



TOWNLEY
— EST 1937 —
GRAMMAR SCHOOL

WHISTLEBLOWING POLICY

1. Introduction

This policy has been produced in consultation with the professional associations/trade unions and is recommended for adoption by Bexley Trusts. For Trusts that subscribe to Bexley Council HR services, an adviser is always available to provide guidance in relation to the implementation of this policy. Townley Grammar Trust Academy Trust subscribes to this service.

This policy and procedures apply to all employees (which throughout this policy and procedure include workers) and Trustees. Other individuals performing functions in relation to the organisation, such as contractors, temporary staff, casual staff, sessional workers, trainees, advisers and consultants, should have access to it via the website or on request.

The legislation protecting individuals who makes a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them. 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.

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

- 1.1** The Trust expects the highest standards of conduct from all employees and Trustees 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 Headteacher (or the Chair of Trustees if the concerns relate to the Headteacher) any serious impropriety or breach of procedure. If the concern is about a Trustee, the matter should be raised with the Chair of Trustees. If the matter is about the Chair of Trustees, the matter should be raised with the Chair of Members. (read in conjunction with the Scheme of Delegation which is also reviewed annually). See below for referral a whistleblowing complaint where none of these people are felt to be appropriate.

For this policy, the Chair of Trustees will refer to the Link Trustee for whistleblowing. Details are at the end of the policy.

- 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.
- 1.4 This policy does not form part of any employee's contract of employment, and it may be amended at any time. The Trust may also vary any time limits as appropriate in any case.

2. Background – What is whistleblowing?

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by the employee who has a reasonable belief that:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- failure to comply with any legal or professional obligation or regulatory requirements
- bribery
- financial fraud or mismanagement
- negligence
- breach of internal policies and procedures including the Code of Conduct
- conduct which damages our reputation
- unauthorised disclosure of confidential information
- unethical behaviour

a concealment of any of the above is being, has been, or is likely to be, committed. 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.

Where the concerns are about **safeguarding children or young people**, the Trust's designated senior person for Child Protection must be notified (see 7 below).

It is a procedure in which the Headteacher or Chair of Trustees (other as appropriate in 1.2) will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the Trust's disciplinary procedure

Concern about a colleague's professional capability should **not** be dealt with using this policy (but see section 7 below).

When should it be used?

This policy and procedures are 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, breached he/she should use the Trust's grievance procedure.

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.

Recent changes to the law - A qualifying disclosure means any disclosure of information that in the reasonable belief of the worker is made in the public interest. This is why an employee will generally be precluded from being able to 'blow the whistle' about breaches of his or her own employment contract. The requirement that a whistle-blower make a qualifying disclosure 'in good faith' has been removed. Therefore, while the employer can seek a declaration from the whistle-blower that he or she is not knowingly making a false allegation, disciplinary action is likely to be appropriate only where there is clear evidence that the employee has misused this policy.

This policy and procedures are not designed to replace or be used as an alternative to the Trust's grievance procedure, which should be used where an employee is only aggrieved about their own situation. This policy and procedure will also not apply where the employee simply disagrees with the way the Trust is run.

Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour.

An employee who makes such a protected disclosure has the right not to be subjected to detrimental treatment which includes, dismissal, disciplinary action, threats or other unfavourable treatment, because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this policy and procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns.

An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed may contact the Headteacher or, if the concern is about the Headteacher, then the person to contact would be the Chair of Trustees (details in section 8) (or other as appropriate in 1.2) or professional association/trade union.

Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to Internal Audit for possible investigation. An employee must first report any suspicion of such an irregularity to the Headteacher or Chair of Trustees (see section 5), (or appropriate other 1.2) who will in turn report it to Internal Audit.

3. Principles

- 3.1 Any matter raised under this policy and procedures will be investigated thoroughly, promptly and confidentially. Whilst the Trust will aim to keep the employee 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
- 3.2 No employee will be victimised for raising a matter under this policy. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern
- 3.3 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence
- 3.4 If misconduct is discovered because of any investigation under this policy the matter will be considered under the Trust's disciplinary procedure, in addition to any appropriate external measures
- 3.5 Maliciously making a false allegation is a disciplinary offence
- 4.6 An instruction to cover up wrongdoing is 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.

4. Procedure

- 4.1 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. This may be via their line manager in writing, following a discussion. If he/she believes the Headteacher to be involved, then the employee should proceed straight to stage three (see below 5.6)
- 4.2 The Headteacher/Chair of Trustees/ Chair of Members 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. A whistleblower may bring a colleague or union representative to any meetings under this policy. The companion must respect the confidentiality of a disclosure and any subsequent investigation. Any written summaries provided by the whistleblower will be shared with them.
- 4.3 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

professional association/trade union representative along to any discussions. This is permitted as long as the third party is not involved in the issue.

- 4.4** Employees are not encouraged to make disclosures anonymously. Proper investigation may be more difficult or impossible if further information cannot be obtained from the employee. It is also more difficult to establish whether any allegations are credible. Employees who are concerned about possible reprisals if their identity is revealed should come forward to one of the contacts listed in section 8 of this policy and appropriate measures can be taken to preserve confidentiality although no guarantee can be given that this will always be possible
- 4.5** The Headteacher (or the person who carried out the investigation) will then report to the Chair of Trustees/Trust Board of trustees 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 Trustees/Trust Board/ Members in consultation with the Trust's HR advisory team. On conclusion of any investigation, the employee will be told the outcome of the investigation and what the next steps will be (subject to issues of confidentiality). If no action is to be taken the reason for this will be explained
- 4.6** 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, he/she should inform the Chair of Trustees in writing.

If the employee is concerned that their Chair of Trustees is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigation, he/she should inform the Chair of Members in writing.

The aim of this policy and procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the Trust. In most cases employees should not find it necessary to alert anyone externally and employees are strongly advised to seek advice before reporting a concern in this way. Employees who feel unable to follow this route, for whatever reason, have the option of contacting one of the following:

- HM Revenue and Customs
- The Financial Services Authority
- The Office of Fair Trading
- The Health and Safety Executive
- The Environment Agency
- The Director of Public Prosecutions
- The Serious Fraud Office
- The Department for Education
- The National College for Teaching and Leadership

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

- 5.1** If a member of staff, other than the Headteacher, is approached by a colleague on a matter of concern as defined in this document, he/she is advised to take the matter to the Headteacher (but see 6).

6. Safeguarding children and young people

- 6.1** Separate to the obligations under this policy, all employees have a duty to report concerns about the safety and welfare of pupils/students

- 6.2** Concerns about any of the following should be reported to the Trust's designated senior person for Child Protection (DSL).

- physical abuse of a pupil/student
- sexual abuse of a pupil/student
- emotional abuse of a pupil/student
- neglect of a pupil/student
- an intimate or improper relationship between an adult and a pupil/student

- 6.3** If the concern is about the Headteacher, the concerns should be reported to the Local Authority (in this case London Borough of Bexley) Designated Officer (LADO).

- 6.4** The reason for the concern may be the actions of a colleague (including a more senior colleague), a Trustee, another pupil/student 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.

Confidentiality and Data Protection

We hope that staff will feel able to voice whistleblowing concerns openly under this policy. If a member of staff/ Trustee wishes to raise a concern confidentially, the Trust will make every effort to keep the identity a secret.

If it is necessary for anyone investigating a concern to know the whistleblower's identity, this will be discussed with them. If the whistleblower is liaising with a third party directly, it is the responsibility of the whistleblower to make it known to them that they wish for their identity to remain confidential.

The Trust does not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if it cannot obtain further information. It is also more difficult to establish whether any allegations are credible.

If a whistleblower is in any doubt they can seek advice from Public Concern at Work, the independent whistleblowing charity, who offer a confidential helpline. Their contact details are given at the end of this policy.

Where the Trust receives anonymous complaints, it will make a determination about whether to investigate based on:

- i) the seriousness of the issue raised
- ii) the credibility of the concern; and
- iii) the likelihood of confirming the allegation from other sources

As part of the application of this policy, the Trust may collect, process, and store personal data in accordance with our data protection policy. It will comply with the requirements of Data Protection Legislation (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until the GDPR is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998, including the Data Protection Act 2018) in the collecting, holding and sharing of information in relation to our workforce. Records will be kept in accordance with our Workforce Privacy Notice, our Retention and Destruction Policy and in line with the requirements of Data Protection Legislation.

External disclosures

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases a whistleblower should not find it necessary to alert anyone externally.

The law recognises that in some circumstances it may be appropriate for a whistleblower to report concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. The Trust strongly encourages a whistleblower to seek advice before reporting a concern to anyone external. Public Concern at Work holds a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this policy.

Whistleblowing concerns usually relate to the conduct of employed staff, but may sometimes relate to the actions of a third party, such as a contractor, supplier or service provider. The law allows staff to raise a concern with a third party, where the whistleblower reasonably believe it relates mainly to their actions or something that is legally their responsibility. However, The Trust encourages a potential whistleblower to report such concerns internally first by contacting a line manager or one of the other individuals set out above.

In circumstances where an employee decides to raise the matter externally, he/she will only be protected under this procedure, and under employment law, where the disclosure is made in accordance with Section 43 of the Employment Rights Act as amended by the Enterprise and Regulatory Reform Act 2013. This means that the disclosure must fall under one of the categories

listed in Section 3 (above) and must be made in one of the following ways: a) in the course of obtaining legal advice

Investigation and outcome - How the Trust will respond

Once a concern is raised, the Trust will carry out an initial assessment to determine the scope of any investigation. The whistleblower will be informed of the outcome of the assessment and may be required to attend additional meetings to provide further information

Within ten working days of a concern being received, the Trust will write to the employee:

- acknowledging that the concern has been received;
- indicating how it proposes 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, and
- telling the employee whether further investigations will take place, and if not, why not.

Employees will also be provided with details of support available which will include access to counselling facilities.

The action taken by the school will depend on the nature of the concern.

The matters raised may:

- be investigated internally;
- be referred to the Trust Board
- be referred to the police; or
- be referred to the external auditor.

In some cases, the Trust may appoint an external investigator or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) will collate findings on the matter and may make recommendations for change to enable the Trust to minimise the risk of future wrongdoing. This will be sent to the Trust Board for actioning.

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

If urgent action is required this will be taken before any investigation is conducted.

The Trust will take steps to minimise any difficulties which employees may experience as a result of raising a concern. For instance, if it becomes necessary to give evidence in criminal or disciplinary proceedings, the Trust will provide the necessary advice about the procedure and give whatever practical support that is possible.

The school accepts that employees need to be assured that the matter has been properly addressed and will ensure this happens. Subject to legal constraints, employees will normally receive feedback about the outcomes of any investigations. The Trust will aim to keep the whistleblower informed of the progress of the investigation, its likely timescale and outcome. However, sometimes the need for confidentiality may prevent the Trust giving the whistleblower specific details of the investigation or any disciplinary action taken as a result. A whistleblower must treat any information about the investigation as confidential and should not discuss the case with staff in school. Disciplinary action may be taken where confidential information is shared.

If the Trust concludes that a whistleblower has made false allegations maliciously, or with a view to personal gain, the whistleblower may be subject to disciplinary action.

If you are not satisfied

While the Trust cannot always guarantee the outcome the whistleblower is seeking, it will try to deal with a concern fairly and in an appropriate way. By using this policy, the whistleblower can help the Trust to achieve this.

If a whistleblower is not happy with the way in which a concern has been handled, the whistleblower can raise it to the next level.

Protection and support for whistleblowers

It is understandable that whistleblowers are sometimes worried about possible repercussions. The Trust aims to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.

Staff must not suffer any detrimental treatment as a result of raising a genuine concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If a whistleblower believes that you have suffered any such treatment, they should inform one of the contact people in paragraph 4.2 immediately. If the matter is not remedied, employed staff should raise it formally using the Trust's Grievance Procedure.

Staff must not threaten or retaliate against whistleblowers in any way. Anyone involved in such conduct will be subject to disciplinary action.

A confidential support and counselling hotline is available to whistleblowers who raise concerns under this policy, as well as the schools Employee Assistance Programme. Their contact details are set out at the end of this policy. The Trust will signpost any whistleblowers to where they can access support should they need it. It is important Whistleblowers ask for support if they require it.

Contacts

Interim Headteacher	Sarina Totty 020 8304 8311 headteacher@townleygrammar.org.uk
Chair of Trust Board who will refer to the Whistle-blower Trustee.	Felicia Squire admin@townleygrammar.org.uk Helen Curtis HCurtis@townleygrammar.org.uk;
Trust's external auditors	Kreston Reeves 44 (0)20 7382 1820 https://www.krestonreeves.com/contact us/
Protect (Independent whistleblowing charity)	Helpline: (020) 3117 2520 E-mail: whistle@protect-advice.org.uk Website: www.protect-advice.org.uk
The NSPCC whistleblowing helpline Employee Assistance Programme	Helpline: 0800 028 0285 E-mail: help@nspcc.org.uk HSF Assist: 0800 988 6599. Please quote HSF Assist when you are through to the operator.
DFE	Email: allegations.mailbox@education.gov.uk
LADO for Bexley	0203 045 3436 07950 562936 (LADO mobile) LADO@bexley.gov.uk

Appendix 1 - Managing allegations about professionals or volunteers who work with children.

Referral form to the Local Authority Designated Officer (LADO)

This form must be completed and emailed immediately to the LADO if it is alleged that a person who works with children has:

Behaved in a way that has harmed, or may have harmed, a child

Possibly committed a criminal offence against, or related to, a child; or

Behaved towards a child in a way that indicates they may pose a risk of harm to children

The manager should then telephone the LADO immediately to discuss the next course of action.

Local Authority Designated Officer (LADO)

Bexley Council
Civic Offices
2 Watling Street
Bexleyheath
Kent DA6 7AT
T: 0203 045 3436 (LADO Team)
T: 0203 045 5645 (Business Support)
T: 0203 045 5543 (LADO direct)
M: 07950 562936 (LADO mobile)
E: LADO@bexley.gov.uk
E: childrens.triageteam@bexley.cjsm.net

If you are unable to contact the LADO Business Support or the LADO directly, call through to the MASH. The Social Worker on duty will be able to give you advice or will forward a message. Alternatively, send an email.

Please use the secure email (Egress Switch) for sending referral forms or any other sensitive information.

If you think a child is at immediate risk of significant harm phone Children's Social Care and/or the Police immediately

When receiving an allegation:

Treat it seriously and keep an open mind

Do not investigate

Do not make assumptions or offer alternative explanations

Do not promise confidentiality

Record the details using the child/adult's own words

Note time/date/place of incident(s), persons present and what was said

Sign and date the written record

Do not tell the member of staff/volunteer if this might place the child at risk of significant harm or jeopardise any future investigation

Referrer Details	
Name:	Job Title:
Organisation:	Telephone:
Organisation address:	Email address:

Date of referral:

Child details About whom the allegation refers		
Name:		
DOB:	Ethnicity:	Sex:

Home address:
Trust: Unique Pupil Number:
Additional information e.g. disability, communication or other special needs, previous child protection concerns:

Family details		
Parent/Carer's name		
Relationship		
DOB		
Ethnicity		
Home address		
Telephone		
Email		
	Sibling 1	Sibling 2
Relationship		
DOB or age		

Sex		
Ethnicity		
Home address		
Telephone		
Email		
Additional information about the family		

Professional or volunteer concerned The person(s) about whom the allegation has been made		
Name:		
DOB:	Ethnicity: Choose an item.	Sex: Choose an item.

Telephone:	Email:
Job Title:	How long have they been in this job?
Place of employment:	Employing Agency (include statutory or voluntary agency):
Home Address:	
Additional information e.g. employment history; previous concerns raised:	

Details of any previous allegations made:	
Have safer recruitment processes been followed? Yes <input type="checkbox"/> No <input type="checkbox"/>	Date of DBS (formally CRB):

Details of allegation		
What date did it happen?	What time did it happen?	Where did it happen?
Were there any witnesses? (Please provide details about who witnessed the incident and what they say they saw.)		
Allegation in Personal Life? Yes <input type="checkbox"/> No <input type="checkbox"/>		Allegation in Professional Life? Yes <input type="checkbox"/> No <input type="checkbox"/>
Record the details of the allegation using the child/adult's own words where possible (Please attach copies of any statements or other documents that you have about the incident.)		
Nature of allegation: Choose an item.	Was this an authorised physical restraint? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Has the child been spoken to about this incident? If yes, give details		
Has the child parents or carers been informed? If yes, give reason and details		
Has the professional or volunteer been informed? If yes, please give reason and details		