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## WHISTLBLOWING POLICY

### **1. PURPOSE AND AIMS**

- 1.1 The Local Authority and Schools must aspire to the highest standards of quality, probity, openness and accountability in all its activities. In line with the Public Interest Disclosure Act 1998, this Policy and Procedure aims to create an environment in which employees, parents, Governors and others working with RBWM, who have concerns about any aspect of the Council's or a School's work, feel encouraged to disclose information to an appropriate person within the Council or to an appropriate external body (as shown in the Contacts List at the end of this Policy). Raising concerns at work also applies to Governors, partners, contractors, consultants and agency staff working on School and Council premises.
- 1.2 In addition, this Policy also recognises the arrival of the Enterprise and Regulatory Act 2013 (ERA) and the protections inserted into the ERA by the Public Interest Disclosure Act 1998 which are designed to protect workers from being unfairly dismissed by their employer or suffering other detriment whenever they report their concerns about matters that affect the public interest to their employer, regulatory authorities or other designated persons.
- 1.3 Whistleblowing claims will only now be valid when an employee blows the whistle in relation to a matter for which the disclosure is genuinely in the public interest. This will exclude breaches of individuals' contracts of employment and breaches of other legal obligations which do not involve issues of a wider public interest.
- 1.4 The good faith test is a test which needs to be satisfied by claimants bringing a whistleblowing claim. With the introduction of the public interest test, it was considered that the existence of two tests would have a deterrent effect and reduce the number of disclosures. This Act changes the application of the good faith test, so it will now be considered by the tribunal when deciding on remedy, rather than liability. The tribunal will have the power to reduce any compensation award by up to 25% where a disclosure has been made in predominantly bad faith.
- 1.5 Employees, because of their close proximity to Council practices, are often the first to identify areas or issues that may be of concern. However, they may be reluctant to express these concerns because they feel that speaking up would be disloyal to their colleagues, the School or to the Council – and they may also be worried that they will be victimised or harassed as a result of their actions.

1.6 This Policy is designed to help create an environment in which employees and others feel they are able to raise concerns without fear of reprisal. By responding to and addressing concerns in the quickest possible time, RBWM aims to contain such matters within the Council. However, employees or others must be able to take matters further if they are dissatisfied with the Council's response.

## **2. SCOPE**

2.1 The Council has an Anti-Fraud and Anti-Corruption Policy Statement (available on First Class and the RBWM website) which employees are encouraged to continue to use to identify and report problems or concerns, particularly in relation to financial or contractual irregularities.

2.2 This document is designed to sit alongside the Policy Statement, together with the School's Grievance Procedure (which enables employees to lodge a grievance relating to their employment) and the Dignity at Work Policy, which includes a procedure for dealing with claims of harassment (both available on First Class or the RBWM Website).

2.3 Raising Concerns at Work is intended to cover concerns that fall outside the scope of these three procedures and extends the range of issues that school employees are encouraged to report.

2.4 These concerns may be about acts that:

- a) are unlawful or involve fraud, deceit and/or bribery
- b) represent a risk to health and safety
- c) cause environmental damage
- d) infringe equal opportunities related legislation and / or Council policies, e.g. discriminatory behaviour
- e) amount to improper or unethical conduct, e.g. breach of a statutory code of conduct or are an abuse of position
- f) are a miscarriage of justice
- g) are a criminal offence or breach of law
- h) are safeguarding failures

## **3. HOW TO RAISE A CONCERN**

3.1 You may wish to discuss your concerns with a colleague first and may find it easier to raise the matter if more than one of you has had the same experience or concerns.

3.2 At any stage of the procedure, you may be accompanied by a friend, colleague, or a representative of your Trade Union or professional association.

- a) Employees should, if possible, raise a concern in the first instance with their team manager, Headteacher or Chair of Governors
- b) Non-employees, e.g. agency workers, contractors, partners, volunteers, should raise a concern in the first instance with the person to whom they directly report / have contact within the School or Council.
- c) Governors should raise concerns with the Chair of Governors or with the Education Standards Service within the Council.

- 3.3 In some cases, the nature or sensitivity of the concern means that this may not always be appropriate. If a person feels they cannot raise their concern within the School, they are able to go directly to either the Council's Head of Human Resources, the Monitoring Officer (Head of Governance, Partnerships, Performance and Policy), the Head of Finance or the Service Manager, Shared Audit and Investigation Service. They may also do so if, having raised the concern within the School and they feel there has not been an appropriate response.
- 3.4 In the event of a concern being of an extreme and potentially serious nature, employees and others may raise it directly with the Education Standards Service, the Strategic Director of Adult, Children and Health Services, Managing Director or the Leader of the Council.
- 3.5 For all concerns in respect of any suspected financial irregularity, you must notify RBWM's Head of Finance and the Service Manager, Shared Audit and Investigation Service) immediately.
- 3.6 In circumstances where an individual feels that it is necessary to raise a concern with an independent body rather than raise it internally within the Council, they may obtain guidance from the Public Concern at Work charity who can be contacted on 020 7404 6609.

#### **4. PRACTICE AND PROCEDURE**

- 4.1 Concerns are better raised in writing but can be made orally, in either case it is essential to give as much information as possible so that reasonable grounds for the concern can be demonstrated.
- 4.2 The earlier the concern is raised, the greater the opportunity for the School to take remedial action.
- 4.3 Advice and guidance on how matters of concern may be raised and pursued can be obtained from RBWM's Head of Human Resources, Head of Finance and the Service Manager, Shared Audit and Investigation Service and the Monitoring Officer.

#### **5. HOW THE SCHOOL AND COUNCIL WILL RESPOND**

- 5.1 Once a concern is raised, the School / Council will respond with an investigation by management. Further courses of action will vary, depending on the issue.
- 5.2 An appropriate School / Council officer will make initial enquiries. There will be consultation, with the following officer who may include the Headteacher, Chair of Governors, Strategic Director of Adult, Children and Health Services, Head of Human Resources, Monitoring Officer, Head of Finance and the Service Manager, Shared Audit and Investigation Service, as appropriate, to help decide if an investigation is required and if so, what form it should take.
- 5.3 An Investigation Officer will also be appointed by the Headteacher and /or Chair of Governor. 5.4 As soon as possible and in any case within 10 working days of a concern being raised, the person handling the matter, e.g. the Headteacher, the Head of Human Resources, will write to the individual raising the concern acknowledging that it has been raised and indicating how, as far as possible, it will be dealt with. The individual will be kept

informed of progress and will receive a full and final response, subject to any legal restraints.

5.4 In relation to allegations of fraud and corruption, including bribery, in respect of the Governors and the Strategic Director of Adult, Children and Health Services, the Managing Director will lead the process and will appoint an appropriate Investigating Officer, in liaison with the Headteacher, Monitoring Officer, Head of Finance and Service Manager, Shared Audit and Investigation Service. For cases involving Governors, the outcome of the investigation will be reported to the appropriate body.

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5.5 Any decision to refer a matter to the Police will be taken by the Head of Finance, in consultation with the School, Strategic Director of Adult, Children and Health Services, Monitoring Officer, Head of Audit and Investigation and the Head of Human Resources, as appropriate. The Council will normally wish the Police to be made aware of, and investigate independently, those offenders where financial impropriety is discovered.

5.6 Depending on the nature of the allegation, the Investigating Officer will normally work closely with the School and the Strategic Director of Adult, Children and Health Services to ensure that all allegations are thoroughly investigated and reported upon.

5.7 The Investigating Officer will: - deal promptly with the matter - record all evidence received - ensure that all evidence is sound and adequately supported - ensure security of all evidence collected - contact other agencies such as Police - notify the Council's Insurance and Risk Manager, if applicable, who in turn will notify the RBWM insurers - assist management to implement Council disciplinary procedures, where appropriate. The processes outlined above will also apply to Governors.

5.8 The Council's disciplinary procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees.

## **6. SAFEGUARDS**

### **Harassment or Victimisation**

6.1 The School recognises that it can be difficult to report a concern, not least because of the fear of reprisal from those responsible for the potential malpractice. The School will not tolerate harassment or victimisation of the person who has raised the issue and will take appropriate action against individuals who perpetrate such harassment.

### **Confidentiality**

6.2 Wherever practical and possible, the School will protect the identity of those raising a concern if they do not wish their name to be disclosed. It must be appreciated, however, that the process of investigation may reveal the source of information and a statement may also be required as part of the evidence. Advice and support will be provided where this is

the case and disclosure of your identify will not be done without your consent unless legally required to do so

6.3 Anyone may approach the Council confidentially if they so wish and as long as their allegation appears to have been raised honestly and in good faith, their wish for confidentiality will be supported.

6.4 This approach is further supported by decisions of the courts, who have recognised in certain circumstances the identity of persons who have made allegations or given information to the public and other bodies should not be revealed (in the course of legal proceedings, for example). They recognise that disclosure could discourage others from making allegations or giving information to the proper authorities.

If you are a Trade Union member, you are encouraged to raise and discuss matters with your union representatives before seeking to invoke the Whistleblowing Procedure. Trade Unions can advise you whether or not to proceed and the best way to present your disclosure.

### **Support for Those Raising Concerns**

#### **Trade Unions**

6.5 If you are a Trade Union member, you are encouraged to raise and discuss matters with your union representatives before seeking to invoke the Whistleblowing Procedure. Trade Unions can advise you whether or not to proceed and the best way to present your disclosure.

#### **Human Resources (HR) Service**

6.6 The Council's HR Service can be a place where you can discuss how to make a disclosure and lodge a matter of concern. Staff and non-employees will often discuss the issues that worry them members of the HR Business Partner team in the first instance. Such discussions will be in confidence if that is what you prefer, but there may be some disclosures (for instance criminal acts) that cannot remain confidential.

#### **Employee Assistance Programme (EAP)**

6.7 Employees of the School can contact the EAP which is a completely independent workplace support service, accessible on line and via a freephone number, 24 hrs a day, 365 days of the year.

6.8 The service offers free and completely confidential advice and help in relation to personal or work related issues.

#### **Anonymous Allegations**

6.9 Individuals raising concerns are strongly encouraged to put their name to any allegation. Concerns expressed anonymously are much less powerful, and will only be considered following advice from the Monitoring Officer if the allegation demonstrates sufficient cause to take the matter further.

#### **Untrue Allegations**

6.10 If someone makes an allegation in good faith and it is not confirmed by an investigation, no action will be taken against the person who has made the report. If, however, an individual makes an allegation, which is subsequently shown to be malicious or vexatious, disciplinary action is likely to be taken against them.

## **7. HOW THE MATTER CAN BE TAKEN FURTHER**

7.1 This Policy is intended to provide all School employees and others with an effective process for raising concerns within RBWM. The Council hopes that those using this process will be satisfied with the way their concerns are treated and any investigations that may be carried out. However, if they are not satisfied and feel they want to take the matter outside the Council, then either the Head of Human Resources or the Monitoring Officer will provide advice as to other options.

## **8. RESPONSIBILITY OF OFFICERS / MONITORING OFFICER**

8.1 The Head teachers and Governors have overall responsibility for the maintenance and operation of this Policy.

8.2 The Service Manager, Shared Audit and Investigation Service should be notified of all concerns raised through this Policy. All concerns raised and the outcomes (in a form which respects the individual's confidentiality) will be maintained by the Head of Human Resources.

## **9. CONTACTS**

### **INTERNAL**

Headteacher

Chair of Governors

Education Standards Unit 01628 796680

Strategic Director of Adult, Children and Health Services 01628 796367

Monitoring Officer 01628 796665

(Head of Governance, Partnerships, Performance and Policy)

Service Manager, Shared Audit and Investigation Service 07917 265742

Head of Finance (Financial Issues) 01628 796341

Head of Human Resources 01628 796992

Managing Director 01628 796484

Political Assistant to the Leader of the Council 01628 796322

### **EXTERNAL**

External Audit (KPMG)

Audit Commission (Whistleblowing Line) 0845 052 2646

Your Local Union Representative

Public Concern at Work ([www.pcaw.co.uk](http://www.pcaw.co.uk)) 02074046609

## **10. PUBLICITY**

10.1 This Policy should be publicised to the widest possible audience so that all internal and external.

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<b>Signed by Chair of Governors</b>		
<b>Signed by Head Teacher</b>		