



*Great schools in which to learn, teach and belong.*

# Whistleblowing Procedure

This is a Tame River Educational Trust. As an employer the Trust will ensure that at every level, in all our work and throughout all aspects of the Trust communities, all will be treated equally, with respect and dignity, free from discrimination and harassment. Each person will be given fair and equal opportunities to develop their full potential regardless of their age, disability, gender, gender-identity, race, religion or belief, sexual orientation, socio-economic background and special educational needs. Our Trust will tackle the barriers which could lead to unequal outcomes for these protected groups, ensuring there is equality of access and that we celebrate and value the diversity within our Trust communities. The Trust will work actively to promote equality and foster positive attitudes and commitment to an education for equality.

## 1 Introduction

1.1 There is a balance to be struck between the right of the individual member of staff to speak freely on a range of matters and the right of the Trust, its schools or colleagues to protect themselves against false and malicious accusations.

## 2 Definition

2.1 Whistleblowing inside the work place is the reporting by workers or ex-workers, of wrong-doing such as fraud, malpractice, significant mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management, the Local Governing Body, Trust Board or by fellow employees. Workers may include, for example, contractors and agency workers.

2.2 The wrong-doing disclosed must be in the public interest, this means it must affect others, for example: students, other colleagues, the general public, etc.

2.3 The wrong-doing must report, or relate to one of the following:

- a criminal offence
- a failure to comply with a legal obligation
- a possible miscarriage of justice
- a Health & Safety risk
- damaging the environment
- misuse of public money
- corruption or unethical conduct
- abuse of pupils, students or other users
- deliberate concealment of any of these matters
- any other substantial and relevant concern.

2.4 The concern could be about something that has occurred, is occurring, or is likely to occur in the future.

2.5 Concerns or complaints that employees wish to raise formally, about their own employment, should normally be raised using the Trust's Grievance Procedure, unless the employee believes the concern is in the public interest. This includes for example, concerns related to working conditions, working relations, employment rights or bullying or harassment.

## 3 Principles Supporting the Procedure

3.1 Create an ethical, open culture that demonstrates that the Trust and its schools are committed to ensuring their affairs are carried out ethically, honestly and to high standards and that shows procedures are in place to protect public safety and public money.

Develop a culture of openness, accountability and integrity.

Help to curb corruption, fraud and significant mismanagement and uphold the reputation of the Trust and maintain public confidence.

Write, publish and communicate a code of conduct and ethics in each school.

3.2 Establish safe routes for communications of concerns:

Appoint individuals or a group outside the normal line-management to receive complaints of irregularities or other concerns.

### 3.3 Protect the whistle-blower:

Make it clear that the Trust and its schools will support and not discriminate against concerned employees provided any claim is made in good faith.

### 3.4 Establish a fair and impartial investigative procedure:

Make sure that the Trust and its schools respond to the concern by focusing on the problem, rather than denigrating the messenger.

### 3.5 Remind staff of the duty of confidentiality:

The duty of fidelity is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Trust or its schools fail to properly consider or address the issue.

### 3.6 Safeguard against abuse of the procedure:

Ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence.

### 3.7 Uphold the right to disclose a concern:

The individual member of staff has the right to disclose a concern/issue if the Trust does not deal with the matter.

### 3.8 Involve Governors and staff in developing the procedure:

To be effective there should be a sense of organisational ownership of a whistle-blowing procedure.

### 3.9 Review:

Ensure there is a review mechanism using the comments and experience of those who may have had reason to invoke the whistle-blowing procedure.

## 4 Legislation

4.1 The Public Interest Disclosure Act 1998 is designed to protect 'whistle blowers' from detriment and unfair dismissal. The people protected by the Act include workers, employees, third party contractor staff, agency workers and work experience providers.

4.2 Students may also have information which should be raised in the public interest and there should be proper procedures in place for them to air their concerns; e.g. a students' complaints' procedure.

4.3 Although an employee has certain legal obligations of confidentiality to the school, in a limited set of circumstances, whistleblowing may override these obligations. This guidance sets out the circumstances under which these disclosures may lawfully be made.

## 5 The Procedure

5.1 All parties need to agree that the issue raised will be kept confidential whilst an investigation takes place under this procedure.

5.2 The Representor (the person raising the concern) should:

- i Raise their concern with their line manager or the Headteacher. This may be done orally or in writing. The Representor has the right to have the matter treated confidentially.
- ii If the line manager believes the concern to be genuine and that it is appropriate to use the Whistleblowing Procedure, the manager should contact the Headteacher
- iii Should it be alleged that the Headteacher is involved in the alleged malpractice, the Chief Executive Officer, should be contacted to act as Assessor.
- iv If the Representor feels unable to raise their concern with their line manager or the Headteacher/Chief Executive Officer in the first instance, they may contact the Clerk to the Governing Body. If this occurs the Representor will be asked to justify why they feel unable to raise the concern with their line manager or the Headteacher/Chief Executive Officer.

5.3 The Assessor should:

- i interview the Representor within seven working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury;
- ii obtain as much information as possible from the Representor about the grounds for the belief of the wrong-doing or ;
- iii consult with the Representor about further steps which could be taken;
- iv advise the Representor of the appropriate route if the matter does not fall under the Trust's Whistleblowing Procedure;
- v report all matters raised under this procedure to the Trust Board.

5.4 At the interview with the Assessor, the Representor may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of Trust staff to take notes.

5.5 Within ten working days of the interview, the Assessor will recommend to the Headteacher one or more of the following:

- i the matter be investigated internally by the individual Academy/school
- ii the matter be investigated by the external auditors appointed by the Trust
- iii the matter be reported to the Department for Education
- iv the matter be reported to the Police
- v the route for the member of staff to pursue the matter if it does not fall within this procedure; or
- vi that no further action is taken by the Trust.

5.6 The grounds on which no further action is taken include:

- i the Assessor is satisfied that, on the balance of probabilities, there is no evidence that wrong-doing within the meaning of this procedure has occurred, is occurring or is likely to occur;
- ii the Assessor is satisfied that the Representor is not acting in good faith;
- iii the matter is already (or has been) the subject of proceedings under one of the Trust's other procedures or policies;
- iv the matter concerned is already the subject of legal proceedings, or has already been referred to the Police, the external auditors, the Department for Education or other public authority.

5.7 Should it be alleged that the Headteacher is involved in the alleged malpractice; the Assessor's recommendation will be made to the Chief Executive Officer, or, if against the CEO, then to the Relevant Person Officer of the Trust Board.

- 5.8 The recipient of the recommendation will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Governing Body in and the Trust Board.
- 5.9 The Representor's identity will be kept confidential unless the Representor otherwise consents or unless there are grounds to believe that the Representor has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representor except:
- i where the Assessor is under a legal obligation to do so;
  - ii where the information is already in the public domain;
  - iii on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice
  - iv where it is essential that the Representor provides evidence at a disciplinary hearing or other proceedings.
- 5.10 The conclusion of any agreed investigation will be reported by the Assessor to the Representor within twenty-eight days.
- 5.11 All responses to the Representor will be made in writing and sent to the Representor's home address.
- 5.12 If the Representor has not had a response within the above time limits, they may appeal to the Trust Board's external auditors, but will inform the Assessor before doing so.
- 5.13 The Representor may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.
- 5.14 The Trust will ensure the Representor is protected from any form of victimisation or discrimination.

## **6 Malicious Accusations**

- 6.1 Deliberately false or malicious accusations made by a Representor will be dealt with under the Trust's disciplinary procedure.

## **7 External Sources**

- 7.1 Whistleblowing to an external source without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the Representor is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the Headteacher or CEO, serious health and safety issues or possible discrimination. The external sources which could be used are:

- i Department for Education;
- ii Member of Parliament;
- iii National Audit Office;
- iv Health and Safety Executive;
- v Police.

- 7.2 The Trust will ensure the Representor is protected from any form of victimisation or discrimination.

## **8 Monitoring, Evaluation and Review**

- 8.1 The Trust Board will review this policy at least every two years and assess its implementation and effectiveness. The policy will be promoted and implemented throughout the Trust.

