



Whistle Blowing Policy

Up-dated 1 July 2019

Whistle Blowing Policy

Introduction

Brigantia Learning Trust is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, staff, Trustees and others that we deal with, who have serious concerns about any aspect of the Trust, are encouraged to voice those concerns.

Staff and Trustees of the Trust are often the first to realise that there may be something seriously wrong within the organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Trust.

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. This document makes it clear that concerns may be reported without fear of victimisation, subsequent discrimination or disadvantage.

This Whistle Blowing Policy is intended to encourage and enable staff and Trustees to raise serious concerns within the Trust rather than overlooking a problem or raising the matter externally.

The policy applies to all staff, Trustees and those contractors working for the Trust. It also covers suppliers and those providing services to the Trust. The policy supplements the Trust's Complaints Procedure, Grievance Procedure and Child Protection Policies.

There are existing procedures within the Trust to enable individuals to lodge a grievance or a complaint. The Whistle Blowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- Possible fraud and corruption
- The unauthorised use of Trust funds
- Failure to comply with standing orders and financial regulations
- Failure to comply with Codes of Practice
- Conduct which is an offence or a breach of law
- Disclosures related to miscarriages of justice
- Health and safety risks, including risks to pupils, the public, as well as other colleagues
- Damage to the environment
- Other unethical conduct

Definition

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

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 or colleagues to protect themselves against false and malicious accusations. A Whistle Blowing Policy is about the ways in which concerns about malpractice may properly be raised within the Trust and, if necessary, outside the Trust.

Legislation

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.

Pupils 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 pupils' Complaints Procedure.

Objectives/Principles supporting the Procedure

1. Create an ethical, open culture:
 - Write, publish and communicate a code of conduct and ethics.
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. Protect the whistle blower:
 - Make it clear that the Trust will support and not discriminate against concerned employees provided any claim is made in good faith.
4. Establish a fair and impartial investigative procedure:
 - Make sure that the Trust responds to the concern by focusing on the problem, rather than denigrating the messenger.
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 fails to properly consider or deal with the issue.
6. Safeguard against abuse of the procedure:
 - Ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence.
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.
8. Involve Trustees and staff in developing the procedure:
 - To be effective there should be a sense of organisational ownership of a Whistle Blowing Policy.
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 Policy.

The Procedure

All parties need to agree that the issue raised will be kept confidential while the procedure is being used.

The person raising the concern should:

- I. Raise their concern with their Headteacher or the Chief Executive Officer. This may be done orally or in writing. The person raising a concern has the right to have the matter treated confidentially.
- II. If the Headteacher or Chief Executive Officer believes the concern to be genuine and that it is appropriate to use the Whistle Blowing Policy, they should contact the Chair to the Trust (the Chair of Trustees).
- III. Should it be alleged that the Chair to the Trust is involved in the alleged malpractice, a Member should be contacted to act as Chair of Trustees.
- IV. If the person raising a concern feels unable to raise their concern with their Headteacher or the Chief Executive Officer in the first instance, they may contact the Chair of Trustees direct.

If this occurs, the person raising a concern will be asked to justify why they feel unable to raise the concern with their Headteacher or the Chief Executive Officer.

The Chair of Trustees should:

- I. Interview the person raising a concern 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 person raising a concern about the grounds for the belief of malpractice.
- III. Consult with the person raising a concern about further steps which could be taken.
- IV. Advise the person raising a concern of the appropriate route if the matter does not fall under the Trust's Whistle Blowing Policy.
- V. Report all matters raised under this procedure to the Trust's Responsible Officer.

At the interview with the Chair of Trustees, the person raising a concern may be accompanied by a recognised trade union representative or a work colleague. The Chair of Trustees may be accompanied by a member of the Trust staff to take notes.

Within ten working days of the interview, the Chair of Trustees will recommend to the Chief Executive Officer one or more of the following:

- I. The matter be investigated internally by the Trust;
- II. The matter be investigated by the external auditors appointed by the Trust;
- III. The matter be reported to the Department for Education/Education Funding Agency;
- 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.

The grounds on which no further action is taken include:

- I. The Chair of Trustees is satisfied that, on the balance of probabilities, there is no evidence that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur;
- II. The Chair of Trustees is satisfied that the person raising a concern 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.

Should it be alleged that the Chief Executive Officer is involved in the alleged malpractice, the Chair of Trustees' recommendation will be made to the Members of the Trust.

The recipient of the recommendation (Chair of Trustees) 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 Trust.

The person raising a concern's identity will be kept confidential unless the person raising a concern otherwise consents or unless there are grounds to believe that the person raising a concern has acted maliciously. In the absence of such consent or grounds, the Chair of Trustees will not reveal the identity of the person raising a concern except:

- I. Where the Chair of Trustees 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 person raising a concern provides evidence at a disciplinary hearing or other proceedings.
- V. The conclusion of any agreed investigation will be reported by the Chair of Trustees to the person raising a concern within twenty eight days.

All responses to the person raising a concern will be made in writing and sent to the person raising a concern's home address.

If the person raising a concern has not had a response within the above time limits, they may appeal to the Trust's external auditors, but will inform the Chair of Trustees before doing so.

The person raising a concern may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

The Trust will ensure the person raising a concern is protected from any form of victimisation or discrimination.

Malicious Accusations

If an allegation is made in good faith, but is not substantiated, no disciplinary action will be taken against the person raising the concern. If, however, an allegation is made frivolously, maliciously or for personal gain, the Trust may investigate this under the Disciplinary Procedure.

External Sources

Whistle blowing to an external source without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the person raising a concern is not content with the conclusion of the Chair of Trustees. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination. The external sources which could be used are:

1. Department for Education/EFA
2. Member of Parliament
3. National Audit Office
4. Health and Safety Executive
5. Police
6. Trade Union
7. Local Citizens Advice Bureau
8. Relevant professional body or regulatory organisation
9. HM Revenue & Customs
10. The Environment Agency

If the matter is taken outside the Trust, individuals should ensure that they do not disclose confidential information.

1 July 2019