



Middleton School

Whistleblowing Policy

**Reporting illegal or improper conduct
(Disclosures under the public interest disclosure Act 1998)**

**Reviewed May 2023
Ratified by the Governing Body Summer 2023
Due for review Summer 2025**

What is Whistleblowing

Whistleblowing means the reporting of information which relates to actual or suspected wrongdoing. This is called a “qualifying disclosure”. Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- a criminal offence
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health and safety of any individual
- damage to the environment
- the deliberate attempt to conceal any of the above.

If a worker is going to make a disclosure it should be made to the employer first, or if they feel unable to use the organisations procedure the disclosure should be made to a prescribed person, so that employment rights are protected. It is not necessary for a whistle-blower to have proof of such an act for the protections of this policy to apply.

Potential whistle-blowers are encouraged to seek support from a senior manager or their trade union representative if they are unsure whether to make a disclosure or to access support in making a disclosure, regardless of whether it is qualifying or not.

1. Introduction

The aim of this Policy is to encourage employees and others who have serious concerns about any aspect of the school to voice those concerns and feel secure in doing so. It is important that any fraud, misconduct or wrongdoing is reported and properly dealt with. The school encourages all individuals to raise any concerns they may have about the conduct of others or the way in which the school is run. The school is committed to the principles of honesty and integrity. A culture of openness and accountability is critical to ensuring these values are authentically lived by. This policy applies to all employees of the school, workers, agency staff, contractors, service providers, volunteers, and governors of the school. This policy does not form part of any employee’s contract of employment, and it may be amended at any time.

- 1.1** the school expects the highest standards of conduct from all employees and governors and will treat seriously any concern raised about illegal or improper conduct
- 1.2** any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Headteacher (or the chair of governors if the concerns relate to the Headteacher) any serious impropriety or breach of procedure.
- 1.3** employees who do not follow the steps identified in this procedure or other agreed internal procedures, and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation
- 1.4** this policy does not form part of any employee’s contract of employment and it may be amended at any time. The school may also vary any time limits as appropriate in any case

If your concern relates to how you have been treated this should be raised under the grievance or bullying and harassment policies.

The whistleblowing policy will not replace any existing policies or procedures. If misconduct is discovered as a result of any investigation under this the policy the school's disciplinary policy will be used.

The school encourages individuals to disclose any concerns they may have regardless of whether they are covered by this or another policy.

It is the school's responsibility to ensure that an investigation takes place:

- 2.1** where the concerns are about **safeguarding children or young people**, the school's designated senior person for Child Protection must be notified (see 7 below).
- 2.2** it is a procedure in which the Headteacher or chair of governors will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the school's disciplinary procedure
- 2.3** concern about a colleague's professional capability should **not** be dealt with using this policy (but see section 7 below).

2. When should it be used?

This policy and procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, breached he/she should use the school's grievance procedure.

Where a disclosure is merely an expression of opinion that fails to show that a legal obligation has been or is likely to be breached, it **cannot** amount to a protected or qualifying disclosure for the purposes of the whistleblowing legislation.

Recent changes to the law - A qualifying disclosure means any disclosure of information that in the reasonable belief of the worker is made in the public interest. This is why an employee will generally be precluded from being able to 'blow the whistle' about breaches of his or her own employment contract. The requirement that a whistleblower make a qualifying disclosure 'in good faith' has been removed. Therefore, while the employer can seek a declaration from the whistleblower that he or she is not knowingly making a false allegation, disciplinary action is likely to be appropriate only where there is clear evidence that the employee has misused this policy.

- 3.1** this policy and procedure is not designed to replace or be used as an alternative to the school's grievance procedure, which should be used where an employee is only aggrieved about their own situation. This policy and procedure will also not apply where the employee simply disagrees with the way the school is run
- 3.2** employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour
- 3.3** an employee who makes such a protected disclosure has the right not to be subjected to detrimental treatment which includes, dismissal, disciplinary action, threats or other unfavourable treatment, because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this policy and procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns

3.4 an employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed may contact the Herts for Learning head of HR - (details in section 8) or professional association/trade union

3.5 financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to Internal Audit for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Headteacher or chair of governors (but see section 5), who will in turn report it to Internal Audit. Similar principles apply to academies where the Funding Agency must be informed.

4. Protections for whistle-blowers

This policy has been written to take account of the Part IVA of the Employment Rights Act 1996 which protects workers making protected disclosures.

A qualifying disclosure made to the worker's employer is a protected disclosure. A qualifying disclosure made by a worker under this policy will also be a protected disclosure.

A whistle-blower who makes a protected disclosure has the right not to be dismissed (if they are an employee) or subjected to any other detriment, because they have made a protected disclosure.

Dismissing, or subjecting a whistle-blower to any other detriment for raising a protected disclosure will be a disciplinary offence.

The school will not determine that anyone should cease to work at the school on the basis that they have made a qualifying disclosure in accordance with the law and this policy.

Whistle-blowers may seek support and advice from organisations such as the whistle blowing charity Protect (<https://protect-advice.org.uk> / 020 3117 2520) or ACAS (www.acas.org.uk).

5. Obligations for the whistle-blower

An instruction to cover up wrongdoing is in itself a disciplinary offence. A whistle-blower who is told not to raise or pursue any concern, even by a person in authority, should not agree to remain silent.

Whistleblowing to an external agency without first using the procedure below may be considered a breach of the School's Code of Conduct.

It is not appropriate to whistle blow to the media except in limited circumstances and where those circumstances do not apply such whistleblowing may be considered gross misconduct.

Maliciously making a false allegation is a disciplinary offence

6. Confidentiality

The school encourages individuals to voice their concerns openly. If anyone wishes to raise concerns confidentially, the school will make every effort to keep their identity secret.

The person(s) to whom the disclosure is made will consult with the whistle-blower before divulging their identity to any party, including an investigator.

The school does not encourage anonymous disclosures as this may make it harder to establish the credibility of an allegation and may make investigation difficult or impossible. Anonymous concerns will be taken seriously and investigated as far as is possible under this policy.

7. The school's commitment

Any matter raised under this policy and procedure will be investigated thoroughly, promptly and confidentially.

Whilst the person carrying out the investigation will aim to keep the whistle-blower informed of the progress of the investigation and likely timescales, sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed.

8. Obligations for the Governing Board

An appropriate representative of the school (Headteacher or the governor named in section 11 (the named Governor)) will inform Hertfordshire County Council as the maintaining authority of any qualifying disclosures at the earliest opportunity.

Concerns regarding financial irregularity will be reported to the Shared Internal Audit Service (SIAS); where concerns relate to child protection these will be handled in keeping with the relevant policy of the school and reported to the Local Authority Designated Officer (LADO) where the threshold is met.

9. Whistleblowing procedure

9.1. Stage 1 – Disclosure

The whistle-blower should initially raise their concern with their line manager. They may do this orally or in writing. The line manager should inform the Headteacher of the concern. If the concern relates to the line manager or any person to whom they report (other than the Headteacher) the whistle-blower should raise the issue with the Headteacher. If the concern relates to the Headteacher, the whistle-blower should raise this with the named governor.

9.2. Stage 2 – Investigation

The Headteacher will arrange an investigation into the concerns raised, unless the concern relates to the Headteacher, in which case the investigation will be arranged by the named governor. This will take place as soon as is reasonably practicable. The investigation may involve the whistle-blower and other individuals involved meeting with the investigator and giving a written statement. At any investigatory meetings the whistle-blower is entitled to be accompanied by a recognised trade union representative or a work colleague.

9.3. Step 3 – Report to Headteacher/Governors

The investigator will report to the person who arranged the investigation before any further action is taken. That person will decide on potential outcomes including, but not limited to:

- invoking the school's disciplinary process, or other relevant policy
- referral to the police, Hertfordshire County Council department, government department or regulatory agency © HFL Education 2022 6
- no further action.

On conclusion of any investigation, the whistle-blower will, as far as is practicable and where it is reasonable to do so, be told the outcome of the investigation and what the Headteacher/ named governor has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

9.4. Step 4 – Escalation

If, on conclusion of stages 1, 2 and 3 the whistle-blower believes that the appropriate action has not been taken, they should report the matter to the proper authority. The Public Interest Disclosure (Prescribed Persons) Order 2014 (as amended) sets out a number of bodies prescribed by the Secretary of State to which qualifying disclosures may be made. In order for the report to one of these bodies to be a protected disclosure, the whistle-blower must reasonably believe that the matter falls within the matters covered by that body. The whistle-blower must also reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.

These bodies include:

- the Financial Conduct Authority (formerly the Financial Services Authority)
- the Health and Safety Executive
- the Environment Agency
- Her Majesty's Chief Inspector of Education Children's Services and Skills
- the Secretary of State for Education
- the Office of Qualifications and Examinations Regulation.

A full list can be obtained from the charity, Protect or the BEIS (Department for Business, Energy and Industrial Strategy) list on the www.gov.uk website. The DBEIS list contains a description of the type of matter covered by each prescribed body. Alternatively, a whistleblower may contact their professional association or trade union representative for guidance.

Data Protection

When an individual makes a disclosure, the school will process any personal data collected in accordance with its data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

10. Safeguarding children and young people

10.1 separate to the obligations under this policy, all employees have a duty to report concerns about the safety and welfare of pupils/students

10.2 concerns about any of the following should be reported to the school's designated senior person for Child Protection (DSP):

- physical abuse of a pupil/student
- sexual abuse of a pupil/student
- emotional abuse of a pupil/student
- neglect of a pupil/student
- an intimate or improper relationship between an adult and a pupil/student

The school's DSPs are the Headteacher, Deputy Headteacher, Assistant Head teacher and Family Liaison Officer.

10.3 the reason for the concern may be the actions of a colleague (including a more senior colleague), a governor, another pupil/student or someone outside the school. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself, a disciplinary matter.

11. Contacts

Head Teacher – Debbie Hartley

Appointed Governor (safeguarding) – Melanie Dorling

Herts HR (HCC)

Assistant Director

Tel: 01992 556653

Legal, Member & Statutory Services

Chief Legal Officer

Tel: 01992 555527

County Internal Audit

Head of Assurance Services

Tel: 01438 845502

Or via your professional association or trade union representative.

Or the independent whistleblowing charity [Protect Helpline 020 3117 2520](https://www.protect-advice.org.uk)
Email – whistle@protect-advice.org.uk