



# The Holt School Whistleblowing Policy

**October 2019**

<b>Version</b>	<b>DATE</b>	<b>DESCRIPTION</b>
1	<b>November 2016</b>	Policy review
2	<b>October 2019</b>	<b>Periodic review</b>

Reviewed	<b>Date</b>
Responsibility	<b>School Business Director</b>
Committee	<b>Finance and Premises</b>
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## Summary of key changes

- Volunteers added to list of persons to whom the policy applies
- Contact details added to meet requirements of AFH 2019 and reflect staffing changes
- To reflect the introduction of GDPR
- Details of procedure for raising concerns around financial irregularity

## **1.0 Introduction**

- 1.1 The Holt School is committed to delivering high quality services to its customers and expects high standards from its employees and contractors. In order to maintain those high standards a culture of openness and accountability is vitally important. The aims of this policy are:
- to encourage you to raise concerns about malpractice within the organisation without fear of reprisal;
  - to reassure you that your concerns will be taken seriously; and
  - to provide information about how to raise your concerns and explain how the school will respond.
- 1.2 This policy applies to all school employees, former employees, volunteers, agency staff and contractors engaged by the school.
- 1.3 This policy does not form part of any employee's contract of employment and it may be amended at any time.

## **2.0 What is whistleblowing?**

- 2.1 In practical terms, whistleblowing occurs when a concern is raised about danger or illegality that affects others, e.g. clients, members of the public, or the school. As the person "blowing the whistle" you would not usually be directly affected by the danger or illegality. Consequently, you would rarely have a personal interest in the outcome of any investigation into your concerns. This is different from a complaint or grievance. If you make a complaint or lodge a grievance, you are saying that you personally have been poorly treated. This poor treatment could involve a breach of your individual employment rights or bullying and you are entitled to seek redress for yourself using the appropriate procedure. A qualifying disclosure means any disclosure of information that, in the reasonable belief of the worker is made in the public interest. As a result of this employees will generally be precluded from being able to "blow the whistle" about breaches of his or her employment contract. Although an employee making such a complaint can still use the school's grievance policy or complaints procedure as appropriate.
- 2.2 Examples of whistleblowing concerns are:
- fraud in, on or by the school
  - offering, taking or soliciting bribes;
  - unauthorised use of public funds;
  - financial maladministration;
  - the physical, emotional or sexual abuse of pupils/clients;
  - failure to comply with legal obligations;
  - endangering of an individual's health and safety;
  - damage to the environment;
  - a criminal offence;
  - failure to follow financial and contract procedure rules;
  - showing undue favour to a contractor or a job applicant;
  - misreporting performance data; or
  - neglect of people in care.

2.3 This Policy does not replace the school's complaints or grievance procedures.

### 3.0 Who should I contact?

3.1 Having considered this Policy, an employee of the school, or any other person covered by the Public Interest Disclosure Act (PIDA) 1998, who has serious concerns about any aspect of the school's work, should in the first instance raise their concerns using one of the following methods: **Inform their Line Manager or one of the Co-Headteachers**

- In many cases, raising concerns with the immediate line manager is the most appropriate route for an employee. The line manager should inform one of the Co-Headteachers of the disclosure and an appropriate course of action will be agreed. If this is not a suitable option (for example because the issue may implicate the manager or if the concern has been raised but remains unaddressed) the concern should be raised directly with one of the Co-Headteachers.

- **Chair of Governors**

If an employee's concern is about one of the Co-Headteachers, this should be raised with the Chair of Governors via the Clerk to Governors on 0118 9780165 or e-mail [c.hodges@holt.wokingham.sch.uk](mailto:c.hodges@holt.wokingham.sch.uk)

3.2 Matters should be dealt with internally. However, if you do not feel able to raise them internally, or if they have raised them internally but you are not satisfied with how it has been dealt with, you can contact the Director of Children's Services at Wokingham Borough Council on 0118 974 6055 to seek guidance on how to proceed, or one of the persons or individuals listed in section 8.

3.3 In the case of perceived financial irregularity, concerns may be raised with the Chair of the Finance and Premises committee via the Clerk to Governors on 0118 9780165. If the concerns remain, these should be raised with the Education and Skills Funding Agency (ESFA) using their contact form: <https://www.gov.uk/guidance/how-esfa-handles-whistleblowing-disclosures>

### 4.0 Legal Protection

4.1 The Public Interest Disclosure Act (PIDA) 1998 amended the Employment Rights Act 1996 to protect employees and workers from being dismissed or subjected to a detriment because they have made a 'protected disclosure'. The law protects workers who act in the public interest and who reasonably believe that the wrongdoing or malpractice falls within one of the categories in paragraph 4.2 below. This will amount to a 'protected disclosure'.

4.2 It applies to making a 'protected' disclosure in respect of specific types of malpractice that the worker reasonably believes has occurred, is occurring or is likely to occur:

- (a) that a criminal offence has been committed, is being committed or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) that the health or safety of any individual has been, is being or is likely to be endangered;
- (e) that the environment has been, is being or is likely to be damaged; or

(f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

#### 4.3

The Act covers, and encourages, 'internal disclosures', which are disclosures made to the school as the employer. However, there is also a list of 'prescribed persons' to whom workers can make qualifying disclosures subject to the provisions set out in paragraph 5 below. Disclosures to a prescribed person will only be protected if the worker reasonably believes that the concern raised falls within the remit of the proscribed person in question; and the information disclosed is substantially true.

Wider disclosure to anyone else is only protected if the worker believes that the information is substantially true, is not made for personal gain, and is subject to the provisions set out in paragraphs 5.2 and 5.3 below.

### 5.0 Raising Concerns outside the school

5.1 In certain circumstances it may be appropriate to raise concerns outside the school or Council to the appropriate 'prescribed person', which includes prescribed regulators. This should only be done where any disclosure of information that is made in the public interest and where you believe the information is substantially true, i.e. more than just suspicion. You are advised to discuss your concerns with a legal advisor, trade union or Public Concern at Work before reporting them outside the school or Council. Examples of prescribed regulators are set out below:

- The Audit Commission;
- The Standards Board for England;
- Information Commissioner;
- Environment Agency;
- Health and Safety Executive;
- Commissioner of the Inland Revenue;
- Ofsted;
- General Social Care Council;
- Care Quality Commission;
- The Commission for Social Care Inspection; and
- National Care Standards Commission.

5.2 As a last resort you may choose to raise your concern outside the school to someone other than a prescribed regulator, e.g. to the police or your MP. You should only do this if, in addition to the conditions above, they meet one of three preconditions. Provided the disclosure is reasonable in all the circumstances and is not made for personal gain, the preconditions are that you:

- reasonably believed that you would be victimised if you raised the matter internally within the school; or
- reasonably believed that the matter would be 'covered up' and there is no prescribed regulator; or
- have already raised the matter internally or with a prescribed regulator

5.3 It should be noted that wider disclosures (i.e. to the media) can only be protected where there is a justifiable cause for going wider and where the particular disclosure is reasonable. The school therefore encourages concerns to be raised initially using one of the methods described in section 3 of this Policy and suggests that you take advice before making any wider disclosure. Details of organisations that can provide advice are set out in paragraph 9 below.

## 6.0 Making a protected disclosure

6.1 This policy is intended to allow the internal investigation and resolution of any concerns raised. In accordance with the PIDA 1998, to make a 'protected' disclosure the whistleblower has to meet certain conditions:

- A qualifying disclosure means any disclosure of information that, in the reasonable belief of the worker is made in the public interest. Therefore, while the employer can seek a declaration from the whistleblower that he or she is not knowingly making false allegations, disciplinary action is likely to be appropriate only where there is clear evidence that the reporting worker has misused the whistleblowing policy. Disclosure to a regulatory body will be protected where, in addition, the whistleblower honestly and reasonably believes that the information they provide and any allegation contained in it are substantially true.
- Disclosure to the school will be protected if it is made in good faith and the whistleblower has a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur.
- Disclosure to a regulatory body will be protected where, in addition, the whistleblower honestly and reasonably believes that the information they provide and any allegation contained in it are substantially true.
- Disclosure to other external bodies will be protected if, in addition, making it is in all respects reasonable. 'In all respects reasonable' means, in effect:
  - the disclosure is not made for personal gain;
  - the whistleblower reasonably believed that they would be victimised if they raised the matter internally;
  - there is no relevant regulatory body;
  - the whistleblower reasonably believed that evidence was likely to be concealed or destroyed;
  - the concern has already been raised with the employer and/or relevant regulatory body; and
  - the concern is of an 'exceptionally serious' nature – which in a school setting could include, say, the alleged abuse of children in the school's care.

6.2 This may be done orally or in writing. If you are writing, remember to give details of how you can be contacted. Anonymous disclosures present difficulties for effective investigation your identity will be kept strictly confidential if you so request, unless disclosure is required by law. However the school recognises that despite the dual safeguards of confidentiality and legal protection from recrimination that individuals may still feel unable to reveal their identity. In these situations individuals can report their concerns anonymously, but should be aware that these concerns carry less weight with the investigation teams and the disclosure may not be sufficiently detailed to provide a successful investigation.

- 6.3 Allegations that are malicious, or allegations made for personal gain, may result in action against the person making them. If an allegation is made in good faith, but is not confirmed by an investigation, no action will be taken against the person who raised the concern.
- 6.4 It is preferable that a whistleblowing concern be raised as soon as there is reasonable suspicion. Employees are not expected to investigate the matter themselves or prove that their concern is well-founded.
- 6.5 The school recognises that the decision to report a concern can be difficult. If you report the concern in good faith, the school will not tolerate any harassment or victimisation against you. Any employee who is found to have victimised or harassed an employee who raised a concern will face disciplinary action.
- 6.6 Anyone who has made a protected disclosure will not suffer any detriment as a result of raising their concern unless it is later proved that they knew they were providing false information. In addition, whistleblowers are protected from suffering a detriment, bullying or harassment from another worker. Examples that could amount to a detriment include (but are not limited to):
- a) failure to promote, if linked to the disclosure;
  - b) denial of training;
  - c) closer monitoring;
  - d) ostracism;
  - e) blocking access to resources;
  - f) unrequested re-assignment or re-location;
  - g) demotion;
  - h) suspension;
  - i) disciplinary sanction;
  - j) bullying or harassment;
  - k) victimisation;
  - l) dismissal;
  - m) failure to provide an appropriate reference; or
  - n) failing to investigate a subsequent concern.

## **7.0 How will the school respond?**

- 7.1 The action taken by the school will depend on the nature of the concern. The matters raised may:
- be investigated internally
  - be referred to the Police;
  - be referred to the external auditors
  - form the subject of an independent inquiry
  - be considered a service issue and referred to the service to respond by any combination of the above.
- 7.2 Feedback on the outcome of the concern will be given to the person raising the concern. This feedback may be limited due to legal obligations of confidentiality (i.e. if disciplinary

action is taken against a school employee). The person raising a concern should normally be told:

- a) how and by whom a concern will be handled;
- b) an estimate of how long an investigation will take;
- c) the outcome of the investigation (where appropriate);
- d) that if they believe they are suffering detriment as a result of raising the concern that they should report it;
- e) that he or she is entitled to independent advice.

## **8.0 What if I am dissatisfied with the school's response?**

8.1 This policy is intended to provide you with an avenue to raise concerns within the school. However, if at the end of the process an employee of the school, or any other person covered by the Act, is not satisfied with how a disclosure has been dealt with and wishes to pursue matters by means of a wider disclosure, the following points of contact are available to you:

- your local Council Member (if you live in the area of the borough);
- the Audit Commission;
- relevant professional bodies or regulatory organisations;
- relevant inspection body;
- your solicitor; or
- the Police.

8.2 If you do decide to take the matter outside of the school you need to ensure that you do not disclose confidential information and that you are 'protected' in accordance with the PIDA 1998 (as referenced in this Policy). If you wish to raise a concern outside of the school, you may raise it with an external body from the list of prescribed persons and bodies detailed in the 'Department for Business Innovation & Skills 'Blowing the Whistle to a Prescribed Person' document: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>. (updated May 2019). You should seek your own advice if you are unsure about whether to raise the matter outside of the school.

## **9.0 Whistleblowing and GDPR**

9.1 Whilst a large proportion of whistleblowing reports are made anonymously, many will contain personal data that is divulged as part of the reporting process. The processing of personal data can aid the effective operation of a whistleblowing process as it allows a more detailed investigation to take place.

Any individual undertaking a disclosure under this policy must first of all consent to the processing of their data. This will be processed in accordance with the principles and protection of the Data Protection Act 2018.

Further details can be obtained from the School's Data Protection Officer.

## **10.0 Further information and advice**

10.1 Independent advice on 'whistleblowing' can also be obtained from the charity Public Concern at Work and from the Audit Commission.

Contact details for these organisations are:

- Public Concern at Work  
Suite 306, 16 Baldwins Gardens, London EC1N 7RJ  
Helpline: 020 7404 6609 Email: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)
- Professional Body or Trade Union  
If you are a member of a professional body or trade union they should be able to advise on Whistleblowing.