



THE
1590
TRUST

CONFIDENTIAL REPORTING (Whistle Blowing) POLICY

Based on 6.1 CONFIDENTIAL REPORTING POLICY FOR STAFF IN TRUSTS
(Stockton Council updated March 2020 and agreed with the recognised Trade
Unions)

Status	Dates
Issued by SBC	May 2016
Updated by 1590 Trust	May 2021
Next Review date	July 2023

Contents

- 1. Introduction.....3
- 2. Public Interest Disclosure Act 1998.....3
- 3. Aims and Scope of this Policy.....3
- 4. What is Malpractice or Wrongdoing?4
- 5. Harassment or Victimisation5
- 6. Confidentiality5
- 7. Anonymous Allegations.....6
- 8. Deliberately False or Malicious Allegations6
- 9. How to Raise a Concern6
- 10. How the Trust will Respond7
- 11. How can the Matter be taken further?8
- 12. Responsibility for this Policy.....8
- 13. Relevant Policies and Procedures.....9
- 14. Other useful contacts and documents9
- APPENDIX 110
 - CONFIDENTIAL REPORTING PROCEDURE10
 - NOMINATED OFFICERS.....11

CONFIDENTIAL REPORTING (WHISTLE BLOWING) POLICY

1. Introduction

- 1.1 This policy is to enable employees, and other persons working for The 1590 Trust (the Trust) on Trust premises, together with suppliers and those providing services under a contract with the Trust, to confidentially voice serious concerns over malpractice and wrongdoing within the Trust.
- 1.2 Employees are sometimes the first to realise that there may be something seriously wrong within their Trust. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Trust; or they may fear harassment, victimisation or other reprisals. In these circumstances it may be easier to ignore the concern rather than report what may be just a suspicion of malpractice/inappropriate behaviour.
- 1.2 A culture of openness, accountability and vigilance from all staff is essential in order to prevent such situations occurring or to address them when they do occur. The Trust is committed to the highest possible standards of service provision and for full accountability for those services. In line with that commitment employees are encouraged to come forward and voice any serious concerns they may have about the Trust's work and/or concerns about employees' behaviour towards young people. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that any individual can do so without fear of reprisals. This policy is intended to encourage and enable an individual to raise serious concerns within the Trust rather than overlooking a problem or "blowing the whistle" outside.
- 1.3 The policy applies to all employees and those contractors working for the Trust on Trust premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the Trust.

2. Public Interest Disclosure Act 1998

This Act protects workers who 'Blow the Whistle' about wrongdoing. It makes provision about the kind of disclosures, which may be protected; the circumstances in which the disclosures are protected; and the persons who may be protected. The provisions introduced by the Act protect most workers from being subjected to a detriment by their employer. Detriment may take a number of forms, such as denial of promotion, facilities or training opportunities which the employer would otherwise have offered. Employees may make a claim for unfair dismissal if they are dismissed for making a protected disclosure.

3. Aims and Scope of this Policy

- 3.1 This policy aims to:
 - a) encourage any complainant to feel confident in raising serious concerns and to question and act upon concerns about practice;

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- b) provide avenues for the complainant to raise concerns and receive feedback on any action taken;
 - c) allow the complainant to take the matter further if they are dissatisfied with the Trust's response to the concerns expressed; and
 - d) assure the complainant that they will be protected from possible reprisals or victimisation.
- 3.2 This policy does not replace the Complaints procedure. There are also existing procedures in place relating to Disciplinary, Grievance, and Capability etc. The Confidential Reporting Policy is intended to cover concerns that fall outside the scope of these procedures e.g. malpractice, wrongdoing or allegations of a safeguarding nature.
- 3.3 Thus any serious concern that the complainant may have regarding the suspicion of malpractice or wrongdoing in any aspect of the Trust provision, or the conduct of staff within Trust, or others acting on behalf of the Trust, can and should be reported under this policy. Employees are expected to report malpractice and wrongdoing. They may be liable to disciplinary action if they knowingly and deliberately do not disclose information relating to malpractice or wrong doing in any aspect of the Trust's provision or the conduct of staff or others acting on behalf of the Trust.

4. What is Malpractice or Wrongdoing?

4.1 Malpractice and wrongdoing may be about something which:-

- is unlawful;
- against the Trust 's policies;
- is not in accordance with established standards of practice;
- amounts to improper conduct by an employee.

4.2 Malpractice or wrongdoing also includes any inappropriate behaviour that may involve hurting a child or children, a young person(s), vulnerable adult(s) or colleagues in a physical, sexual, emotional or neglectful act or omission.

The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions to be applied.

The following are examples of issues which could be raised under this policy. It is not intended to be an exhaustive list and there may be other matters which could be dealt with under this policy:

- a) abuse of children, vulnerable adults or colleagues
- b) any unlawful act or omission, whether criminal or a breach of civil law
- c) maladministration, as defined by the Local Government Ombudsman
- d) breach of any statutory code of practice
- e) breach of or failure to implement or comply with any policy determined by the Trust or Local Authority.

- f) failure to comply with appropriate professional standards or other established standards of practice
- g) possible corruption or fraud
- h) actions which are likely to cause physical danger to any person, or give rise to a risk of significant damage to property
- i) failure to take reasonable steps to report and rectify any situation which is likely to give rise to a significant avoidable cost, or loss of income, to the Trust or would otherwise seriously prejudice the Trust or LA
- j) abuse of power/trust, or the use of the Trust's powers and authority for any unauthorised or ulterior purpose
- k) unfair discrimination in the Trust's employment or provision
- l) dangerous procedures risking health and safety
- m) damage to the environment
- n) other unethical conduct.

5. Harassment or Victimisation

- 5.1 The Trust recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice or from the Trust as a whole. The Trust will not tolerate any harassment or victimisation and will take appropriate action in order to protect an employee if they raise a concern in good faith. In addition an employee is protected by law by the Public Interest Disclosure Act, which gives employees protection from detriment and dismissal where they have made a protected disclosure, provided the legal requirements of the Act are satisfied.
- 5.2 This does not necessarily mean that if an employee is already the subject of disciplinary procedures that those procedures will be halted as a result of a concern being raised under this policy.

6. Confidentiality

- 6.1 It will be easier to follow up and to verify complaints if complainants are prepared to give their names. However, wherever possible the Trust will protect those who do not want their names to be disclosed. It must be appreciated that any investigation process may reveal the source of the information and a statement from the complainant may be required as part of the evidence.

7 Anonymous Allegations

- 7.1 Concerns expressed anonymously are much less powerful, but they will be treated with caution and considered at the discretion of the Trust. In exercising this discretion the factors to be taken into account would include:
- a) the seriousness of the issues raised;
 - b) the credibility of the concern; and
 - c) the likelihood of obtaining the necessary information and confirmation of the allegation.
- 7.2 Any anonymous concerns raised that are of a safeguarding nature must be addressed following advice from the LADO.

8. Deliberately False or Malicious Allegations

- 8.1 The Trust will view very seriously any deliberately false or malicious allegations it receives, and will regard the making of any deliberately false or malicious allegations by any employee as a serious disciplinary offence which could result in dismissal.
- 8.2 If an allegation is made in good faith but it is not confirmed by the investigation, no action will be taken against the complainant.
- 8.3 The Trust will try to ensure that the negative impact of either a malicious or unfounded allegation about any employee is minimised. However, it must be acknowledged that it may not be possible to prevent all of the repercussions potentially involved.

9. How to Raise a Concern

- 9.1 If the complainant suspects wrongdoing in the workplace:
- **they must not** approach or accuse the individuals directly
 - **they must not** try to investigate the matter themselves
 - **they must not** convey their suspicions to anyone other than those with the proper authority but **they must do** something!
- 9.2 As a first step, the complainant should normally raise concerns with their immediate manager or supervisor. However, the most appropriate person to contact will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if the complainant believes that the Headteacher is involved in the matter of concern, or the normal channels of communication are inappropriate for some reason, they should approach the Chair of the Trust. If, for some **significant reason**, the complainant does not feel comfortable raising the concern within the Trust, they should approach one of the Nominated Officers identified on page 11 of this policy.

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- 9.3 Concerns may be raised verbally but are better raised in writing. The complainant is invited to set out the background and history of the concern giving relevant names, dates and places where possible, and the reason why they are particularly concerned about the situation.
- 9.4 The earlier a concern is expressed; the easier it is to take appropriate action.
- 9.5 Although the complainant is not expected to prove the truth of an allegation that is made, it will be necessary for them to demonstrate to the person contacted that there are sufficient grounds for concern.
- 9.6 Alternatively, the complainant may wish to seek guidance from their trade union or professional association.

10. How the Trust will Respond

- 10.1 The action taken by the Trust will depend on the nature of the concern. Where it is a safeguarding issue it must be referred to the LADO in the first instance for an initial assessment of the facts.

Where appropriate, any matters raised may:

- a) be investigated by management, internal audit, or through a disciplinary process;
 - b) be referred to the Police;
 - c) be referred to the external Auditor;
 - d) need to be the subject of a referral to the Disclosure and Barring Service (DBS);
 - e) be the subject of an independent enquiry, for example, through the Local Safeguarding Board for child abuse.
- 10.2 In order to protect individuals and the Trust, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example child protection/safeguarding or capability issues) will normally be referred for consideration under those procedures.
 - 10.3 Some concerns may be resolved by agreed action without the need for investigation.
 - 10.4 Within 10 working days of a concern being raised under this procedure the appropriate person considering the issues will write to the complainant:
 - a. acknowledging that the concern has been received;
 - b. indicating how it is proposed to deal with the matter;
 - c. giving an estimate (so far as reasonably practicable) as to how long it will take to provide a final response;
 - d. informing them whether any initial enquiries have been made; and
 - e. informing them whether further investigations will take place and if not, why not
 - 10.5 The amount of contact between the complainant and the appropriate person considering the issues will depend on the nature of the matters raised; the potential difficulties involved; and the clarity of information provided. If necessary, further information will be sought from the complainant.

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- 10.6 Where any meeting is arranged, the complainant has the right, if they so wish, to be accompanied by a trade union or professional association representative or a work colleague who is not directly involved in the area concerned.
- 10.7 The Trust will take appropriate steps to minimise any difficulties the complainant may experience as a result of raising a concern. For example, if they are required to give evidence in criminal or disciplinary proceedings the Trust will advise them about the procedure.
- 10.8 The Trust accepts that the complainant needs to be assured that the matter has been properly addressed. Therefore, subject to any legal restraints, the complainant will receive as much information as possible about the outcomes of any investigation.

11. How can the matter be taken further?

- 11.1 This policy is intended to provide employees and other persons with an avenue to raise concerns within the Trust and it is hoped that they will take this option in the first instance. The Trust hopes they will be satisfied but if not, and the complainant feels it is right to take the matter outside the Trust, then depending upon the nature of the issue involved, the following are possible contact points:
1. LADO;
 2. External Auditor;
 3. Relevant professional bodies or regulatory organisations;
 4. Police;
 5. Education and Skills Funding Agency (ESFA)
 6. Disclosure and Barring Service (DBS);
 7. Local Citizen Advice Bureau;
 8. Independent legal adviser within the meaning of the Public Interest Disclosure Act 1998;
 9. A regulatory body designated for the purposes of the Public Interest Disclosure Act;
- 11.2 If the complainant does wish to take the matter outside the Trust, they must ensure that they do not disclose confidential information. In addition, if the complainant wishes to secure the protections afforded by the Public Interest Disclosure Act, they must ensure that their disclosure is protected within the meaning of the Act and that it complies with a set of specific conditions which vary according to whom the disclosure is made. If necessary the complainant may wish to seek advice from the Nominated Officers of this policy or their Trade Union or Professional Association.

12. Responsibility for this Policy

- 12.1 The responsibility for the effectiveness and efficiency of this policy rests with the Trust. The Trust Board will be advised about and maintain records of concerns raised and the outcomes (but in a form which does not endanger the complainants confidentiality).

13. Relevant Policies and Procedures

- 13.1 The following Trust policies and procedures may also be helpful and can be found in the Trusts or schools drive system:

Section 7 Tackling Bullying and Harassment
Section 8 Model Disciplinary Procedures
Section 9 Model Grievance Procedures
Briefing 9 Recruitment and Selection Guidance for Trusts

Further information and guidance can be sought in regard to the above policies and briefings from the Trusts HR Team.

14. Other useful contacts and documents

DfE Statutory guidance for Trusts and colleges - Keeping children safe in education
HM Government – Working together to safeguard children
Public Interest Disclosure Act 1998
Data Protection Act 1998

<https://www.stockton.gov.uk/children-and-young-people/stockton-on-tees-local-safeguarding-children-board-slscb/>
www.teescpp.org.uk
www.education.gov.uk/publications

APPENDIX 1

CONFIDENTIAL REPORTING PROCEDURE

1. The complainant, depending on the nature, seriousness and sensitivity of the disclosure can seek initial advice from the nominated officers in this policy or the LADO in cases of a safeguarding nature.
2. The Headteacher or appropriate person should be contacted about the complaint in the first instance.
3. If the complaint is about the Headteacher the complainant should approach the Chief Executive of the Trust (Mrs L Spellman). If it relates to the Chief Executive, they should approach the Chair of the Trust (Professor Eileen Martin at eileen.martin@conyers.org.uk).
4. If for some significant reason, the complainant does not feel they can raise their concerns with the Trust, they can approach the nominated officers in this policy in the first instance.
5. If the nature of the complaint is a safeguarding issue the Headteacher or appropriate person must immediately seek advice and guidance from the LADO and regard should be given to the DfE – Statutory guidance for Trusts and colleges – Keeping children safe in education.
6. The complainant will be required to set out the background and history of the concern and provide relevant names, dates and places where possible, and the reason why they are particularly concerned about the situation.
7. The complainant is not expected to prove the truth of an allegation but will have to demonstrate that there are sufficient grounds for concern.
8. The Trust will respond and take appropriate action as set out in paragraph 10 of this policy.
9. Within 10 working days the person considering the complaint(s) will write to the complainant informing them of the steps in paragraph 10.4 a) – e)
10. The complainant will have the right to be accompanied at all meetings by a trade union representative or a work colleague who is not directly involved in the area concerned.
11. It is the intention of this policy to provide complainants with every opportunity to raise their concerns in Trust. If the complainant is not satisfied with the outcome of the Trusts investigations they can, dependant of the nature of the complaint refer their complaint to the persons and bodies as set out in 11.1 points 1-9 of this policy.
12. Should the complainant wish to take the complaint outside of Trust they must ensure that they do not disclose confidential information and must comply with the Public Interest Disclosure Act 1998.

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NOMINATED OFFICERS

This policy is to enable employees, and other persons working for the Trust on Trust premises, together with suppliers and those providing services under a contract with the Trust, to confidentially voice serious concerns over malpractice and wrongdoing within the Trust.

In the case of an issue where an individual does not feel comfortable raising concerns within Trust, officers of the Local Authority have been nominated for the purpose of dealing with concerns raised under this policy. The Nominated Officers are currently as follows:

Head of Education / Chief Advisor

Gill McCleave Senior Advisor

Tel: (01642) 528 824 / (01642) 527 656

email: gill.mccleave@stockton.gov.uk vanessa.housley@stockton.gov.uk

Rhona Bollands, Assistant Director

Tel (01642) 526 422

Email: rhona.bollands@stockton.gov.uk

Safeguarding

For matters concerning allegations against employees of a safeguarding nature contact must be made with:

Philip Curtis, the Local Authority Designated Officer (LADO)

Email: phil.curtis@hartlepool.gov.uk

Secure Email: LADO@hartlepool.gcsx.gov.uk

Tel: (01429) 401 844

Mobile number: 07787 697 635

