



BEDFORD BOROUGH COUNCIL

PUBLIC INTEREST DISCLOSURE ACT

CONFIDENTIAL REPORTING POLICY

April 2011

PUBLIC INTEREST DISCLOSURE ACT 1998 - DEVELOPMENT OF A WHISTLEBLOWING POLICY

1. Background

The Public Interest Disclosure Act 1998 - the so called 'Whistleblowers' Bill', came into effect on 1 January 1999.

The Act amends the Employment Rights Act 1996 to protect workers who disclose certain kinds of information from being dismissed or penalised as a result of disclosing wrongdoing. It is a complex piece of legislation.

The purpose of the Act is to enable an employee, where there is malpractice which threatens the public interest, to raise concerns in a responsible way. Employees are first expected to raise matters internally with their employer. Where this is not possible or where the matter is not properly addressed internally, the Act protects workers if the disclosure is made externally in a way specified by the legislation. If the information is disclosed in a way not authorised by the Act then the protection is not available.

The Act, in protecting employees from recrimination if they speak out, encourages employers to establish procedures that enable and facilitate those employees to voice their concerns and to this end it is recommended the procedure below is adopted by the Governors of the school.

Information from the home office states that: A person who is barred from working with children or vulnerable adults will be breaking the law if they work or volunteer, or try to work or volunteer with those groups.

An organisation which knowingly employs someone who is barred to work with those groups will also be breaking the law.

If your organisation works with children or vulnerable adults and you dismiss or remove a member of staff or a volunteer because they have harmed a child or vulnerable adult, or you would have done so if they had not left, you must tell the Independent Safeguarding Authority.

<http://www.isa.homeoffice.gov.uk>

CONFIDENTIAL REPORTING POLICY

1. PREAMBLE

- 1.1. Employees are often the first to realise that there may be something seriously wrong within the work situation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2. The Governing Body is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with who have serious concerns about any aspect of the school's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3. This policy document makes it clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage. *This confidential reporting policy is intended to encourage and enable employees to raise serious concerns within the school rather than overlooking a problem or 'blowing the whistle' outside. However, it is recognised that there are occasions when this may not be appropriate.*
- 1.4. The Code applies to all employees and those contractors working on school premises, for example, agency staff or builders. It also covers suppliers and those providing services under a contract with the school or the Authority.
- 1.5. These procedures are in addition to any complaints procedures and other statutory reporting procedures.
- 1.6. This policy has been discussed with the relevant trade unions and professional organisations and has their support. Concerns may be discussed by an individual member with his/her relevant Professional Association/Union. It is written so as to address members of staff as individual employees (see paragraph 7.6).

2. AIMS AND SCOPE OF THIS POLICY

- 2.1. This policy aims to:
 - encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
 - provide avenues for you to raise those concerns and receive feedback on any action taken
 - ensure that you receives a response to your concerns and are aware of how to pursue them if you are not satisfied
 - reassure you that you will be protected from possible reprisal or victimisation. You will also be protected from disciplinary procedures if the disclosures you have made have been made appropriately and in good faith.

2.2. There are existing procedures in place to enable you to lodge a grievance relating to your own employment. (The Grievance Procedures are at Chapter 3, Section 9, in the Personnel Handbook for Schools). The Confidential Reporting policy is intended to cover major concerns that fall outside the scope of other procedures. These concerns include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damages to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- sexual or physical abuse of clients, or
- other unethical conduct

- Safeguarding

2.3. Thus, any serious concern that you have about any aspect of service provision or the conduct of other employees in the school, governors, officers of the Authority or members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the school or Borough Council subscribe to; or
- is against the policies of the school or Borough Council; or
- falls below established standards of practice; or
- amounts to improper conduct.

2.4. This policy does not replace the school's complaints procedure.

3. **SAFEGUARDS**

Harassment or Victimisation

3.1. The Governing Body is committed to good practice and high standards and want to be supportive of employees.

3.2. The Governing Body recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

3.3. The Governing Body will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith in accordance with the agreed policy on harassment and victimisation.

3.4. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect you.

4. **CONFIDENTIALITY**

4.1. All concerns will be treated in confidence and every effort will be made not to reveal your identify if you so wish. At the appropriate time, however, you may need to come forward as a witness.

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5. ANONYMOUS ALLEGATIONS

- 5.1. This policy encourages you to put your name to your allegation whenever possible (see paragraph 7.6)
- 5.2. Concerns expressed anonymously will be considered at the discretion of the Governing Body or the Borough Council.
- 5.3. In exercising this discretion the factors to be taken into account would include:
 - the seriousness of the issues raised
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

6. UNTRUE ALLEGATIONS

- 6.1. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If however, you make an allegation maliciously or for personal gain, disciplinary action may be taken against you.

7. HOW TO RAISE A CONCERN

- 7.1. As a first step, you should normally raise concerns with your immediate manager or their superior. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chair of Governors or Executive Director for Children, Schools and Families or his representative, or any specialist units the Council may have established (for example, an Anti-Fraud Team or a complaints 'hot-line'). (See also 7.5).
- 7.2. Concerns may be raised orally or in writing. Staff who wish to make a written report are invited to use the following format:
 - the background and history of the concern (giving relevant dates)
 - the reason why you are particularly concerned about the situation.
- 7.3. The earlier you express the concern the easier it is to take action.
- 7.4. Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.5. You might wish to seek support from a trade union or professional association representative when raising a matter of concern. By raising the matter via a union this can protect confidentiality.
- 7.6. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience of concerns.
- 7.7. You may invite your trade union or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

8. HOW THE GOVERNING BODY/LA WILL RESPOND

- 8.1. The Governing Body or the Borough Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2. Where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process
 - be referred to the Borough Council
 - be referred to the police
 - be referred to the external auditor
 - form the subject of an independent inquiry
 - be referred to Disclosure and Barring Service
- 8.3. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Governing Body will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 8.4. Some concerns may be resolved by agreed action without the need for investigation. If urgency is required this will be taken before any investigation is conducted.
- 8.5. The appropriate person under the policy with whom you have raised your concerns will write to you within **ten** working days of a concern being raised:
- acknowledging that the concern has been received
 - indicating how it is proposed to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - supply you with information on staff support mechanisms, and
 - telling you whether any further investigation will take place, if not, why not
- 8.6. The amount of contact between those responsible for considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Governing Body or the Borough Council will seek further information from you.
- 8.7. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 8.8. The Governing Body or Borough Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Governing Body or Borough Council will arrange for you to receive advice about the procedure.
- 8.9. The Governing Body accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will be informed of the outcomes of any investigation, normally in writing, in the context of your specific allegations.

9. **MONITORING OFFICER**

- 9.1. The Chief Executive of the Borough Council as Monitoring Officer, has overall responsibility for the maintenance and operation of the Borough Council's policy on this matter. The Governing Body's policy is to be seen within the overall Borough Council policy. The Monitoring Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

10. **HOW THE MATTER CAN BE TAKEN FURTHER**

- 10.1. This policy is intended to provide you with an avenue within the Governing Body and the Borough Council to raise concerns and it is hoped that you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside those who have been considering the matter, the following are possible contact points:

- the designated independent person or organisation
- the external auditor
- your trade union
- your local Citizen's Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police

- Disclosure and Barring Service

- 10.2. If you do take the matter outside the Governing Body or the Borough Council, you should ensure that you do not disclose confidential information.

11. **REVIEW**

- 11.1. These procedures will be reviewed annually.