



## **Whistleblowing Policy 1998 Public Interest Disclosure Act**

### **1 Purpose**

- 1.1 Elmfield School is committed to high standards and openness in management and governance. If fraud, corruption or malpractice occur they must be tackled. Normally this would be done through management procedures. In some circumstances, however, this procedure will be needed to enable concerns to be raised confidentially inside and, if necessary, outside the organisation.
- 1.2 The purpose of this procedure is to encourage staff to inform management if they are concerned about suspected serious malpractice, fraud or corruption, etc. in the organisation, so that management can investigate. This procedure is not an alternative mechanism to the procedure for staff to raise grievances.

### **2 Who is covered?**

- 2.1 The Public Interest Disclosure Act (PIDA) 1998 protects workers who disclose information in the correct manner. 'Workers' has a broader definition than 'employees' and will apply to individuals who are:

- employed under a contract of employment;
- employed under any other contract under which they perform personally any work or services for another party;
- agency workers;
- work experience;
- individually placed in school

### **3 Protected grounds for disclosures**

- 3.1 To qualify for protection for disclosure the worker must:

- be acting in good faith;
- have reasonable grounds for believing the information disclosed indicates the existence of one of the problems itemised above in Section 1.

- 3.2 The worker making the disclosure must do so in the belief that it shows one or more of the following:

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- that a criminal offence has been committed, is being committed, or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject;
- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health and safety of any individual has been, is being, or is likely to be damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

3.3 A worker is also protected under PIDA if:

- the worker has previously raised the matter with the employer, or;
- the worker has not done so because of a reasonable fear of being penalised or because he/she believes that evidence will be concealed or destroyed, and there is no regulating body to which genuine concerns can be expressed.

3.4 In determining the 'reasonableness' of the above, the following factors will be taken into consideration:

- The identity of the person to whom the disclosure was made
- The seriousness of the problem
- Whether it is continuing or likely to reoccur
- Whether the worker has complied with any whistleblowing procedures authorised by the employer.

3.5 Any deliberately false or malicious accusations will be dealt with under the disciplinary procedure.

#### 4 **To whom should the disclosure be made?**

4.1 Disclosure should normally be made to the Education Lead or Bursar.

4.2 If the disclosure is safeguarding related this should be made to the Designated Safeguarding Lead.

4.3 Any complaints will be treated as confidential and a decision to make the matter known more widely will only be taken after consultation with the complainant.

4.4 A disclosure should be made in writing where possible. Anyone making a verbal disclosure will be requested to set out their concerns in confidence, in writing. Anyone claiming to have made a verbal disclosure may later be required to provide sound reasons why the disclosure was not made in writing.

4.5 The member of staff who has been notified of the disclosure will investigate the concerns raised and report back to the complainant (the process by which the matter will be addressed) within ten working days. Details of the proposed action to be taken will be reported back within twenty working days of the initial notification of the complaint. If in exceptional circumstances this deadline cannot be

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achieved because of complicating factors, e.g. the absence of staff involved, the person making the disclosure will be kept informed of the date by which the investigation should be completed.

## 5 **What if the matter is not satisfactorily resolved?**

5.1 A worker who is not satisfied that their concern is being properly dealt with may raise it with the Council of Management via Sharon Rose, Acting Chair of Council of Management, Elmfield School.

5.2 When these internal procedures are exhausted the worker may raise the matter with an appropriate government department, eg Department for Education and Skills, the Health & Safety Executive, Fire Authority, Environmental Health in the case of abuse this could include Social Services or the Police. Before taking this final course of action the complainant should consider discussing the matter with an independent third party, e.g. a legal advisor or the Citizens Advice Bureau.

## 6 **Protection given by the Act**

6.1 A worker who feels that he/she has been penalised for making a protected disclosure can make an application to an Employment Tribunal.

6.2 If the action is short of dismissal the worker can rely on Section 49 of the Employment Rights Act 1996 which states:

- the person may complain that he/she has been subject to detriment;
- the complaint must be presented within a 3 month period from the date the Act becomes law or the date the failure to act relates.
- this may be extended at the tribunal's discretion;
- the amount of compensation will be determined according to what is deemed to be just and equitable.

6.3 If the person is dismissed for making a protected disclosure, the worker will be entitled to complain to an Employment Tribunal of unfair dismissal. If the Tribunal concludes that the reason or principal reason for dismissal was the making of the complaint, then the dismissal will be automatically unfair.

6.4 There are no qualifying service periods for taking a case to an Employment Tribunal. Compensation will be determined in accordance with regulations in force at the time.

## 7 **Review of the policy and procedure**

7.1 The School reserves the right to review this policy and procedure at any time if deemed necessary. Any changes will be notified to staff.

Policy last reviewed February 2018

Lesley Taberer, Bursar

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