



# Whistle Blowing Policy and Procedures

Reviewed: January 2016

# **WHISTLE BLOWING POLICY AND PROCEDURES**

## **(The Reporting of Malpractice and Improper Conduct)**

### **INTRODUCTION**

Employees or workers bringing information about wrongdoing to the attention of their employers or a relevant organisation are protected in certain circumstances under the Public Interest Disclosure Act 1998 (PIDA). This is commonly known as 'blowing the whistle'. The law that protects whistle blowers is for the public interest – so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'. For a Disclosure to be protected by the provisions of the PIDA 1998, as amended, and including also provisions implemented under the Enterprise and Regulatory Reform Act 2013, it must relate to matters that 'qualify' for protection.

Both the London Borough of Enfield and the school are committed to developing the highest possible behavioural standards and a culture encouraging openness, probity and accountability of all employees, councillors, workers and contractors.

This Whistle Blowing Policy provides a framework to enable and encourage you to raise and report, or 'disclose', genuine concerns regarding any relevant aspect of the London Borough of Enfield's or the school work. 'Qualifying Disclosures' are disclosures of information where the employee/worker reasonably believes that one or more of the following is either happening, has taken place, or is likely to happen in the future and that disclosure is in the public interest:

- The unauthorised use of public funds
- A failure to comply with a legal obligation
- Any conduct which may damage the London Borough of Enfield's or the school's reputation
- A danger to the health and safety of an individual
- Damage to the environment
- Possible fraud and corruption
- Possible acts of bribery
- Conduct which is an offence or a breach of law
- Disclosures related to miscarriages of justice; and/or
- Other unethical conduct.

It is important to emphasise that a Disclosure under the PIDA may be made where an individual reasonably believes it to be in the public interest. A Disclosure may not be made for purely private matters, such as a problem with the individual's own contract. However, an employee making a complaint of this nature can still use the school Grievance Procedure.

This Whistle Blowing Policy applies to all employees and those contractors working for the London Borough of Enfield or the School on Council or school premises, for example, agency workers and consultants. It also covers suppliers and any organisations providing services under a contract with the London Borough of Enfield or school on their own premises. Apprentices, volunteers and work experience placements may also raise a concern under the Policy.

Note that workers who are not employees cannot claim unfair dismissal due to whistle blowing, but because of the protection afforded, they can claim 'detrimental treatment'.

## **HOW TO RAISE A CONCERN**

Prior to raising a concern, please note:

**(1) Where you have concerns relating to a child protection issue**, you should take action in accordance with the Child Protection Policy and any other advice and guidance set out by the Local Safeguarding Children Board or the Department for Education.

**(2) If you are a member of a Professional Association or Trade Union**, it may have in place a Code, or rules, which set out how members should act in relation to raising concerns involving colleagues and/or in relation to dealings with colleagues in general. You are advised, in these circumstances, to familiarise yourself with any such Code or rules or contact your Union for further advice before taking action.

Raising a Concern:

### **Step 1**

As a first step, you should normally report any concerns to **your Line Manager or their Manager**, preferably in writing.

### **Step 2**

If you feel the matter is extremely serious, sensitive or involves your Line Manager or their Manager, you may report the matter straight to **the Head teacher or the Chair of Governors** as appropriate.

### **Step 3**

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, then you should contact:

**Andrew Fraser, Director of Schools and Children's Services on 020 8379 4541**

### **Step 4**

If you are not confident in approaching any of the named persons in steps one to three then, in order to raise your concern, you can at any stage contact:

**John Austin, the London Borough of Enfield's Assistant Director of Corporate Governance on 020 8379 4094 or e-mail [john.austin@enfield.gov.uk](mailto:john.austin@enfield.gov.uk)**

Or

**Stuart Brown, Head of Internal Audit and Risk Management on 020 8379 4641 or e-mail [stuart.brown@enfield.gov.uk](mailto:stuart.brown@enfield.gov.uk)**

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**When raising your concern** you may wish to take advice on the matter from any of those listed in the section above or discuss your concerns with a colleague first. It is advisable that you report your concern as early as possible. A significant delay in reporting the matter may make the subsequent investigation difficult to pursue.

In raising your concern in writing, you should give as much detail as possible, i.e. the background and history, names and relevant dates and the reasons why you are particularly concerned about the situation.

If you feel hesitant about putting your concern in writing at this stage you should telephone the manager to whom you wish to make the report and arrange to meet them. However you may be asked to put the details in writing at later stage.

Please advise whether you want to raise the matter in confidence to enable appropriate arrangements to be made.

(Officers receiving a report under this section should notify the Audit and Risk Management Service of the report as soon as possible so that the Council meet their requirements to keep a central record of whistle blowing concerns raised).

## **OTHER CONTACTS**

If the above steps do not provide a suitable resolution then you can also contact any of the following independent organisations outside the London Borough of Enfield or *school/PRU* for assistance with your concern:

- Ofsted Whistle Blower Hotline on 0300 123 3155 or email: [whistleblowing@ofsted.gov.uk](mailto:whistleblowing@ofsted.gov.uk)
- Audit Commission Public Interest Disclosure Act Hotline Tel: 0845 053 2646
- Public Concern at Work Tel: 020 7404 6609 or visit their website: <http://www.pcaw.co.uk/>
- Citizens Advice Bureau
- Relevant professional bodies or regulatory organisation
- Relevant voluntary organisation
- The Police.

Whilst it is hoped that this Policy gives you the reassurance you need to raise such matters internally in the first instance, it is preferable that you raise a matter with the appropriate regulator than not at all. Provided you are acting in good faith and you have evidence to back up your concern, you can also contact the following in relation to specific concerns:

- Health and Safety Executive - Health and Safety Issues
- Environment Agency – Environmental Issues
- HM Revenue and Customs – Financial Irregularities
- Grant Thornton (The London Borough of Enfield's Appointed Auditor) – Public Sector Finance issues or Financial Irregularity
- Information Commissioner's Office – Data Protection Issues.

If you do take the matter outside of the London Borough of Enfield you should ensure that you do not disclose confidential information.

## **HOW THE MATTER WILL BE HANDLED**

Once you have raised your concern, an initial assessment will be made to determine what action needs to be taken. This may involve an internal inquiry or a more formal investigation. Do not forget that testing out your concerns is not the same as either accepting or rejecting the concern.

Where appropriate, the matters raised may:

- be investigated by management, officers from the London Borough of Enfield's Audit and Risk Management Service, or through the disciplinary process;
- be referred to the police or appropriate agency such as Her Majesty's Revenue and Customs (HMRC) or the United Kingdom Border Agency (UKBA);
- be referred to the London Borough of Enfield's External Auditor; or
- form the subject of an independent inquiry.

When you raise your concern you may be asked how you think the matter might best be resolved. You will also be required to disclose any personal interest in the matter at the outset. Any concerns that should be dealt with through another procedure, such as the Grievance Procedure, will be redirected. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

You will be advised of the person responsible for handling the matter, how you can contact them and whether further assistance is required. Where requested, you will receive a letter summarising your concern and proposed actions to be taken.

Whilst the purpose of this Policy is to enable possible malpractice to be investigated and to take appropriate steps to deal with it, you will be given as much feedback as permissible. Please note, however, that it may not be possible to tell you the precise action being taken where this would infringe a duty of confidence owed to another party.

It should be noted that where a concern raised is linked to a potential redundancy, disciplinary and/or other managerial issue these processes will continue in parallel with the investigation of the alleged wrongdoing and will not prevent any subsequent action being pursued through to conclusion. This principle is not intended to prevent employees/workers from raising concerns.

Where employees/workers have genuine concerns about potential wrongdoing they are expected to raise these concerns at the earliest opportunity and not raise these in response to other managerial actions being instigated.

In all cases, when a concern is raised, the responsible person will write to you:

- Acknowledging that the concern has been received
- Indicating how we propose to deal with the matter
- Providing an estimated timeframe to provide a final response
- Advising whether any initial enquires have been made
- Supplying you with information on staff support mechanisms, and
- Informing you whether further investigations will take place and, if not, why not.

## **IF YOU ARE DISSATISFIED**

Whilst it cannot be guaranteed that you will receive a response to all matters in the way that you might wish, the matter will be handled fairly and in accordance with this policy. If you are dissatisfied with the response you receive it may be appropriate to seek external advice.

## **ASSURANCES TO YOU**

The Governors and the London Borough of Enfield's Chief Executive and the Corporate Management Board are committed to the Whistle Blowing Policy and recognise that the decision to report a concern can be a difficult one to make. If you raise what you reasonably believe to be a genuine concern under this Policy, in the public interest, you will be protected from possible reprisal

or victimisation. In these circumstances, it does not matter if you are mistaken, no action will be taken against you. Of course, we do not extend this assurance to someone who maliciously raises a matter they know is untrue. If you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

## **STATUTORY PROTECTION**

The Public Interest Disclosure Act 1998, as amended, and including provisions implemented under the Enterprise and Regulatory Reform Act 2013, establishes your right to speak out about malpractice. The legislation provides individuals with protection from victimisation by others, dismissal or any other detriment, provided they follow the correct procedure, they reasonably believe that what they have reported is either happening, has taken place, or is likely to happen in the future and that disclosure is in the public interest.

An employee/worker will have to show three things to claim Public Interest Disclosure Act protection:

1. That s/he made a disclosure
2. That s/he followed the correct disclosure procedure
3. That s/he was dismissed or suffered a detriment as a result of making the disclosure.

A tribunal has the power to reduce any compensation by up to 25% if it thinks the disclosure was made in "bad faith".

## **VICTIMISATION, BULLYING OR HARASSMENT**

All employees and workers need to be aware that they must not in any way mistreat a whistle blower by subjecting them to any detriment, victimisation, bullying, or harassment.

Neither the Governors nor the London Borough of Enfield will tolerate any form of victimisation, bullying or harassment (including informal pressures) from your colleagues, peers, managers, or from external sources, and will take appropriate action to protect you when you raise what you believe to be a genuine concern in the public interest.

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

If you consider that you have been, are being, or are likely to be victimised, dismissed, made redundant or made to suffer some other detriment as a result of making a report under this procedure, you should report your concerns as set out under any of the Steps 1 to 4 above on Page 2 of this document, as appropriate to the circumstances. The matter will then be dealt with as a new referral under this procedure.

## **YOUR CONFIDENTIALITY**

It is recognised that you may want to raise a concern in confidence under this Policy. If you ask for your identity to be protected, it will not be disclosed without your consent. If the situation arises where the concern cannot be resolved without your identity being revealed (for example where you are needed to come forward as a witness or to give evidence in court), it will be discussed with you about whether and how the matter can proceed.

## **ANONYMOUS ALLEGATIONS**

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Governors or the London Borough of Enfield, as appropriate.

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.

Remember - if you do not state who you are, it will be much more difficult for the matter to be investigated, for your position to be protected or for you to receive feedback.

## **OUTSIDE THE WHISTLE BLOWING POLICY**

This Policy does not normally cover:

- Matters relating to child protection which should be addressed in accordance with the school's Child Protection Policy.
- Matters relating to the abuse or neglect of an adult at risk should be referred to the Enfield Adult Abuse Line: Telephone 020 8379 5212.
- Matters that concern day to day issues relating to an employee's terms and conditions of employment or a complaint about another employee which can usually be referred to their line manager or, if necessary, be pursued using the school Grievance Procedure.
- Matters that would normally be dealt with by the London Borough of Enfield's collective bargaining arrangements with its recognised trade unions which should be reported to (GMB) 020 8379 3147 or (UNISON) 020 8379 4082.
- Allegations which would normally be referred to Internal Audit and Risk Management concerning fraud or financial irregularity should be made directly to them by calling 020 8379 4043 or via email [benefits.investigation@enfield.gov.uk](mailto:benefits.investigation@enfield.gov.uk).
- Complaints from the public that relate to the standard of service delivered by the London Borough of Enfield or Council Contractors which should be reported through the Council's Corporate Complaints procedure.

## **REVIEW OF THE WHISTLE BLOWING POLICY**

This Policy and reports made under it will be reviewed in line with the London Borough of Enfield's arrangements for reviewing its own corporate Whistle Blowing Policy.