BUCKINGHAMSHIRE COUNTY WHISTLEBLOWING POLICY AND PROCEDURE FOR SCHOOLS

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Signed ……. Chair of Governors

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1. INTRODUCTION

1.1 The Council/Governing Body is committed to achieving the highest possible standards of service and ethical standards.

1.2 This document sets out the Whistleblowing policy for staff employed in and working for Schools and encourages employees/workers to not overlook any concerns they may have or to take these outside of the School but to raise those concerns internally through a supportive procedure.

1.3 The policy forms part of the Council's Anti-Fraud and Corruption strategy and provides a structure for employees/workers to raise serious concerns about any aspect of the School's work without the risk of any subsequent detriment or disadvantage.

1.4 This policy is in addition to the School's Complaints and Grievance Procedures. It does not form part of the School's Conduct and Discipline procedure, although disciplinary action may result from the application of this policy.

2. SCOPE

2.1 This policy applies to:

a. All Teachers on Teachers pay and conditions and Buckinghamshire Council employees employed in schools under the terms of Bucks Pay Employment Conditions.

b. Workers, including agency staff, consultants, self employed individuals and trainees engaged to work in Schools.

c. Contractors working for the Council/Governing Body on School premises and suppliers and those providing services under a contract with the Council/ Governing Body on their own premises.

d. Organisations working in partnership with the Council/Governing Body.

e. Volunteers working with or for the Council/Governing Body (note that Volunteers are not currently covered by Public Interest Disclosures Act 1998).

This policy does not apply to:

a. Members of the general public including parents and/or guardians of pupils. Concerns raised by the general public should be made via the School's complaints procedure.

2.2 Procedures are in place to enable employees/workers to lodge a grievance relating to their own employment. Any serious concerns that a member of staff has about an aspect of service provision or conduct of staff/governors or others acting on behalf of the school, can and should be reported under this Whistleblowing policy.

3. ROLES AND RESPONSIBILITIES

3.1 Governors/Headteachers/Teachers/Line Managers and employees/workers have a responsibility within this procedure.

Governors/Headteachers/Teachers/Line Managers will:

a. Ensure the Whistleblowing procedures are followed correctly, seeking advice from HR where they are unsure/as appropriate.

b. Support employees/workers who raise concerns under this procedure to ensure that they do not suffer detriment as a result of their action e.g. loss of status/income/conditions of employment/adverse treatment by those implicated.

c. Inform the Council's Monitoring Officer (Assistant Chief Executive) when a concern is raised to them.

d. Protect the identity of an employee/worker who raises concerns and does not want their name revealed, by only telling those who need to know and asking them to respect the confidentiality of this information.

e. Ensure that, even in the case of anonymity, the employee/worker is aware that any investigation may reveal the source of the information and that they may be asked to give a statement as part of the process of gathering evidence.

f. Where managerial or procedural action through a different policy e.g. Conduct and Discipline, is being taken against the employee who has raised concerns, the manager should contact the HR Service Desk who in turn will contact the Council's Monitoring Officer (Assistant Chief Executive), the Service Director Education and other appropriate colleagues, to decide whether that action should be delayed whilst an investigation under the whistleblowing procedure takes place.

3.2 Governors will:

a. address any concerns to the Service Director Education or to an elected Member of the Council.

3.3 Employees/Workers will:

a. Not whistleblow for personal gain or with malicious intent but use this procedure to raise genuine concerns when they believe that to do so is in the public's interest.

b. Reasonably believe their allegations and the information they provide are substantially true.

3.4 In relation to employees in Community and Voluntary Controlled Schools with delegated budgets, the obligations of the employer reside with the Governing Body as agent of the Council.

3.5 In relation to employees in Foundation and Voluntary Aided Schools with delegated budgets, the obligations of the employer reside with the Governing Body.

4. PRINCIPLES

4.1 The policy and procedure contained within this document is founded on the following principles:

a. That employees/workers have a legal right to report their concerns if they have a reasonable belief that wrongdoing may be occurring, or may have occurred, within the School.

b. That the Public Interest Disclosure Act 1998 protects employees/workers from reprisal, victimisation or harassment at work if they raise a concern that they reasonably believe is in the public interest.

c. To encourage employees/workers to raise serious concerns within the School initially, rather than overlooking a problem or whistleblowing directly to an outside organisation.

d. To encourage and enable individuals to raise concerns about any aspect of the School's work and receive feedback on any action taken without fear of reprisal.

e. To ensure that individuals receive a timely response to their concerns.

f. Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, caste, religion or belief, sex or sexual orientation, other grounds protected by law (e.g. part-time worker status, trade union membership or HIV positive status).

5. DEFINITION OF WHISTLEBLOWING

5.1 Whistleblowing occurs when an employee or worker raises a concern about a dangerous or illegal activity that they are aware of through their work and that may affect others, e.g. pupils, members of the public including parents and guardians, or the School. A concern raised, also known as a protected disclosure under the Public Interest Disclosure Act 1998, must be in the public interest to qualify for protection.

5.2 The Whistleblower may not be directly or personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of the investigation and as such should not be expected to prove their case. Instead, he or she

may raise the concern, also known as a protected disclosure, using the process outlined in this policy, so that others can address it.

5.3 Concerns that are covered by this policy include:

- Conduct which is an offence or breach of law
- Failing to comply with a legal obligation although not usually in terms of an employee's employment unless it is in the public interest
- Health and Safety risks, including risks to pupils as well as employees/workers
- Damage to the environment
- Abuse of pupils
- Safeguarding concerns relating to children or vulnerable adults
- Practice which falls below established standards of practice
- Possible fraud, corruption or financial irregularity including unauthorised use of School funds *(please see the School's Fraud Response)*
- Unreasonable conduct resulting in unfair pressures on staff
- Any other unethical conduct
- Covering up information about anything listed above

5.4 This policy incorporates provisions that are required from the Public Interest Disclosure Act 1998.

6. EXCLUSIONS

6.1 This policy does not cover the following cases:

a. Issues raised by the general public – in these instances the individual School's Complaints Procedure should be used.

b. Issues raised by an employee about their own employment – this is dealt with through the School's grievance procedure.

c. Concerns regarding Safeguarding will be raised under the Whistleblowing Policy to ensure that the employee/worker raising the concern is protected by Public Interest Disclosure Act 1998. However, the concern itself may have to be dealt with under the Managing Allegations Policy.

d. This policy is not to be used as an appeal mechanism for other procedures i.e. following an unfavourable outcome from a grievance procedure unless employees/workers feel that the process in another procedure was significantly and seriously compromised.

e. Employees/workers must not use dismissal or redundancy selection as sole reasons for making a disclosure under this policy.

7. MISUSE OF THE POLICY

7.1 The Council/Governing Body will take seriously any concerns raised that are subsequently proven to have been made maliciously. Any employee/worker who is found to have acted maliciously may be subject to the Schools' Conduct and Discipline Policy and Procedure.

7.2 If, however, an employee/worker raises a concern from an honest and reasonable belief that it is in the public interest that is not later confirmed by investigations, no action will be taken against that individual.

8. CONFIDENTIALITY AND ANONYMITY

8.1 If a concern is raised in confidence, the employee's or worker's identity will not be disclosed without their consent, unless required by law. If the situation arises where the Council/Governing Body is unable to resolve the concern without revealing the identity, e.g. because evidence is needed in court, this will be discussed first with the

employee/worker who raised the concern to agree how to proceed. However, the Council/Governing Body will not disclose the identity of the whistleblower to the person who is the subject of the disclosure or others not involved in the investigation unless it is required by law and only with prior consent from the whistleblower.

8.2 It is important to note that it will be much more difficult to investigate the matter or proceed in instances where a concern is raised anonymously. Accordingly, whilst the Council/Governing Body will consider anonymous reports, it may not be possible to apply all aspects of this policy for concerns raised anonymously.

8.3 It is expected that all parties involved in the whistleblowing process will maintain strict confidentiality throughout by ensuring that only the people who need to know have access to details of the case (with the exception of any legal obligations requiring action from the Council/Governing Body, e.g. in health and safety matters).

8.4 Any person found to have breached the terms of this policy in relation to confidentiality may be subject to action under the School's Conduct and Discipline procedures.

9. SAFEGUARDING

9.1 If an employee/worker has a concern that any person who works with children, young people or vulnerable adults, in connection with his/her employment or voluntary activity, has:

a. behaved in a way that has harmed a child, young person or vulnerable adult or may have harmed a child, young person or vulnerable adult

b. possibly committed a criminal offence against or related to a child, young person or vulnerable adult

c. behaved towards a child, young person or vulnerable adult in a way that indicates they may pose a risk of harm to children, young people or vulnerable adults

the employee/worker should raise the concern via the Whistleblowing Policy as this policy affords the employee/worker protection under the Public Interest Disclosure Act

1998. It is important that a safeguarding concern is raised as a matter of urgency as the safety of others may be dependent upon the concern being dealt with swiftly. The concern may then have to be dealt with under the procedures surrounding Safeguarding Vulnerable Adults and Managing Allegations against Staff and Volunteers working with Children and Young People.

9.2 In addition to guidance below in section 10, an employee/worker may raise their concern regarding a person who works with children, young people or vulnerable adults with a Local Authority Designated Officer (LADO).

10. INITIAL STAGES OF RAISING A CONCERN UNDER THE WHISTLEBLOWING POLICY

10.1 In the first instance, the employee/worker should raise their concern orally or in writing with an appropriate level of line management e.g. Teacher/Headteacher/Line Manager. If the concern raised involves the Headteacher, an approach should be made to the Chair of Governors

10.2 If the employee/worker feels unable to raise a concern to an appropriate level of line manager they may alternatively use the Council's Whistleblowing hotline on **01296 382237** or email audit@buckinghamshire.gov.uk. Using this hotline will ensure that employees/workers are protected under this policy.

10.3 Concerns can also be raised through the employee/worker's trade union representative. The representative should then seek advice on procedures from the branch secretary.

10.4 Workers, such as agency workers or contractors, should raise a concern with their contact within the School, usually the person to whom they report.

10.5 The employee/worker must make it clear that they are raising the concern under the Whistleblowing policy.

10.6 If they wish to remain anonymous, they should make this clear to the person they contact.

10.7 Employees/workers will not be required to provide evidence of the concern but will be expected to demonstrate that there are reasonable grounds for raising the issue.

10.8 Employees/Workers should have nothing to fear by reporting concerns and individuals who do invoke the whistleblowing procedures will be seen as 'witnesses' rather than 'complainants' by the School.

10.9 Any investigations that are deemed necessary following the reporting of a concern will not be influenced by any disciplinary or redundancy procedures that may already affect employees/workers.

10.10 If an initial concern raised within the Authority includes any possible financial irregularity, the Director of Finance and Assets should be informed by the Headteacher/Chair of Governors.

10.11 At any meeting during the whistleblowing process, the employee/worker has a right to be accompanied by an accredited union representative or work colleague.

10.12 The manager may at their discretion allow the employee to bring a companion who is not a colleague or trade union representative where this will help overcome a particular difficulty caused by disability, or where the employee has a difficulty understanding English.

11. FORMAL STAGES OF THE WHISTLEBLOWING PROCEDURE

11.1 There are three possible stages to the School's formal Whistleblowing procedure:

Stage 1:

a. In the first instance, the employee/worker should raise their concern orally or in writing with an appropriate level of line management e.g. Teacher/ Headteacher/Line Manager. If the concern raised involves the Headteacher, an approach should be made to the Chair of Governors. If the concern raised involves the Chair of Governors the employee/worker should approach HR or the Service Director Education.

b. The Headteacher/Line Manager will then either continue to deal with the concern or refer it to another appropriate Senior member of staff or the Chair of Governors. Where concerns raised involve Children, Young People or Vulnerable Adults, the appropriate process should be followed. (See Section 11 in the Whistleblowing Toolkit for Managers and Employees for further information).

Stage 2:

c. If the employee/worker is dissatisfied with the outcome at Stage 1, they may opt to take the matter to Stage 2 by writing to the Headteacher/Chair of Governors.

d. Following a Hearing at Stage 2 if the employee/worker is dissatisfied with the way in which procedures were followed, prior to taking their concerns outside the School, they should put their concerns in writing to the Chair of Governors in order that concerns may be addressed.

Stage 3:

e. If the employee/worker is dissatisfied with the outcome at stage 2, they may opt to take the matter to stage 3, by raising the concern externally.

f. At Stage 3, the employee/worker is entitled to take their concern to any of the following[1]:

- A County Councillor or the local Member of Parliament
- The Buckinghamshire Council's External Auditor
- The Comptroller and Auditor General
- Secretary of State for Education
- The Police
- Protect[2] (www.protect-advice.org.uk or telephone 020 3117 2520)

[1] In taking their concerns outside the School, the employee/worker should, as far as possible, avoid revealing confidential information (e.g. about pupils, clients or other workers).

[2] Protect is an accredited legal advice centre so an employee/worker who approaches this organisation does not breach the duty of confidence that they owe to their employer.

- A relevant professional body or inspectorate (e.g. OFSTED OR SSI)
- A trade union or professional association
- The Diocesan Director of Education (employees/workers in Voluntary Aided schools only)

12. HEADTEACHERS/GOVERNORS

12.1 Headteachers should raise their concern initially to the Chair of Governors and then an elected Member of the Council if they wish to take the concern to a Stage 2.

12.2 In the event that a Governor wishes to raise a concern under the Whistleblowing Policy, they should address their concerns to the Service Director Education or to an elected Member of the Council.

13. INVESTIGATION

13.1 When a concern is raised through the Whistleblowing Policy, it may be necessary to carry out an internal enquiry. In this instance, an Investigating Officer will be appointed by the Hearing Officer (the manager conducting the meeting regarding the concern) and is responsible for investigating events surrounding or leading to the concern raised.

13.2 The Investigating Officer will meet any other parties or witnesses named in the investigation or deemed to be relevant. At this point, a written summary of interview notes and any findings should be produced for the Hearing Officer.

13.3 If further allegations or information come to light during the course of the investigation the Hearing Office must be kept informed.

14. ACTION UNDER THE WHISTLEBLOWING POLICY

14.1 The employee/worker should be kept informed as to what decision has been made and an explanation given for the decision. However, it may not be possible to tell the employee/worker the precise action that may be taken as a result as this may infringe a duty of confidence owed by the School/Council to another employee/worker.

14.2 Prior to any investigation, the Headteacher/Line Manager/Chair of Governors may decide to:

- Take action without the need for an investigation
- Take urgent action before an investigation takes place, e.g. suspension of an employee/worker, if sufficient initial evidence indicates this is warranted. See the School's Conduct and Discipline Policy for details on Suspension.
- Undertake an investigation e.g. through the disciplinary procedure, Managing Allegations against Staff and Volunteers Working with Children and Young People, Safeguarding Vulnerable Adults process or by internal audit through the Anti-Fraud and Corruption Statement of Policy if the case involves financial irregularity or corruption.
- Refer the concern straight to the police. If a concern is referred straight to the police then an internal investigation **must not** be carried out as the police will wish to speak to all parties involved.
- Arrange an alternative independent enquiry e.g. Health and Safety Executive

14.3 If a decision is made to take action under another policy e.g. Conduct and Discipline or the Managing Allegations, after an investigation, the Headteacher/Line Manager/Chair of Governors should:

- Write to the employee/worker who has raised the concern to inform them of the outcome within 5 working days of the meeting, copying in the Council's Monitoring Officer,

- Give reasons for the decision made and explain that the employee/worker has a right to take the matter to the next level and give details of how they should do this.

14.4 If, following the use of the whistleblowing procedures, an individual believes they are being subjected to detrimental treatment by any person within the School, they must inform their relevant Line Manager immediately and appropriate action will be taken to protect them from any reprisals. In the case of a Governor being subjected to detrimental treatment they should immediately inform the Service Director Education.

14.5 As part of the Council/Governing Body's commitment to dealing with concerns raised via this policy, any person who tries to identify, victimises or harasses an individual as a result of them having raised a concern under the procedure, may be subject to the Schools' Conduct and Discipline Policy.

14.6 Similarly any person who deters or attempts to deter any individual from genuinely raising concerns under this policy may also be subject to the Schools' Conduct and Discipline Policy.

15. RECORDS

15.1 The Council's Monitoring Officer (Assistant Chief Executive) will keep a central register of all concerns raised relating to The Buckinghamshire Council and Schools. Confidential HR records of the outcome of any concerns raised will also be maintained.

15.2 The Chair of Governors should also keep a record of concerns raised within the School. Records should not be kept on the file of the individual who raised the concern under any circumstances.

15.3 As part of the ongoing review of the effectiveness of this policy, an annual report will be issued to the The Buckinghamshire Council Regulatory and Audit Committee of all concerns raised under the Whistleblowing policy.

16. FURTHER GUIDANCE

16.1 Further guidance is contained in the relevant toolkits listed below, for all parties involved during the Whistleblowing process:

- Whistleblowing Toolkit
- Safeguarding Toolkit

16.2 The Toolkits are updated on a regular basis. Managers and Teachers should ensure that they refer to the most up to date copy on the intranet and not a previous printed version.

16.3 Formal advice and guidance is available from the HR Service Desk

Data protection

We process any personal data collected during the whistleblowing procedure in accordance with our data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the whistleblowing procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with our data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under our disciplinary procedure.