



KILKEEL PRIMARY SCHOOL

**CODE OF PRACTICE ON REPORTING
MALPRACTICE**

(WHISTLEBLOWING POLICY)

TNC 2005/4

Ratified: 9th October 2017

Review Date: 2020

- 1.1 The Education Authority Southern Region is committed to adopting high standards in education/ administration and will treat malpractice as a serious matter.
- 1.2 The Public Interest Disclosure (Northern Ireland) Order 1998 provides protection from dismissal, or other sanction, for teachers who make disclosures of information relating to malpractice by their employer or colleagues at work.
- 1.3 Employees are often the first to suspect or realise that there may be something wrong in their place of work but may not express concerns because of feelings of disloyalty to colleagues or fears of harassment and victimisation.
- 1.4 In line with the EA's and school's commitment to openness, probity and accountability teachers and others with serious concerns about any aspect of the EA's or school's work are encouraged to report them, and if necessary in certain circumstances, on a confidential basis.
- 1.5 This Policy makes it clear that teachers should be enabled to raise concerns without fear of reprisal rather than overlooking a problem or reporting the matter outside.

2 The Public Interest Disclosure (Northern Ireland) Order 1998

- 2.1 The Public Interest Disclosure (Northern Ireland) Order 1998, also known as the '**Whistleblowers Act**' provides protection for employees who disclose information which may be regarded as confidential and which tends to show one or more of the following:
 - 2.1.1 a criminal offence has been, is being, or is about to be committed;
 - 2.1.2 the employer is failing to comply with his legal obligations;
 - 2.1.3 a miscarriage of justice has happened or is likely to happen;
 - 2.1.4 an individual's health and safety is being jeopardised;
 - 2.1.5 the environment is, or is likely to be damaged; and
 - 2.1.6 information falling into any one of the above categories which has been, is being or is likely to be, deliberately concealed.

- 2.2 An employee must have a reasonable belief that a crime has or may be committed. An employment tribunal will decide whether or not such a belief was reasonable.
- 2.3 In deciding whether or not an employee has acted reasonably, all circumstances will be taken into consideration but in particular,
- 2.3.1 the identity of the person to whom the disclosure is made;
 - 2.3.2 the seriousness of the relevant 'offence';
 - 2.3.3 whether the 'offence' is continuing or is likely to occur in the future;
 - 2.3.4 whether the disclosure is made in breach of a duty of confidentiality owed by the employer to any other person;
 - 2.3.5 any action the employer or prescribed person might reasonably be expected to take as a result of a previous disclosure; and
 - 2.3.6 whether in making the disclosure to the employer the employee complied with procedures applied by the employer.
- 2.4 Protection applies where 'external' disclosures are made to such bodies as the police. In such instances the Education Authority and school would expect to be satisfied that internal sources had been advised first or that the teacher/s believed they would have been victimised or evidence would have been concealed or destroyed. External disclosures must be made in good faith in the belief that allegations are substantially true and there should be no motive for personal gain.

3 Application of Policy

- 3.1 The Policy applies to all teaching staff employed by the Education Authority and the school, both full and part-time, temporary and substitute. References to teachers within the Policy covers all of these categories.
- 3.2 The Policy aims to provide an avenue for teachers to raise concerns and receive feedback on any action taken. Teachers may take matters further if they are dissatisfied with responses received. Teachers will be reassured that they will be protected from reprisals or victimisation for whistleblowing in good faith.

- 3.3 This policy is intended to cover concerns which fall outside the scope of other procedures which already are included in or covered by other Policies e.g. bullying and harassment, discrimination, etc.

4 Protection of Staff

- 4.1 The Education Authority and the school are committed to this Policy. If a teacher raises a concern in good faith the EA and school will protect them against harassment or victimisation and will, if necessary, apply the Disciplinary Procedure.
- 4.2 In accordance with the Public Interest Disclosure (Northern Ireland) Order 1998 a teacher cannot be dismissed or selected for redundancy as a result of making a disclosure in good faith.
- 4.3 Teachers who already are the subject of disciplinary, grievance or redundancy procedures will not have those procedures stopped or suspended as a result of their whistleblowing.

5 Confidentiality

- 5.1 The Education Authority and school recognises that teachers may want to raise concerns in confidence under this policy.
- 5.2 If teachers request that their identities be protected, the Education Authority and school will endeavour to honour that request.
- 5.3 If a situation arises where a concern cannot be resolved without revealing the teacher's identity, the Education Authority or school will discuss with the teacher whether and how progress can be made. It may be that evidence, either written or verbal, is required in court proceedings.

6 Anonymous Reports

- 6.1 The Education Authority and school encourage teachers to put their names to allegations because concerns expressed anonymously are much less powerful. Although the Education Authority and school will consider anonymous reports, this policy is not appropriate for concerns raised anonymously.

7 The Procedure for Expressing Concerns

- 7.1 As a first step teachers should raise concerns with their principal or chair of the Board of Governors. This may be done either orally or in writing. If the report is made orally it should be followed up in writing.
- 7.2 If a teacher feels unable to raise a concern with the principal or chair the matter should be reported by confidential telephone or in writing to the Education Authority's Human Resources Manager who will investigate the matter or have the matter investigated.

HR Managers : 028 37512416 or 028 37512220

(Confidential Telephone Numbers)

- 7.3 The teacher will have the opportunity to decide whether or not s/he wishes to remain anonymous.
- 7.4 If a teacher still has concerns the matter should be reported to the Chief Executive.

Telephone Number: 028 37512227

Or to the Chairman of the EA.

- 7.5 All correspondence should be marked 'Private and Confidential' and addressed to the appropriate individual at:

Education Authority – Southern Region, 3 Charlemont Place, The Mall, Armagh. BT61 9AX.

8 Oral Reports

- 8.1 It is preferable that all complaints are made in writing and signed. However, it is recognised that some teachers may wish only to report the matter orally. In this case, the person receiving the oral report should write it down immediately and record the date and time and sign it. It should, if possible, be read back to the teacher to confirm its accuracy.

Action should be taken to have the complaint investigated as soon as practicable.

9 Independent Advice

- 9.1 If a teacher is unsure which procedure to use or if s/he wants independent advice at any stage s/he may wish to contact:

His/Her Trade Union;

Or

The independent charity 'Public Concern at Work'

Telephone 0207 404 6609

10 External Contacts

- 10.1 This Policy is intended to provide a teacher with an avenue to raise concerns within the Education Authority or school. If s/he is not satisfied and if s/he feels it is right to take the matter outside the EA or school, the list below shows possible contact points:

Any Member of the Board of the EA

Relevant Trade Unions

Department of Education

Department of Culture, Arts and Leisure

Department of Employment and Learning

His/Her Solicitor

The Police Service of Northern Ireland

Northern Ireland Ombudsman

Northern Ireland Audit Office.

National Society for the Prevention of Cruelty to Children

- 10.2 The Comptroller and Auditor General has been prescribed as a person to whom protected disclosures can be made under the Order. He is prescribed as having a role in relation to the proper conduct of public business, value for money,

fraud and corruption in relation to the provision of centrally funded public services.

10.3 Prescribed persons are responsible for investigating allegations that fall under their prescribed role and for protecting the whistleblower and their interests whilst conducting an investigation.

10.4 The NIAO Whistleblower may be contacted at:

The Comptroller and Auditor General
Northern Ireland Audit Office
106 University Street
Belfast
BT1 1EU

Telephone Number 028 9025 1023

11 Abuse of this Procedure

11.1 It is expected that teachers will operate within the spirit of this policy, with integrity. However, use of this procedure to:

- make cynical, frivolous, mischievous or vexatious allegations,
- distract from other issues,
- divert attention from or action in the application of other procedures,
- defame or perpetrate malicious falsehoods

is likely to constitute misconduct and render the complainant subject to investigation and disciplinary penalty.