WHISTLE BLOWING PROCEDURE

OWN TRUST

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REVISIONS

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1.0		First approval	**29.03.2019**
1.1	**1**	Addition of introductory cover sheet and direct link to Trustees	**07.2020**
	9	Addition of GDPR reference	
2.0		Complete re-write following review by EPM to meet Trust wide requirements.	**10.2021**

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1. Introduction

1.1. This whistleblowing procedure must be read and applied in conjunction with [OWN Trust's Staffing Policy Statement.

1.2. The aim of this procedure is to set out how OWN Trust will deal with concerns raised by employees which relate to suspected wrongdoing or dangers at work.

1.3. Allegations of child abuse against teachers and other employees and volunteers will be dealt with in accordance with 'Keeping Children Safe in Education' - statutory guidance for schools and colleges.

2. Background

2.1. As employees may be the first to realise that there may be something wrong within the Trust, it is important that they feel able to express their concerns without fear of harassment or victimisation. Otherwise, they may find it easier to ignore the concern rather than report it. The Public Interest Disclosure Act 1998 recognises this fact and is designed to protect employees, who make certain disclosures of information in 'the public interest', from detriment and/or dismissal. This policy builds on the provisions of the Act.

2.2. The Trust is committed to the highest possible standard of operation, probity and accountability. In line with that commitment, employees, officers, consultants, contractors, volunteers, casual workers and agency workers with serious concerns are encouraged to come forward and voice those concerns. This procedure makes it clear that employees can do so without fear of reprisals. It is intended to encourage and enable employees to raise serious concerns within the Trust rather than overlooking a problem or alerting anyone external to the Trust.

3. Aims of the Procedure

3.1. This procedure aims to:

- Provide avenues for employees to raise concerns internally as a matter of course, and receive feedback on any action taken
- Provide for matters to be dealt with quickly and appropriately and ensure that concerns are taken seriously and treated consistently and fairly
- Reassure employees that they will be protected from reprisals or victimisation for whistleblowing where they have a genuine concern
- Allow employees to take the matter further if they are dissatisfied with the Trust's response

3.2. A whistle-blower is a person who raises a genuine concern relating to the matters listed below. If employees have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) they should report it under this procedure. Whistleblowing is the disclosure of information that relates to suspected wrongdoing or dangers at work. This may include:

- Criminal activity
- Miscarriages of justice
- Danger to health and safety
- Damage to the environment
- Failure to comply with any legal or professional obligation or regulatory requirements
- Bribery
- Financial fraud or mismanagement
- Negligence
- Breach of our internal policies and procedures
- Conduct likely to damage our reputation
- Unauthorised disclosure of confidential information
- Public examination fraud
- The deliberate concealment of any of the above matters

3.3. Before initiating the procedure, employees should consider the following:

- The responsibility for expressing concerns about unacceptable practice or behaviour rests with all employees
- Employees should use line manager or team meetings and other opportunities to raise questions and seek clarification on issues that are of day-to-day concern
- Whilst it can be difficult to raise concerns about the practice or behaviour of a colleague, employees must act to prevent an escalation of the problem and to prevent themselves from being potentially implicated

3.4. This procedure should not be used for complaints about an employee's personal circumstances, such as the way they have been treated at work. In these cases, an employee should use the Trust's grievance procedure (or anti-harassment and bullying policy as appropriate). If the matter relates to salary, the salary review procedure's documented in the Trust's Pay Policy.

4. Safeguards

4.1. Harassment or Victimisation

4.1.1. The Trust 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. The Trust will not tolerate harassment or victimisation and will take action to protect employees when they have a genuine concern.

4.1.2. This does not mean that if an employee is already the subject of internal procedures such as disciplinary or redundancy, that those procedures will be halted as a result of that employee raising a concern under the whistleblowing procedure.

4.2. Confidentiality

4.2.1. The Trust hopes that employees will feel able to voice whistleblowing concerns openly under this procedure. The Trust will make every effort to protect an employee's identity if confidentiality is requested.

4.2.2. As indicated above, identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed.

4.3. Anonymous Allegations

4.3.1. Employees are encouraged to put their name to an allegation. Proper investigation may be more difficult or impossible if we cannot obtain further information and it is also more difficult to establish whether allegations are credible. Anonymous allegations will be considered at the discretion of the Trust. In exercising the discretion, the factors to be taken into account would include:

- The seriousness of the issues raised
- The credibility of the concern
- Likelihood of confirming the allegation from attributable sources

4.4. Untrue Allegations

4.4.1. If an employee makes an allegation where they have a genuine concern, but it is not confirmed by the investigation, no action will be taken against that employee. If, however, we conclude that an employee has made malicious or vexatious allegations, or with a view to personal gain, disciplinary action may be taken against that employee.

4.5. Unfounded Allegations

4.5.1. Following an investigation, allegations may be confirmed as unfounded. This outcome will be notified to the employee who raised the concern, who will be informed that the Trust deems the matter to be concluded and that it should not be raised again unless new evidence becomes available.

4.6. Support for Employees

4.6.1. It is recognised that raising concerns can be difficult and stressful. Advice and support will be made available, as appropriate, to both the employee/s raising the concerns and any employee/s subject to investigation.

5. Raising a Concern

5.1. As a first step, an employee should normally raise concerns with their immediate manager or their manager's superior. This depends, however, on the seriousness and sensitivity of the issues and who is involved. For example, if an employee believes that their immediate manager or their manager's superior is involved, they should approach the headteacher.

5.2. An employee (including the Chief Executive Officer and members of the leadership team) can bypass the direct management line and the Board of Trustees if they feel the overall management and Board of Trustees of the Trust is engaged in an improper course of action. In this case, please refer to section 7 below.

5.3. Concerns are better raised in writing. The employee should set out the background and history of the concerns, giving names, dates and places where possible, and the reasons why they are particularly concerned about the situation. If an employee does not feel able to put the concern in writing, they should telephone or meet the appropriate person. However, it is important that when the concern is raised, the employee makes it clear that they are raising the issue via the whistleblowing procedure.

5.4. The earlier an employee expresses the concern, the easier it is to take action.

5.5. Although an employee is not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

5.6. In some instances, it may be appropriate for an employee to ask the trade union to raise a matter on the employee's behalf.

5.7. At each meeting under this procedure, the employee may bring a colleague or trade union representative. The companion must respect the confidentiality of the disclosure and any subsequent investigation.

6. The Role of Senior Managers

6.1. A senior manager may be informed by an employee about concern/s and that they are "blowing the whistle" within the procedure in person; or in writing or over the phone.

6.2. The senior manager should respond immediately and arrange for a stage 1 meeting to take place with the employee as soon as possible.

6.3. Stage 1:

6.3.1. At the initial meeting the senior manager should establish that:

- There is genuine cause and sufficient grounds for the concern
- The concern has been appropriately raised via the whistleblowing procedure

6.3.2. The manager conducting this meeting should ask the employee, to put their concern/s in writing, if they have not already done so. If the employee is unable to do this, the manager will take down a written summary of their concern/s and provide them with a copy after the meeting. The manager should make notes of the discussions with the employee. The employee's letter and/or manager's notes should make it clear that the employee is raising the issue via the whistleblowing procedure and provide:

- The background and history of the concerns
- Names, dates and places (where possible)
- The reasons why the employee is particularly concerned about the situation

6.3.3. The employee should be asked to date and sign their letter and/or the notes of any discussion. The manager should positively encourage the employee to do this, as a concern expressed anonymously is much less powerful and much more difficult to address, especially if the letter/notes become evidence in other proceedings, e.g. an internal disciplinary hearing.

6.3.4. The manager should follow the policy as set out above and in particular explain to the employee:

- Who they will need to speak to in order to determine the next steps
- What steps they intend to take to address the concern

- How they will communicate with the employee during and at the end of the process. It should be noted that the need for confidentiality may prevent the Trust from giving the employee specific details of any necessary investigation or any necessary disciplinary action taken as a result
- That the employee will receive a written response within 10 working days
- That their identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed
- That the Trust will do all that it can to protect the employee from discrimination and/or victimisation
- That the matter will be taken seriously and investigated immediately
- That if the employee's concern, though raised as a genuine concern, is not confirmed by the investigation, no punitive action will be taken against them
- If clear evidence is uncovered during the investigation that they have made a malicious or vexatious allegation, disciplinary action may be taken against them
- The investigation may confirm their allegations to be unfounded in which case the Trust will deem the matter to be concluded unless new evidence becomes available

6.4. Stage 2:

6.4.1. Following the initial meeting with the employee, the manager should consult with the headteacher to determine whether an investigation is appropriate and, if so, what form it should take. A record should be made of the decisions and/or agreed actions.

6.4.2. It may be necessary, with anonymous allegations, to consider whether it is possible to take any further action. When making this decision, the headteacher should take the following factors into account:

- The seriousness of the issue/s raised
- The credibility of the concern/s
- The likelihood of confirming the allegation/s from attributable sources

6.4.3. In some cases, it may be possible to resolve the concern/s simply, by agreed action or an explanation regarding the concern/s, without the need for further investigation. However, depending on the nature of the concern/s it may be necessary for the concern/s to:

- Be investigated internally
- Be referred to the police
- Be referred to the external auditor
- Form the subject of an independent inquiry

6.4.4. Senior managers dealing with whistleblowing cases should have a working knowledge and understanding of other Trust procedures, e.g. grievance, disciplinary, harassment and child protection procedures, to ensure that concerns raised by employees are addressed via the appropriate procedure.

6.5. Stage 3:

6.5.1. Within 10 working days of a concern being received, the senior manager receiving the concern (at paragraph 6.1 above) must write to the employee:

- Acknowledging that the concern has been received
- Indicating how they propose to deal with the matter
- Giving an estimate of how long it will take to provide a final response

- Telling the employee whether any initial enquiries have been made
- Telling the employee whether further investigations will take place, and if not why not
- Letting the employee know when they will receive further details if the situation is not yet resolved

7. Raising Concerns Outside the Trust

7.1. The aim of this procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases, the employee should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for the employee to report their concerns to an external body, such as a regulator. It will very rarely if ever be appropriate to alert the media. Employees are strongly encouraged to seek advice before reporting a concern to anyone external. If an employee is not satisfied with the Trust's response, the senior manager dealing with the case should ensure that they are made aware with whom they may raise the matter externally:

- 'Protect' - 0203 117 2520
- Recognised trade union
- Senior LA officer
- External auditor
- Relevant professional bodies or regulatory organisations
- Solicitor

*Protect is a registered charity that employees can contact for advice to assist them in raising concerns about poor practice at work. The charity also provides advice to employers as to the possible ways to address these concerns.

Concerns about safeguarding practices can be raised externally using the NSPCC whistleblowing helpline. Employees can call 0800 028 0285 or email help@nspcc.org.uk.

7.2. The senior manager dealing with the case should stress to the employee that if they choose to take a concern outside the Trust, it is the employee's responsibility to ensure that confidential information is not disclosed, i.e. confidential information, in whatever format, is not handed over to a third party.