

South West Essex Community Education Trust

Whistleblowing Policy

Public Interest Disclosure Act 1998

1. Introduction

1.1 The Public Interest Disclosure Act 1998 (“the Act”) protects workers and employees from detrimental treatment or dismissal as a consequence of disclosing information about unlawful actions of their employer or information about the conduct or behaviour of employees, volunteers or others associated with the operation and organisation of the Trust. This is known as “whistleblowing”. The protection applies to employees, volunteers, agency and contract workers. The Trust is committed to creating an open and supportive environment where individuals feel able to make a disclosure and feel confident in the process that will be followed. This policy sets out how disclosures can be made and how they will be handled. All disclosures will be treated consistently and fairly.

Employees who have a role involving finance should also have regard to the Financial Regulations document for their Trust.

- a. If an employee/worker makes a disclosure it must concern one of the 6 types of “qualifying disclosure” specified in the Act to be protected. These are where there has been or is likely to be:
- A breach of any legal obligation;
 - a miscarriage of justice;
 - a criminal offence;
 - a danger to the Health and Safety of any individual;
 - damage to the environment; and,
 - deliberate concealment of information about any of the above

The employee/worker raising the concern must reasonably believe they are doing so in the public interest. This means that personal grievances and complaints are not usually covered by this policy and should be dealt with under the Grievance Procedure.

- b. Concerns should normally be raised initially with the employee’s line manager. If a concern is raised verbally it should be followed up in writing wherever possible. However, where the complaint relates to the employee/worker’s line manager, the complaint should be brought to the attention of a more senior manager, the Headteacher or the Chair of Governors. Should a concern relates to either the Headteacher or Chair of Governors, the complaint should be brought to the attention of

the Chair of the Trust.

2. Raising concerns

2.1 Where having raised a concern informally and the employee/worker has a genuine belief that the Trust has failed to take appropriate action or the employee/worker considers the informal process is inappropriate and wishes to raise the matter formally, they may report their concern to the Chair of Governors or in exceptional circumstances to the Local Authority or to a prescribed body. (A prescribed body is an organisation, normally with some regulatory function (for example the Health and Safety Executive), which is prescribed by the Secretary of State for the purposes of the Act who an individual may make a protected disclosure to. Any such disclosure to a prescribed body will qualify for protection under the Act. A list of prescribed bodies is available at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360648/bis-14-1077-blowing-the-whistle-to-a-prescribed-person-the-prescribed-persons-list-v4.pdf

2.2 Where the complaint is serious, for example involving fraud, theft or other potential gross misconduct, employees/workers should act quickly to report it but should not mention it to the subject of the complainant or other colleagues as that could prejudice any investigatory process.

2.3 It may be the case that employees/workers will have very genuine and justified suspicions of wrong-doing even though at the time of reporting they cannot point to concrete evidence. That should not deter employees/workers from going ahead and reporting the matter, particularly where it may involve potential risk to vulnerable people.

2.4 If the concern/complaint relates to the safeguarding of children (including concerns about other colleagues/works) and the employee/worker considers the informal process is inappropriate and/or wishes to raise the matter formally, they may report their concern to the Chair of Governors or they should contact their Local Authority Designated Officer (LADO) using the Duty Line – 01375 652535.

3. Action by recipients of disclosures

3.1 It would be inappropriate to have hard or fast rules and judgement must be exercised. While it is essential for problems to be tackled effectively and with the aim of righting wrongs, this may well be best achieved in many less serious cases by discussion with the 'offending' employee/worker and securing a commitment as to future standards and corrective action. In other more serious cases the matter may need to be passed to a

more senior level of management or directly to the Trust, as appropriate.

Once a disclosure has been made, the line manager/Governor responsible for handling the grievance may ask the whistle-blower to attend a meeting to gather all the information needed to ensure a clear understanding of the situation. Where a meeting is held, the whistle-blower may be accompanied by a trade union representative or work colleague if they wish and where possible the dates/times will be agreed to facilitate this.

Requests to be accompanied must be clearly communicated to the Trust allowing adequate time for the Trust to deal with the companion's attendance at the meeting. The request should be made in advance of the meeting providing the name of the companion and whether they are a fellow worker or trade union official or representative.

- 3.2 Where complaints are received from members of the public, the Trust's formal complaints procedure must be followed, unless the complaint relates to the specific conduct or performance of an individual employee/worker in which case the Disciplinary Procedure may need to be instigated.
- 3.3 Any written complaint/allegation should be given a written acknowledgement and confirmation that the matter will be looked into. Unless clearly made in a very low key way about minor matters, verbal complaints/allegations should receive a written acknowledgement in the same way.
- 3.4 In the event of the allegation being of a very serious nature, for example relating to a fraud or other potential gross misconduct offence, there may well be a need to involve the Trust's auditors and/or the police. This should normally be agreed initially by the Chair of the Trust. Advice may be sought from the Trust's legal advisers before involving the police in any such internal complaint or allegation.
- 3.5 When any complaint or allegation has been looked into and resolved or dealt with, the person who raised the matter in the first instance should be notified of that, normally in writing unless common-sense indicates that it can be done more appropriately in a verbal, informal way. How much detail to give of findings and outcomes is a matter of judgement and it would, for example, be inappropriate to disclose details of disciplinary actions taken against another employee.
- 3.6 All disclosures will be handled by the Trust in a timely manner. The timescales for handling disclosures will differ depending on the nature of the disclosure made but all disclosures (whether formal or informal) will be acknowledged by the Trust within [2] working days. The timescales for any further steps in the process will be notified to the whistle-blower when the disclosure is acknowledged.

4. Protecting ‘whistle-blowers’ and complainants

- 4.1 Whistle-blowers are protected by the Act from suffering a detriment or dismissal as a result of making a protected disclosure which they reasonably believe is in the public interest.

A ‘whistleblower’ may ask for their identity to be kept concealed. Frequently the answer will be yes, but in more serious cases where disciplinary action may have to be taken against others they may well have a right to know the source as well as the nature of such complaints. In any case the Trust is committed to doing as much as possible to ensure that well-being at work does not suffer as a result of the tensions that may result from the making or investigation of complaints.

Where a whistleblower remains anonymous the Trust will not ordinarily be able to provide feedback to the whistleblower and any action taken as a result of an anonymous disclosure may be limited. The Trust will take all appropriate steps to investigate such a disclosure in line with the level of information provided. If an anonymous whistleblower wishes to seek feedback from the Trust an appropriate anonymised email address should be provided.

- 4.2 If an individual believes they are experiencing harassment or victimisation at work as a consequence of ‘whistleblowing’ they are strongly encouraged to bring this to an appropriate senior manager’s attention at an early stage so that it can be addressed. The Trust will take all reasonable steps to prevent/address such harassment or victimisation.
- 4.3 Whether or not work relationships suffer in this way it may well be that ‘whistle-blowers’ will find the process of reporting wrong-doing and making statements etc stressful, particularly where there may be feelings of divided loyalties. In such circumstances the ‘whistleblower’ may welcome the opportunity to talk through these anxieties and feelings either with their manager, or possibly, with someone from a counselling service. This is to be encouraged.

5. What if an employee receives a complaint about him/herself?

- 5.1 If the complaint or allegation is at all significant or made in a formal way, particularly by a member of the public or other external users, then employees/workers should inform their line manager or Chair of Governors in the case of Head teachers – even if they believe or know the complaint to be groundless or unjustified.
- 5.2 Where a complaint or ‘grumble’ clearly does not justify taking up the line in this way,

making a brief note on a file or diary or similar will often be advisable.

6. Malicious allegations

- 6.1 If, following appropriate investigation, it is considered that an employee has made a malicious allegation without real substance and/or which could not be reasonably considered to be in the public interest, this will be taken as a most serious matter and may potentially lead to disciplinary action in line with the Trust's disciplinary procedure.
- 6.2 Where other individuals engaged by the Trust make a malicious allegation, the Trust will investigate the allegation thoroughly and take appropriate action, which may include terminating the contract/arrangements with the individual.