

The Boleyn Trust

Whistleblowing Policy and Procedures

April 2017



This policy and procedure was approved and adopted by a resolution of the Trust Board passed at a meeting held on 19 April 2017 and takes effect from 20 April 2017.

Chair of Trustees:

Clive Douglas

1. Purpose

- 1.1. To set out the Trusts' policy and procedure for dealing with concerns raised by employees except allegations of child abuse against teachers and other staff and volunteers.

2. Introduction

- 2.1. As employees are often the first to realise that there may be something wrong within the school, it is important that they feel able to express their concerns without fear of harassment or victimisation. Otherwise they may find it easier to ignore the concern rather than report it. The Public Interest Disclosure Act (in force since January 1999) recognises this fact and is designed to protect employees, who make certain disclosures of information in 'the public interest', from detriment and/or dismissal. This policy builds on the provisions of the Act.
- 2.2. The Trust is committed to the highest possible standard of operation, probity and accountability. In line with that commitment, employees and others with serious concerns about any aspect of the school where they work, or the Trust itself, are encouraged to come forward and voice those concerns. This policy document makes it clear that employees can do so without fear of reprisals; it is intended to encourage and enable employees to raise serious concerns internally rather than overlooking a problem or alerting anyone external to the Trust. It is recognised that cases may have to proceed on a confidential basis.
- 2.3. This policy does not form part of any employee's contract of employment and it may be amended at any time.

3. Aims and Scope of the Policy

- 3.1. This policy aims to:

- Provide avenues for employees to raise concerns internally as a matter of course, and receive feedback on any action taken;
- provide for matters to be dealt with quickly and appropriately; and ensure that concerns are taken seriously;
- Reassure employees that they will be protected from reprisals or victimisation for whistle-blowing in good faith;
- Allow employees to take the matter further if they are dissatisfied with the Trusts' response.

- 3.2. This policy describes how any Trust employee can raise any concerns s/he may have about working practices and who should be informed about the concerns. It may be that issues raised via this policy will be addressed via other procedures, e.g. anti-fraud and corruption, grievance, disciplinary, harassment and child protection procedures.

- 3.3. A whistle-blower is a person who raises a genuine concern relating to the matters below. If employees have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) he/she should report it under this policy. Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

- a) Criminal activity;
- b) Miscarriages of justice;
- c) Danger to health and safety;
- d) Damage to the environment;
- e) Failure to comply with any legal or professional obligation or regulatory requirements;
- f) Bribery;

- g) Financial fraud or mismanagement;
- h) Negligence;
- i) breach of our internal policies and procedure;
- j) Conduct likely to damage our reputation;
- k) Unauthorised disclosure of confidential information;
- l) Examination fraud;
- m) The deliberate concealment of any of the above matters.

3.4. Before initiating the procedure, employees should consider the following:

- The responsibility for expressing concerns about unacceptable practice or behaviour rests with all employees;
- Employees should use line manager or team meetings and other opportunities to raise questions and seek clarification on issues which are of day-to-day concern;
- Whilst it can be difficult to raise concerns about the practice or behaviour of a colleague, employees must act to prevent an escalation of the problem and to prevent themselves being potentially implicated.

3.5. All employees have the right to raise concerns, which could be about the actions of other employees, private contractors, governors, volunteers or the Trust.

3.6. Concerns raised by employees about their own conditions of service, should be addressed via the Trusts' Grievance Procedure or, if the matter relates to salary, the salary review procedures documented in the Trusts' Pay Policy.

4. Safeguards

4.1. Harassment or Victimisation

4.1.1. The Trust recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Trust will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith.

4.1.2. This does not mean that if an employee is already the subject of internal procedures such as disciplinary or redundancy, that those procedures will be halted as a result of that employee raising a concern under the whistleblowing policy.

4.2. Confidentiality

4.2.1. We hope that staff will feel able to voice whistleblowing concerns openly under this policy. The Trust will make every effort to protect an employee's identity if confidentiality is requested. However, it must be understood that should the concern raised need to be addressed through another procedure, e.g. disciplinary procedures, the employee may be asked to provide a signed statement as part of the evidence, thus revealing identity. Failure to provide such a statement may mean that further action cannot be taken by the Trust to address the concern and in some circumstances, the Trust may have to disclose the identity of the employee without their consent, although this will be discussed with the employee first.

4.2.2. Employees who submit a whistleblowing concern, should disclose to an appropriate person, paragraph 5.1 refers, and must maintain confidentiality. Not to maintain confidentiality may be considered a disciplinary offence.

4.3. Anonymous Allegations

4.3.1. Employees are encouraged to put their name to an allegation. Allegations expressed anonymously are much less powerful and more difficult to address, but they will be considered at the discretion of the Trust. In exercising the 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.

4.4. Untrue Allegations

4.4.1. If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against that employee. If, however, we conclude that an employee has made malicious or vexatious allegations, or with a view to personal gain disciplinary action may be taken against that employee.

4.5. Unfounded Allegations

4.5.1. Following investigation, allegations may be confirmed as unfounded. This outcome will be notified to the employee who raised the concern, who will be informed that the Trust deems the matter to be concluded and that it should not be raised again unless new evidence becomes available.

4.6. Support to Employees

4.6.1. It is recognised that raising concerns can be difficult and stressful. Advice and support will be made available, as appropriate, to both the employee(s) raising the concerns and the employee(s) subject to investigation.

5. How to raise a Concern

5.1. As a first step, an employee should normally raise concerns with a senior manager. This depends, however, on the seriousness and sensitivity of the issues and who is involved. For example, if an employee believes or feels that they are unable to approach a Senior Manager, Headteacher or Executive Headteacher, s/he should approach the Trusts HR Manager, The Chair of the Trust Personnel Committee or the Local Chair of Governors. An employee (including the Headteacher and members of the leadership team) can by-pass the direct management line and the Trust if s/he feels the overall management and Trust of a school is engaged in an improper course of action. In this case please refer to section 7 below. This should be the exception rather than the norm.

5.2. Concerns are better raised in writing. The employee should set out the background and history of the concerns, giving names, dates and places where possible, and the reasons why s/he is particularly concerned about the situation. If an employee does not feel able to put the concern in writing, s/he should telephone or meet the appropriate person. It is important that, however the concern is raised, the employee makes it clear that s/he is raising the issue via the whistle-blowing procedure.

5.3. The earlier an employee expresses the concern, the easier it is to take action.

5.4. Although an employee is not expected to prove the truth of an allegation, s/he will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

5.5. In some instances, it may be appropriate for an employee to ask the trade union to raise a matter on the employee's behalf.

5.6. At each meeting under this policy the employee may bring a colleague or trade union representative. The companion must respect the confidentiality of the disclosure and any subsequent investigation.

6. The procedure

6.1. A senior manager may be informed by an employee about concern(s) and that s/he is "blowing the whistle" within the procedure in person; or in writing or over the phone.

6.2. The senior manager should respond immediately whenever possible, and no later than 5 days, by arranging to meet with the employee to discuss the concern(s) as soon as possible.

6.3. Stage One:

6.3.1. At the initial meeting the senior manager should establish that:

- There is genuine cause and sufficient grounds for the concern; and
- The concern has been appropriately raised via the Whistleblowing Policy.

6.3.2. The senior manager should ask the employee, to put their concern(s) in writing, if s/he has not already done so. If the employee is unable to do this the senior manager will take down a written summary of his/her concern/s and provide him/her with a copy after the meeting. The senior manager should make notes of the discussions with the employee. The employee's letter and/or senior manager's notes should make it clear that the employee is raising the issue via the whistle-blowing procedure and provide:

- The background and history of the concerns; and
- Names, dates and places (where possible); and
- The reasons why the employee is particularly concerned about the situation.

6.3.3. The employee should be asked to date and sign their letter and/or the notes of any discussion. The senior manager should positively encourage the employee to do this, as a concern expressed anonymously is much less powerful and much more difficult to address, especially if the letter/notes become evidence in other proceedings, e.g. an internal disciplinary hearing.

6.3.4. The senior manager should follow the policy as set out above and in particular explain to the employee:

- What steps s/he intends to take to address the concern;
- How s/he will communicate with the employee during and at the end of the process; and that a written response will be sent out within ten working days.
- That their identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed;
- That the Trust will do all that it can to protect the employee from discrimination and/or victimisation;
- That the matter will be taken seriously and investigated immediately; and
- That if the employee's concern, though raised in good faith, is not confirmed by the investigation, no punitive action will be taken against them.

6.3.5. The senior manager should explain to the employee, as a matter of fact, that:

- If clear evidence is uncovered during the investigation that s/he has made a malicious or vexatious allegation, disciplinary action may be taken against them; and
- The investigation may confirm their allegations to be unfounded in which case the Trust will deem the matter to be concluded and s/he will be expected not to raise the concern again, unless new evidence becomes available.

6.4. Stage Two:

6.4.1. Following the initial meeting with the employee, the senior manager should consult with the Headteacher, Executive Headteacher, Chair of the Personnel Committee or Chair of Local Governors to determine whether an investigation is appropriate and, if so, what form it should take. A record should be made of the decisions and/or agreed actions.

6.4.2. Notwithstanding action taken in paragraph 6.4.1, the following people should be alerted to the fact that a whistleblowing complaint has been made (unless they are deemed to be involved in the whistleblowing complaint):

- Headteacher / Executive Headteacher
- Chair of the Personnel Committee / Chair of Trustees
- Chair of the Local Governing Body

It will not be necessary for the identity of the person to be revealed, only that a concern has been raised.

6.4.3. It may be necessary, with anonymous allegations, to consider whether it is possible to take any further action. When making this decision, senior managers should take the following factors into account:

- The seriousness of the issue(s) raised;
- The credibility of the concern(s); and
- The likelihood of confirming the allegation(s) from attributable sources.

6.4.4. In some cases, it may be possible to resolve the concern(s) simply, by agreed action or an explanation regarding the concern(s), without the need for further investigation. However, depending on the nature of the concern(s) it may be necessary for the concern(s) to:

- Be investigated internally;
- Be referred to the police;
- Be referred to the external auditor;
- Form the subject of an independent inquiry.

6.4.5. Senior Managers should have a working knowledge and understanding of the Trusts' policies and procedures, e.g. disciplinary, harassment, child protection procedures, to ensure that concerns raised by employees are addressed via the appropriate procedure/process. Advice is available from the Trust HR Manager.

6.5. Stage Three

6.5.1. Within ten working days of a concern being received, the manager receiving the concern must write to the employee:

- Acknowledging that the concern has been received;
- Indicating how they propose to deal with the matter;
- Giving an estimate of how long it will take to provide a final response; and/or
- Telling the employee whether any initial enquiries have been made; and
- Telling the employee whether further investigations will take place, and if not why not; and/or
- Letting the employee know when s/he will receive further details if the situation is not yet resolved; and
- Providing the employee with details of whom to contact should s/he be dissatisfied with this response (see 7.1 below).

7. Raising Concerns outside the Trust

7.1. Whilst employed by the Trust, the employee may not discuss the matter with any press or other media representative either before, during or after use of this Procedure and doing so may be considered a disciplinary offence. Whistle blowing to any other external source without first going through the internal procedure is inadvisable without a compelling reason such as alleged malpractice concurrently involving the Executive Headteacher, Headteacher, other senior leaders and the Trust HR Manager. If the employee is not content with the decision of the Trust or with the subsequent action taken by the Trust or feels victimised as a result of using the whistle blowing procedure they may involve one of the following appropriate external agencies:

- Public Concern at Work' <http://www.pcaw.co.uk> tel no: 0207 404 6609. Public Concern at Work is a registered charity that employees can contact for advice to assist them in raising concerns about poor practice at work. The charity also provides advice to employers as to the possible ways to address these concerns;
- Recognised trade union;
- Department of Education;
- The Trust's Auditor's;
- Relevant professional bodies or regulatory organisations;
- The Police
- A solicitor;

7.2. The manager should stress to the employee that if s/he chooses to take a concern outside the School, it is the employee's responsibility to ensure that confidential information is not disclosed, i.e. confidential information, in whatever format, is not handed over to a third party.

8. Monitoring and Review

8.1. The Trust will review this procedure within four years and assess its implantation and effectiveness.