

WHISTLEBLOWING POLICY

Mission Statement

WeST holds a deep seated belief in education and lifelong learning. Effective collaboration, mutual support and professional challenge will underpin our quest to ensure that all of the children and adults we serve are given every opportunity to fulfil their potential and succeed in life.

Westcountry Schools' Trust adopted this policy in September 2017

Westcountry Schools' Trust will review this policy annually

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1 Introduction

"Whistleblowing" is the term used when someone who works for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public, a vulnerable adult, child or the Trust's (or one of its schools) own reputation. When someone blows the whistle it is to raise a concern about a danger or illegality that concerns others. The Public Interest Disclosure Act 1998 provides protection from staff who disclose information which might otherwise be regarded as confidential.

The Public Interest Disclosure Act 1998 was enacted to ensure a climate of greater frankness between employers and workers so that irregularities can be identified and addressed quickly and to strengthen employment rights by protecting responsible workers who blow the whistle about wrongdoing or failures in the work place. The policy set out in this document applies those statutory provisions to the Westcountry Schools Trust.

Employees are often the first to realise that something wrong may be happening within the school. However, they may feel unable to express their concerns either because they feel that speaking up would be disloyal to their colleagues or to the school or because they fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern than to report what may just be a suspicion of malpractice.

All staff have a responsibility for the safety of children and vulnerable adults and to this end should report any concerns through the means identified in this Policy

Westcountry Schools Trust is committed to doing things right with the highest possible standards of openness and accountability as is shown in the school's Code of Conduct which is available on your school intranet; a copy is also available from the Clerk to the Trust Board on request. In line with that commitment it encourages employees and others with serious concerns about any aspect of the school's work to come forward and voice those concerns. It recognises that certain cases will have to proceed on a confidential basis. This policy makes it clear that employees can do so without fear of reprisal and is intended to encourage and enable employees to raise serious concerns within the school rather than overlooking a problem or publicly disclosing the matter.

This policy has been discussed with the relevant trade unions and professional organisations and has their support. Seeking advice from, and being represented by, your trade union may be the best course of action to raise any issue under this policy. The school recognises and endorses the role which trade unions and their officers play in this process.

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2 Aims and Scope of this Policy

This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
- Provide avenues for you to raise those concerns and receive feedback on any action taken
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- Reassure you that you will be protected from possible victimisation if you have a reasonable belief that you have made a disclosure in good faith

This policy covers concerns that fall outside the scope of other procedures. It is not intended as recourse against financial or business decisions made by the school. Nor is it an alternative to well-established disciplinary or grievance procedures. It may, however, overlap with other policies for dealing with complaints.

What is the difference between a grievance and whistleblowing

This procedure is for disclosure about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his or her own contract has been, or is likely to be, broken, he/she should use the Trust's grievance procedure. This means of the concern is about pay, working hours or conditions the person raising the grievance is likely to have a vested interest; the disclosure may, therefore not be in the public interest.

Concerns raised under the Whistleblowing Policy should be about something that is in the public interest and is or may be:

- unlawful or a criminal offence;
- a breach of legal obligation (but not a personal contractual breach unless such breach involves a matter of public interest);
- a miscarriage of justice;
- mistreatment or abuse of a student or a member of the public for whom the school has a responsibility which may include the grooming of the person in question;
- in disregard of legislation governing health and safety at work;
- seeking undue favour over a contractual matter or a job application; or against the a School's Financial Regulations;
- has led to or could lead to a damage to the environment;
- deliberately covers up information tending to show any of the above.

From 25 June 2013, a disclosure has not been protected unless the employee reasonably believes that the disclosure is made in the public interest.

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3 Safeguards

Harassment or Victimisation

Westcountry Schools Trust recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Trust will take action to protect you when you raise a concern in good faith. It will not tolerate any resulting harassment or victimisation (including informal or indirect pressures) and will treat this as a serious disciplinary offence which will be dealt with under the appropriate procedures.

Any investigation into an allegation of malpractice will not influence or be influenced by any disciplinary or redundancy procedures which already affect you. If allegations of malpractice arise during a disciplinary, those allegations will be investigated at the same time as the disciplinary procedure.

Confidentiality

All concerns will be treated in confidence and the Trust will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation which is sufficiently serious to warrant disciplinary action or police involvement then your evidence may be important. Your name will not however be released as a possible witness until the reasons for its disclosure at this stage have been fully discussed with you.

Anonymous Allegations

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful but they will be considered at the discretion of the Trust against the following criteria;

- the seriousness of the issues raised
- the likelihood of confirming the allegation from attributable sources
- the schools' best interests
- the protection of the school's assets.

You should also bear in mind that if you do choose to raise a concern anonymously it will be more difficult for the matter to be investigated and for you to be provided with feedback. For this reason, where you wish to raise your concerns anonymously, this may best be done through your trade union.

Untrue Allegations

If you make an allegation in good faith but it is not confirmed by the investigation, no reprisals will be taken against you. If, however, you knowingly make malicious or vexatious allegations, disciplinary action may be taken against you.

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PROCEDURE

NB. For the purpose of this Policy the term “**Responsible Officer**” will refer to either Principal, Head teacher, CEO or Executive Primary Principal.

4 How to Raise a Concern

Initially, you should raise your concerns by discussing the matter with the Responsible Officer. If you are a member of a Trade Union or Professional Association you may consider it useful to contact them for advice at the earliest opportunity.

If the concerns involve the Principal/Headteacher or it is not appropriate due to the nature of your concerns you should initially raise the concerns with Chief Executive Officer / Executive Primary Principal or the Chair of Trust.

The individual receiving the concern will be referred to as the 'lead officer' throughout the remainder of the policy.

The lead officer will then liaise accordingly to ensure that the concern is properly investigated. If the allegations arise from a disciplinary matter, they will be investigated as part of the disciplinary investigation.

Alternatively, if you feel you cannot express your concerns as detailed above, you can raise your concern(s) externally to one of the bodies listed on the 'List of prescribed persons and bodies'.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf

Where the concern relates to a child protection matter and you do not wish to raise it via the school, you should inform the Local Authority Designated Officer for Safeguarding.

Devon Schools, please contact ladosecure-mailbox@devon.gsx.gov.uk or 01392 384964;
Cornwall Schools, please contact safeguardingboards@cornwall.gov.uk or 01872 327225
Plymouth Schools, please contact simon.white@plymouth.gcsx.gov.uk or 01752 307535

If the concern requires Police or other agency/authority involvement, the whistleblowing process will be halted until the relevant agencies have completed any necessary investigations and confirmed that it is appropriate to continue with the Whistleblowing procedure. Failure to report abuse could leave the Trust open to non-compliance with our legal duty to refer appropriate matters to the Disclosure and Barring Service.

Concerns can be raised orally but it is good practice for the concern to be recorded in writing at an early stage to ensure that all the details are correctly understood.

A written allegation should set out the background and history of the concern (giving names, dates and places where possible) and the reason why you are particularly concerned about the situation. It is preferable for you to record this in writing yourself. However, where the person to whom you voice your concerns writes these down, a copy

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will be sent to your home address or via your representative (Trade Union/Professional Association) to give you an opportunity to agree this as a correct record.

Although you are not expected to prove the truth of your allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

You may wish to seek advice from your trade union representative on how best to raise your concern. Where you wish to raise your concern anonymously this may be done through your trade union.

5 How the Trust will respond

The action taken by the Trust will depend on the nature of the concern. After initial enquiries to assess the seriousness, the matters raised may;

- Be investigated by the school leadership, internal audit or through the disciplinary process
- Be referred to the Police
- Be referred to external auditors
- Need to be the subject of a referral to the National College for Teaching and Leadership
- Form the subject of an independent enquiry

If urgent action is required in response to a concern this may be taken before a full investigation is conducted.

Some concerns may be resolved by action agreed with you without the need for investigation or it may be that an investigation can be completed without the person(s) under investigation being aware of the process.

In any event within five working days of a concern being received, the school will write to you at your home address to:

- acknowledge that the concern has been received
- indicate how it proposes to deal with the matter
- give an estimate of how long it will take to provide a final response
- tell you whether any initial enquiries have been made, and
- tell you whether further investigation will take place, and if not, why not
- where appropriate, name an independent Support Officer to support you during any investigation.

Following discussion with you, where it is felt appropriate to appoint a Support Officer, that person will make contact with you, deal with all confidentiality issues, agree frequency of contact and explain their role to you, which is to:

- keep you informed about the progress of the investigation
- inform the Investigating Officer of any further issues you may have
- raise any concerns you may have about the conduct of the investigation
- take appropriate steps to support you in the workplace

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- support you if you are required to give evidence at any criminal or disciplinary proceedings that arise from your concern.

If you wish to retain your anonymity you will need to nominate a representative and/or a contact address where correspondence may be directed in order to keep you informed.

The amount of contact between Investigating Officers and you 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 you.

When any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union or professional association representative or a friend (who need not be associated with the school).

The Trust accepts that you need to be assured that the matter has been properly addressed. Accordingly, subject to legal and/or confidentiality constraints, the Trust will ensure that you are provided with information about the outcome of any investigations and/or proceedings.

6 Detriment

The Trust is committed to ensuring that an employee who makes an allegation in good faith suffers no detriment from doing so.

7 How the matter can be taken further

This policy is intended to provide you with a way to raise concerns within the school. The school hopes you will be satisfied by its response. If you are not you may wish to raise the matter with one of the following possible contact points;

- relevant professional bodies or regulatory organisations
- your trade union or professional association
- your solicitor or legal adviser
- the Police
- the Health and Safety Executive
- 'Public Concern at Work' – Registered Charity

Public Concern at Work is an independent charity which specialises in providing individuals and organisations with free confidential and practical advice about raising concerns at work. They can help you identify how to raise a concern while minimising any risk to you and maximising the opportunity for any wrongdoing to be addressed. Please find their leaflet attached at appendix 1.

8 Monitoring arrangements

The Trust's Monitoring Officer(s) are the Responsible Officers. The Monitoring Officer must be notified as soon as a concern or complaint has been received. The Monitoring Officer will report to the Board of Trustees as necessary. The Chief Executive Officer has overall responsibility for the maintenance and operation of the Whistleblowing Policy.

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Anonymised Data may be shared on request with the appropriate Safeguarding Board for the disclosure made.

GENERAL INFORMATION

9 Consultation

This policy is provided following consultation with trade unions/professional associations and will apply to all employees. This policy is also for the Trust to consider for adoption. Should the Trust wish to make changes to this Policy, the required consultation must be undertaken with the recognised trade unions/professional associations.

This policy supersedes all previous whistleblowing policies.

10 Policy history

Policy Date	Summary of change	Contact	Version/ Implementation Date	Review Date
January 2016	New Policy Date of consultation with recognised Trade Unions – Dec 2015	HR ONE	January 2016	
October 2016	Amalgamation of CCC and DCC policies	IAT HR		
April 2017	Updated with delegation of authority and new MAT name	WeST HR	May 2017	
September 2017	Publication Date	WeST HR	September 2017	Annually

11 Alternative Formats

We want to ensure that your needs are met.

If you would like this information on audio tape, Braille, large print, any other format or interpreted in a language other than English, please contact:

Westcountry Schools Trust
Harford Road
Ivybridge
PL21 0JA

01752 691000

HR@ivybridge.devon.sch.uk

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arrangements, including:

- a) the number and types of concerns raised;
- b) any relevant litigation; and
- c) staff awareness, trust and confidence in the arrangements.

Anonymity and confidentiality

9. The best way to raise a concern is to do so openly. Openness makes it easier for the employer to assess the issue, work out how to investigate the matter and obtain more information. A worker raises a concern confidentially if he or she gives his or her name on the condition that it is not revealed without his or her consent. It is important that this is a clear option for anyone to use when raising a concern.

10. A worker raises a concern anonymously if he or she does not give his or her name at all. If this happens, it is best for the organisation to assess the anonymous information as best it can to establish whether there is substance to the concern and whether it can be addressed. Clearly if no-one knows who provided the information it is not possible to reassure or protect them.

Examples of Detriment

11. The code at paragraph 5(c) requires an assurance that a worker will not suffer a detriment for having raised a concern. Paragraph 6 of the code states that an employer

should also sanction those who subject an individual to detriment. Subjecting a worker to a detriment means subjecting the worker to 'any disadvantage' because they blew the whistle. This could include (but is not limited to) any of the following:

- a) failure to promote;
- 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.

Part IV of the Employment Rights Act 1996 – The Public Interest Disclosure Act

12. PIDA sets out a framework for a worker to make disclosures about the following categories of wrongdoing, provided that they reasonably believe it to be in the public interest to do so:

- a) criminal offences;
- b) failure to comply with legal obligations;
- c) miscarriages of justice;
- d) dangers to health or safety;
- e) dangers to the environment;
- f) deliberate concealment of any of the above categories.

13. This disclosure will be protected if the workers discloses:

- a) in course of obtaining legal advice;
- b) to the employer;
- c) in certain circumstances, to a Minister of the Crown;
- d) to a 'prescribed person,' reasonably believing that the information and any allegation contained within it are substantially true. The Secretary of State (in practice the Secretary of State for Business, Innovation and Skills) prescribes by list both the identity of the prescribed person (usually regulatory body) and its remit;
- e) to any person or body

provided that a number of detailed conditions are satisfied. Those conditions include a requirement that the worker does not make the disclosure for purposes of personal gain and a requirement that it is reasonable to make the disclosure in the circumstances. A further section makes provision for a disclosure of an exceptionally serious failure to any person or body.

14. The Act makes it unlawful for an employer to dismiss or subject a worker to a detriment for having made a 'protected disclosure' of information. The protection provided by the Act is not subject to any qualifying period of employment and so is referred to as a 'day one' right in employment law. By contrast under ordinary unfair dismissal, there is a two year qualifying period.

Settlement agreements

15. In the light of section 43J ERA 1996 (anti-gagging provisions in PIDA) employers drafting settlement agreements should not include a clause which precludes a worker from making a protected disclosure.

Further information

If you want to learn more about the Code of Practice and how Public Concern at Work can help you please contact services@pcaw.org.uk or 020 3117 2520.

The report of the Whistleblowing Commission can be found here: www.pcaw.org.uk/whistleblowing-commission.

**public
concern
at work**

the whistleblowing charity

The Whistleblowing
Commission

Code of Practice

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The Whistleblowing Commission, established in 2013 by whistleblowing charity Public Concern at Work, developed a Code of Practice for effective whistleblowing arrangements. The Commission recommended that this is rooted in statute, can be taken into account in court cases and by regulators. To find out more about the code, contact Public Concern at Work on 020 3117 2520.

The Code of Practice

Every employer faces the risk that something will go badly wrong in their organisation and ought to welcome the opportunity to address it as early as possible. Whenever such a situation arises the first people to know of such a risk will usually be "workers"^[1] yet while these are the people best placed to speak up before damage is done, they often fear they have the most to lose if they do (otherwise known as "whistleblowing").

This Code of Practice provides practical guidance to employers, workers and their representatives and sets out recommendations for raising, handling, training and reviewing whistleblowing in the workplace.

[1] Worker is defined in section 230 of the Employment Relations Act 1996

1. This Code sets out standards for effective whistleblowing arrangements. It is designed to help employers, workers and their representatives deal with whistleblowing.
2. Whistleblowing is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others.
3. When developing whistleblowing arrangements employers should consult staff and their representatives.

Written Procedures

4. As part of the whistleblowing arrangements, there should be written procedures covering the raising and handling of concerns. These procedures should be clear, readily available, well-publicised and easily understandable.
5. The written procedures for raising and handling concerns:

- a) should identify the types of concerns to which the procedure relates, giving examples relevant to the employer;
- b) should include a list of the persons and bodies with whom workers can raise concerns, this list should be sufficiently broad to permit the worker, according to the

circumstances^[2] to raise concerns with:

- i. the worker's line manager;
- ii. more senior managers;
- iii. an identified senior executive and /or board member; and
- v. relevant external organisations (such as regulators);

c) should require an assurance to be given to the worker that he/she will not suffer detriment for having raised a concern, unless it is later proved that the information provided by the worker was false to his or her knowledge;

d) should require an assurance to be given to the worker that his or her identity will be kept confidential if the worker so requests unless disclosure is required by law;

e) should require that a worker raising a concern:

- i. be told how and by whom the concern will be handled;
- ii. be given an estimate of how long the investigation will take;
- iii. be told, where appropriate, the outcome of the investigation^[3]

[2] By "according to the circumstances" we mean workers should be able bypass the line manager, where they fear that they will suffer a detriment or that their concern will not be listened to.

[3] The Data Protection Act, on-going investigations, or the rights of third parties may impact the ability to provide feedback.

iv. be told that if the worker believes that he/she is suffering a detriment for having raised a concern, he/she should report this; and

v. be told that he/she is entitled to independent advice.

6. The employer should not only comply with these procedures but should also sanction those who subject an individual to detriment because he/she has raised a concern and should inform all workers accordingly.

Training, Review and Oversight

7. In addition to the written procedure for raising and handling concerns, the employer should:

- a) identify how and when concerns should be recorded;
- b) ensure, through training at all levels, the effective implementation of the whistleblowing arrangements;
- c) identify the person with overall responsibility for the effective implementation of the whistleblowing arrangements;
- d) conduct periodic audits of the effectiveness of the whistleblowing arrangements, to include at least:
 - i. a record of the number and types of concerns

raised and the outcomes of investigations;

ii. feedback from individuals who have used the arrangements;

iii. any complaints of victimisation;

iv. any complaints of failures to maintain confidentiality;

v. a review of other existing reporting mechanisms, such as fraud, incident reporting or health and safety reports;

vi. a review of other adverse incidents that could have been identified by staff (e.g. consumer complaints, publicly or wrongdoing identified by third parties);

vii. a review of any relevant litigation; and

viii. a review of staff awareness, trust and confidence in the arrangements.

e) make provision for the independent oversight and review of the whistleblowing arrangements by the Board, the Audit or Risk Committee or equivalent body. This body should set the terms of reference for the periodic audits set out in 7(d) and should review the reports.

8. Where an organisation publishes an annual report, that report should include information about the effectiveness of the whistleblowing