



# Whistleblowing Policy

## Document Review

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## Equality Statement

Aylesford School promotes equality of opportunity. We are committed to take a positive stand to ensure all stakeholders have a right to equality of opportunity and achievement regardless of race and ethnicity, faith, belief and religion, disability and access, age, gender identification, sexual orientation, and marital status.

Equality of opportunity is related to all areas of the schools work and is a fundamental aspect of the ethos of the school.

## **Whistleblowing Policy**

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### **1. Introduction**

1.1 The Nolan Committee's Second Report on Standards in Public Life recommended that a procedure should be put in place which would enable concerns to be raised confidentially inside and, if necessary, outside the school organisation, about malpractice. The Public Interest Disclosure Act was subsequently introduced to provide protection to workers who raise reasonable concerns in the workplace.

1.2 Members of staff are often the first to realise that there may be something seriously wrong within a school that should be known in the public interest. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. Similarly students may become aware of activities or practices which they believe are not in the interests of the School.

1.3 Aylesford School subscribes to the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It encourages members of staff to raise genuine concerns about malpractice at the earliest practicable stage rather than wait for proof. Malpractice within the School is taken very seriously.

1.4 The following procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the School. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally and, if necessary, externally without fear of adverse repercussions to the individual. It is also

intended to promote throughout the School a culture of openness and a shared sense of integrity by inviting all employees to act responsibly in order to uphold the reputation of the School and maintain public confidence.

1.5 The Whistleblowing procedure is not meant to be an alternative mechanism for employees to raise individual grievances about personal issues. School's Grievance Procedure is already in place to deal with such matters.

## **2. Definition of Whistleblowing**

2.1 There is no legal definition of 'Whistleblowing' either within European Community Law or UK Law. The term 'Whistleblowing' is used when a current or former employee or student raises internally or publicly discloses problems within an organisation. Such problems can include fraud and financial irregularities, serious maladministration and dangerous acts or omissions which create a risk to health, safety or the environment. It does not include mismanagement, which may arise from, for example, weak management rather than malpractice.

## **3. Examples of Malpractice**

3.1 As 'malpractice' is not easily defined the following are examples only and the list is not deemed to be exhaustive. It is the right of the employee raising the concern to interpret their definition of what he/she considers to be malpractice:

- Suspected allegation of fraud
- Financial irregularities
- Corruption
- Bribery
- Dishonesty
- Acting contrary to the School Code of Ethics
- Criminal activities
- Creating or ignoring a serious risk to health, safety or the environment
- Failing to comply with a legal obligation
- Miscarriage of justice

## **4. Public Interest Disclosure Act**

4.1 The Public Interest Disclosure Act gives protection for workers against detriment or dismissal for raising concerns about matters in the public interest. The Act seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with such concerns. It protects disclosure if an employee can show one of the following:

4.1.1 That a criminal offence has been committed, is being committed, or is likely to be committed.

4.1.2 That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject.

4.1.3 That a miscarriage of justice has occurred, is occurring or is likely to occur.

4.1.4 That the health or safety of any individual has been, is being or is likely to be endangered. There must be indicated a greater danger than is associated with the normal operation or use of the process/product, or a danger that is not normally associated with it.

4.1.5 That the environment has been, is being or is likely to be damaged.

4.1.6 That information tending to show any matter falling within any one of the above has been, is being or is likely to be deliberately concealed.

4.2 Management and staff should be aware that victimising employees or students, or deterring them from raising a concern about malpractice is also viewed as a serious disciplinary offence, which may also expose the School to a claim for compensation in the Employment Tribunal, and will be dealt with in the same manner.

## **5. Respecting Confidentiality**

5.1 Any employee or student who follows the official procedure to report a concern of malpractice will have the matter treated confidentially and will not have his/her name disclosed to the alleged perpetrator of malpractice without the complainant's prior approval.

## **6. Raising a Concern of Malpractice**

6.1 An employee or student (the Discloser) may raise a concern of alleged malpractice orally or in writing with any line manager within the School organisation or who will then report the concern to the Chair of Governors. It is also open to any other person connected with, or having an interest in, the School to raise such a concern.

6.2 The person to whom the concern is presented is not to adjudicate on the matter in any way. He/she is required to act in a professional manner and:

6.2.1 Remember there are two sides to every concern.

6.2.2 Listen carefully to the concern, taking full notes as appropriate to record an oral concern or to amplify any specific points of a written one.

6.2.3 Request and heed legitimate concerns about the employee's or student's own safety or career.

6.2.4 Advise the Discloser that the matter will be treated seriously, that it will be forwarded for investigation and that the outcome will be reported back to him/her as soon as possible after the investigation has been completed.

No format for the expression of written concerns has been given, to avoid unintentionally directing the style or content of such submissions. It is for the Discloser to decide the format and content of his/her submission.

6.3 The person to whom the concern is expressed must forward it to a Designated Officer within 24 hours and is responsible for ensuring strict confidentiality on the subject. Any breach of confidentiality will be treated as a serious disciplinary matter if the person receiving notice of the concern is found to have been responsible for such a breach.

## **7. Misuse of Whistleblowing Procedure**

7.1 Should an employee or student raise a concern under this procedure which is subsequently found to be a deliberately false and malicious accusation this will be viewed as a serious disciplinary matter and dealt with under the School's Disciplinary Procedures.

## **8. Designated Officer**

8.1 The School has appointed the following Designated Officers (DO) for the purposes of investigating concerns of malpractice:

- Headteacher
- Deputy Headteacher
- Clerk to the Governors
- Chair of Governors

8.2 The roles of DOs are to:

- Advise the Discloser of the appropriate procedure to follow if the issue raised does not fall under the Whistleblowing procedure.
- Initiate investigations into matters which do fall within the scope of the Whistleblowing procedure.
- Make recommendations for appropriate remedial action if required.

The Headteacher is responsible for arranging training for DOs in the use of this procedure. The Chair/Clerk will report to the Governors, all cases which have been dealt with under the procedure.

8.3 The Discloser may choose which DO he/she wishes to carry out an initial assessment of the concern which he/she has raised. A DO may however decline to be involved if he/she has any possible previous involvement or interest in the matter concerned or if unavailable at the time.

## **9. Initial Assessment**

9.1 On receipt of disclosure of a concern the DO will offer to meet the Discloser, in confidence, within seven working days or immediately if there is any danger of loss of life or serious injury. The purpose of the meeting will be for the DO to obtain as much information as possible about the ground for the Discloser's belief that malpractice has occurred or is likely to occur.

9.2 The Discloser may be accompanied by a Trade Union representative, work colleague or friend at the meeting. If the accompanying person is a legal adviser, this should be made known to the DO in advance. The DO will be accompanied by an Administrative Assistant to take notes; these notes will not identify the Discloser. Disclosure under this procedure shall, wherever possible, be in writing but, if this is not practicable, such disclosure may be oral, at the choice of the Discloser. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for concern about malpractice.

9.3 After considering the information obtained at the initial meeting the DO will, within five working days or immediately if there is any perceived danger of loss of life or serious injury, agree with the Discloser to whom to refer a summary of the information obtained at the meeting. The summary will include recommendations as to action to be taken in response to the disclosure and will normally be referred to the Head of School and Headteacher unless it is alleged that he/she is involved in any malpractice or there are other valid reasons for not doing so. In such cases the summary will be passed to the Chair or Vice-Chair of the Governors.

9.4 The recommendations in the summary may include one or more of the following:

- That the matter should be investigated internally using appropriate School Managers, or other investigators appointed by the School.
- That a member of staff should be given the opportunity to seek redress through the School Grievance Procedure, or a student through the Complaints Procedure.
- That the matter should be reported to the Local Education Authority.
- That the matter should be reported to the police.
- That no further action should be taken.

9.5 The grounds on which the DO could legitimately recommend no further action by the School include the following:

- That the DO is satisfied that, on the balance of probabilities, there is no evidence of malpractice.
- That the DO believes that the Discloser is not acting in good faith.
- That the matter is already (or has been) the subject of proceedings under one of the School's other procedures.
- That the matter concerned is already the subject of legal proceedings, or has already been referred to the Local Authority.

If the recipient of the summary decides not to act on any of the recommendations, that decision will be notified in writing to the Chair of the Governors giving full reasons for the decision.

## **10. Notification of Outcome**

10.1 Once the Headteacher (or other recipient) has decided what further action (if any) should be taken, the DO will inform the Discloser in writing of the decision. If no further action is proposed, the DO will give the reasons for this. If the outcome is the activation of the Disciplinary or Grievance procedures, then the confidentiality required under these procedures will be observed, which may mean that the Discloser is not informed of the specific outcome of those procedures. The DO will inform the Discloser that appropriate action has been taken, without describing the detail.

## **11. Appeal**

11.1 If the Discloser has not had a response within the above stated time limits or is dissatisfied with the outcome of the procedure he/she may, within five working days of receiving notification of the outcome from the DO, submit an appeal to a Review Panel comprising of three Governors. The Review Panel will make a final decision on action to be taken and will notify the Discloser, through the DO, of the outcome.

## **12. External Disclosure**

12.1 If, having followed this procedure, the discloser remains dissatisfied with the outcome, he/she may raise the matter with the Police or Local Authority. Before taking such action, however, the Discloser will inform the DO.

12.2 The Discloser may also raise the matter in accordance with para 12.1 above if he/she has reasonable grounds for believing that all the available DOs are or were involved in the alleged malpractice or that the discloser will be subjected to detriment as a result of making the disclosure.

12.3 The Discloser may at any time disclose the matter on a confidential basis to a professionally qualified lawyer and/or trade union representative for the purpose of taking legal advice.

### **13. Safeguards**

13.1 Any report of the summary of the case by the DO in relation to the matter will not identify the Discloser unless the Discloser otherwise consents in writing or unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the DO will not reveal the identity of the individual as the Discloser of information under this procedure except:

- Where the DO is under a legal obligation to do so, or
- Where the information is already in the public domain, or
- On a strictly confidential basis to the DO's Administrative Assistant for the time being, or
- On a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

13.2 Any documentation (including computer files and discs) kept by the DO and the decision maker relating to the matter will be kept secure so that, as far as possible, only the DO and his or her Administrative Assistant shall have access to it. As far as practicable any documentation prepared by the DO will not reveal the identity of the individual as the Discloser of information under this procedure.

13.3 Where the Discloser involves a local trade union representative or work colleague in this procedure, the Discloser will be under an obligation to use all reasonable endeavours to ensure that they and their representative or work colleague keeps the matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain.

13.4 Failure to comply with the obligation to keep the matter confidential by any member of staff may lead to disciplinary action.

13.5 The Discloser will not be required by the School, without his or her consent to participate in any enquiry or investigation unless required to do so under the Disciplinary Procedure.

13.6 Where the Discloser participates in any such disciplinary enquiry or investigation, that participation will usually be required to be on an open rather than confidential basis, although the obligations of the DO under para 13.1 of this procedure will remain in relation to the identity of the individual as the original Discloser of information under this procedure.



13.7 Subject to para 14 below, Aylesford School will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment on the grounds of the Discloser's disclosure of information under this procedure. The Discloser should report any complaints of such treatment to a DO and/or trade union official. If the Discloser wishes the DO to take action in relation to such complaints, the Discloser may be asked to consent in writing to the DO revealing the Discloser's identity for the purposes of any such action.

#### **14. Protection Against Disciplinary Action**

14.1 No disciplinary action will be taken against a Discloser on the grounds of a disclosure made by the discloser in accordance with this procedure. This will not prevent the School taking disciplinary action where it had been substantiated that a disclosure has been made:

- That is malicious or vexatious.
- Where there has been a breach of confidentiality under para 13.3.
- Where an external disclosure is made in breach of this procedure without reasonable grounds, or
- Otherwise than to an appropriate public authority.

#### **15. Monitoring, Evaluation and Review**

15.1 Monitoring will be by the Trust Board.

15.2 The policy will be evaluated and revised in the event of any changes in legislation.