

**KINGSWAY
COMMUNITY TRUST**

**WHISTLEBLOWING
POLICY**

November 2019

WHISTLEBLOWING POLICY

Date: November 2019

Review date: Autumn 2024

1. Introduction

- 1.1 This whistleblowing policy is designed to allow those employed by the Trust to report genuine and legitimate concerns about something that may be seriously wrong within the school. This policy makes it clear that anyone reporting a genuine and legitimate concern can do so without fear of reprisals, victimisation or suffering a detriment.
- 1.2 The Trust expects the highest standards of conduct from all workers and will treat any concern raised about illegal or improper conduct seriously, in confidence and will carry out a proper investigation.
- 1.6 This policy accords with current education and employment law.

2. Definitions

- 2.1 “Whistleblowing” is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others. It is referred to in law as “making a protected disclosure”. It has a specific legal definition under the Public Interest Disclosure Act 1998 (“PIDA”), i.e. “a disclosure of information which, in the reasonable belief of the worker, is made in the public interest and tends to show serious misconduct”.
- 2.2 The law provides protection for workers who raise legitimate concerns about specified matters or “qualifying disclosures”. A qualifying disclosure may relate to:

[note – points in [] below are not recognised qualifying disclosures for the purposes of the legislation but are often extra categories referenced in disclosures]

- A criminal offence;
- Failure to comply with a legal duty;
- [Financial fraud or corruption;]
- [Abuse of authority;]
- [Serious breaches of school policies or procedures;]
- A miscarriage of justice;
- A danger to the health and safety of any individual;
- [Negligence;]
- [Unethical conduct and actions deemed unprofessional or inappropriate;]
- Damaging the environment;

- [Conduct likely to damage the School's reputation;]
- A deliberate attempt to conceal any of the above.

It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be committed. A reasonable belief is sufficient.

- 2.3 References to Relevant Person mean the Executive Headteacher or a member of the School's Senior Management Team, or the Chair of Trust Board where a disclosure relates to the Executive Headteacher.
- 2.4 References to "School" is used to describe any school with Kingsway Community Trust.
- 2.5 References to the "Trust Board" or to "the Trustees/Governors" refer to the Trust Board or governors of the Local Governing Body.
- 2.6 References in this policy to the Chair of Trustees will include a reference to the Vice Chair of Trustees in cases where the decision making responsibilities of the chair of Trustees have been delegated to the Vice Chair of Trustees.

3. Scope

- 3.1 The Policy applies to disclosures from workers of Kingsway Community Trust regardless of length of service and includes workers, fixed term workers, temporary and agency staff, volunteers, contractors and/or consultants and any other individuals who undertake to do or perform personally any work or service for the Trust. All of these groups of individuals will be referred to as "workers" for the purposes of this Policy.
- 3.2 Kingsway Community Trust recognises that as a public body, it might receive a disclosure not only from its workers, but from members of the public as well. The Policy therefore applies equally to disclosures from members of the public. A member of the public will be anybody not falling within the definition of "worker" at 3.1 and may include a member, trustee, member of an academy advisory board, the parent of a Trust pupil, or somebody who uses the Trust's services.
- 3.2 This policy sets out the way in which workers may raise any genuine and legitimate concerns that they have about incidents of misconduct or malpractice and how these concerns will be dealt with.
- 3.3 This policy has specific sections to advise workers of the process to be followed when raising a concern and how the school will respond.
- 3.4 Concerns about a colleague's professional capability should not be dealt with using this policy.

- 3.5 This policy is not a substitute for normal line management processes but an addition to them. The aim of this policy is to allow for concerns to be expressed outside the normal line management structure, if necessary.
- 3.6 This policy is not to be used where other more appropriate internal reporting procedures are available. Concerns about an worker's own situation including a breach of contract, should be dealt with using the Trust's Grievance Procedure.
- 3.7 If any concerns are raised initially through a different route that raise serious concerns over wrongdoing and are in the public interest, the school will investigate under this whistleblowing policy.
- 3.8 Workers who do not follow the steps identified in this procedure and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation.
- 3.9 The timescales in this policy may be amended by mutual agreement.
- 3.10 Specific staff responsibilities under this policy are set out in Appendix 1.
- 3.11 This policy does not form part of an worker's contract of employment and is not intended to have contractual effect.
- 3.12 This policy works in conjunction with our Anti-Bullying, Behaviour, Complaints, Equality, Health and Safety, Intimate Care, Internet Acceptable Use, First Aid and Medical Treatment of Pupils, Safeguarding and Child Protection and Safer Recruitment policies. Other documentation should also be considered such as staff disciplinary procedures and staff code of conduct.

4. Protection for whistleblowers

- 4.1 If a worker makes a disclosure under PIDA that is in the public interest and in accordance with this Policy, they are legally protected from harassment or victimisation, and will not be subject to any other detriment as a result of the disclosure (examples of detriment can be found in the Whistleblowing Toolkit/Public Concern at Work's Code of Practice on Whistleblowing).
- 4.2 The person making the disclosure does not have to be directly or personally affected by the serious misconduct, but must believe that the disclosure is true, and the disclosure must be made in the public interest.
- 4.3 PIDA will protect any worker making a protected disclosure, irrespective of whether or not the disclosure relates to information gained in the course of their employment (e.g. a protected disclosure made by a worker acting as a service user would still fall under the PIDA protection).

- 4.4 Any worker who makes a 'protected disclosure' which meets the definition in PIDA is legally protected against victimisation and shall not be subject to any other detriment for whistleblowing. Kingsway Community Trust has adopted this policy in order to encourage early internal whistleblowing and to demonstrate its commitment to preventing victimisation.
- 4.5 If a worker claims that, despite that commitment, he or she has been victimised for making a disclosure, he or she should make a further complaint under this policy directly to the Executive Headteacher or the Chair of the Board of Trustees. If the disclosure involves them, the worker should report this to the Lead Trustee for Personnel.
- 4.6 A worker has the right to complain of victimisation as a result of any whistleblowing to an employment tribunal.
- 4.7 Any allegation that a worker has victimised a whistleblower will be taken seriously by Kingsway Community Trust, and managed appropriately. In particular, the worker alleged to have caused the victimisation could:
- 4.7.1 Be subject to an internal Trust investigation, and potential disciplinary action, (up to and including dismissal);
 - 4.7.2 Face a civil claim personally, as the affected whistleblower could be entitled to directly issue a legal claim against the offender.

5 How to raise a concern

- 5.1 The School hopes that in many cases, workers will be able to raise any concerns with their line manager. Together, they may be able to agree a way of resolving a concern quickly and effectively.
- 5.2 However, where the matter is more serious, or an worker feels that their Line Manager has not addressed the concern properly or their line manager is not the most appropriate person then workers should raise the concern directly with the Executive Headteacher or a member of the Senior Leadership Team.
- 5.3 If the concern relates to the Executive Headteacher the matter should be raised with the Chair of the Trust Board.
- 5.4 In the event both the Executive Headteacher and the Chair of the Trust Board are the subject of the concern, the complaint must be made in writing to the Lead Trustee for Personnel
- 5.5 Any concerns should be expressed in writing, setting out the following information:
- Who the allegations are against;
 - The background;

- Full details on the nature of the alleged wrongdoing and why the member of staff is particularly concerned about the allegation;
- Details of any evidence in support of the allegation;
- Name and contact details (unless they wish to remain anonymous); and
- Reasons why the concern should be taken forward.

5.6 If a worker does not feel able to put the concern in writing initially, he or she should be allowed to telephone or meet the Executive Headteacher or a member of the Senior Leadership Team who will make a note of the concern and will explain the next steps in the process.

6 How the school will respond

6.1 The member of staff expressing concern will receive a written acknowledgement within 10 working days of the concern being received. This acknowledgement will indicate:-

- How the school proposes to deal with the matter;
- The policy under which the matter will be investigated (i.e. Whether it is the whistleblowing policy or a different school policy);
- Contact details for the person handling the investigation (the “Investigating Officer”);
- Arrangements for confidentiality;
- An estimate of how long it will take to provide a response on the outcome;
- Any initial enquiries which may have been made;
- Whether further investigations will take place, and if not, why not.

6.2 Having acknowledged receipt of the concern raised, the Investigating Officer will consult with the Trust’s HR Provider if assistance is required with the investigation.

6.3 Some concerns may be resolved by agreed action, without the need for investigation. In these cases confirmation should be sought from the worker that they are satisfied that the matter has been resolved. This does not preclude matters being raised in the future if further concerns arise.

7 The Investigation Process

7.1 Allegations will be handled confidentially and discreetly by all who are directly involved in the investigation process.

7.2 Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take including who should undertake the investigation. In some cases an investigation may be completed without the subject of the complaint being aware of the investigation.

7.3 If the concern relates to suspicions of fraud, theft or corruption within maintained schools, these concerns must be reported to the Local Authority’s Head of Internal Audit and Risk Management.

- 7.4 If it is determined that the concerns or allegations fall within the scope of specific procedures (for example disciplinary procedures) it should normally be referred for consideration under those procedures. Before any further investigatory action is taken the Executive Headteacher should consult with the Trust's HR provider.

For school purchasing HR Services, such investigations may be conducted independently on behalf of the Executive Headteacher or Chair of the Trust Board.

- 7.5 If urgent action is required in response to a concern this may be taken before a full investigation is conducted.
- 7.6 It may be necessary for the Investigating Officer to arrange a meeting with the worker in order to obtain further information.
- 7.7 Witnesses may be interviewed as part of the investigation and asked to provide a written statement. Where witnesses have been identified by the worker, and particularly where witnesses are interviewed, it is important that the witnesses do not suffer any personal detriment as a result, providing that they have acted in good faith.
- 7.8 Investigation procedures into allegations of malpractice must be independent, skilled and objective. The Investigating Officer appointed must therefore not have had any previous involvement with the case and will be sensitive to the wishes of the worker wherever possible.
- 7.9 Where a complaint involves the Executive Headteacher, then an Investigating Officer must be appointed who does not work at, or with the School. In any event, the Investigating Officer must be at an appropriate level of seniority and must have sufficient experience and/or training to allow a thorough investigation to take place. Depending upon the circumstances, external agencies may also be involved in the investigation.
- 7.10 During the investigation every effort will be made to protect the legitimate rights of all parties involved. In particular the following principles shall be adhered to:
- Strict confidentiality must be maintained at all times. Any breach of confidentiality may lead to consideration of disciplinary action;
 - Throughout the investigation process, the worker, the alleged perpetrator and any witnesses interviewed are entitled to be accompanied at the meeting by either a companion or a trade union representative.
- 7.11 The investigation should normally be completed within 30 working days of the complaint being registered. Where cases prove to be more complicated and it may not be possible to complete within

the time scale, it will need to be extended to accommodate the particular circumstances. Where the timescale will probably exceed 30 working days, the Investigating Officer will advise the worker.

8 Outcome of the Investigation

- 8.1 The investigation will conclude with a report by the Investigating Officer to the Executive Headteacher, Chair of the Trust Board or other relevant person. This will summarise the Investigating Officer's findings on the allegations and recommend further action which could include but is not limited to:
- A finding that the allegation was unfounded and therefore no action needs to be taken;
 - A recommendation to take no further action on the complaint. This may be appropriate if the Investigating Officer decides that there is a lack of evidence relating to the complaint or that the complaint is untrue;
 - A recommendation to take action in order to deal with the matter on the basis that it is not sufficiently serious to warrant formal disciplinary action. Such action could include:
 - Written management advice; and/or
 - An instruction to a member of staff to undertake appropriate guidance and/or training; and/or
 - Appropriate changes in working arrangements which must not be to the disadvantage of the complainant;
 - A recommendation to initiate formal disciplinary action because there is objective evidence to support the allegation that malpractice has taken place.
- 8.2 The Executive Headteacher or other Relevant Person will write to the worker detailing the findings of the investigation and the action to be taken. This letter will contain an undertaking that the worker and any witnesses will not be victimised or suffer any detriment as a result of having made the complaint.
- 8.3 Where the Executive Headteacher or other Relevant Person determines to take no action irrespective of the recommendation made he/she shall give written reasons for this determination to the worker. Failure to give such information will be regarded as a breach of this procedure.
- 8.4 Where the Investigating Officer considers that a complaint is untrue and malicious he/she will recommend a second investigation of the circumstances. This may lead to consideration of disciplinary action against the complainant. Suspension may be considered necessary but should be seen as a neutral act which does not of itself imply that any pre-emptive judgment has been reached.

9 Recording Whistleblowing Complaints

- 9.1 The Executive Headteacher (or Chair of the Trust Board in the case of the Executive Headteacher) should maintain a confidential central record for a period of five years (seven years for allegations of financial

irregularities) and a copy should be held by HR of all Whistleblowing allegations which have been raised and the responses provided.

- 9.2 In respect of anonymous allegations, should the Executive Headteacher or Chair of the Trust Board consider that further action would be inappropriate details of the allegation and reason for the decision must still be recorded. These central records will be used to analyse the impact and effectiveness of the arrangements put in place as part of the reporting process on the effectiveness and outcomes of the Policy and as a record of actions taken in the case of any matters raised under the Public Interest Disclosure Act.

10 Anonymous Concerns

- 10.1 This policy encourages individuals to put their name to an allegation wherever possible as the school believes that open and confidential whistleblowing is the best means of addressing concerns, and protecting individuals. The effectiveness of any investigation may be limited where an individual chooses not to be identified.
- 10.2 All concerns expressed anonymously will be considered and may be investigated but the level of investigation will depend upon the nature of the allegations; the seriousness of the issues raised; the credibility of the concern; and the likelihood of confirming the allegations from attributable sources.
- 10.3 Concerns expressed anonymously are much less persuasive than when an worker is prepared to come forward formally. It will not of course be possible to report any findings back to the complainant in these circumstances.
- 10.4 Anonymous concerns will be recorded in accordance with paragraph 8.2

11 False and Malicious Allegations

- 11.1 While encouraging workers to bring forward genuine matters of concern, the school must guard against claims which are untrue and are made to deliberately damage the reputation of other staff at the school.
- 11.2 If a member of staff makes an allegation in good faith, but it is not confirmed by the investigation, no action will be considered or taken. However, if an worker makes false, malicious or vexatious allegations this will be treated as a serious disciplinary offence and disciplinary action will be taken.

12 Harassment and Victimisation

- 12.1 The Executive Headteacher or Relevant Person will monitor how an worker is subsequently treated after raising a matter of concern and will ensure that if they find evidence of harassment or victimisation, this is dealt with under disciplinary arrangements.
- 12.2 The School will not tolerate harassment or victimisation against an worker who has raised a genuine concern under this policy. Any worker who victimises a whistle-blower will be subject to disciplinary action which could lead to dismissal.
- 12.3 Any worker who believes they have been harassed or victimised as a result of raising a genuine concern should contact the Executive Headteacher or a Relevant Person.

13 Concerns about Safeguarding.

- 13.1 All workers have a duty to report concerns about the safety and welfare of pupils.

Concerns about any of the following:

- Physical abuse of a pupil
- Sexual abuse of a pupil
- Emotional abuse of a pupil
- Neglect of a pupil
- An intimate or improper relationship between an adult and a pupil

must be reported immediately to the School's Designated Safeguarding Lead

14 How the matter can be taken further

- 14.1 It is intended that this Policy will enable the school to satisfactorily deal with concerns raised by workers.
- 14.2 If an worker would like independent advice about raising a concern, the worker can speak to:
- A Union Representative;
 - An independent legal advisor; and/or
 - The independent charity "Public Concern at Work" www.pcaw.org.uk
- 14.3 If an worker is not satisfied, and feels it appropriate to take the issue further, the worker may make a protected disclosure to a third party (in accordance with the provisions of the Public Interest Disclosure Act 1998), the following are possible contact points:
- Secretary of State for Education

- Office of Qualifications and Examinations Regulation
- Ofsted
- Local Authority
- Children’s Commissioner
- NSPCC
- National Audit Office
- The Health and Safety Executive
- The Environment Agency

If a matter is taken outside the school, the worker must take all reasonable steps to ensure that confidential information is not disclosed.

Whistleblowing to an external source without first going through the internal procedure is inadvisable without compelling reasons.

Date	Issue	Date approved by Trustees	Review date
10 th May 2017	May 2017	18.7.17	Summer 2022
November 2019	November 2019	16.12.19	Autumn 2024
Reviewed in light of changes in EFSA handbook September 2019			

APPENDIX 1

Staff Responsibilities

All Staff Responsibilities

It is the responsibility of all members of staff to ensure that their own behaviour is appropriate to the school as a workplace and does not contribute to an environment in which malpractice or wrong doing is either ignored, condoned or encouraged. All staff should challenge such behaviour if it occurs, or bring it to the attention of a Relevant Person

Executive Headteacher Responsibilities

The Executive Headteacher has a duty which they share with others in leadership/managerial roles to establish and maintain a positive and accountable working environment. In particular, the Executive Headteacher is responsible for:

- Communicating the policy to all staff in such a way as to promote its understanding and making it easily accessible;
- Managing staff in a professional and sensitive manner;
- Ensuring that the school environment has a culture where malpractice and or wrong doing is unacceptable;
- Ensuring that the policy is implemented effectively and efficiently at all levels throughout the school;
- Taking all concerns raised seriously, ensuring the necessary action is taken to address the matter promptly, and as sensitively and confidentially as possible;
- Ensuring that appropriate support is available to complainants during the investigation of their complaint; this may be via a colleague or trade union representative;
- Making it clear that malicious and vexatious allegations are serious matters and will not be tolerated;
- Ensuring that appropriate support is available to witnesses during the investigation of the complaint; this may be via a colleague or trade union representative.

Trust Board Responsibilities

The Trust Board has the responsibility to:

- Meet its legal duties and responsibilities and act at all times within the legal framework;

- Have an up-to-date and comprehensive Whistleblowing policy;
- Receive reports from the Executive Headteacher on the application of the procedure;
- Agree that the Chair of the Trust Board be the contact for complaints made against the Executive Headteacher;
- Agree that in the event of a complaint against the Chair, the vice chair will be the contact

Kingsway Community Trust
Whistleblowing Policy
Dated: November 2019

I (print name) have read and fully understood, the Kingsway Community Trust Whistleblowing policy dated November 2019

Signed:

Date:

School: