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Public Disclosure by the Trust's Employees: 'Whistleblowing' Policy Advice and Instructions for Staff

(should be read in conjunction with the Trust's Safeguarding policy)

1. ABOUT THIS POLICY

- 1.1. Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work. We are committed to conducting the Trust with honesty and integrity, and we expect all staff to maintain high standards. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring and to address them when they do occur.
- 1.2. The aims of this policy are:
 - 1.2.1. To encourage staff to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected;
 - 1.2.2. To provide staff with guidance as to how to raise those concerns; and
 - 1.2.3. To reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.
- 1.3. This statement sets out the Trust's Policy and provides in some detail advice and guidance to staff on the scope of the Policy. It explains that any member of staff who has a reasonable belief that there is serious malpractice they may raise a concern under the procedure agreed by the Trustees and which is described in this statement. There is also information about the rights of staff to raise the matter externally if they are not satisfied with the Trust's response and the protection afforded to them if they choose to do this after the internal procedures have been exhausted.

2. WHAT IS 'WHISTLEBLOWING'?

- 2.1. Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:
 - 2.1.1. Criminal activity;
 - 2.1.2. Miscarriages of justice;
 - 2.1.3. Danger to health and safety;
 - 2.1.4. Damage to the environment;
 - 2.1.5. Failure to comply with any legal or professional obligation or regulatory requirements;
 - 2.1.6. Bribery;
 - 2.1.7. Financial fraud or mismanagement;

- 2.1.8. Negligence;
- 2.1.9. Breach of Trust internal policies and procedures;
- 2.1.10. Conduct likely to damage the Trust reputation;
- 2.1.11. Unauthorised disclosure of confidential information;
- 2.1.12. Concerns about the harm or risk of harm to children; and
- 2.1.13. The deliberate concealment of any of the above matters.

2.2. A whistleblower is a person who raises a genuine concern relating to any of the above. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a **whistleblowing** concern) you should report it under this policy.

3. SCOPE OF THE POLICY

This policy applies to all individuals working at all levels of the Trust, including officers, directors, employees, consultants, contractors, trainees, homeworkers, part-time and fixed-term workers, casual and agency staff and volunteers (collectively referred to as staff in this policy).

4. WHEN SHOULD WHISTLEBLOWING PROCEDURES BE USED?

- 4.1. If a staff member has concerns about wrongdoing at the Trust and feels that those concerns are sufficiently serious to require reporting, this procedure outlines what should be done.
- 4.2. Each individual member of staff should feel able to speak freely on such matters. However, the Trust and colleagues have the right to protect themselves against unfounded false or malicious accusations.
- 4.3. Whistleblowing should only be used when the party instigating the procedure has reasonable grounds for believing that a serious offence has been or may be committed. It must never be used without good grounds, falsely or maliciously.
- 4.4. Whistleblowing is not appropriate for:
 - 4.4.1. Dealing with issues between a member of staff and the Trust which relate to their own employment or rights or employment conditions generally. Alternative dispute resolution procedures for that purpose are outlined in the employment terms and conditions.
 - 4.4.2. Dealing with pupil complaints, which will be dealt with under separately published procedures.
 - 4.4.3. Specific cases of child safety or safeguarding which will be dealt with under the procedures specified in that connection. If any staff member has concerns that a pupil is being dealt with unfairly in school, they should raise their concern, in the first instance with the Principal or Child Protection Officer.

- 4.4.4. Complaints relating to a staff member's own personal circumstances, such as the way they have been treated at work. In those cases the Grievance Procedure should be used.
- 4.5. If a staff member is uncertain whether something is within the scope of this policy you should seek advice from the Trust team.

5. THE PROCEDURE

- 5.1. We hope that in many cases staff will be able to raise any concerns with their line manager, orally or in writing and that they will be able to agree a way of resolving their concern quickly and effectively. Staff are discouraged from making anonymous disclosures as this may make the investigation difficult or impossible to conduct.
- 5.2. Where:
 - 5.2.1. The matter is more serious; or
 - 5.2.2. The staff member feels that their line manager has not addressed their concern; or
 - 5.2.3. If the staff member would prefer not to raise it with them for any reason

The staff member should raise the concern with the Principal, or, if the concern relates to the Principal, the concern should be raised with the CEO. If a staff member is in any doubt who to raise the concern with, any member of the Trust Executive can be approached confidentially to establish the best route forward.

- 5.3. The person with whom the matter is raised is referred to as the "Assessor". Once the staff member has raised a concern, the Assessor will carry out an initial assessment to determine the scope of any investigation and will inform the individual of the outcome of our assessment. The staff member may be required to attend additional meetings in order to provide further information.
- 5.4. For the initial assessment, the Assessor may:
 - 5.4.1. Interview the staff member as soon as possible within seven working days, in confidence. Early interview will be essential if the concern relates to an immediate danger to loss of life or serious injury or risk to pupils;
 - 5.4.2. Obtain as much information as possible from the staff member about the grounds for the belief of wrongdoing and consult with them about further steps which could be taken; and
 - 5.4.3. Advise the staff member of the appropriate route if the matter does not fall under this Procedure.
- 5.5. In some cases the Trust may appoint an investigator or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) may make recommendations for change to enable us to minimise the risk of future wrongdoing.

- 5.6. The Assessor will aim to keep the staff member informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent the Assessor giving specific details of the investigation or any disciplinary action taken as a result. Any information about the investigation should be treated as confidential.
- 5.7. The Assessor will report all matters raised under this procedure to the CEO or Company Secretary.
- 5.8. At the initial assessment with the Assessor, or any subsequent meetings, the staff member may be accompanied by a recognised trade union representative or a work colleague who must respect confidentiality of the disclosure and any subsequent investigation. The Assessor may be accompanied by a member of staff to take notes which will be made available to the staff member after the meeting and propose how to deal with the matter.
- 5.9. The Assessor may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The Assessor may also discuss the issue, in confidence, to other suitable professionals, such as independent HR consultants or school governance providers in order to assess the nature of the case and to inform the outcome of the investigation.
- 5.10. Promptly within ten working days of the interview, the Assessor will recommend one or more of the following:
 - 5.10.1. The matter be further investigated internally by the Trust;
 - 5.10.2. The matter be further investigated by external consultants appointed by the Trust;
 - 5.10.3. The matter be reported to an external agency;
 - 5.10.4. Disciplinary proceedings be implemented against a member of staff;
 - 5.10.5. The route for the staff member to pursue the matter if it does not fall within this procedure; or
 - 5.10.6. That no further action is taken by the Trust.
- 5.11. The grounds on which no further action is taken may include:
 - 5.11.1. The Assessor is satisfied that, on the balance of probabilities, there is no evidence that wrongdoing within the meaning of this procedure has occurred, is occurring or is likely to occur;
 - 5.11.2. The Assessor is satisfied that the staff member is not acting in good faith;
 - 5.11.3. The matter is already (or has been) the subject of proceedings under one of the Trust's other procedures or policies; or
 - 5.11.4. The matter concerned is already (or has been) the subject of legal proceedings or has already been referred to an external agency.
- 5.12. The recommendation of the Assessor will be made to the Principal. However, should it be alleged that the Principal is involved in the alleged wrongdoing; the recommendation will be made to the CEO.

- 5.13. The Principal or CEO or Company Secretary, as appropriate, will ensure that the recommendation is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Trustees.
- 5.14. The identity of any whistleblower will be kept confidential unless they otherwise consents or unless there are grounds to believe that they have acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the staff member except:
- 5.14.1. Where the Assessor is under a legal obligation to do so;
 - 5.14.2. Where the information is already in the public domain; or
 - 5.14.3. On a legally privileged basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- 5.15. The conclusion of any agreed investigation will be reported by the Assessor to the staff member promptly within twenty-eight working days of the initial interview or such reasonable extension as the Trust requires. However, as stated in paragraph 5.6, sometimes the need for confidentiality may prevent the Assessor giving the staff member specific details of the conclusion. The Assessor will inform the staff member if this is the case.
- 5.16. All responses to the staff member will be made in writing and sent to their home address.
- 5.17. The staff member may at any time disclose the matter on a legally privileged basis to a professionally qualified lawyer for the purpose of taking legal advice.

6. MALICIOUS ACCUSATIONS

A deliberately false or malicious accusation made by a staff member under this policy is a disciplinary offence and will be dealt with under the Trust's disciplinary procedure, as well as potentially exposing the staff member to legal liability.

7. IF YOU ARE NOT SATISFIED

Whilst we cannot always guarantee the outcome the Representor is seeking, we will try to deal with your concern fairly and in an appropriate way. If the staff member is not happy with the way in which their concern has been handled, they can contact the CEO or Company Secretary.

8. INFORMING EXTERNAL AGENCIES

- 8.1. Within the Trust all staff have a duty of confidentiality. The duty of confidentiality is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that the information is disclosed or unless the Trust fails to follow required procedures. Other

legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.

- 8.2. Whistleblowing to the media is not appropriate or permitted in any circumstances.

9. CONFIDENTIALITY

- 9.1. Staff may, on a confidential basis seek prior guidance from the Principal if they wish to establish whether any course of conduct on their part or on the part of another member of staff may amount to wrongdoing under these procedures. Such enquiry shall be kept confidential. The Principal will attempt to provide guidance on the basis of the information provided, but such guidance shall not prejudice the rights of the Trust or any person under these procedures.
- 9.2. We hope that staff will feel able to voice whistleblowing concerns openly under this policy. However, if the staff member wants to raise their concern(s) confidentially, the Trust will make every effort to keep the staff member's identity secret. If it is necessary for anyone investigating staff member's concern to know their identity, we will discuss this with you.
- 9.3. As stated in paragraph 5.1 above, we do not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Principal, or, should it be alleged that the Principal is involved in the alleged wrongdoing, to the CEO and appropriate measures can then be taken to preserve confidentiality. If the staff member is in any doubt they can seek advice from Protect, the independent whistleblowing charity, who offer a confidential helpline 0207 3117 2520 and further information can also be obtained from their website <https://protect-advice.org.uk/contact-protect-advice-line/>

10. MONITORING, EVALUATION AND REVIEW

The Trust Audit Committee will assess the implementation and effectiveness of this policy. The policy will be promoted and implemented throughout the Trust.

11. ADVICE FOR STAFF RAISING A CONCERN

- 11.1. The Trust acknowledges the difficult choice a member of staff may have to make in raising a concern. As the issues that prompt the concern are likely to be complex, how the member of staff proceeds with his or her concern will vary from situation to situation. The following advice is recommended if a member of staff wishes to make a disclosure:
 - 11.1.1. make any objections to illegal, unsafe or unethical practices promptly so as to avoid any misinterpretation of the motives for doing so;

11.1.2. focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;

11.1.3. be accurate in his/her observations and claims and keep formal records documenting relevant events.

11.2. Members of staff may also wish to seek independent legal advice.

12. COMPLAINTS OF RETALIATION AS A RESULT OF DISCLOSURE

12.1. The Trust accepts that it has an obligation to ensure that staff who make a disclosure without malice and in good faith are protected, regardless of whether or not the concern raised is upheld. A member of staff who has made a disclosure and who feels that, as a result, he or she has suffered adverse treatment should submit a formal complaint under the grievance procedure as set out in the staff policy detailing what has been done to him or her. If it appears that there are reasonable grounds for making the complaint, the onus will be on the person against whom the complaint of adverse treatment has been made to show that the actions complained of were not taken in retaliation for the disclosure.

12.2. Where it is determined that there is a prima facie case that a member of staff has suffered adverse treatment, harassment or victimisation as a result of his or her disclosure, a further investigation may take place and disciplinary action may be taken against the perpetrator in accordance with the relevant procedure.

13. EXTERNAL DISCLOSURE

13.1. If, having exhausted this procedure, a member of staff is not satisfied with the Trust's action or response, he or she is at liberty to take the matter further to an external body such as a regulator.

13.2. We strongly encourage you to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. As at paragraph 9.3, their contact details can be obtained from The Trust team.

14. PROTECTION SUPPORT FOR WHISTLEBLOWERS

14.1. It is understandable that whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.

14.2. Whistleblowers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If the staff member believes they have suffered any such treatment, you should inform the Principal immediately. If the matter is

not remedied the staff member should raise it formally using the Grievance Procedure. Wherever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we might not be able to tell you about the precise actions we take where this would infringe the duty of confidence we owe to other persons.

- 14.3. Staff members must not threaten or retaliate against whistleblowers in any way. If any staff member is involved in such conduct they may be subject to disciplinary action.