



Schools HR Policy and Procedure Handbook Tuition, Medical and Behaviour Support Service

KCSiE:

Whistleblowing Procedure

‘Speaking up about Wrongdoing’

This procedure has been shared with the following professional associations and Trade Unions representing Teachers, Headteachers and Support Staff:

- National Education Union
- National Association of Schoolmasters Union of Women Teachers
- National Association of Headteachers
- Association of School and College Leaders
- Unison
- GMB

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IF YOU HAVE SERIOUS CONCERNS IT IS YOUR DUTY TO TELL US AND OUR DUTY TO PROTECT AND SUPPORT YOU

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Whistleblowing Procedure – Tuition, Medical and Behaviour Support Service

1. Introduction

Ensuring that robust policies are in place to provide protection to staff in the Service raising genuine concerns in the work place is an important part of safeguarding children in education.

Governing bodies must ensure they adopt policies and procedures that meet with statutory legislation.

Tuition, Medical and Behaviour Support Service is committed to open and honest communication and the highest possible standards of integrity. This will support safeguarding and promoting the welfare of all students in its care and expects all staff and volunteers to share this commitment.

This procedure complies with the statutory guidance including “Keeping Children Safe in Education (KCSiE) from the Department for Education. This policy forms part of the HR KCSiE Framework to support schools to meet their responsibilities with regards to safeguarding and child protection.

These include:

- Safer Recruitment Policy
- DBS Guidance
- Single Central Record Guidance
- Code of Conduct for Staff
- Dealing with Allegations of Abuse Against Staff
- E-Safety Policy

The procedure closely follows the requirements of the Public Interest Disclosure Act provides employees and those undertaking duties and responsibilities on behalf of the Service with protection when raising genuine concerns about wrongdoing in the workplace. It encourages disclosures to be made internally in the first instance but also allows for certain protected disclosures to be made to specific external bodies.

The procedure ensures that employees and others who have serious concerns about wrongdoing are encouraged to speak up. This may need to be on a confidential basis and the Service wishes to emphasise that if someone does “speak up” they can do so without fear of reprisals. Such policies are termed “blowing the whistle” and this phrase should be viewed as a positive action of speaking up. It is understandable that employees may not express concerns because they may feel that speaking up would be disloyal to colleagues or they fear harassment/victimisation. The Service should encourage all employees to not ignore concerns and to report them positively and appropriately.

This policy provides a line of reporting to key individuals within Shropshire Council.

Disclosures made under this procedure are monitored by the governors as required under the Public Interest Disclosure Act. Details of any disclosure remain confidential. Governors should ensure that annual monitoring is reported to the full governing body.

2. Aims of the Procedure

This procedure aims to:

- provide avenues for employees to raise concerns and receive feedback on any action taken;
- allow employees to take the matter further if they are dissatisfied with the response;
- reassure employees that they will be protected from reprisals or victimisation for whistleblowing in good faith.

Employees may be the first to see that something is seriously wrong within the Service. Such wrongdoings may relate to:

- fraud and corruption;
- discrimination (i.e. a witnessing discrimination as a third party);
- abuse of vulnerable children/people
- damage to the environment.
- Health & safety breaches
- Failure to comply with legal proceedings

It is the duty of employees to speak up when they have serious concerns and it is the duty of the Service to act on those concerns and protect and support employees when they do. A failure to report serious concerns could be construed as collusion. Difficult as it may be to speak up, employees should be aware of their special position and of their duty to make their concerns known.

This procedure should not be confused with the Service complaints procedure (where parents can complain about the Service or Service staff), the grievance procedure (where employees complain about their treatment as an employee) or the Safeguarding/Child Protection procedure (specifically relating to working around children and young people). This policy is intended to cover concerns which fall outside the scope of such policies and procedures.

3. Scope

This procedure is available to all staff working in Shropshire maintained schools. The procedure should be issued to staff and those undertaking duties and responsibilities on behalf of the Service during induction to advise specifically on blowing the whistle on wrongdoing. It is also made available to business partners, contractors, voluntary agencies, partnerships, and any others who the Service has dealings with for distribution for their employees.

4. Data Protection and GDPR

The Data Protection Act 2018 and GDPR do not prevent the sharing of information for the purposes of keeping children safe. Fears about sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare and protect the safety of children.

It is important that governing bodies are aware of their obligations under the Data Protection Act 2018 and the GDPR to process personal information fairly and lawfully and to keep the information they hold safe and secure.

Relevant staff should have due regard to data protection principles, which allow them to share personal information, as provided for in the Data Protection Act 2018 and the GDPR and be confident of the processing conditions that allows practitioners to store and share information for safeguarding purposes, including information that is sensitive and personal, and should be treated as 'special category personal data.' This includes allowing practitioners to share information without consent, if it is not possible to gain consent, it cannot be reasonably expected that a practitioner gains consent, or if to gain consent would place a child at risk.

In addition to this policy, governing bodies will be made aware of Shropshire Safeguarding Community Partnership's (SSCP) local arrangements for action together with the processes and principles for sharing information within the Service and with the three safeguarding partners, other organisations, agencies and practitioners as required.

5. Serious Concerns

Serious concern may be related to something that:

- is unlawful;
- is against financial rules, contract rules or other policies;
- does not meet established standards or working practices;
- amounts to improper conduct.

Theft, bribery and corruption, safeguarding/child protection issues, service users or staff and environmental misuse are all the type of things which would fall into these categories.

Concerns in education settings may relate to the treatment of children and young people. This could mean, for example, that a person or persons are:

- deliberately ignoring the best interests of the child or young person;
- teasing, harassing or touching a child or young person inappropriately;
- threatening a child, young person or a parent or distressing them in some way;
- neglecting a child by not giving them the support they need, including medical attention or care;
- hitting or restraining a child inappropriately;
- using a child or young person's money or possessions in an inappropriate way.

Procedures for dealing with allegations or concerns about child abuse already exist and the named person in the Service to whom such issues can be referred is **James Pearson – Designated Safeguarding Lead**. There is a specific procedure for Low Level Safeguarding Concerns and Dealing with Allegations of Abuse against Staff. These policies supplement the safeguarding/child protection policy.

There are existing procedures to enable employees to lodge a grievance relating to their employment.

6. Safeguards

6.1 Harassment or Victimisation

The Service recognises that deciding to report a concern can be difficult, not least because of the fear of reprisal from those responsible for the malpractice.

The Service will not tolerate harassment or victimisation and will take action to protect employees when concerns are raised in good faith. However, if an employee is already the subject of disciplinary or redundancy procedures, those procedures will not be halted as a result of the whistleblowing.

6.2 Confidentiality

The Service will do their best to protect employee's identity when concerns are raised, and an employee does not want their name to be disclosed. It must, however, be appreciated that the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

6.3 Anonymous Allegations

The Service encourages employees to put their name to an allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Executive Headteacher, in conjunction with the governing body of the Service. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the validity of the concern;
- the likelihood of confirming the allegation from other sources.

Allegations which do not appear to be motivated by personal animosity and which if true, would have serious implications for the Service, are more likely to be considered, even though made anonymously.

It must be appreciated, however, that the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

6.4 Untrue Allegations

If allegations are made in good faith, but it is not confirmed by the investigation, no action will be taken against an employee. In such circumstances employees will be supported. If, however, an employee makes a malicious or vexatious allegation, disciplinary action may be taken. The matter would be referred to an appropriate governor committee before any action is taken.

6.5 Support to Employees

Throughout and after this difficult process employees will be given full support from senior management, concerns will be taken seriously, and the Service will do all it can to help staff. If possible, redeployment opportunities will be considered. Staff may also wish to seek confidential support from their Trade Union/ Professional Association.

7. How to raise a concern

Concerns should normally be raised with an employee's immediate line manager or the Executive Headteacher. This will depend, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the wrongdoing.

If the line manager or the Executive Headteacher or other Service management is involved an employee may wish to report concerns to the Chair of Governors.

Alternatively, Service staff can approach the following individuals within Shropshire Council:

- Head of Paid Service - if the wrongdoing is about standards of behaviour;
- Shropshire Council Assistant Director of Legal and Democratic Services - if the wrongdoing is thought to be illegal;
- Section 151 Officer - if the wrongdoing is about improper payments;
- The Executive Director of People - if the wrongdoing is about an environmental issue, a children's safeguarding issue or an adult's safeguarding issue.

The above can be contacted by telephoning Customer Services on 0345 678 9000 or emailing whistleblowing@Shropshire.gov.uk or visiting the Council website www.shropshire.gov.uk.

Shropshire Council also operates a Whistleblowing Hotline where confidential disclosures can be made. The contact number is 01743 252627.

Staff can invite a trade union or professional association to raise the matter on their behalf.

The earlier concerns are expressed the better and the easier it will be to take action. Concerns are better raised in writing and should set out:

- the background and history to the concern;
- dates and places where possible;
- the reasons for the concern.

Concerns can be raised in writing. In order to ensure the confidentiality, concerns should be sent in a sealed envelope addressed to the appropriate person and clearly mark it "Strictly Private and Confidential - To be opened by the addressee only".

It is a serious disciplinary offence for any person to seek to prevent a communication of concern reaching an appropriate contact or to impede any investigation which he/she or anyone on her/his behalf may make.

Although employees are not expected to prove the truth of an allegation, employees will need to demonstrate to those appointed to investigate the matter, that there are sufficient grounds to the concern.

8. How the Service will respond

When concerns are raised within the Service the action taken will depend on the nature of the concern. The matters raised may:

- be investigated internally by the Service;
- be investigated by Shropshire Council but independently of those directly involved;
- be referred to the Police;
- be referred to an external Auditor;
- form the subject of an independent inquiry.

In order to protect individuals and the Service initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. These will be made confidentially and every attempt made to protect the employee. Concerns or allegations which fall within the scope of specific procedures (for example, child protection issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.

Within ten working days of a concern being received, the Service will respond in writing to the individual raising a concern:

- acknowledging that the concern has been received;
- indicating how the Service propose to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- confirming any initial enquiries already made;
- confirming whether further investigations will take place and, if not, why not.

The amount of contact between those considering the issues and an employee raising a concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the employee.

When any meeting is arranged, an employee will have the right, if they so wish, to be accompanied by a trade union or professional association representative or a friend who is not involved in the area of work to which the concern relates. The meeting may be held at a mutually agreeable location.

If the employee should become involved in further investigations or procedures (e.g. disciplinary proceedings or a criminal trial) as a result of using this procedure, they will be given every proper support and assistance. The Service would ensure that employees using this procedure are not disadvantaged or unfairly treated.

The Service accept that employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, employees will receive information about the outcomes of any investigations and any changes to working practices as far as is reasonably practicable.

9. How the matter can be taken further

This procedure is intended to provide employees with avenues to raise serious concerns within the Service. The Service hopes employees will find the procedure a satisfactory way of dealing with concerns. An employee does have the right to take the matter outside of the Service or Shropshire Council. The following are possible contact points:

- an external auditor;
- relevant professional bodies who regulate organisations (including the Ombudsman);
- a solicitor;
- the police;
- Protect (Whistleblowing Charity) whistle@protect-advice.org.uk Telephone: 020 3117 2520
- the NSPCC's 'what you can do to report abuse' dedicated helpline is available as an alternative route for staff who do not feel able to raise concerns regarding child protection failures internally, or have concerns about the way a concern is being handled by the Service. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: help@nspcc.org.uk. Weblink - www.nspcc.org.uk/keeping-children-safe/reporting-abuse/dedicated-helplines/whistleblowing-advice-line

The disclosure of confidential information would normally constitute a serious disciplinary offence which could result in dismissal or other disciplinary action. Accordingly, if an employee did take the matter outside the Service or Shropshire Council they would need to ensure that either no confidential information is disclosed or that there are wholly exceptional circumstances which the Service would consider justified in the circumstances.

10. Standards of Conduct

Employees working within this Service are bound by the Service's Code of Conduct and employment policies, procedures and any other guidance issued by the school. Professional bodies also have Professional Standards of Conduct which their members must adhere to. Teachers must adhere to the Teacher's Standards.

Employees should also be aware of the Guidance for Safer Working Practice for Adults who work with Children and Young People in Education Settings.

All employees will be made aware of the standards which apply during induction and should ensure they make themselves aware of such standards of conduct and follow them at all times.

11. Follow Proper Procedures

One of the best ways of guarding against corruption is to ensure that proper procedures are followed - in the way decisions are taken, in the way contracts are awarded and in the way employees conduct themselves.

The most important of these procedures are described in the following procedural documents:

1. Code of Conduct for Staff (which includes Gifts and Hospitality)
2. Safer Recruitment Policy
3. Harassment and Bullying Procedure
4. Guidance for Safer Working Practice for Adults who work with Children and Young People in Education Settings.
5. Service Complaints Procedure
6. E-Safety Policy and Acceptable Use Policy
7. Safeguarding and Child Protection Policy

Actions which breach these procedures are not only unauthorised but will lead to loss of public confidence and even to corruption.

As with any other concerns on standards, you should report breaches of these procedures.

12. Monitoring and Review

The governing body will monitor the outcomes and impact of this policy/procedure on an annual basis in conjunction with Service representatives.

This procedure will be reviewed no later than 2 years by Human Resources in consultation with Trade Unions.