



# Walkwood

Church of England  Middle School

## Whistle blowing Policy

Governing Body Committee responsible:	Full Board		
Approval granted:	14.07.2020	Review date:	Summer Term 2023

“At that time you must sing about a fruitful vineyard. I, the Lord, will protect it and always keep it watered. I will guard it day and night to keep it from harm.”

*Isaiah 27: 2-3*

“The vision, in line with the Church of England’s role as the established Church, is for the common good of the whole human community and its environment, whether national, regional or local. It is hospitable to diversity, respects freedom of religion and belief, and encourages others to contribute from the depths of their own traditions and understandings.”

*Deeply Christian, Serving the Common Good, 2016*

“The core purpose of any Church school is to maximise the learning potential of every pupil within the love of God.”

*SIAMS (Statutory Inspection of Anglican and Methodist Schools) 2012*



## Introduction

This policy applies to all employees of the school regardless of whether they are on a permanent, fixed/temporary or casual contract.

People working within organisations are often the first to realise that there may be something seriously wrong in the place in which they work. The school is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we encourage employees who have serious concerns about the school to come forward and voice those concerns about specified matters:

Part IV A of the Employment Rights Act 1996 provides protection for employees who raise legitimate concerns about specified information in specified ways. Such concerns are called "protected disclosures" in the Act. The protection offered is against (a) dismissal and (b) other detriments suffered in the employment context, as a result of the employee making a protected disclosure. Employees may make claims to the Employment Tribunal in relation to such dismissals and other detriments.

### What are "protected disclosures"?

This is complex, but in essence the Act says they are "qualifying disclosures" made by the employee in accordance with SS43 C to H of the Act.

So, firstly one has to ask what is a "qualifying disclosure"? This is defined in S43B as being any disclosure of information which, in the reasonable belief of the employee, is made in the public interest and tends to show one or more of the following: -

- (a) that a criminal offence has been committed, is being committed or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) that the health and safety of any individual has been, is being or is likely to be endangered;
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any of a) to e) above has been or is likely to be deliberately concealed.

Secondly, one then has to ask in what circumstances the law will treat a "qualifying disclosure" as a "protected disclosure". This is largely about the persons to whom an employee may make a "qualifying disclosure", turning it into a "protected disclosure" by so doing. Slightly simplified, these are the relevant persons for this purpose:



- (i) To the employee's employer.
- (ii) To another person who has legal responsibility for the person(s) who has allegedly failed to act appropriately under a) to f) above (assuming that is not the employer).
- (iii) To a legal adviser in the course of the employee taking legal advice.
- (iv) A list of other people prescribed by an Order made by the Secretary of State - see the Public Interest Disclosure (Prescribed Persons) Order 2014 as amended.

There are certain other complex provisions which may make "qualifying disclosures" to other people into "protected disclosures" in certain prescribed circumstances (refer to section 5 for further information).

It is not necessary for an employee to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter - it is the school's responsibility to ensure that an investigation takes place.

The governing body is responsible for ensuring the operation of this policy with regard to matters relating to this school.

This procedure is not designed to be a substitute for the school disciplinary or grievance and harassment procedures. If the matter relates to an individual staff member or to a breach of their own contract of employment, the staff member should make use of the school's Grievance Procedures.

## Guiding Principles

Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.

An instruction to cover up wrongdoing is in itself a disciplinary matter. If a staff member is told not to raise or pursue any concern, even by a person in authority, they should not agree to remain silent and should report the matter in accordance with section 3 of this policy.

## Harassment or victimisation

The School recognise that the decision to report a concern can be a difficult one to take, not least because of the fear of reprisal from those responsible for the malpractice or from the school. The school will not tolerate any such harassment or victimisation and will take appropriate action to protect those that raise a concern in good faith. In addition, the Public Disclosure Act offers protection to employees from suffering a detriment and dismissal when they have 'blown the whistle'.



## Confidentiality

The School undertakes to protect the employee's identity and won't disclose it without their consent. If the situation arises where it is not possible to pursue the concern without revealing the identity of the whistle blower (e.g. the need to give evidence in court or at a disciplinary hearing), the Investigating Officer will discuss this with the staff member and whether it is possible to proceed.

## Safeguarding issues

If the concern relates to a safeguarding issue, a staff member should inform the Designated Safeguarding Lead or the Principal, or Chair of Governors if the Principal is involved. They should then immediately contact the Senior Adviser, Safeguarding Children in Education.

## Anonymous allegations

Concerns expressed anonymously, may be considered under this whistle blowing procedure, especially those relating to the welfare of children. The school, when determining whether an anonymous allegation will be investigated further, will take the following factors into account: -

- (i) The seriousness of the issue raised;
- (ii) The credibility of the concern;
- (iii) The likelihood of obtaining the necessary information in order to confirm the allegation.

## Deliberately false or malicious allegations

The school will consider any deliberately false or malicious allegations it receives as a disciplinary matter.

## The role of the Trade Unions

If an employee is considering raising concerns using this procedure, they may wish to seek advice from their trade union representative (if applicable), before doing so.

## How is a concern raised?

If wrongdoing in the workplace is suspected, an employee:

- **must not** approach or accuse the individual directly;
- **must not** try to investigate the matter;
- **must not** convey such suspicions to anyone else other than those with the proper authority, but do raise the employees concern (see below).

As a first step raise the issue with the Principal, or in the absence of the Principal, the person responsible for the school at that time. However, if an employee believes that the Principal is involved in the matter of concern, then they should contact the Chair of Governors. It is expected that the investigating officer will either be the Principal or the Chair of Governors, however they do have the discretion to delegate the investigation to another person if they feel this is appropriate.



Although concerns may be raised verbally, they are better put in writing. When setting out the concern in writing, an employee should include as much detail as possible, for example, setting out the background and history of the concern; giving names, dates and places and explaining the reasons for the concerns. If an employee feels unable to raise the issue directly with the Principal or Chair of Governors, the employee can also ask the employees trade union or professional association to raise the matter on the employees' behalf or support the employee in raising the concern.

## How the school will respond?

Initially the investigating officer will consider the matter raised and decide whether an investigation is appropriate, and if so, what form it should take. It may be appropriate for the investigating officer to initially consider other procedures such as the Allegations of Abuse against Teachers and other Staff (in cases of safeguarding) and immediately contact the Senior Adviser, Safeguarding Children in Education for advice. If the concern is unrelated to a qualifying disclosure, then the investigating officer should halt the use of this procedure and instead refer the employee to the grievance or other relevant procedure. The investigating officer is able to contact the School's legal team and HR advisors.

## Written acknowledgement

Once the investigating officer has considered the issue(s) they will write to the employee within 10 working days of the concern being raised: -

- (a) acknowledging that the concern has been received;
- (b) indicating how they propose to deal with the matter;
- (c) giving an estimate (so far as is reasonably practical) of how long it will take to provide a final response;
- (d) advising whether any initial enquiries have been made;
- (e) advising whether further enquiries will take place;
- (f) informing the employee of any support available whilst matters are investigated;
- (g) maintaining confidentiality where possible, but explaining that it may not be possible that the whistle blower remains anonymous.

## The investigation process

The investigating officer may decide it is necessary to meet with the employee to seek further information or for clarification purposes. Where a meeting is arranged, the employee has the right to be accompanied by a trade union representative or a colleague who is not involved in the matter(s) of concern. The investigating officer may also feel it is necessary to collect further evidence and interview witnesses as part of the investigation process.

During the investigation process, the investigating officer may feel it is appropriate to refer matters to:

- the EFA (Education Funding Agency), due to concerns about financial loss or irregularity;



- the Police, due to concerns of a criminal nature;
- the Senior Adviser, Safeguarding Children in Education in relation to child safeguarding concerns;
- HR;
- School's legal advisors.

The investigation process would aim to be completed within 20 working days of the matter being raised with the investigating officer, however enquiries may extend beyond this timescale in some more complex cases.

### Possible outcomes

Following the investigation process, the investigating officer will write up their findings and recommendations and present them, in the form of a report, to the Principal and the Chair of Governors if either the Principal or Chair of Governors has not completed the investigation, so that they can determine what further action (if any) is required. It may be necessary to refer the matter to other nominated governors to agree actions if the Principal and/or the Chair of Governors are already involved in the issue(s) or investigation.

The investigating officer will determine which one of the following applies: -

- (i) there is no evidence to support the matters raised and no further action is required;
- (ii) allegations have been proven and that it is appropriate to take action in accordance with the disciplinary procedure or other relevant action;
- (iii) the outcome is currently unknown because matters have been referred to other parties for further investigation e.g. police, audit, social services, legal, DBS or National College for Teaching and Leadership;
- (iv) the allegation is found to be malicious and will be investigated as a conduct issue under the disciplinary procedure.

The school will take appropriate steps to minimise any difficulties that the employee may experience as a result of raising a concern. For instance, if the employee is required to give evidence in criminal or disciplinary proceedings, the school will arrange for the employee to receive advice about the procedure.

The school recognises that the employee needs to be assured that the matter has been properly addressed. This will be done by a closing meeting with the investigating officer outlining the key findings.

### How can the matter be pursued further?

This policy is intended to provide employees of Walkwood Church of England Middle School with an avenue in which to raise concerns within the school, and it is hoped that this will be the option in the first instance.



## External Bodies

The employee is strongly advised to seek independent advice before the employee raises any issue outside of the school. Advice is available from the employee's trade union (if applicable), or 'Public Concern at Work' which is an independent charity who provide confidential advice to workers who are unsure whether or how to raise a public interest concern (telephone 0207 404 6609 or [www.pcaw.co.uk](http://www.pcaw.co.uk)).

The employee can also raise their concern with the proper external regulator. The legislation sets out a number of bodies to which qualifying disclosures may be made. This includes, amongst other bodies: -

- The Secretary of State for Education (since 2015);
- The Audit Commission;
- The Health and Safety Executive.

For the full list see "*Whistle blowing: list of prescribed people and bodies*" at [www.gov.uk](http://www.gov.uk).

An employee can make a disclosure (and still retain protection under the Employment Rights Act 1996) to a non-prescribed person (for example, the police or Ofsted) if certain conditions are met, namely: -

- the worker reasonably believes the information is substantially true;
- the worker is not making the disclosure for personal gain;
- and, in all the circumstances, it is reasonable for the worker to make the disclosure.

The worker must also: -

- reasonably believe that he or she would be subject to a detriment by the employer if he or she made the disclosure directly to the employer or a prescribed person;
- reasonably believe that the employer would conceal or destroy evidence if the disclosure were put directly;
- have previously made the same disclosure to the employer or a prescribed person to no avail.

The school encourages employees to raise their concerns in accordance with this procedure in the first instance. If, having read this policy, the employee is uncertain about whether it is the appropriate policy or how to proceed, they should feel free to seek informal advice from Human Resources (01905 766188).





## Appendix 1

### Persons and roles

Chair of Governors	Fr Glenn Reading
Clerk to the Governors	Mrs Sue Hill
Principal	Rev Clive Leach
Designated Safeguarding Lead	Mr Simon West
Alternate Safeguarding Lead	Mrs Gemma Mckenna Mrs Laura Monfardini
Governor with responsibility for safeguarding	Mrs Amanda Lawler
Staff who are trained for investigations	Rev Clive Leach



## Appendix 2

### Summary considerations

## Don't think what if I'm wrong – think what if I'm right

### Reasons for whistle blowing: -

- Each individual has a responsibility for raising concerns about unacceptable practice or behaviour;
- To prevent the problem worsening or widening;
- To protect or reduce risks to others;
- To prevent the employee becoming implicated themselves.

### What stops people from whistle blowing: -

- Starting a chain of events which spirals;
- Disrupting the work or project;
- Fear of getting it wrong;
- Fear of repercussions or damaging careers;
- Fear of not being believed.

### How to raise a concern:

- Staff should voice concerns, suspicions or uneasiness as soon as they feel they can. The earlier a concern is expressed, the easier and sooner action can be taken.
- Try to pinpoint exactly what practice is of concern and why.
- Staff should approach their immediate manager, Principal, or the Designated Child Safeguarding Lead.
- If the concern is about the Principal, staff must approach the Chair of Governors, who may be contacted directly or through the Clerk to the Governors.
- Staff should then put the concerns in writing, outlining the background and history, giving names, dates and places where possible. If this is not appropriate, then allegations can be shared verbally.
- A member of staff is not expected to prove the truth of an allegation, but will need to demonstrate sufficient grounds for the concern.

### What happens next?

The employee should be given information on the nature and progress of any enquiries. The employer has a responsibility to protect the employee from harassment or victimisation. No action will be taken against the employee if the concern proves to be unfounded and was raised in good faith. Allegations made frivolously, maliciously or for personal gain will be seen in a different light and disciplinary action may be taken.

### Self-reporting

There may be occasions where a member of staff has a personal difficulty, or perhaps a physical or mental health problem, which they know to be impinging on their professional competence. Staff have a responsibility to discuss such a situation with their line manager, so professional and personal support can be offered to the member of staff concerned. Whilst such reporting will remain confidential in most situations, this cannot be guaranteed where personal difficulties raise concerns about the welfare or safety of children.



### Further advice and support

It is recognised that whistle blowing can be difficult and stressful. Advice and support is available from the senior leadership team, HR department and/or a professional trade union.

