

ST NICHOLAS CE VA PRIMARY SCHOOL

PUBLIC INTEREST DISCLOSURE ACT 1998

**Whistleblowing – A Reporting Policy and Procedure for
School Based Employees**

1 Introduction

1.1 The Public Interest Disclosure Act 1998 was introduced to facilitate the early detection of malpractice within the workplace.

1.2 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.

1.3 The Act sets out a framework for public interest 'whistle blowing', which provides individuals (workers) with full protection from victimisation and dismissal, where they raise genuine concerns about malpractice i.e. make a protected disclosure.

1.4 By helping to create a culture of honesty and openness, irregularities can be identified and addressed quickly.

1.5 This policy and procedure sets out the application of those statutory provisions within St Nicholas Primary School, enabling employees to raise serious concerns, rather than overlooking them or raising them outside the school or Council.

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

1.7 The policy has been agreed following consultation with the recognised trades 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 to all school Governing Bodies for adoption (in the case of school federations, it is recommended to the federation's Governing Body).

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 Aims

3.1 The aims of this policy and procedure are to:

- encourage employees to question and act upon concerns about practice and feel confident in raising those concerns;
- provide avenues for employees to raise concerns and receive feedback on any action taken;
- ensure employees receive a response and allow them to take the matter further if they are dissatisfied with the Headteacher, Governors or Council's response to the concerns expressed;
- reassure employees that they will be protected from reprisals or victimisation for any disclosure that they have made in good faith including an employee acting in the capacity of friend, colleague or trade union representative at any meeting in connection with the disclosure;
- ensure that employees about whom concerns are raised are treated fairly and supported appropriately.

3.2 There are already procedures in place to enable employees to raise a grievance relating to their own employment. This Policy is intended to cover concerns that fall outside the scope of the grievance procedure. This concern may be about something that is:

- unlawful, including financial or fraudulent malpractice such as embezzlement, bribery, corruption, dishonesty etc;
- against St Nicholas Primary School's or the Council's Standing Orders and policies;
- against established standards of practice;
- improper conduct.

(a full list of disclosures that qualify under the Act is set out at Appendix 1).

4 The Policy

4.1 The Headteacher and Governing Body are committed to the highest possible standards of probity and accountability within St Nicholas Primary School.

4.2 In line with that commitment, employees who have serious concerns about any aspect of the St Nicholas Primary School's or Council's work are encouraged to come forward and voice those concerns in line with the procedure outlined in section 5 below.

4.3 The Governors and the Council will not tolerate any harassment or victimisation and will take appropriate action in order to protect employees who raise concerns in good faith.

4.4 In pursuit of the above, all initial enquiries will be made on a sensitive and confidential basis to decide whether an investigation is appropriate and, if so, what form it should take.

4.5 Notwithstanding 4.4 above, 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 person concerned, before any further action is taken.

4.6 Employees are encouraged to put their name to their allegation. Concerns expressed anonymously will be considered at the discretion of the Governors and the Council and as outlined in paragraph 6 below.

4.7 If any meeting is held in connection with the concerns raised by an employee, they are entitled to be accompanied by a friend, colleague or trade union representative (but not in the capacity of a practising lawyer). They also have the right to request that this meeting is held away from their place of work.

4.8 The Governors and the Council will protect itself and its employees from false and malicious expressions of concern by taking disciplinary action where appropriate. If however, an allegation is made in good faith and not confirmed by the investigation, no action will be taken.

5 The Procedure

5.1 How to raise a concern

5.1.1 An employee should inform the Headteacher immediately if they have any concerns that they consider fall within the scope of section 3.2.

5.1.2 If they believe however, that senior staff are involved in the matter of concern, an approach may be made direct to the Governors. In circumstances where employees feel that this is inappropriate, they should approach the Director of Children's Services, Dorset County Council. The Director of Children's Services has overall responsibility for education within the County.

5.1.3 Alternatively, employees may prefer to approach the Director of Corporate Resources/Monitoring Officer of Dorset County Council who has overall responsibility for standards of conduct and legality including internal audit.

5.1.4 Concerns may be raised verbally but it is more effective if employees put their concerns in writing. Any written report 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.

5.1.5 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 and that they are therefore making the disclosure 'in good faith'.

5.1.6 Employees may contact the staff counselling service or their trade union representative for moral support and guidance in how to raise a concern.

5.2 How the School and the Council will respond

5.2.1 The person that the employee notifies has a responsibility to ensure that the concern is taken seriously and that they act swiftly to tackle any impropriety.

5.2.2 To protect the employee, the school and the Council, an initial investigation will be carried out to decide whether a full investigation is appropriate, and if so which form it should take.

5.2.3 If an investigation is required, a decision will be made as to whether the matter will be addressed internally, be referred to the police or an external auditor or form the subject of an independent inquiry. In cases where the welfare of the 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'

5.2.4 If urgent action is required (eg suspension), this will be taken before any investigation is carried out.

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

5.2.6 Within **10 working days** of a concern being raised, the Headteacher, Governors or the Council will write to the employee:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter;
- giving an estimate of how long it will take to provide a final response.

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

5.2.8 If it is not possible for initial inquiries to be completed within ten working days, this will be explained in the acknowledgement letter.

5.2.9 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.

5.2.10 The Governors or Council 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.

5.2.11 The Governors and Council 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.

5.3 Taking the matter further

5.3.1 Other than in exceptional circumstances, the expectation is that employees will follow the internal routes available first.

5.3.2 If however, they are not satisfied with the action taken by the Governors or the Council, and feel that it is right to take the matter outside, there are a number of further possible contact points (as at Appendix 1).

5.3.3 If they do take a matter outside, they should ensure that, so far as possible, the concern is raised without confidential information being divulged. The person they contact should be able to advise them on this.

6 Safeguards

6.1 Harassment or Victimisation

6.1.1 It is recognised that the decision to report a concern can be a difficult one to make. The Governors and Council 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.

6.2 Confidentiality

6.2.1 As far as possible, the Council and 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.

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

6.3 Anonymity

6.3.1 Concerns expressed anonymously will be considered at the discretion of the Governors and the Council. 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.

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

6.4 Support

6.4.1 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.

6.4.2 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 Monitoring and Review

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

7.2 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 'whistle blowers' 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 local government the most appropriate body listed in the legislation is the Audit Commission (i.e. the District Auditor)

Internal Contacts

Director of Children's Services	
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Possible External Contact Points

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