

**Richmond Hill Primary
Academy School**



“Whistleblowing” Policy

2016 - 2017

“WHISTLEBLOWING” POLICY

1. Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the school. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the school. 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.
- 1.2 Richmond Hill Primary Academy is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, volunteers and anyone associated with the school with serious concerns about any aspect of the school’s work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that staff can do so without fear of reprisals. It is intended to encourage and enable staff to raise serious concerns within the school rather than overlooking a problem or blowing the whistle outside.
- 1.3 This policy acknowledges and incorporates the specific statutory rights and protection given to employees by the Employment Rights Act 1996 as amended by the Public Interest Disclosure Act 1998, which applies to certain kinds of disclosure termed “protected disclosure” (see paragraphs 2.5 -2.6 below for further details).
- 1.4 Provided that you are acting in good faith when making a disclosure and you have a reasonable belief that the information disclosed tends to show that wrongdoing has occurred, is occurring or is likely to occur in the future, it does not matter if you subsequently realise that you are mistaken. You do not have to specifically prove anything in order to have your concerns about wrongdoing investigated - the message the school wishes to give to you is ‘if in doubt – raise it’. Employees are expected to co-operate fully with any investigation.
- 1.5 This policy applies to all employees, including contractors acting under the control of the school and agency workers and Partnership organisations, which chose to adopt this policy.

- 1.6 The provisions of this policy are not directly available to members of the public. Members of the public, who wish to raise a concern about any aspect of the school's work, including wrongdoing, should follow the school's Complaints Procedure.

2. Aims And Scope Of This Policy

2.1 This policy aims to:

- Encourage the internal reporting of wrongdoing in a safe and constructive manner;
- Identify ways to report concerns to the appropriate regulator or outside body;
- provide avenues for you to raise concerns about wrongdoing and receive feedback on any action taken by the school in response to your concerns;
- allow you to take the matter further if you are dissatisfied with the Academys response to your concerns;
- reassure you that provided you disclose your concerns appropriately and in accordance with this policy you will be protected from reprisals or victimisation.

2.2 All organisations face the risk of things going wrong or of unknowingly harbouring wrongdoers. The school believes it has a duty to identify such situations and take the appropriate measures to remedy the situation. By encouraging a culture of openness the school believes it can help prevent wrongdoing occurring both now and in the future.

2.3 There are existing procedures in place to enable employees to lodge a grievance relating to their own employment and other procedures established to deal with harassment and with health and safety concerns. This whistleblowing policy is intended to cover concerns that fall outside the scope of other procedures.

2.4 Any concern that you have about wrongdoing within the school can and should be reported under this policy. If you fail to report your concerns, you could by your silence become implicated in the wrongdoing. You must fully co-operate with any investigation that is instigated.

2.5 All concerns reported, by whatever method, will be treated in confidence and will be reviewed and investigated by a member of staff deemed to be appropriate and best placed to do so. This may mean that, depending on the level, type and details of the concerns you raise, that your concerns are investigated by the Principal, Senior Managers, Internal Finance/Audit Staff or in the case of very serious concerns, the Directors' Board, the External Auditor or the Police.

- 2.6 By knowing about wrongdoing at an early stage, the school has the chance to take the necessary steps to safeguard its interests. The message the school wishes to give you is that you must not hesitate to “blow the whistle” on wrongdoing.

Protected Disclosure

- 2.7 The Employment Rights Act 1996 as amended by the Public Interest Disclosure Act 1998 protects workers who make a “protected disclosure” from dismissal, selection for redundancy or from being subjected to any other detriment in employment as a result of raising a concern about wrongdoing.
- 2.8 Consequently, if you raise a concern, which falls into one of six categories of wrongdoing, this will be a “protected disclosure” provided that the specific requirements for that category of wrongdoing are met in that the concern is raised to the proper person or organisation. These six categories are:
- Crimes;
 - Failure to comply with legal obligations;
 - Miscarriage of justice;
 - Risks to Health & Safety;
 - Damage to the environment;
 - Covering up any of the above.

Further information about protected disclosure is shown at Annex 1

- 2.9 If your concern is in relation to any wrongdoing to Children, the school will follow the Children`s Safeguarding procedure or if your concern relates to Vulnerable Persons, the school will follow the South Yorkshire Safeguarding Adults procedure. Further information on these procedures can be obtained from the Doncaster Council.

Fraud and Corruption

- 2.10 If your concern relates to fraud and corruption, Principal and employees should normally follow the Whistleblowing Policy. However, in certain circumstances, this may not be possible or in the school’s best interest. In these instances employees and Principal should contact the Chief Executive, the Director of Finance and Corporate Services, the Chief Internal Auditor or the Monitoring Officer. They may also raise concerns with the school’s External Auditor.

Unprotected Disclosure

- 2.12 Whilst the school would wish you to raise any concerns you have about wrongdoing within the school, if your disclosure does not meet the requirements of a “protected disclosure”, you will not be able to rely

upon the protection of the Employment Rights Act 1996 as amended by the Public Interest Disclosure Act 1998.

- 2.13 For example, it is unlikely that raising a concern about wrongdoing to the media would qualify as a “protected disclosure”. Please see Section 4 as to how to raise your concern.
- 2.14 Employees of subcontractors to the school may also have access to this procedure.
- 2.15 The Principal/ Chair will determine the most appropriate policy for dealing with issues raised.

3. Safeguards

3.1 Harassment or Victimisation

The school 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 or from those suspected of malpractice. The school will not tolerate harassment or victimisation and will take action to protect you when you raise a concern. However, should you feel that you have suffered harassment, either directly or indirectly as a result of raising a concern; you should refer to the school’s Bullying & Harassment Policy and Procedure. (Also refer to Section 5.11 of this document.)

- 3.2 This does not mean, that if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your whistleblowing.

3.3 Confidentiality

The school will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. However, 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.

3.4 Anonymous Allegations

Concerns expressed anonymously are much less powerful and therefore, this policy encourages you to put your name to your allegation. Anonymous allegations will be considered and any action taken at the discretion of the school.

- 3.5 In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources.

3.6 Untrue Allegations

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

4. How To Raise A Concern

Internally to Management

- 4.1 The school wishes to encourage you to raise any concerns of wrongdoing internally but does recognise that in certain circumstances it may be appropriate that you instead raise your concerns externally, to a relevant external organisation.
- 4.2 As a first step, you should normally raise concerns with your immediate manager or the Principal. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.
- 4.3 Although concerns about wrongdoing can be raised orally or in writing you are encouraged to put your concerns in writing. You are advised 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 or meet the appropriate officer who will agree a written statement with you.
- 4.4 You must fully co-operate with any investigation that is instigated,
- 4.5 The earlier you express your concern; the easier it may be to take action.
- 4.6 In all circumstances it should be made clear that you are raising these concerns under the “Whistleblowing” Policy.
- 4.7 You may invite your recognised trade union representative to raise a matter on your behalf.

Externally

4.8 If you feel unable to raise your concerns about wrongdoing internally or feel dissatisfied with an internal investigation into your concerns, the school acknowledges that you may be justified in contacting a relevant external organisation.

4.9 The Secretary of State has prescribed a number of external organisations for the purpose of raising a concern about wrongdoing, in the event that the more stringent conditions regarding external disclosure are met.

Details can be obtained from <https://www.gov.uk/whistleblowing/how-to-blow-the-whistle>.

4.10 The school acknowledges that in certain, limited, situations, you may also be justified in raising a concern about wrongdoing to a wider audience but would refer you to the attached Protected Disclosure Guide (Annex 1) before you take such action so that you can determine whether this course of action is appropriate.

4.11 If you choose to disclose your concern outside the school, you must take care to ensure that you do not disclose confidential or privileged information. Examples of information that was given to the school in confidence (either explicitly or where it is clear from the circumstances that there is an expectation that the information will not be passed on) are

- information that would enable a child or other vulnerable service user to be identified
- commercially sensitive information
- third party personal financial information
- information that is held as part of court proceedings where the information has not been made public
- information that could affect national security
- legal advice given to the service

Where confidential or privileged information is inappropriately disclosed, you may be subject to disciplinary action in accordance with the Disciplinary Procedure.

5. How The School Will Respond

5.1 The action taken by the school will depend upon the nature of the concern that is raised.

5.2 In most instances, it is expected that in order to protect individuals and the school, initial enquiries will be made to decide whether a formal investigation is required and, if so, what form this investigation will take. At this stage, the person dealing with the initial whistleblowing disclosure, must inform their Manager or the Principal who will then take the decision to:

- Complete the investigation internally using an independent and impartial Officer. They will also determine the terms of reference for the investigation; or
- Refer the matter to an external body for them to investigate;
- Refer the matter to the school's external Auditor; or
- Refer the matter directly to the Police; or
- Organise an independent inquiry; or
- Refer the matter for consideration under any other existing school procedure as may be appropriate in the circumstances; or
- Take no further action

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

5.4 The school will write to you, normally within ten working days of a concern being received 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
- inform you whether further investigations will take place, and if not, why not.

5.5 The amount of contact between you and the manager(s) considering the issues, 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.

5.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a recognised trade union representative or work colleague who is not involved in the area of work to which the concern relates.

5.7 The school will take steps to minimise any difficulties that 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 school will advise you about the procedure.

5.8 The school 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.

5.9 It is recognised that instances may arise where a concern has been raised but not proven, that results in the whistleblower and accused

person resuming a working relationship together. This in turn may give rise to concerns of potential victimisation or harassment. Where this is the case, reference should be made to the Harassment and Bullying Procedure.

- 5.10 The person to whom you report your whistleblowing concern will contact you 6 months after the conclusion of the investigation to establish, in a confidential and non threatening environment, whether or not you consider that there has been any impact on you following your disclosure.

6. Review And Monitoring

- 6.1 The outcomes of all formal Whistleblowing investigations will be reported to the Board of the school by the Principal.

This information will be used to monitor the effects and application of the procedure, including meeting the legislative requirement to analyse impact in terms of equal opportunities, by disability, gender and ethnic origin.

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Protected Disclosure Guide

Whether the concern you raise is likely to be a “protected disclosure” under the Employment Rights Act 1996 as amended by the Protection from Disclosure Act 1998 depends upon the following:

1. Whether your concern falls within one of the six categories of wrongdoing and whether you have complied with the relevant requirements for raising a concern;

and

2. The person or organisation you contact to raise your concern.

1. The Six Categories of Wrongdoing – Requirements for Raising a Concern

- Crime
You must have a reasonable belief that your concern tends to show that a criminal offence has been committed, is being committed or is likely to be committed.
- Failure to Comply with Legal Obligations
You must have a reasonable belief that your concern tends to show that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject. The legal obligation must exist - it is not enough that you merely think the legal obligation exists.
- Miscarriage of Justice
You must have a reasonable belief that your concern tends to show that a miscarriage of justice has occurred, is occurring or is likely to occur.
- Risks to Health & Safety
You must have a reasonable belief that your concern tends to show that the health and safety of any individual has been, is being or is likely to be endangered.
- Damage to the Environment
You must have a reasonable belief that your concern tends to show that the environment has been, is being or is likely to be damaged.
- Covering up any of the above
You must have a reasonable belief that your concern tends to show that information tending to show any of the above has been is being or is likely to be deliberately concealed.

Notes

If by raising your concern, you commit an offence, this will not be a protected disclosure.

If you raise a concern in the course of obtaining legal advice and a claim of legal professional privilege could be maintained in legal proceedings, this will not be a protected disclosure.

2. The Person or Organisation You Contact to Raise Your Concern

- Your Employer
 - You must meet the requirements noted above for the category of wrongdoing.
 - You must raise your concern in good faith.
- Other Responsible Person
 - You must meet the requirements noted above for the category of wrongdoing.
 - You must raise your concern in good faith.
 - You must reasonably believe that your concern relates solely or mainly to either the conduct of the Other Responsible Person rather than your employer or to any other matter for which the Other Responsible Person rather than your employer has legal responsibility.
- Legal Advisor
 - You must meet the requirements noted above for the category of wrongdoing.
 - You must raise your concern in the course of obtaining legal advice.
- A Minister of the Crown
 - You must meet the requirements noted above for the category of wrongdoing.
 - You must raise your concern in good faith.
 - Your employer must be an individual appointed under any enactment by a Minister of the Crown or a body whose members are so appointed.
- A Prescribed Person
 - You must meet the requirements noted above for the category of wrongdoing.
 - You must raise your concern in good faith to a person/organisation on the List of Prescribed Persons (available from the Monitoring Officer).
 - You must have a reasonable belief that your concern falls within any description of matters in respect of which the person/organisation has been prescribed

- You must have a reasonable belief that your concern is substantially true.
- Disclosure in Other Cases
 - You must meet the requirements noted above for the category of wrongdoing.
 - You must raise your concern in good faith.
 - You must have a reasonable belief that your concern is substantially true.
 - You must not raise your concern for personal gain.
 - You must fulfil one of the following conditions:
 - At the time you raise your concern, you must reasonably believe that you will be subjected to a detriment by your employer if you raise your concern to your employer or to a Prescribed Person; OR
 - In a case where there is not a Prescribed Person in relation to the description of matters of your concern, you must reasonably believe that it is likely that evidence relating to your concern will be concealed or destroyed if you raise your concern to your employer; OR
 - You have previously raised substantially the same concern to your employer or to a Prescribed Person.
 - It must, in all the circumstances of the case, be reasonable to raise your concern. In determining whether it is reasonable to raise the concern, regard shall be had to the following factors:
 - The identity of the person to whom you raise your concern;
 - The seriousness of your concern;
 - Whether your concern is continuing or is likely to occur in the future;
 - Whether your concern is raised in breach of a duty of confidentiality owed by your employer to a third party, for example a service user;
 - Where you have previously raised substantially the same concern to your employer or to a Prescribed Person, any action which the employer or the Prescribed Person has taken or might reasonably be expected to have taken as a result of your concern having been raised; and
 - Where you have previously raised substantially the same concern to your employer, whether in making the disclosure to your employer you complied with any relevant procedure of your employer, for example the Whistleblowing Policy.
- Disclosure of Exceptionally Serious Failure
 - You must meet the requirements noted above for the category of wrongdoing.

- You must raise your concern in good faith.
- You must have a reasonable belief that your concern is substantially true.
- You must not raise your concern for personal gain.
- Your concern must be of an exceptionally serious nature.
- It must, in all the circumstances of the case, be reasonable to raise your concern. In determining whether it is reasonable to raise the concern, regard shall be had to the identity of the person to whom you raise your concern.