



Whistleblowing Policy

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Date of next review: July 2027

Approved by: HR Committee

Whistleblowing Policy

1 Introduction

This policy applies to all employees, governors and directors. Other individuals performing functions in relation to the organisation, such as agency workers and contractors, should also have access to it.

It is important to the Trust that any fraud, misconduct or wrongdoing by employees, governors or directors of the Trust is reported and properly dealt with. The Board of Directors or Local School Committee will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the school, **which are in the public interest**. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

This policy does not form part of any employee's contract of employment and it may be amended at any time.

- 1.1. Spiral Partnership Trust expects the highest standards of conduct from all employees, governors and directors, and will treat seriously any concern raised about illegal or improper conduct.
- 1.2. Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Board of Directors, Local School Committee or Senior Leadership Team, any serious impropriety or breach of procedure.
- 1.3. Employees who do not follow the steps identified in this procedure or other agreed internal procedures and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation.

2 What is Whistleblowing

Whistleblowing means the reporting of information which relates to actual or suspected wrongdoing. This is called a "qualifying disclosure".

Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- A criminal offence
- A miscarriage of justice
- An act creating risk to health and safety
- An act causing damage to the environment
- Corruptly receiving any gift or advantage, thus failing to comply with the Bribery Act 2010 (see SPT Anti-Bribery Policy and Corruption Policy)
- Allowing private interests to override the interests of the school
- A breach of any legal obligation; or
- The deliberate attempt to conceal any of the above.

It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter; it is the Trust's responsibility to ensure that an investigation takes place.

- 2.1 Where the concerns are about **safeguarding children or young people**, the school's Designated Senior Person for Child Protection **and** the Headteacher should be notified (see 7 below).
- 2.2 It is a procedure in which the Headteacher or Chair of Local School Committee will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the Trust's disciplinary procedure.
- 2.3 Concern about a colleague's professional capability should **not** be dealt with using this procedure.

3 When should it be used?

This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, broken they should use the Trust's Grievance procedures.

Where a disclosure is merely an expression of opinion that fails to show that a legal obligation has been or is likely to be breached, it **cannot** amount to a protected or qualifying disclosure for the purposes of the whistleblowing legislation

- 3.1 This procedure is not designed to replace or be used as an alternative to the grievance procedure, which should be used where an employee is only aggrieved about their own situation. Nor should this policy apply where the employee simply disagrees with the way the Trust is run.
- 3.2 Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour.
- 3.3 An employee who makes such a protected disclosure has the right not to be dismissed, subject to any other detriment, or victimised, because they have made a disclosure, provided it has not been made maliciously. Any employee who uses this procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns.
- 3.4 An employee who is not sure whether the conduct they are concerned about does constitute illegal or improper conduct or is unsure about how to proceed may contact the Trust HR Manager or their Professional Association/Trade Union.
- 3.5 Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to the EFA for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Headteacher or Chair of the Local School Committee (but see 5), who will in turn report it to the EFA.

4. Principles

- 4.1 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue. Whilst the person carrying out the investigation will aim to keep the whistle-blower informed of the progress of the investigation and likely timescales, sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed.
- 4.2 No employee will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because they have raised a legitimate concern.

- 4.3 We encourage individuals to voice their concerns openly. If anyone wishes to raise concerns confidentially, we will make every effort to respect their confidentiality, however, this can not be guaranteed.

The person(s) to whom the disclosure is made will consult with the whistleblower before divulging their identity to any party, including an investigator.

We do not encourage anonymous disclosures as this may make it harder to establish the credibility of an allegation and may make investigation difficult or impossible. Anonymous concerns will be taken seriously and investigated as far as is possible under this policy.

- 4.4 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.
- 4.5 If misconduct is discovered as a result of any investigation under this procedure the matter will be considered under the disciplinary procedure, in addition to any appropriate external measures.
- 4.6 Maliciously making a false allegation is a disciplinary offence.
- 4.7 An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent.

5. Whistleblowing Procedure

- 5.1 **Stage 1 – Disclosure.** In the first instance, unless the employee reasonably believes their Headteacher to be involved in the wrongdoing, any concerns should be raised with the employee's Headteacher. If they believe the Headteacher to be involved, then the employee should proceed straight to stage 3 (see below 5.3). The CEO will be informed of the disclosure.
- 5.2 **Stage 2 – Investigation.** The Headteacher/Chair of Local School Committee will arrange an investigation into the matter (either by investigating the matter himself/herself or immediately passing the issue to someone in a senior position). The investigation may involve the employee and others involved giving written statements. Any investigation will be carried out in accordance with the principles set out above. The employee's statement will be taken into account and they will be asked to comment on any additional evidence obtained.

Employees who want to use the procedure but feel uneasy about it may wish to consult their Professional Association/Trade Union initially and bring a colleague or Professional Association/Trade Union Representative along to any discussions, so long as the third party is not involved in the issue.

Where anonymity is requested efforts will be made to meet the request where appropriate but that might not always be possible. The earlier and more open the expression of concern the easier it will be to take appropriate action.

- 5.3 **Stage 3 – Report to Headteachers/Chair of the Local School Committee.** The Headteacher (or the person who carried out the investigation) will then report to the Chair of the Local School Committee who will take the necessary action, including reporting the matter to any appropriate department or regulatory agency. If disciplinary action is required, this will be taken forward by the Headteacher/Chair of the Local School Committee in consultation with the Trust's HR Manager. On conclusion of any investigation the employee will be told the outcome of the investigation and what the next steps will be. If no action is to be taken the reason for this will be explained.

Stage 4 – Escalation. If the employee is concerned that their Headteacher is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigation, they should inform the CEO/Chair of the Board of Directors.

If, on conclusion of stages 1, 2 and 3 you believe that the appropriate action has not been taken, you should report the matter to the proper authority. The Public Interest Disclosure (Prescribed Persons) Order 2014 (as amended) sets out a number of bodies prescribed by the Secretary of State to which qualifying disclosures may be made. In order for the report to one of these bodies to be a protected disclosure, you must reasonably believe that the matter falls within the matters covered by that body. You must also reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.

These bodies include:

- the Financial Conduct Authority (formerly the Financial Services Authority)
- the Health and Safety Executive
- the Environment Agency
- His Majesty's Chief Inspector of Education Children's Services and Skills
- the Secretary of State for Education
- the Office of Qualifications and Examinations Regulation.

A full list can be obtained from the charity, Protect or the BEIS (Department for Business, Energy and Industrial Strategy) list on the www.gov.uk website. The DBEIS list contains a description of the type of matter covered by each prescribed body. Alternatively, you may contact their professional association or trade union representative for guidance.

6 What should be done if an issue is raised with a member of staff?

If a member of staff, other than the Headteacher, is approached by a colleague on a matter of concern as defined in this document, they are advised to take the matter to the Headteacher (but see 5).

7 Safeguarding Children and Young People

7.1 All employees have a duty to report concerns about the safety and welfare of pupils.

7.2 Concerns about any of the following should be reported to the Designated Senior Person for Child Protection (DSP) and the Head Teacher:

- 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

A list of the DSP for each school within the Trust can be found on individual school websites.

7.3 The reason for the concern may be the actions of a colleague (including a more senior colleague), a Governor, another pupil or someone outside the Trust. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself, a disciplinary matter. Where employees feel appropriate action hasn't been taken with regards to their concerns, they should report them to the LADO (local authority designated officer). The LADO can be contacted via email (LADO.referral@hertfordshire.gov.uk)

8. Data Protection

When an individual makes a disclosure, the Trust will process any personal data collected in accordance with its data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

Law Relating To This Document

- Employment Rights Act 1996
- Public Interest Disclosures Act 1998

The requirement that a whistleblower make a qualifying disclosure 'in good faith' has been removed. Therefore, while the employer can seek a declaration from the whistleblower that he or she is not knowingly making a false allegations, disciplinary action is likely to be appropriate only where there is clear evidence that the employee has misused the whistle blowing procedure. A consequence of the requirement that a disclosure be made in the public interest is that an employee will generally be precluded from being able to 'blow the whistle' about breaches of his or her employment contract.

Section 43J of the Employment Rights Act 1996 provides that a Settlement Agreement made between an employee and employer cannot prevent future protected disclosures.

Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.

9 Contacts

- Secretary of State for Education
- Chair of the Board of Directors. Robin Douglas
- Regional Commissioner
- Herts for Learning (for Academies) 01438 544463
- Professional Association or Trade Union Representative, a list of the current County Secretaries is available on the HCC Website.

Independent whistleblowing charity **Protect: Web address: www.protect-advice.org.uk**

Helpline [020 3117 2520](tel:02031172520)

E-mail: whistle@protect-advice.org.uk