francis QC looked at how incidents of poor care practice in the National Health Service could be prevented. Sir Robert found that NHS staff found it difficult to report their concerns and could be penalised for doing so.

Whilst the Freedom to Speak Up report is written primarily about the NHS, Sir Robert's findings have been applied in other fields, including those organisations covered by Working Together to Safeguard Children (2015).

Since Working Together (2015) applies to all schools, this means all schools must have a whistleblowing policy. The principles of the Francis' Report are outlined in the next section.

Principles of Whistleblowing in the Freedom to Speak Up report

The principles in the report are grouped into four themes which are set out below.

Working Together to Safeguard Children is expecting these principles to be particularly evident in the safeguarding systems in schools and colleges.

Theme 1 – the need for culture change

- will fit appropriately into the ethos and values section of a school's policies, not only safeguarding.
- culture of safety and learning
- raising concerns
- culture free from bullying
- culture of visible leadership
- value staff who raise concerns
- culture of reflective practice

Theme 2 – the need for improved handling of cases

describes how concerns will be dealt with, particularly the need for prompt investigation.

- informal and formal raising and resolution of concerns,
- prompt, swift, proportionate, and blame free investigation
- mediation and dispute resolution



Theme 3 – the need for measures to support good practice

emphasise training and communication so that staff understand what the whistleblowing policy is there for and what concerns are covered.

Theme 4 – the need for particular measures for vulnerable groups

develops the idea of ensuring that no-one feels unable to raise concerns, but recognises that some staff may feel they will not be listened to. Schools should also recognise that temporary staff, part-time staff, volunteers and students may find it harder to raise their concerns.



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Appendix 2 - Flowchart of main procedural steps

