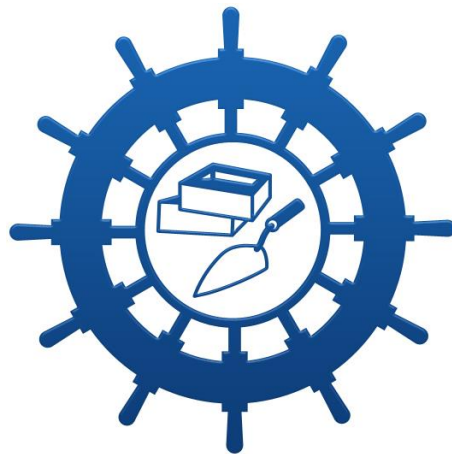


# VICTORIA DOCK PRIMARY SCHOOL

## WHISTLE BLOWING POLICY



*Working together for your children*

Updated: Autumn 2019

To Be Reviewed: Autumn, 2021

## **INTRODUCTION**

Whistle blowing inside the work place is the term used to describe reporting by employees or ex-employees, of wrongdoing on the part of management, the Governing Body or by fellow employees. Wrongdoing may include for example, fraud, corruption, malpractice, breach of health and safety law, any other illegal or unethical act or breaches of the School's Code of Conduct. Employees include, for this purpose, for example, contractors and agency workers. It also covers suppliers and those providing services under a contract with the school in their own premises and volunteers.

This policy has been produced to encourage a culture of honesty and openness in the school and to ensure that the governing body complies with the Public Interest Disclosure Act 1998.

Employees are often the first to realise that there may be something seriously wrong within the School. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the school itself. In these circumstances they may feel that it might be easier to ignore the concern rather than to report what may just be a suspicion of malpractice.

The governing body is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage and expect employees and others with whom we deal, who have concerns about any aspect of the school's work, to come forward and voice those concerns. Generally cases will, as far as possible, proceed on a confidential basis. However, if a complaint results in formal action being taken or in legal proceedings, it may not be possible to keep the identity of a whistleblower confidential and it will not prevent other employees from drawing conclusions (rightly or wrongly) about the identity of the whistleblower.

## **PROTECTING THE WHISTLEBLOWER**

Under the Public Interest Disclosure Act 1998 a Whistleblower is protected from detriment and unfair dismissal. The school will support and not discriminate against concerned employees who follow the Whistle blowing procedure, provided any disclosure is made in good faith.

Nothing in this policy removes the obligations of staff with respect to child protection issues.

## **AIMS OF THE POLICY**

The policy aims to:

- encourage individuals to feel confident in raising concerns and to question, and act upon concerns about, practice;
- provide avenues for individuals to raise those concerns and receive feedback on any action taken;
- ensure that individuals receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied;
- Reassure employees that they will be protected from possible detriment and unfair dismissal. The School will support and not discriminate against concerned employees who apply the Whistle blowing procedure, provided any disclosure is made in good faith.

## **RESPONSIBILITY OF GOVERNORS**

Managers in the school, who are involved in drawing up contracts, liaising with suppliers and other providers of services and dealing with service provision, must make those groups aware of the existence of this policy and the accompanying procedure.

## **TRADE UNION AGREEMENT**

This policy has been consulted with the relevant trade unions and has their support.

# **CONFIDENTIAL REPORTING (WHISTLEBLOWERS') PROCEDURE**

## **WHISTLEBLOWING IN RELATION TO OTHER PROCEDURES**

### **PART ONE**

The Whistleblowing Policy is not intended to cover complaints for which there are existing procedures, such as matters of individual discipline, staff grievances, complaints about poor standards of service, personal harassment, and equality complaints or for dealing with pupil complaints, which will be dealt with under separately published procedures.

Whistle blowing is not appropriate to 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 the school, they should raise their concern, in the first instance with the Head teacher or Child Protection Officer.

The Whistleblowing Policy is intended to cover other concerns, which a member of staff may have about the school its employees or its practices. Such concerns could include:

- financial malpractice, financial impropriety, or fraud
- failure to comply with the School's regulations and procedures
- failure to observe safety obligations
- endangering health and safety, including risks to the public as well as other employees and pupils
- damaging the environment
- criminal activity at the school
- deliberate miscarriage of justice
- school malpractice
- abuse of authority for illegal or unethical purposes
- wilful failure to declare a relevant interest in the Registers of Interests
- Covering up any of the above.

Concerns may include such actions as have already occurred, are occurring, or are likely to occur. Any issue raised will, as far as reasonably possible, be kept confidential while the procedure is being used.

### Who can use the procedure?

This procedure is open to all members of the school and others, defined below:-

- Governors
- Current employees of the school including casuals and agency employees
- Staff working in the school who may not be formally employed by the school
- Providers of goods and services for the school

A discloser need not be personally or professionally affected by the malpractice, which is to be disclosed by him or her.

### **PROTECTION OF DISCLOSURE – SAFEGUARDS**

If staff comply in full with this procedure, the discloser will:-

- a) be protected as far as possible from their identity being revealed, although there may be occasions when the type of information revealed will be such that the identity of the discloser can be inferred by others;
- b) be protected from reprisal or unfair treatment attributable to the making of the disclosure;
- c) be kept informed, as far as possible, at all stages of the procedure;
- d) Be assured that any malpractice will be thoroughly but quickly investigated in line with the timeframes.

These protections apply even if it is concluded that there is no action to be taken by the school following a disclosure. In accordance with the Act, the protections apply, provided that: the discloser makes the disclosure in good faith; in the reasonable belief that the disclosure tends to show malpractice; not maliciously or for personal gain and the disclosure is in the public interest. The school procedure does not offer protection in the case of a vexatious disclosure or if a disclosure is made maliciously or for personal gain.

### Type of protection given to someone named in a disclosure – Accused

The identity of a person who is subject of a public interest disclosure under this procedure will be protected as far as possible. If the case against him/her is heard under the Confidential Reporting (Whistle blowing) Procedure, his/her rights to respond to accusations or to remain silent and to have representation, will be the same as under the relevant disciplinary procedure. If a person chooses to remain

silent, the school reserves the right to investigate the disclosure by any means at its disposal.

#### Protection for officers designated in the procedure - Assessor

No officer designated in the procedure shall be held personally liable for any errors in, or consequences arising from, the commission of his/her duties under this procedure.

#### If a member of the school staff knows of wrongdoing, is making a disclosure about it obligatory?

The Public Interest Disclosure Act and in turn, the school's procedure is intended to facilitate disclosure. It affords protection to an individual who wishes to disclose information and therefore it is intended to permit the school to deal with malpractice as it arises. However, disclosure under this policy is not obligatory. The spirit of the procedure is to protect individuals who wish to make a disclosure in the interest of the public and of the school. This however does not apply to the child protection procedures.

#### What happens if a discloser changes his or her mind?

Once the disclosure has been made it may be retracted at any time. The school reserves the right to proceed with the investigation by any other means at its disposal, and to take action in light of its findings, even if the discloser does not wish to proceed further. If the discloser originally made the disclosure vexatiously or maliciously the discloser may be subject to the school's disciplinary process.

### **INFORMING EXTERNAL AGENCIES**

This procedure is intended to provide staff with an avenue within the school to raise concerns. The governing body hope that staff would be satisfied with any action taken. If you are not, or if you feel it is right to take the matter outside of the School, listed below are the external agencies as possible contact points. If this issue does occur then staff are advised to contact the NSPCC Whistle Blowing helpline tel: 0800 028 0285 or email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

Within the School 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 School fails to follow required procedures. Other legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.

The external agencies which may be used if disclosure is permitted are:-

- a) Department for Education (EFA). (In these circumstances, the DfE/EFA will assess whether all School processes have been applied and that the Receiving Officer has done everything possible to resolve the issue. If this is not the case, the DfE/EFA will refer the matter back to the Assessor);
- b) Charities Commission
- c) Member of Parliament;
- d) Health and Safety Executive;
- e) Police.
- f) Your trade union
- g) NSPCC.

If an individual chooses to disclose externally, this procedure will afford protection if the member of staff:-

- a) Reasonably believes that the information tends to show malpractice; and
- b) Acts in good faith; and
- c) Reasonably believes that the disclosure is in the public interest
- d) Is not making the disclosure for personal gain; and
- e) Reasonably believes that the information is substantially true

The confidentiality of any discussions with a lawyer, for the purpose of legal advice in connections with a disclosure under this procedure, is protected under legal advice and client privilege.

The discloser should not reveal any part of his or her disclosure outside the School until all steps in this procedure have been exhausted, except: to a relevant public body; or to a professionally qualified lawyer for the purpose of taking legal advice.

The discloser should bring this policy and procedure to the attention of any representative or lawyer, whom he or she has informed of the disclosure, and take steps to ensure that they observe the provisions of this procedure.

Whistle blowing to the media is not appropriate in any circumstances,

#### Confidentiality: within the School

The School will, as far as reasonably possible, treat the identity of a person making disclosures as confidential, unless the discloser fails to comply at all times fully with this procedure; the Chair of the Governing Body/Head teacher (his/her representative) are legally obliged to reveal the identity, or the discloser's identity is

introduced to the public domain by other means.

The Receiving Officer (see Part 2 below) will keep records of the disclosure and all proceedings. The Receiving Officer may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The Receiving Officer may also discuss the issue, in confidence, with 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. S/he will if possible consult the discloser before granting at any time during or subsequent to the disclosure procedure access to the papers for any person not privy to the papers.

### Anonymous Allegations

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 Headteacher and appropriate measures can then be taken to preserve confidentiality. If you are in any doubt you can seek advice from the School's HR Provider or Public Concern at Work, the independent whistleblowing charity, who offer a confidential helpline. Their contact details are at the end of this policy.

Disclosures made anonymously may still be considered, but the School will consider:

- a) The gravity of the issues raised; and
- b) The amount of evidence provided; and
- c) The likelihood of confirming the allegation from alternative credible sources.

### Untrue Allegations — Disciplinary Offences

Under this procedure it will be a disciplinary offence to make a deliberately false, vexatious or malicious accusation; or

- a) Obtain pecuniary benefit from a disclosure. Any awards covered by the Equality Act 2010 do not apply.

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the discloser.



## The Public Interest

The overriding principle, which the School will have in mind, is the public interest. Concerns or allegations, which fall within the scope of specific procedures (for example, child protection) will normally be referred for consideration under those procedures.

## **PART TWO:**

### Implementation of the Procedure

#### **THE PROCEDURE**

Any issue raised will, as far as reasonably possible, be kept confidential while the procedure is being used.

The Discloser (the person raising the concern) should raise their concern with their line manager. This may be done verbally, or in writing. If you wish to make a written report please use the standard reporting form, which is attached at Appendix 1. In any event, the report should, whether made verbally or in writing, include the following information:-

- The nature, background and history of the concern (giving relevant dates);
- The reason why you are particularly concerned about the situation
- Names of those alleged to be involved in the malpractice

Although you are not expected to prove or provide evidence for the truth of an allegation, you must have reasonable grounds for your concern and you should be able to explain what those grounds are to the Receiving Officer.

However, if the concern relates to the Discloser's line manager or any person to whom he or she reports, other than the Head teacher, the Discloser should raise the issue with the Head teacher;

If the concern relates to the Head teacher, the Discloser should raise the matter with the Chair of the Governing Body.

The person with whom the matter is raised is referred to as the "Receiving Officer".

The Receiving Officer will:

Write to the Discloser to acknowledge receipt of the report, within 5 working days.

Interview the Discloser 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;

Obtain as much information as possible from the Discloser about the grounds for the belief of wrongdoing; further enquiries may be made but this doesn't mean that your concern has been either accepted or rejected.

Consult with the Discloser about further steps which could be taken;

Advise the Discloser of the appropriate route if the matter raised does not fall under this Procedure;

Other than in the case of paragraph report all matters raised under this procedure to the Chair of the Governing Body.

Supply the Discloser with information and available support, where appropriate.

At the interview with the Receiving Officer, the Discloser may be accompanied by a recognised trade union representative or a work colleague. The Receiving Officer may be accompanied by a member of the School staff to take notes. The attendance of any representative or witness who is an employee of the School will require the prior approval of his/her manager for absence during his/her normal working hours. The matter will remain confidential on a need to know basis.

The School will take steps to minimize any difficulties the Discloser may experience as a result of raising a concern. For instance, if the Discloser is required to give evidence in criminal or disciplinary proceedings the School will arrange for him/her to receive advice about the procedure.

The Receiving Officer may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The Receiving Officer may also discuss the issue, in confidence, to other suitable professionals, such as independent HR providers in order to assess the nature of the case and to inform the outcome of the investigation.

Promptly within ten working days of the interview, the Receiving Officer will recommend one or more of the following, in writing:

The matter be further formally investigated internally by the School;

The matter be further investigated by external consultants appointed by the School;

The matter be reported to an external agency; e.g. the police, District Auditor

Disciplinary proceedings be implemented against an employee, the evidence collected as part of the investigation will be used as part of the disciplinary proceedings;

The route for the Discloser to pursue the matter if it does not fall within this procedure; or

That no further action is taken by the School.

Following, this the amount of contact between the officers considering the issues and the Discloser will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provide. If necessary, the officers considering the matter will seek further information from the Discloser.

The grounds on which no further action is to be taken include:

The Receiving Officer 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;

The Receiving Officer is satisfied that the Discloser is not acting in good faith;

The matter is already (or has been) the subject of proceedings under this or one of the School's other procedures or policies;

The matter concerned is already (or has been) the subject of legal proceedings, or has already been referred to an external agency.

The recommendation of the Receiving Officer will be made to the Head teacher, if the Head teacher isn't the Receiving Officer. However, should it be alleged that the Head teacher is involved in the alleged wrongdoing; the recommendation will be made to the Governing Body.

The Head teacher or Chair of the Governing Body, 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 Governing Body.

The Discloser's identity will be kept confidential unless the Discloser otherwise consents or unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the Receiving Officer will not reveal the identity of the Discloser except:

Where the Receiving Officer is under a legal obligation to do so;

Where the information is already in the public domain; or

For the purpose of obtaining legal advice.

The conclusion of any agreed investigation will be reported by the Receiving Officer to the Discloser, in person promptly within twenty eight working days of the initial interview.

All responses to the Discloser will be made in writing and sent to the Discloser's home address.

If the Discloser has not had a response within the above time limit or such reasonable extension as the School requires, the Discloser may go to an appropriate external agency but must inform the Receiving Officer before doing so.

The Discloser may at any time disclose the matter on a legally privileged basis to a professionally qualified lawyer for the purpose of taking legal advice.

#### Other Officers to be informed by the Receiving Officer

The Receiving Officer will be responsible for informing other officers, of the allegation and the outcome within 5 working days, or sooner if stated below, as follows:-

- a) in the case of legal or financial, fraud concerns the School will need to notify the EFA as it could be in breach of the Funding Agreement
- b) The Charities Commission should be contacted should a serious breach occur. A serious breach can be defined as:
  - Loss of the charity's money or assets
  - Damage to the charity's property
  - Harm to the charity's work, beneficiaries or reputation

- c) in all cases, the chair of governors, for monitoring purposes, unless they are subject of the disclosure.

### The Responsible Officer

The Chair of Governors, who is also the monitoring officer for the School, has overall responsibility for the maintenance and operation of this policy. The head teacher will maintain a record of concerns raised and the outcomes – but in a form which doesn't endanger the Discloser's confidentiality.

### Assistance from External Agencies

If, for any reason, you do not feel comfortable speaking to someone in the School, about your concerns, our HR provider has agreed to receive reports on behalf of the School. You will still need to complete Appendix 1. Their details are as follows:-

HR Schools Team  
Human Resources  
Hull City Council  
Tel: 01482 616604  
Email: [hr@hullcc.gov.uk](mailto:hr@hullcc.gov.uk)

You may also obtain advice from Public Concern at Work, an independent whistleblowing charity. Their details are:

Helpline: (020) 7404 6609

E-mail: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)

### Monitoring, Evaluation and Review

The Governing Body will assess the implementation and effectiveness of this policy. The policy will be promoted and implemented throughout the School.

This Policy will be reviewed by the Governing Body on a 2-yearly cycle.