

## **Whistleblowing Procedure**

### **1. Introduction**

- 1.1 Every school governing body has a responsibility to ensure that its school is managed to the highest standards of probity, and that its decision making and administration is conducted in such a way as to be above any suspicion of malpractice.
- 1.2 Clear policies, standards and procedures for making decisions, particularly those which entail significant expenditure, or decisions which significantly affect employment at the school are essential elements in creating and sustaining an atmosphere of openness and trust in school management. Such an atmosphere is the best way of forestalling suspicion or complaint.
- 1.3 The Nolan Committee on Standards in Public Life recommended that local public spending bodies should institute codes of practice on the disclosure of malpractice (or “whistleblowing”) appropriate to their circumstances, which would enable concerns to be raised confidentially inside and, if necessary, outside the organisation. Under the Public Interest Disclosure Act 1998 employees who raise concerns about malpractice within their place of work have statutory protection against victimisation for making such a disclosure, provided the disclosure is made in good faith and otherwise qualifies as a protected act.
- 1.4 The County Council is committed to promoting and maintaining the highest standards in the management and administration of its affairs. It recommends that governing bodies of all maintained schools should adopt this procedure and issue it to all employees under their control.
- 1.5 By the adoption and publication of this procedure a school may demonstrate its commitment to high standards of conduct in its affairs and establish a basis on which any employee can properly raise genuine concerns without prejudice to his/her personal position.
- 1.6 This procedure has been subject to consultation with all recognised trade unions and has their support.

### **2. Purpose of the procedure**

- 2.1 The purpose of this procedure is to encourage any employee who has a genuine concern that practices in their school do not meet the required standards of probity to raise that concern at an appropriate level and in an appropriate manner.
- 2.2 This procedure is also intended to guide any employee who genuinely believes that s/he has a disclosure to make about malpractice in their school in making that disclosure. It sets out to whom malpractice (or suspected malpractice) should be reported and how it should be reported.
- 2.3 The procedure also sets out the safeguards that the school and the County Council will offer to any employee who makes a disclosure in the recommended way and in good faith.

### **3. Definitions and exclusions**

- 3.1** The term “malpractice” may cover a broad range of acts, omissions, or practices. What employees may wish to report will usually be a specific instance or instances of wrongdoing on the part of an individual or a group of individuals. However, in certain circumstances, employees may wish to report bad practice which, if it were to continue, would be likely to lead to wrongdoing.
- 3.2** The following examples indicate the type of actions which would normally be inappropriate use of a school’s delegated budget:
- disregard of proper tendering procedure for contracts;
  - manipulation or falsification of accounting records;
  - making decisions for personal gain;
  - inappropriate (e.g. private) use of school assets;
  - abuse of position for personal advantage or gain.
- 3.3** The “Suffolk LMS Handbook”, as supplemented by instructions from time to time, sets out the standards of good practice in school management and administration by which the County Council will judge whether or not school governors and employees in schools have acted properly. Appendix F to the LMS Handbook sets out specific requirements in respect of the declaration of pecuniary interests, which school governors and employees in schools should have particular regard to.
- 3.4** An action does not have to constitute a criminal offence in order to be classified as “malpractice”, although clearly anything that constitutes a criminal offence would almost certainly amount to malpractice.
- 3.5** This procedure is not intended to substitute for other procedures through which employees may raise specific concerns or complaints about their personal treatment. Complaints by employees about their personal treatment by others or about the way in which employment policies and practices have been applied to them (including decisions about pay and grading) should be raised under the school’s grievance procedure, the harassment/bullying procedure or under any other appropriate procedure. Complaints about the protection of children should normally be raised under the separate procedures designated for that purpose. This procedure would not normally be appropriate for raising concerns about health and safety issues, unless they were related to a broader complaint of malpractice.

### **4. Procedure for making a disclosure**

- 4.1** The means of making a disclosure will depend to some extent on the nature and seriousness of the concern, the sensitivity of the issues and the individual, or individuals, thought to be involved in the malpractice reported.

- 4.2** As a general rule, an employee wishing to make a disclosure (the “informant”) should raise his/her concerns in the first instance with the Headteacher or the Chair of the school’s Governing Body. This would be the normal channel where the concern is about the conduct or practice of immediate colleagues – e.g. a concern that the school’s policies and procedures are not being properly or fairly applied. This will enable the issue to be addressed immediately at school level.
- 4.3** Where an informant genuinely believes that s/he cannot approach the Headteacher or the Chair of Governors, the concern should be raised with the Area Education Manager in whose area the school is located. This course of action would be appropriate if the disclosure were about the conduct or practice of the Headteacher or the Governing Body.
- 4.4** In exceptional circumstances an informant may approach the Director of Education, the Deputy Director of Education, or an appropriate Assistant Director of Education. This would normally only be appropriate if s/he reasonably believes that the Area Education Manager is involved in the malpractice or would for some other reason be unwilling to investigate it.
- 4.5** If the informant reasonably believes that senior officers of the Education Department or other department(s) of the County Council are themselves implicated, s/he should report the matter to the County Secretary and Solicitor.
- 4.6** A disclosure may be made verbally (e.g. by telephone) or in writing. An informant should normally identify him/herself and should make it clear that s/he is making a disclosure within the terms of this procedure. Concerns raised in casual conversation do not constitute a disclosure.
- 4.7** An informant raising a concern verbally will normally be expected to support and substantiate those concerns in writing, unless there are special circumstances indicating that this is inappropriate. Informants who feel unable to commit their concerns to writing will normally be asked to meet with an appropriate senior officer, who will compile a written note of the disclosure.
- 4.8** The informant may be accompanied by a trade union representative or friend at any meeting either with the person to whom a disclosure is being made or who has been authorised to conduct an investigation into an allegation of malpractice.
- 4.9** It is not necessary for an informant to produce conclusive evidence to support his/her disclosure. Suspicion may be valid grounds for raising a concern. However, the informant should normally have direct information about, or knowledge of, the malpractice alleged or know where such evidence is located. The informant’s concern should be based on more than hearsay, gossip, or the reports of others.
- 4.10** Other than in very exceptional circumstances, disclosures should not be made to the press, radio, television or other news media. The recommended internal reporting channels should be used. Employees have certain rights under the Public Interest Disclosure Act to report malpractice to specified external agencies (e.g. an employee who suspects that a criminal act has been committed may inform the Police). However, it would be expected that an informant would make any disclosure in the first instance either within the school or to an appropriate officer of the Education Department, or to the County Secretary and Solicitor, as set out above.

## **5. Responding to a disclosure**

- 5.1** The response to an informant's disclosure will depend on a number of factors such as the seriousness and complexity of the allegations made. Allegations may be:
- investigated within the School or the Education Department;
  - referred to the County Council's internal or external auditors;
  - referred to the Police;
  - referred to another independent form of enquiry;
  - (or any combination of the above).
- 5.2** Disclosures will be subject to initial enquiries in order to decide whether a full investigation is necessary and, if so, what form it should take, who should conduct it, and whether any reference to another agency is necessary or desirable. Some concerns may be resolved through agreed action without the need for further investigation.
- 5.3** If the informant's concern falls within the scope of an alternative procedure, s/he will be advised to pursue it through that procedure.
- 5.4** An informant who presents his/her disclosures in writing will receive written acknowledgement, and will be informed of the outcome of any investigation. The extent of the information given to informants will depend upon a number of factors, e.g. whether the investigation is referred to the Police and leads to criminal prosecution. Where an investigation is protracted, the school or officer dealing with the matter will normally report to the informant on the progress of the investigation.
- 5.5** Where an informant is unwilling to identify him/herself, any person receiving a complaint about malpractice should log the incident and consult the appropriate Area Education Manager to decide whether or not any investigation should be undertaken.

## **6. Safeguards for informants**

- 6.1** The decision to report malpractice can be a difficult one for an employee, who may possibly fear subsequent victimisation or harassment. No action will be taken against an employee who has raised a concern in good faith, even if that concern is seen to be unfounded after investigation.
- 6.2** However, informants who are themselves the subject of investigation or action under formal procedure (e.g. discipline, capability or harassment) should not necessarily expect that the procedure will be discontinued as a result of their disclosure.
- 6.3** Victimisation or harassment of an employee who has raised a concern in good faith, or any other attempt at reprisal either by an employee whose conduct is the subject of investigation or others, will be considered a disciplinary offence.

- 6.4** Where informants do not wish to be identified to others in the course of an investigation that wish will be respected in so far as it is reasonably practicable. However anonymity cannot be guaranteed. The process of investigation may reveal the identity of informants and, especially in serious cases, informants may be required to give evidence, either by the School, the County Council, or the Police. Any person subject to disciplinary action or prosecution would have access to such evidence. Informants who are subsequently required to give evidence will be given all reasonable and practicable support and protection from reprisals.
- 6.5** The school and the Education Department will take all reasonable steps to minimise any difficulties informants may experience as a result of raising a genuine concern. Informants who are required to give evidence in disciplinary or criminal proceedings may seek advice from the Area Education Manager or, in certain circumstances, the County Secretary and Solicitor, on procedural aspects of this obligation. The school will consider sympathetically requests from informants for special leave, counselling or other support.
- 7. False or malicious allegations**
- 7.1** If an allegation is made or a concern is raised in good faith, no action will be taken against an informant. However, malicious, or vexatious allegations, or disclosures made for personal gain will be considered as disciplinary offences and are likely to result in disciplinary action being taken against the informant.

**APPENDIX A****THE PUBLIC INTEREST DISCLOSURE ACT 1998**

This legislation aims to protect workers who make “qualifying disclosures” of malpractice in their organisation from victimisation as a result of making such a disclosure. It is automatically unfair to dismiss an employee or select him/her for redundancy because s/he made a disclosure, provided that the disclosure qualifies under the Act.

A “qualifying disclosure” must relate to:

- a criminal offence;
- a failure to comply with any legal obligation;
- a miscarriage of justice;
- danger to health and safety of any individual;
- damage to the environment;
- an attempt to cover up any of these.

Any disclosure must be made in good faith and not for personal gain. The employee does not have to prove that malpractice has occurred, simply that s/he has a reasonable belief that it took place or was about to take place.

The Act directs workers to raise their concerns internally in the first place, wherever their employer has a procedure for doing so. In certain cases the Act also protects disclosure to “prescribed regulators” such as the Audit Commission.

The Act only protects wider disclosure (e.g. to the media, an MP etc) if:

- the employee reasonably believed they would be victimised if they had raised the matter internally or with a prescribed regulator;
- there was no prescribed regulator and they reasonably believed the evidence would be concealed;
- the concern had already been raised with the employer or prescribed regulator;
- the concern was exceptionally serious.