



## **HACKNEY NEW SCHOOL**

### **WHISTLEBLOWING POLICY**

Hackney New School expects the highest standards of conduct from all employees, and will treat seriously any concern that an employee may have about illegal or improper conduct. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Headteacher any serious impropriety or breach of procedure.

Hackney New School has adopted this policy and the accompanying procedure on whistleblowing to enable members of staff to raise concerns internally and in a confidential fashion about fraud, malpractice, health and safety, criminal offences, miscarriages of justice, and failure to comply with legal obligations or unethical conduct. The policy also provides, if necessary, for such concerns to be raised outside the organisation.

In accordance with Lord Nolan's Second Report of the Committee on Standards in Public Life, Hackney New School's policy on whistleblowing is intended to demonstrate that we :-

- Will not tolerate malpractice;
- Respects the confidentiality of staff raising concerns and will provide procedures to maintain confidentiality so far as is consistent with progressing the issues effectively;
- Will provide the opportunity to raise concerns outside of the normal line management structure where this is appropriate;
- Will invoke the School's disciplinary policy and procedure in the case of false, malicious, vexatious or frivolous allegations;
- Will provide a clear and simple procedure for raising concerns, which is accessible to all members of staff.

### **Procedure**

This procedure has been drawn up in accordance with the School's Policy Statement on Whistleblowing.

Any person wishing to raise concerns, in a confidential fashion, about fraud and financial irregularities, serious maladministration arising from the deliberate commission of improper conduct, miscarriages of justice, failure to comply with legal obligations, unethical activities which may be of a criminal nature, dangerous acts or omissions which create a risk to health, safety or the environment within the School or Safeguarding concerns, should report the matter to the Headteacher or any member of the Senior Leadership Team (SLT) in her absence.

**Responsibility for dealing with concerns:**

Responsibility for dealing with any concerns reported will be with the Headteacher (or member of the SLT), who will have access to the members of the Governing Body.

The Chair of Governors will be an alternative person to contact in the unlikely circumstance that allegations of malpractice are made against the Headteacher.

Dependent on the nature of the complaint, internal or external auditors may be the appropriate body to conduct an investigation.

If there is evidence of criminal activity then the police will be informed. In particular, Hackney New School will ensure that any investigation does not hinder a formal police investigation.

**Timescales for dealing with concerns:**

The Headteacher will endeavor to deal with the reported concern as expeditiously as possible.

In order to encourage a person to raise a legitimate concern, without fear of the confidentiality of the matter being accidentally 'leaked' in any way, the person will be allowed to raise the concern orally rather than in writing, if necessary.

A full note (which shall not identify the complainant) will, of course, be made by the person hearing the concern.

All responses to the person raising the concern will be in writing, and will be sent to the person's home address.

The Headteacher will, **within five working days**, send a written acknowledgement of the concern to the concerned person and, thereafter, will report back to the person, in writing, the outcome of the investigation, and on the action that is

proposed to be taken subject to third party rights.

If the investigation is a prolonged one, the Headteacher will keep the concerned person informed, at weekly intervals, in writing, as to the progress of the investigation, and indicating, as far as possible, as to when it is likely to be concluded.

**Access to the Governing Body:**

A person who is not satisfied that their concern is being properly dealt with by the Headteacher will have the right to raise it, in confidence, with the Chair of Governors. Letters to the Chair of Governors should be directed to the School, in an envelope marked *PRIVATE and CONFIDENTIAL* for onward transmission by the Finance Director.

**Access to external bodies:**

If the Governing Body finds the allegation unsubstantiated the person will have the right to access an appropriate official external body. Recourse to an external body should only be pursued when all internal procedures have been exhausted.

**Malicious Accusations:**

Any member of staff that makes deliberately false and malicious accusations will be dealt with under the Hackney New School's Disciplinary Procedure.

**Disclosure by staff outside of the School:**

Members of staff are subject to an implied contractual term of confidence and trust, which seeks to prevent them from disclosing the School's confidential information.

Disclosing confidential information is often classed as gross misconduct which justifies summary dismissal.

However, if a member of staff makes an unauthorised disclosure of fraud or serious malpractice to a regulatory authority and its disclosure is in the public interest, case law shows that this is, in many circumstances, a lawful action, notwithstanding that it may contravene an implied contractual duty or a specific confidentiality clause.

At present the UK courts have developed this principle so that members of staff who are deemed to have acted in the public interest are therefore protected from victimisation. Basically, case law will not permit a contractual term (express or implied) to compete with the public interest.

**Health & Safety concerns:**

With regard to the voicing of concerns over health and safety in the workplace, employees are statutorily protected against victimisation or dismissal for taking certain specified types of action on health and safety grounds.

These protected actions include the bringing to an employer's attention, by reasonable means, and in the absence of a representative or committee with whom it would be reasonably practicable for the worker to raise the matter, a concern about circumstances at work which the employee reasonably believed to be harmful to health or safety.

**Protection for the member of staff:**

No member of staff will ever be disciplined for raising a genuine concern so long as they follow the Whistleblowing procedure or make disclosures in accordance with the Public Interest Disclosure Act 1998.

Disciplinary action will only be considered if a member of staff uses the policy to raise false concerns in bad faith.

The School will also take any steps possible to ensure that those who raise concerns are protected from bullying by fellow employees.

Members of staff will often be unsure as to whether or not misconduct is taking place. It is better that staff raise concerns which prove unfounded than that they keep quiet about something which turns out to be really serious, because they lack evidence or are scared of getting into trouble with management or colleagues.

The School will regard the member of staff's actions as legitimate if the following conditions are met:

- The member of staff has followed the School's procedure for Whistleblowing.
- The member of staff acted in good faith and not for personal gain or out of personal motives.
- The member of staff has reasonable grounds for believing that the information disclosed indicates the existence of one or more of the following:
  - that a criminal offence has been committed, is being committed, or is likely to be committed;
  - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject;
  - that a miscarriage of justice has occurred, is occurring or is likely to occur;
  - that the health and safety of any individual has been, is being or is likely to be damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
  - that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

In addition to the above circumstances, protection under the Public Interest Disclosure Act will also arise if one or any of the following conditions is met:

- the member of staff has previously raised the matter with the School; or
- the member of staff has not done so because s/he reasonably believes (a) that s/he would be penalised for doing so, or (b) the evidence would be concealed or destroyed if s/he did and there is no regulatory body to which genuine concerns can be expressed.

In such a case, there is no specific restriction on the identity of the party to whom the disclosure can be made.

In determining the 'reasonableness' of the above, the following factors will be taken into consideration:

- the identity of the person to whom the disclosure was made;
- the seriousness of the problem;
- whether it is continuing or likely to reoccur;
- whether the employee has complied with the School's Whistleblowing Procedure.

The School insists that any matter is raised internally in the first instance. The purpose of this is to give the management every chance to investigate and take appropriate action before the disclosure is in the public domain.

It is in the interests of both the School and its employees that members of staff who speak out and follow the procedure will receive adequate protection. Similarly those that flaunt it will be subject to disciplinary or other appropriate proceedings.

This procedure is not intended to replace the normal grievance procedures which are there to allow staff to raise any matter of a personal nature or to express dissatisfaction with a management decision.

This policy will be reviewed annually by the Senior Leadership Team and Governing Body.

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Executive Headteacher

Designated Safeguarding Lead

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