

EAST RIDING OF YORKSHIRE COUNCIL

G5a WHISTLE-BLOWING POLICY (SCHOOLS)

Lead Directorate/Service	Directorate of Corporate Resources, Audit and Technical Section
Effective date:	CMT/Cabinet and Date formally adopted by a school governing body 15 April 2010
Review date:	January 2011 or in line with review of Corporate Policy
Contact officer/number:	Carl Braddy, Audit & Technical Manager (01482 394105) HR Help Desk (01482 391221)
Approved by:	Policy and Resources Committee 1998 Cabinet 27/10/09 Minute 3753

1. Background

- 1.1 Employees are often the first to realise that there may be something wrong within the Council. However, they may decide not to express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. 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. The Public Interest Disclosure Act 1998 provides statutory protection to employees making disclosures and the Council extends the principles of that Act into this policy to give elected members, school governors, partners, service users and citizens the same route to raise concerns.

2. Definitions:

- 2.1 Irregularities fall within the following broad categories, the first three of which are criminal offences:
- **Theft** - the dishonest taking of property belonging to another person with the intention of depriving the owner permanently of its possession.
 - **Fraud** - the intentional distortion of financial statements or other records by persons internal and external to the Authority, which is carried out to conceal the misappropriation of assets or otherwise for gain.
 - **Bribery and corruption** - involves the offering or the acceptance of a reward, for performing an act, or for failing to perform an act, which leads to gain for the person offering the inducement.
 - **Failure to observe**, or breaches of, The Constitution, Scheme of Delegation, Contract Procedure Rules and Financial Procedure Rules.
 - **Failure to observe**, or breaches of, Departmental Procedures or Health & Safety Regulations - in some circumstances can constitute an irregularity, with potentially significant financial consequences.
 - **Failure to observe**, or breaches of, procedures and guidelines issued by the East Riding Safeguarding Children Board with the risk that children may suffer harm.

Section 10 of the Children Act 2004 place a duty on relevant partners, persons or bodies working with children to co-operate with a view to improving the well being of children in the area of the local authority. It is this duty that supports early intervention to safeguard and promote children's and young people's well being in order that good outcomes can be delivered.

N.B. In the case of child protection issues, the procedures and guidelines issued by the East Riding Safeguarding Board must be followed.

- Failure to comply with the authorities employment policies including cases of harassment and bullying.
- Failure to comply with the authority's policy and legal requirements in relation to the protection of children and vulnerable people.
- Insurance Fraud
- Benefit Fraud

3. Policy Statement

- 3.1 The Council and the Governing Body are committed to the highest possible standards of openness, probity and accountability and expects that elected members and employees at all levels will protect the Council/School and its resources and lead by example, ensuring high standards of personal conduct and adherence to the School or Council's policies, procedures and rules.
- 3.2 In line with this commitment, we encourage employees, elected members, school governors, partners, service users and citizens with any concerns about any aspect of the School or Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 3.3 The Council and Governing Body will not tolerate any occurrence of irregularities, as defined above, and operates a 'zero tolerance' approach to known instances and attempts. The Council and the Governing Body will take all appropriate measures to protect both its clients, including children and vulnerable people, and public funds and to reduce the risk of an irregularity occurring from either internal or external sources. Whenever an irregularity of any description is detected it will be investigated and appropriate prosecution, disciplinary and recovery action will be taken as appropriate.
- 3.4 This Whistle-Blowing Policy is intended to encourage and enable you to raise any concerns within the School or Council rather than overlooking a problem or blowing the whistle outside without fear of reprisals. This policy aims to:
 - provide avenues for you to raise concerns and receive feedback on any action taken
 - allow you to take the matter further if you are dissatisfied with the School or Council's response, and
 - reassure you that you will be protected from reprisals or victimisation for whistle blowing.

- 3.5 There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. This whistle-blowing policy is intended to cover concerns that fall outside the scope of other procedures.
- 3.6 That concern may be about something that
- is unlawful; or
 - is against the Council's Constitution or policies, or policies adopted by the Governing Body; or
 - falls below established standards or practice; or
 - amounts to improper conduct.
- 3.7 Examples of malpractice in this context may include concerns about possible corruption, financial irregularities, dangerous procedures risking health and safety to the public as well as to other employees, abuse or bullying of clients including children and vulnerable people, evasion of statutory responsibilities, environmental issues, etc. The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

4. Safeguards

Harassment or Victimisation

- 4.1 The Governing Body 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 alleged malpractice. Neither the Council nor Governing Body will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.
- 4.2 This does not mean that if you as an employee are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your whistle-blowing.

Anonymous Allegations & Confidentiality

- 4.3 This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less capable of being actioned effectively, but they will be considered by the School or Council.
- 4.4 The factors to be taken into account in determining whether to proceed with an anonymous allegation would include
- the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.
- 4.5 It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.

Untrue Allegations

- 4.6 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you.

4.7 If, however, you make malicious or vexatious allegations, legal or disciplinary action may be taken against you.

5. **Public Interest Disclosure Act 1998**

5.1 This Act commenced on 2 July 1999 and gives statutory protection, within defined parameters, to employees who make disclosures about a range of subjects which they believe to be happening within the authority employing them.

5.2 The Act has rules for making a protected disclosure

- you must disclose the information in good faith
- you must believe it to be substantially true
- you must not act maliciously or make false allegations
- you must not seek any personal gain

5.3 By regulations issued under the Act, the Audit Commission has taken on new responsibilities as a “prescribed person” that involves receiving disclosures from employees when those employees are unable or unwilling to make the disclosure internally.

5.4 The Commission has the responsibility to ensure that disclosures are properly investigated and will report its findings to the person making the disclosure.

6. **Civic Obligations:**

6.1 This policy supports the Corporate Priorities of:

A Well Managed Authority *Smart and prudent stewardship*
Safer and Stronger Communities *Crime reduction and prevention*

7. **How to Raise a Concern**

7.1 This will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.

7.2 Employee concerns should firstly be raised within the School/Council with either

- a) your Headteacher
- b) your Chair of Governors
- c) the Director of Children, Family and Adult Services
- d) Audit & Technical Manager 01482 39(4105)
- e) Group Auditor 01482 39(4107)(4110)
- f) Responsible Officer-Chief Executive
- g) Monitoring Officer- Head of Legal and Democratic Services
- h) Section 151 Officer –Head of Finance
- i) Head of Human Resources

7.3 Elected members, school governors, service users, partners and citizens concerns should be raised with either the Director of Corporate Resources, Audit & Technical Manager or the Chief Executive.

7.4 Advice and guidance on how matters of concern may be pursued can be obtained from the same sources.

7.5 If you have concerns regarding abuse to adults or children you may also contact the Safeguarding Adult and Children teams as follows:

Adults – 01482 861103

Children – Child Care Golden Number - 01482 395500

Out of Hours – 01482 880826

7.6 If you are still not satisfied, you may wish to contact Public Concern At Work (0207 4046609) or email helpline@pcaw.co.uk an independent charity, which provides free advice for persons who wish to express concern about fraud and other serious malpractice.

7.7 Alternatively if you feel unable to talk to anyone within the Authority, you can contact the Audit Commission which has set up a special telephone line on 0845 052 2646.

7.8 Concerns are better raised in writing. You are invited to 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. If you do not feel able to put your concern in writing, you can telephone any of the officers in 7.2 c) or d) above, or leave a recorded message on the 24 hour Audit and Technical answer phone (telephone number 01482 394123), complete the online form on the internet and internal intranet or email whistleblower@eastriding.gov.uk. This service is strictly confidential and you will not be asked to give your name if you do not want to.

7.9 The earlier you express the concern, the easier it is to take action. This is particularly important where the well being of children may be at risk.

7.10 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern. You do not need evidence just sufficient grounds for concern. We request that you do not investigate the concern yourself in anyway, simply contact us as outlined in 7.8 above.

7.11 You may invite your trade union representative or a workplace colleague who is not involved in the area of work to which the concern relates to assist you in raising a matter.

8. How the Council/School will respond

8.1 The action taken by the Council will depend on the nature of the concern. The Chair of Governors in consultation with the Headteacher and Human Resources will determine the most appropriate action to be taken. The matters raised may

- be investigated internally
- be referred to the Police
- be referred to the external Auditor
- form the subject of an independent inquiry

8.2 In order to protect individuals, the Council and Governing Body, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

8.3 Some concerns may be resolved by agreed action without the need for investigation.

- 8.4 Within ten working days of a concern being received, the Headteacher or Chair of Governors will write to you
- acknowledging that the concern has been received
 - indicating how it proposes to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made, and
 - telling you whether further investigations will take place, and if not, why not

N.B. In the case of child protection issues, the procedures and guidance issued by the East Riding Safeguarding Children Board will be followed.

- 8.5 The amount of contact between the employees considering the issues 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.
- 8.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union representative or a workplace colleague who is not involved in the area of work to which the concern relates.
- 8.7 The Governing Body will take steps to minimise any difficulties, which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.
- 8.8 The Governing Body accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

9. How the Matter can be Taken Further

- 9.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points
- an elected Member of the Council
 - the District Auditor
 - relevant professional bodies or regulatory organisations
 - your solicitor
 - the Police
 - Public Concern at Work
 - trade union
 - the Ombudsman
 - the Audit Commission
- 9.2 If you do take the matter outside the School or Council, you need to ensure that you do not disclose information that is privileged to the School or Council and if you are an employee, do not breach your obligations under the Council's Code of Conduct for Employees (see 9.3 below).
- 9.3 The Code of Conduct for Employees is part of the Council's suite of Human Resources Policies and Procedures, a copy of which is available from your Headteacher (as detailed in your

Statement of Main Terms of Employment). Whilst all of the code is important, paragraph 12 - 12.1.3 concerning contact with the press and media is particularly relevant.

10. Responsibility

- 10.1 The Responsible Officer, who is the Chief Executive, has overall responsibility for the maintenance and operation of this policy.
- 10.2 The Director of Corporate Resources will maintain a record of concerns raised and action taken in a form, which does not endanger your confidentiality and will report as necessary to the Council.

11. Links with Other Policies

- 11.1 The Council and Governing Body are committed to preventing occurrences of irregularities. To help achieve this objective there is a clear network of systems and procedures in place. This document should be read in conjunction with the following policies and procedures in place throughout the Council – these will have been adopted by the Governing Body:

- Counter Fraud and Corruption Policy (Schools) (G7a)
- Fraud and Corruption Response Plan (Schools) (G8a)
- Disciplinary Policy and Procedure (Schools) (G1a)
- Gifts and Hospitality (D13)
- Use of Council Plant, Equipment and Assets (B2)
- Policy on the use of the Internet (Q1)
- Electronic Mail (E-Mail) Usage policy (Q2)

OR, will apply automatically

- Code of Corporate Governance
- Risk Management strategy
- Code of Practice for Procurement
- The Protocols for the Monitoring Officer and Chief Financial Officer
- The Constitution
- Local Code of Local Government Conduct
- Code of Conduct for Employees (G4)
- Finance Manual of Guidance
- Standards Committee Constitution
- Anti-Money Laundering policy and procedures
- Local Authority Guidance on Malpractice in QCA Tests

Information on these documents is available by contacting the Customer Service Centres, Call Centre or CitizenLinks. Employees may also access the documentation via the Council's intranet or their Headteacher.

12 Evaluation

- 12.1 The success of this policy may be assessed by
- the number of reported incidents of malpractice

- monitoring whether individuals feel able to report occurrences without fear or favour

13. Desirable Outcomes

13.1 The desirable outcomes are

- to reassure individuals that there is a safe alternative to silence
- to promote the whistleblower as a witness not a complainant to encourage managers to be open to concerns
- to help the Council deliver sound management
- to promote effective compliance and self-regulation
- to support the Council's anti fraud risk management strategies

14. Policy Development

14.1 This policy was reviewed in line with the Council's Policy review programme by the Audit and Technical Section, Directorate of Corporate Resources.

15 Communications and Publicity

15.1 Training on and awareness of this policy for all employees will be through one or more methods e.g. the School or Council's induction process, fraud awareness training, E-learning package, learning CD, literature and staff briefings. Regular features on this policy will be publicised throughout a variety of channels open to the Council e.g. intranet, the Internet, grapevine, selling to the Council guide, pay advice slips etc