



The SWAN Trust
Whistleblowing Policy
Spring 2024

Introduction

The NEW Trust is committed to conducting itself with honesty and integrity, and expects all staff to maintain these high standards. A culture of openness and accountability is encouraged in order to ensure the highest ethical standards and to enable any concerns of serious wrongdoing to be raised without reprisal. This policy applies to all individuals working for the Trust, whether they are Governors, employees, contractors or agency workers. Whistleblowing is distinct from the Grievance Policy which should be used for complaints relating to personal circumstance in the workplace.

What Is 'Whistleblowing'?

Whistleblowing inside the workplace is the term used to describe reporting by employees or ex-employees, of wrongdoing on the part of leadership, the Governing Committee, Trustees or by fellow employees. Wrongdoing may include for example, fraud, corruption, malpractice, mismanagement, breach of health and safety law, any other illegal or unethical act or breaches of the Trusts Code of Conduct whether on the part of the leadership, the Trust Board or by fellow employees should be raised using this procedure.

Protecting The Whistleblower

The Public Interest Disclosure Act 1998 (by way of amendment to the Employment Rights Act 1996) is designed to provide protection to workers who raise genuine concerns about specified matters. These are known as “qualifying disclosures”. The specified matters are:

- Conduct which is a criminal offence
- Breach of any other legal obligation
- Disclosures related to miscarriages of justice
- Health and safety risks, including risks to the public or pupils as well as other staff
- Damage to the environment or
- Deliberate concealment of any of the above.

A worker who makes a qualifying disclosure has the right not to be dismissed, subjected to any other detriment or victimised because they have made the disclosure. The Trust will take a zero-tolerance approach to any act of harassment or victimisation resulting from a member of staff raising a concern in good faith. A member of staff making an allegation within the scope of this policy will be supported by the Trust when raising a concern, providing that they:

- Believe the concern to be true
- Are not acting maliciously or making false allegations
- Are not seeking any personal gain.

When Should Whistleblowing Procedures Be Used?

If an employee has concerns about wrongdoing at the Trust, or one of its schools, and feels that those concerns are sufficiently serious to require reporting, this procedure outlines what should be done.

Each individual member of staff should feel able to speak freely on such matters. However, the Trust, school and colleagues have the right to protect themselves against unfounded, false or malicious accusations.

Whistleblowing should only be used when the party implementing the procedure (Representor) 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.

Whistleblowing is not appropriate for dealing with issues between an employee and the Trust, or school, which relate to the employee's own employment or rights or employment conditions generally. Alternative dispute resolution procedures for that purpose are outlined in The NEW Trust Grievance Policy.

Whistleblowing is not appropriate for dealing with pupil complaints, which will be dealt with under The NEW Trust Complaints Policy.

Whistleblowing 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 school, they should raise their concern, in the first instance, with the Headteacher or Designate Safeguard Lead.

Whistleblowing is not appropriate when dealing with bullying, harassment or discrimination, this is covered by The NEW Trust's Bullying and Harassment Policy.

The Procedure

Any issue raised will be kept confidential while the procedure is in effect.

The Representor (the person raising the concern) should raise their concern with their leader/line manager. This may be done orally or in writing. Where a concern is raised verbally, the person hearing it must ensure that a written statement of it is made to assist with any subsequent investigation. If the Representor requests that their identity be protected, it will not be disclosed unless the Trust is required to do so in law. Whilst the Trust will not refuse to consider anonymous reports, those making them must be aware that it is considerably more difficult to investigate matters properly in such circumstances or to resolve the concern satisfactorily.

However, if the concern relates to the Representor's leader/line manager, or any person to whom he or she reports, other than the Headteacher, the Representor should raise the issue with the Headteacher.

If the concern relates to the Headteacher, the Representor should raise the matter with the Chair of the Governing Committee or CEO.

If the concern relates to the CEO, the Representor should raise the matter with the Chair of the Trust Board.

The person with whom the matter is raised is referred to as the 'Assessor'. The Assessor will normally be an appropriate senior individual with no previous involvement with the concerns raised. In certain cases, this may involve governors and/or an external independent investigator.

The Assessor will:

- Interview the Representor as soon as possible, within seven school 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 Representor about the grounds for the belief of wrongdoing
- Consult with the Representor about further steps which could be taken
- Advise the Representor of the appropriate route if the matter does not fall under this procedure

- Other than in the case of a concern relating to a Headteacher or the CEO, report all matters raised under this procedure to the Chair of the Governing Committee/Trust Board.

At the interview with the Assessor, the Representor may be accompanied by a recognised Trade Union representative or a work colleague. The Assessor may be accompanied by a member of the school/Trust staff to take notes.

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.

Promptly, within ten school days of the interview, the Assessor will recommend one or more of the following:

- The matter to be further investigated internally by the school/Trust
- The matter to be further investigated by external consultants appointed by the school/Trust
- The matter be reported to an external agency/independent body, such as the Local Authority, to investigate
- Disciplinary proceedings be implemented against an employee
- The route for the Representor to pursue the matter if it does not fall within this procedure; or
- That no further action is taken by the school/Trust

The grounds on which no further action is taken include:

- 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
- The Assessor is satisfied that the Representor is not acting in good faith
- The matter is already, or has been, the subject of proceedings under one of The NEW Trust'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 Assessor will be made to the Headteacher/CEO. However, should it be alleged that the Headteacher/CEO is involved in the alleged wrongdoing; the recommendation will be made to the Governing Committee/Trust Board.

The Headteacher/CEO or Chair of the Governing Committee/Trust Board, 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 Committee/Trust Board.

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

- Where the Assessor is under a legal obligation to do so
- Where the information is already in the public domain; or
- On a legally privileged basis to a professionally qualified lawyer for the purpose of obtaining legal advice

The conclusion of any agreed investigation will be reported by the Assessor to the Representor promptly within 28 school days of the initial interview.

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

If the Representor has not had a response within the above time limit or such reasonable extension as the school/Trust requires, the Representor may go to an appropriate external agency but will inform the Assessor before doing so.

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

Malicious Accusations

A deliberately false or malicious accusation made by a Representor is a disciplinary offence and will be dealt with under The NEW Trust's Capability and Disciplinary procedure, as well as potentially exposing the Representor to legal liability.

Informing External Agencies

Within The NEW 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.

Whistleblowing to an external agency without first going through the internal procedure is a breach of the Trust's Code of Conduct and may lead to a disciplinary procedure. The external agencies which may be used if disclosure is permitted are:

- Department for Education (DfE) and Education and Skills Funding Agency (EFSA). (In these circumstance, the DfE/EFSA will assess whether all Trust processes have been applied and that the Assessor has done everything possible to resolve the issue. If this is not the case, the DfE/EFSA will refer the matter back to the Assessor)
- Member of Parliament
- National Audit Office
- Health and Safety Executive
- Police

The Public Interest Disclosure Act also sets out a number of bodies to which protected disclosures can be made, including HM Revenue & Customs, the Health and Safety Executive and the Serious Fraud Office.

Employees should be aware that going directly to the media is not appropriate or permitted in any circumstances and may limit their protection under the Public Interest Disclosure Act and they could therefore be subject to disciplinary action as a result. An employee considering such a course of action is strongly advised to seek prior advice from their trade union or an independent organisation such as Public Concern at Work (www.pcaw.co.uk)

General guidance can be found at <https://www.gov.uk/whistleblowing>

Confidential Employee Enquiries

Employees may, on a confidential basis, seek prior guidance from the Headteacher/CEO if they wish to establish whether any course of conduct on their part, or on the part of another employee, may amount to wrongdoing under these procedures. Such enquiry shall be kept confidential. The Headteacher/CEO will attempt to provide guidance on the basis of the information provided, but such guidance shall not prejudice the rights of the school/Trust or any person under these procedures.

Summary of Timeline

Day 1 – Representor raises concern

Within 7 school days of concern being raised - Representor will be interviewed by the Assessor

Within 10 school days of interview - Assessor will make recommendations if any further investigation required

Within 28 school days of interview – the conclusion of any agreed investigation reported by the Assessor to the Representor

Appendix A – Contact Details

School Name Address Phone Number Headteacher: email Chair of Governors: email

Please be aware that all Governors are volunteers and therefore there is no requirement for them to check the Governor email account on a specified timescale. If you feel comfortable you can copy in CLERK EMAIL.