

Whistleblowing Protocol



St Mary's Church of England Primary School
Established 1845

Introduction

The Governing Body of St. Mary's CE primary school is committed to achieving the highest possible standards of service and in public life, within a culture of openness and accountability. Indeed, it is the duty of every member of staff to speak up about genuine concerns in relation to criminal activity, breach of a legal obligation (including negligence, breach of contract, breach of administrative law), miscarriage of justice, danger to health and safety or the environment, and the cover up of these in the workplace. It applies whether or not the information is confidential.

Accordingly, the Governing Body encourages members of staff to use the procedure outlined in this protocol in order to raise concerns of internal malpractice, illegal acts or omissions without fear of harassment or victimisation. The Governing Body is aware that, more often than not, it is members of staff who first become aware of areas of potential malpractice in relation to the way in which the school carries out its business. This Protocol sets out the way in which such concerns can, and should, be raised by members of staff without fear of reprisal or victimisation for 'whistleblowing'.

Who this protocol is for: All employed staff and governors at St Mary's primary school, Dilwyn. This includes those on a fixed term contract or agency staff.

Scope

The expression 'whistleblowing' is commonly used to describe circumstances where an employee makes a disclosure of a kind referred to within the Public Interest Disclosure Act 1998 ('The Act'). The Act affords protection to employees who report acts or omissions, which could be described as falling within the following definitions:

- A criminal offence;
- Breach of a legal obligation;
- A miscarriage of justice;
- A danger to the health and safety of any individual;
- Damage to the environment;
- Deliberately covering up of information tending to show any of the above five matters.

In the event that a member of staff has concerns that something of this nature has occurred at work then the member of staff should disclose all relevant information in accordance with the reporting mechanisms described later in this protocol.

The Governing Body has a range of policies and procedures, which deal with standards of behaviour at work: Staff Handbook (including disciplinary and grievance procedures), Staff code of conduct, Safeguarding and Child Protection (including what to do in the event of allegations of abuse against staff) and Safer recruitment policies. Members of staff are encouraged to use the provisions of these procedures when appropriate.

There may be times, however, when the matter needs to be handled in a different way. This Protocol is intended to cover concerns that fall outside the scope of other procedures for example:

- Malpractice or ill treatment of a pupil by a member of staff;
- Where a criminal offence has been committed, is being committed or is likely to be committed;
- Suspected fraud;
- Disregard for legislation, particularly in relation to health and safety at work;
- Breach of standing financial instructions;
- Showing improper conduct in matters related to appointment;
- A breach of a Code of Conduct; and/or information on any of the above which has been, or is likely to be, concealed.

In the event that a member of staff has concerns that something of this nature has occurred at work then they should disclose all relevant information in accordance with the reporting mechanisms described later in this Protocol. In making such disclosures the member of staff will **only be afforded protection by the Act** in the event that any such disclosure is made:

- In good faith;
- If it is believed that the disclosure is substantially true;
- If the Whistle-blower has not acted maliciously; and /or
- If the disclosure is not for personal gain.

Provided that the disclosure is of a kind described above and, additionally, it is made properly in accordance with those matters referred to in the first and last bullet points above, then the member of staff will be legally protected from suffering any detriment in relation to their employment as a result of having made that disclosure.

Confidentiality

The Governing Body will do its best to protect the identity of a member of staff who decides to make a disclosure in accordance with this protocol and where anonymity is

preferred. However, if a consequent investigation is initiated, it may be necessary to reveal the source of the complaint, and the Whistleblower may be asked to provide a relevant statement.

Designated Officer

The Designated Officer to be point of contact for concerns raised under the Whistleblowing Protocol is the Principal, In the event that the concern involves him, the Whistleblower should contact the Chair of Governors who will fulfill the role of designated officer.

Anonymous Allegations

The Governing Body encourages those making a disclosure to put their name to their allegation. Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Designated Officer. In exercising the discretion, the factors to be taken into account may include:

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

Allegations which do not appear to be motivated by personal animosity and which, if true, would have serious implications for the Governing Body, are more likely to be considered, despite the fact that they have been made anonymously.

Untrue Allegations

If a member of staff makes an allegation, which is made in good faith, but is not confirmed by the investigation, no action shall be taken against the Whistleblower. If, however, the allegation is considered to have been made either maliciously or vexatiously then disciplinary action may be taken.

PROTOCOL

1. **How to raise a concern:** A member of staff with a concern should refer the matter to the Principal. If he/she is involved the line manager should raise the concerns with the Chair of Governors. If he/she is involved, the member of staff should raise the concerns with the Chair of Trustees.

In addition, any perceived malpractice at the School can be reported to the Department for Education at: Ministerial and Public Communications Division, Department for Education, Piccadilly Gate, Store Street, Manchester, M1 2WD. Tel: 0370 000 2288.

Members of staff would be ill advised to approach the media with any concerns for risk of losing their whistleblowing legal rights. For further understanding of this risk, please read the Government Guidance "Whistleblowing: Guidance for Employers and Good Practice".

2. Confirmation of concerns:

- a. Concerns should be confirmed in writing setting out the background and history of the concern, giving names, dates and places where possible, and the reason for concern.
- b. Members of staff who do not initially feel able to put their concerns in writing should meet the Principal.
- c. Advice and guidance on how matters of concern may be pursued can be obtained from trade unions or professional associations who may raise a matter on behalf of the member of staff.
- d. Trade union or professional association representatives will themselves have the protection given to complainants under the procedure, provided that they act in accordance with the procedure with regard to the information so disclosed.

3. The Governing Body's Initial Response:

- a. The Designated Officer, if requested, will arrange an initial interview. At this stage, the Whistleblower will be reassured that he/she will be protected from possible victimisation, and will be asked if he/she wants to make a written or verbal statement. In either case, the Designated Officer or line manager will then write a brief summary of the interview, which will be agreed by both parties.
- b. As far as possible, the confidentiality of the Whistleblower will be protected, however this cannot be guaranteed.
- c. The Designated Officer or line manager will report to the Chair of Governors (or Chair of Trustees), who may set up any further necessary investigations. This may include an external investigation.

- 4. The Investigation:** In order to protect individuals and the Governing Body, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures. It may be necessary for an investigation to take place in strict confidence (with the employee under investigation not being informed until necessary). If it is necessary to suspend a member of staff while the investigation takes place the procedure in the Staff Handbook will be used. Some concerns may be resolved by agreed action without the need for investigation, others may have to be referred to the Police,

an external audit or form the subject of an independent inquiry. The Governing Body recognises the contribution that trade unions can make to any Inquiry and agrees to consult, where appropriate, with the recognised trade union/s about the issues, such as the scope of any inquiry and the implementation of the recommendations of the inquiry.

5. The Designated Officer will endeavour to:

- a. Confirm receipt in writing (within five working days) of a concern being received, acknowledging that the concern has been received; and
- b. Write (within ten working days) indicating how he/she proposes to deal with the matter, where possible giving an estimate of how long it will take to provide a response, detailing whether any initial enquiries have been made, and whether further investigations will take place, and if not, why not.

6. The matters raised may:

- a. Be disposed of without further action;
- b. Be investigated internally;
- c. Be referred to the Police;
- d. Be referred to an External Auditor; and/or
- e. Form the subject of an independent inquiry.
- f. In order to protect individuals and the Governing Body, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

7. How the Governing Body will respond

Following the Investigation the Designated Officer will (subject to legal constraints) inform both Chair of Governors/Chair of Trustees and the Whistleblower of the result of the investigation. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned). If the investigation shows there is a case to be answered, the Staff Handbook may be used. If there is no case to answer, the Designated Officer will inform the Chair of Governors/Chair of Trustees of this fact. Disciplinary action will be taken against the Whistleblower where a false allegation is made maliciously.

- 8. Records:** A note of the concern raised, how it was resolved and copies of any records associated with the investigation will be stored confidentially for at least 12 months following resolution.

Responsibilities

The Designated Officer has overall responsibility for the maintenance and operation of this protocol. The Designated Officer will maintain a record of concerns raised, and the outcomes (in a way which does not endanger confidentiality), and shall report as necessary to the Governing Body.

The Laws

This policy and procedure have been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act is incorporated into the Employment Rights Act 1999, which protects employees who take action over, or raise concerns about, health and safety at work.

Independent advice and further reading

Employees who feel unsure about whether or how to raise a concern or want confidential advice can contact the independent charity, Protect, on 020 3117 2520 via the website, <https://protect-advice.org.uk>.

Their lawyers can give free confidential advice on how to raise a concern about serious malpractice at work.

Free information and advice can also be obtained from the Advisory, Conciliation and Arbitration Service (ACAS) at www.acas.org.uk - Telephone: 0300 123 1100. Public Concern at Work and ACAS can advise on the circumstances when it is more appropriate to contact an outside body.

Date Implemented: October 2022

Review date: October 2025

Approved By _____ Position Chair of Governors