

## Procedure for Protected Disclosures ("Whistleblowing" Policy)

Public Interest Disclosure Act 1998

(Statutory)

Reviewed/Approved by Trustees' Resources Committee: 19.03.19

Review Cycle: Every Three Years

Review Date: Spring Term 2022

### 1. Introduction

This procedure has been designed to operate in accordance with the provisions of the Public Interest Disclosure Act 1998 (as amended) (hereafter known as 'the Act'). The Act gives protection to staff and workers who report colleagues they believe are doing something wrong or illegal, or who are neglecting their duties. This is sometimes known as **Whistleblowing**.

The procedure applies to all staff at The Burgate School. It is intended to enable staff to report wrongdoing in the school where it would be in the public interest to do so. The wrongdoing has to be such as to potentially affect the general public, rather than simply being a complaint of an individual nature, such as a personal grievance\*, which is not normally covered under whistleblowing law. [\*An individual personal grievance will be dealt with via other internal school procedures.]

### 2. Principles

The Trustee Board of the The Burgate School and Sixth Form will treat all matters of malpractice very seriously and allegations about such matters will be dealt with quickly, seriously and with appropriate confidentiality at all times.

In order to meet the requirements of the Act, in addition to staff at The Burgate School, the procedure is applicable to agency staff, students on placements, supply staff, volunteers, contractors and suppliers operating under contract to the school. The term "worker" in this procedure is intended to cover all of these categories of people.

The procedure gives protection from victimisation, discrimination or disadvantage to staff who make such a disclosure in the public interest. This protection applies in respect of such a detriment arising from an act, or a failure to act, either by the employer or by a fellow worker, whether the latter be with or without the employer's knowledge. The procedure also ensures that the person making the disclosure receives an appropriate response to their disclosure and is made aware of how they may pursue the matter outside of the school if the response given is not satisfactory.

This “Whistleblowing” Procedure should not be confused with others, such as individual or collective grievance procedures that exist to enable staff to raise concerns about their own employment. It is designed to deal with issues that fall outside of the scope of those procedures and therefore excludes all matters that are more appropriately covered by them.

### **3. Time Limits**

There are no time limits on raising concerns under this procedure, but they should be raised at the earliest opportunity. Where time limits are included within this procedure, they exist to ensure that disclosures are dealt with as quickly as possible, and to ensure a prompt initial response from management.

The investigation that takes place after a disclosure is made is not time limited, but will be conducted as quickly as possible within the circumstances of the disclosure.

### **4. Representation**

Workers are entitled to representation by a professional association/trade union representative/work colleague at any meeting or interview held in relation to the disclosure made. Workers should specify that they are making a disclosure under this procedure.

### **5. Unfounded or improperly made allegations**

- If an allegation is unfounded or unsubstantiated (i.e. there is no factual basis or evidence to support the allegation) but the worker has made the allegation honestly and in the reasonable belief that it was in the public interest, no action will be taken against them.
- If an allegation is deemed to have been made falsely, maliciously, frivolously or for personal gain, then the person making the allegation may face disciplinary action. Care should be taken in dealing with such allegations as some facts may not be wholly untrue. Some parts of an allegation may have been fabricated or exaggerated but elements may be based on truth.

## **Procedure**

### **Step 1 - Raising a concern**

In the first instance, concerns under this procedure should be raised with the worker’s immediate line manager, who should then deal with the problem as quickly as possible. If the worker believes that their immediate line manager is involved in the malpractice, they may raise their concerns with the Leadership Team, including the Headteacher. If the worker believes it is not appropriate to raise the matter with the Headteacher, he/she may approach the Chair of the Board of Trustees. The Chair of Trustees is David Millar ([dmillar@burgate.hants.sch.uk](mailto:dmillar@burgate.hants.sch.uk)).

Within ten working days of a concern being raised, the person receiving it will write to the worker acknowledging receipt and indicating what initial steps will be taken to deal with it. Where possible an estimate will be given of the time it will take to provide a final response.

Concerns may be raised orally or, preferably, in writing. These disclosures should provide as much information as possible about the matter, including dates, individuals involved, other possible sources of information, etc. The worker must be able to demonstrate to the person hearing the disclosure that there are reasonable grounds for making the allegations.

Workers may wish to make anonymous disclosures although it may be important for the investigating manager to know the source of information to enable a full investigation. The

manager would also need to take into account the nature and credibility of an allegation before deciding to proceed with an investigation. However, workers should be re-assured that all disclosures will be treated in confidence and every effort will be made to preserve anonymity. The Act provides protection against victimisation to anyone who makes a protected disclosure in good faith.

## **Step 2 – Determine whether the concern raised is a Protected Disclosure**

Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- a criminal offence (e.g. fraud, corruption, sexual or physical abuse of pupils/students or others);
- a failure by a person to comply with any legal obligation to which he/she is subject;
- a miscarriage of justice;
- a danger to the health or safety of any individual;
- damage to the environment, or
- a deliberate attempt to conceal any of the above matters.

Following disclosure of one of the above matters, the person receiving the disclosure must determine whether it is a 'qualifying disclosure' under the Act, by considering the following:

- whether any factual information was actually disclosed, as opposed to opinion only, to the employer (or relevant person);
- whether the individual making the disclosure believed that the information tended to show that one of the matters above has occurred, is occurring or is likely to occur; and
- whether that belief was reasonable.

If the above criteria are met, the disclosure will qualify as a protected disclosure, and the remainder of this procedure will apply. If the criteria are not all met but the worker's disclosure was made in good faith, investigations should still take place into the allegations and the worker should not be discriminated against because they have raised such an allegation. If it is found that the disclosure was made for malicious purposes or for personal gain, the school should deal with this under the disciplinary procedure.

## **Step 3 - Investigation**

A preliminary investigation will be undertaken to establish whether the allegation could actually have occurred, be occurring or be likely to occur in the future. The investigation is not, at this stage, to determine whether the allegation has actually occurred, but to determine the facts of the case (e.g. was the alleged individual actually where they were purported to be, what does the evidence show). Advice about investigations can be sought from Educational Personnel Services.

Allegations that have some foundation to them will be followed up with a full internal investigation, which may result in one or more of the following:

- No case to answer
- Disciplinary action taken against the alleged individual
- Referral to Social Services or the Police, or other relevant organisation

If the allegations are unfounded (no evidence or proper basis that supports the allegation), or unsubstantiated (can neither be proven nor disproven), no action will be taken by the school, although it will be determine why the worker felt the need to raise the allegation in the first place, e.g. is there a training need within the school?

If it is found that the allegation was made for malicious purposes or for personal gain, the school will deal with this under the disciplinary procedure.

#### **Step 4 - Communication**

Subject to legal constraints and the need to protect the rights of individuals, the worker raising the concern will be informed of the outcome of any investigation at the earliest practicable opportunity. Such information will not include confidential details about formal action taken against another worker.

For reasons of sensitivity and confidentiality, all communications with a worker who takes action under this procedure will be sent to their home address, unless an alternative arrangement has been mutually agreed.

#### **Step 5 - Taking the matter further**

In the event that a worker feels that their concerns have not been resolved through the above process, they may write to the Chair of the Board of Trustees, if he/she has not already been involved, outlining their concern, the action taken to date and the reasons for their dissatisfaction. The Chair of Trustees is David Millar ([dmillar@burgate.hants.sch.uk](mailto:dmillar@burgate.hants.sch.uk)).

Within 10 working days of a concern being raised, the Chair of the Board of Trustees will write to the worker to acknowledge that the concern has been received and indicate what steps will be taken to deal with the matter, as well as providing an estimate of the time it will take to provide a final response. The Chair of the Board of Trustees may decide to set up a small group of Trustees, where appropriate, to investigate the concerns. The Chair of the Board of Trustees will then inform the worker of the outcome of this process on the same basis as required of the manager above.

In the event that the matter cannot be satisfactorily resolved within the school, the worker may escalate their concerns further.

Workers can raise their concerns, as appropriate, subject to the concern being a protected disclosure (see step 2), with any of the following:

- A local Member of Parliament
- A relevant professional body or inspectorate (e.g. Ofsted or Health & Safety Executive)
- A 'prescribed person' as designated by the Act. A full list of 'prescribed persons' can be found here: [www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowingintheworkplace/DG\\_175821](http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowingintheworkplace/DG_175821) - under 'Blowing the whistle to a prescribed person'.

Workers can only make a disclosure to a prescribed person if they:

- Make the disclosure in good faith
- Reasonably believe the information is substantially true
- Reasonably believe they are disclosing the issue to the appropriate person or body (e.g. Health and Safety issues to the HSE).

In taking their concern outside of the school, workers must ensure that, as far as possible, the matter is raised without personal information relating to other workers, or confidential information about unrelated matters, being disclosed. A worker who approaches an accredited legal advice centre, e.g. Public Concern at Work (0207 404 6609 or [www.pcaw.org.uk](http://www.pcaw.org.uk)) or Citizens Advice Bureau, must not breach the duty of confidence in this procedure to the Board of Trustees.

#### **6. Failure to follow this procedure**

Any worker who unreasonably and without justification raises such issues on a wider basis, such as with the press, without following the steps and advice in this procedure may be liable to disciplinary action.

#### **Policy Review**

This policy will be reviewed every three years.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Position: Chair of Trustees' Resources Committee

## Whistleblowing Policy - Flowchart

