East Somerset Federation

Whistleblowing Policy

Approved by the Governing Body of
The East Somerset Federation

Signed: Suzanne McCutcheon/Anna Chubb – Co Chair of Governors
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Whistleblowing Policy

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EAST SOMERSET FEDERATION

WHISTLEBLOWING POLICY

1. Introduction

The East Somerset is committed to the highest possible standards of openness, integrity, and accountability. We would expect and encourage workers of the , supply staff, agency workers and contractors, who have serious concerns about any aspect of the 's work to come forward and voice those concerns. The policy will be published on the 's website to ensure that it is available and accessible to employees and members of the public.

The policy is in addition to the 's Complaints Procedure and other statutory reporting procedures. A decision on which route each concern takes will be made upon receipt.

This policy is intended to inform and guide individuals on whether the concern they have meets the criteria for it to be considered under whistleblowing and if it does, provide further information on the process they should follow, if they do decide to report it.

2. Definition of Whistleblowing

Whistle-blowing is for an employee to report their concerns of wrongdoing that is "in the public interest". Examples of whistleblowing include (but are not limited to):

- Criminal offences, such as fraud or corruption.
- Pupils' or employees' health and safety being put in danger.
- Failure to comply with a legal obligation or statutory requirement.
- Breaches of financial management procedures.
- Attempts to cover up the above, or any other wrongdoing in the public interest.
- Damage to the environment.

See section 3 for more details.

A whistle-blower is a person who raises a genuine concern relating to the above. Not all concerns are whistleblowing. For example, employee grievances such as bullying or harassment do not usually count as whistleblowing. If something affects an employee as an individual, it is likely to be a grievance.

When an employee has a concern, they should first consider whether it would be better to follow the 's grievance or complaints procedures. The term whistleblowing is generally used only with reference to workers and has a specific legal definition under the Public Interest Disclosure Act 1998, i.e., a disclosure of information which, in the reasonable belief of the worker, is made in the public interest and tends to show serious misconduct. In a non-legal context, the term might also be used to describe a similar disclosure of information, by anyone who is not a worker. The

Council recognises that as a public body, it might receive a disclosure of information, not just from its workers, but from members of the public as well.

The term ‘worker’ includes an employee of the federation, agency staff, contractor or consultant doing work for the federation, collectively referred to in this policy as “employees”. A member of the public will be anybody not falling within the definition of ‘employees’, which could include, the parent of a child within the federation schools and preschools.

This policy applies to disclosures from employees but also sets out the federation’s commitment to deal with disclosures from members of the public in the same way. To this end, where this policy refers to a “whistleblower”, it refers to both employees and members of the public who make a disclosure. In this policy, receipt of any such information will simply be referred to as a “concern” or a “disclosure”.

The East Somerset is committed to the highest possible standards of openness, probity, and accountability. In line with that commitment, we wish to encourage employees and members of the public, who have serious concerns about any aspect of the federation’s work to come forward and voice those concerns.

Employees are often the first to realise that there may be something seriously wrong within the federation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the federation. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

This policy is intended to encourage and enable individuals to raise concerns within the federation rather than overlooking a problem or 'blowing the whistle' outside. The policy makes it clear that individuals can do so without fear of victimisation, subsequent discrimination, or disadvantage. The federation is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly.

The policy can also be used to raise concerns about suppliers and those providing services under a contract with the federation in their own premises.

There is a Grievance Procedure in place for employees to raise a concern relating to their own employment. The policy is based on the Department for Business Innovation & Skills: Guidance for Employers and Code of Practice and has been discussed with the relevant trade unions and professional organisations and has their support.

In addition to the federation’s commitment to protect employees who raise concerns, the Public Interest Disclosure Act 1998 provides a worker with potential protection from detriment and dismissal for making a ‘qualifying disclosure’. The Act has rules for making a protected disclosure:

- The worker must reasonably believe the disclosure is in the public interest.
- The worker must believe it to be substantially true.
- The worker must not act maliciously or make false allegations.
- The worker must not seek any personal gain.

An employee who raises a concern under this policy and reasonably believes the disclosure is in the public interest, will be protected from any claim of defamation by the federation's insurance policy.

3. Aims and Scope of the Policy

This policy aims to:

- encourage employees and members of the public to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for employees and members of the public to raise concerns and receive feedback on any action taken;
- ensure that employees and members of the public receive a response to concerns and that they are aware of how to pursue them if they are not satisfied;
- reassure employees and members of the public that they will be protected from possible reprisals or victimisation if they have a reasonable belief that the disclosure made is in the public interest;
- assist with deterrent and detection of wrongdoings.

This policy is intended to cover major concerns reasonably believed to be in the public interest in one or more of the following categories:

- Criminal offences, for example, fraud, theft, physical or sexual abuse.
- Failure to comply with an obligation set out in law.
- Miscarriages of justice.
- Abuse or bullying of clients including children and vulnerable people, evasion of statutory responsibilities.
- Unauthorised use of public funds or other assets.
- Abuse of power for financial or other gain.
- Endangering of someone's health and safety (worker or member of the public).
- Damage to the environment.
- Other causes of malpractice, negligent, unprofessional or unethical behaviour.
- Covering up wrongdoing in the above categories.

Thus, serious concerns which an individual has about any aspect of service provision or the conduct of employees or governors/trustees or others acting on behalf of the federation can be reported under the Whistleblowing Policy. This may be something that:

- makes the employee feel uncomfortable in terms of known standards, their experience, or the standards they believe the federation subscribes to; or
- is against the federation's Standing Orders, Financial Regulations, and policies; or
- falls below established professional standards of practice; or
- amounts to improper conduct.

The whistleblowing procedure cannot be used as an alternative to the federation's Grievance or Safeguarding policy and procedures. Whistleblowing usually has an element of public interest attached to it. Typically, the matter involved presents a risk to others, such as customers, taxpayers, or the environment. A concern about

an individual's own employment situation is more properly addressed by means of the federation's Grievance Procedure.

4. When to Raise a Concern

Employees should consider the examples in section 2 when deciding whether their concern is of a whistle-blowing nature. They should consider whether the incident(s) was illegal, breached statutory or trust procedures, put people in danger or was an attempt to cover any such activity up.

The employee should also consider:

- when raising a concern, they must declare any personal interest they have in the matter;
- the earlier they can express their concern, the easier it is to act.

Although the employee is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate that there are reasonable grounds for a concern. However, they must not attempt to investigate a concern or accuse individuals directly.

5. Who to Report the Concern to

If an employee has a concern, they should raise it first with their Line Manager or Headteacher in writing.

If the employee feels they are unable to raise the matter with their Line Manager or Headteacher, for whatever reason, then they should raise it with the Chair of Governors/Trustees of the federation.

For LA maintained schools only (academies may wish to refer to the Trust's auditors):

If the employee feels unable to raise it with the Chair of Governors for whatever reason, then they can raise the matter through South West Audit Partnership (SWAP). SWAP is independent of the school or Somerset Council.

SWAP's confidential phone number is 020 8142 8462 and their e-mail address is confidential@swapaudit.co.uk. Both the phone line and e-mail address are monitored by (SWAP) and not Somerset Council.

Members of the public should raise their concerns directly with SWAP on the contact details above.

SWAP will ask the person raising the concern to provide some background information, but if they are not comfortable doing this then they can leave their contact details. They can leave a home or mobile number if they don't want to be contacted at work. They should also let the call recipient know when it would be convenient for them to be called back.

After the employee makes initial contact with SWAP, the hotline staff will pass a message on to a member of the SWAP Counter Fraud and Investigations Team who

endeavour to respond to all initial calls within 48 hours (excluding weekends). They will then consider what action should be taken.

It is sometimes necessary to undertake an investigation. Investigations are undertaken by staff who have the technical and professional skills relevant to each particular case.

If the above channels have been followed but the employee continues to have concerns or believe that those listed above are implicated, then they should approach one of the following:

- The Chief Executive of Somerset Council.
- The Head of Governance and Democratic Services (who is also Somerset Council's Monitoring Officer).

6. How to Raise the Concern

Concerns should be made in writing wherever possible. They should include names of those alleged to have committed wrongdoing, dates, places and as much evidence and context as possible. Staff raising a concern should also include details of any personal interest in the matter.

Advice and guidance on how to pursue matters of concern may also be obtained from:

- HR Advisory Service.
- The federation's Legal Team.
- The worker's trade union or their professional association representative.

Employees may wish to consider discussing concerns with a colleague first and may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns.

Employees may invite a trade union/professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns raised. Meetings can be arranged off-site if necessary.

If the employee believes there is an immediate risk, they should call 999 for emergency services or 101 for local Police.

If the employee has concerns regarding abuse to adults or children, the worker may also contact Safeguarding on 0300 123 2224 or out of hours on 0300 123 23 27.

7. What Response the Worker should Expect to them Raising a Concern

The employee should expect a response to their concerns as quickly as possible. However, the employee may want to also consider that testing out of their concerns is not the same as the federation accepting or rejecting them.

The action taken by the federation will depend on the nature of the concern. Where appropriate, the matters raised may:

- be investigated by management or SWAP Internal Audit Services;
- be referred to the Police;
- be referred to an external auditor;
- form the subject of an independent inquiry;
- be dealt with under a more appropriate federation procedure.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues or financial irregularities) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

Within ten working days, the employee should expect the federation to write to them:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made;
- supplying you with information on staff support mechanisms; and
- telling you whether further investigations will take place, and if not, why not.

The amount of contact with the worker who is raising concerns will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from the employee.

The federation or will take steps to minimise any difficulties which the employee may experience because of raising a concern. For example, if the employee is required to give evidence, the federation will arrange for the employee to receive advice about the procedure from a nominated officer, usually someone from the federation's HR Advisory services.

The federation accepts the employee will need to feel assured that the matter has been properly addressed and they will be informed of the final outcome of the investigation. In some circumstances, however, it may not be possible to reveal the full details where this relates to personal issues involving a third party or legal constraints.

If the employee alleges that they reasonably believe is in the public interest, but this is not confirmed by the investigation, no action will be taken against the employee.

8. How the Matter Can be Taken Further

This policy is intended to guide an employee on how they can raise concerns.

Hopefully, they will be satisfied with the response they receive to this. However, if they are not, then there are other people they can contact. These are:

- the External Auditor;
- the employee's Trade Union/professional association;
- relevant professional bodies or regulatory organisations (for example Health and Safety Executive);
- Public Concern at Work;
- an elected Member of the federation or Somerset Council or SWAP;
- the Police;
- the ombudsman;
- the employee's own solicitor.

If the employee does decide to take the matter outside the federation, they should ensure they do not misuse confidential information. The person the employee contacts should be able to advise them.

The policy, in line with the legislation, provides protection for employees who raise concerns internally. It is inconsistent with the satisfactory operation of the policy to pursue such concerns with the media (newspapers, TV, radio, etc) and employees who do so are unlikely to be protected by the provisions of the Public Interest Disclosure Act and may be subject to disciplinary action.

9. Anonymous Allegations

This policy encourages individuals to put their name to their allegation whenever possible.

Concerns expressed anonymously or through a third party are much less powerful and may not be possible to investigate. The federation or SWAP will discuss these with the Council's Monitoring Officer, and it will be at their joint discretion as to whether the concern will be considered further.

In exercising this discretion, the factors to be taken into account would include:

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

10. Harassment or Victimisation

The federation recognises that the decision to report a concern can be a difficult one to make. The federation will not tolerate any harassment or victimisation (including informal pressures) and will take action to protect individuals when they raise a concern where they reasonably believe the disclosure is in the public interest.

Disciplinary action will be taken against an employee if they try to stop an employee raising a concern or if an employee is responsible for any act of recrimination against an employee for raising a concern.

Any investigation into allegations of potential malpractice will not influence or be influenced by any Disciplinary or Redundancy procedures that already affect the employee.

11. Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal the employee's identity if they request this. It must be appreciated, however, that the investigation process may reveal the source of the information, and that a statement may be required as part of the evidence and/or the employee may be asked to come forward as a witness at the appropriate time. The federation will keep the employee's identity confidential, if that is what they request, unless required to disclose it by Law (for example, by the Police or if it is required to be disclosed for the purposes of subsequent disciplinary action).

10. False Allegations

If an allegation is knowingly made frivolously, maliciously or for personal gain, disciplinary action may be taken. The Whistleblower does not need evidence but instead need to have reasonable belief that the concerns raised are true.

11. The Responsible Officers

SWAP will retain a record of all whistleblowing concerns, and these will be shared at regular intervals with the Monitoring Officer who has overall responsibility for monitoring the policy and will report annually to Somerset Council's Standards Committee on the operation of the policy.

12. Review

The policy will be kept under review and as a result may be subject to amendment by the Whistleblowing Policy Contact Officer: who is the Service Director Governance, Democratic & Legal, Somerset Council

13. Support for the Worker who is Raising a Concern

If the employee is unsure whether to use this policy or they would like some independent advice or support at any stage, they can contact the independent charity Protect (formerly Public Concern at Work) on 020 3117 2520. Their advisers will give the worker free confidential advice on how to raise a concern appropriately.

14. Links to Other Policies

The East Somerset has agreed a constitution, which sets out how the operates, how decisions are made, and the procedures to follow to ensure that these are efficient, transparent and accountable to local people. While some of these processes are required by Law, others are a matter for the to choose. The constitution also has a number of rules and regulations to make sure that financial, working and organisational procedures are properly controlled.