

Policy and Procedure for reporting of Data Protection infringements by Employees

1. INTRODUCTION

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the School. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the School. 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. The School has a Whistleblowing Policy for employees under which they may raise any such concerns where their disclosures relate to conduct which is an offence or a breach of law; disclosures related to miscarriages of justice; the unauthorised use of public funds; possible fraud and corruption and/or other unethical conduct. Under the General Data Protection Regulations data controllers are required to provide their staff with a procedure whereby they may safely raise concerns over whether as a data controller there is compliance with the data protection legislation.
- 1.2 This Policy and procedure is for employees of the School and should be used when a member of staff has concerns regarding compliance with data protection legislation that they feel they need to raise formally.
- 1.3 The School is committed to the highest possible standards of compliance with the GDPR and data protection. In line with that commitment we expect employees, who have serious concerns about any aspect of the School's compliance with data protection to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.4 The policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This policy is intended to encourage and enable employees to raise serious concerns within the School rather than overlooking a problem or 'blowing the whistle' outside.
- 1.5 The policy applies to all employees working for the School on School premises, for example, agency staff, consultants, etc. It also covers suppliers and those providing services under a contract with the School.
- 1.6 These procedures are in addition to the School's complaints procedures, Whistleblowing procedure and other statutory reporting procedures.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about the school's data protection practices
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have raised those concerns in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment, seek access to your own information, or complain regarding the way in which the school is handling your personal data. This policy is intended to cover major concerns that fall outside the scope of other procedures. These include but are not limited to:

- Concerns over practices observed by you that adversely impacts on the security of personal data held by the school
- Concerns over unauthorised disclosure or use of personal data held by the school
- Concerns over actions leading to the corruption or loss of integrity of any of the personal data held by the school
- other unethical conduct which you believe is a breach of the schools obligations as a Data Controller

2.3 Thus, any serious concerns that you have about any aspect of the Schools handling of personal data or of others acting on behalf of the School in their handling of personal data can be reported under this policy.

2.4 This policy does not replace the Schools complaints procedure.

3. SAFEGUARDS

3.1 Harassment or Victimisation

3.1.1 The School is committed to good practice and high standards and wants to be supportive of employees.

3.1.2 The School recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you will have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

3.1.3 The School will not tolerate any harassment or victimisation (including informal pressures) from your colleagues, peers, managers or from external sources, and will take appropriate action to protect you when you raise a concern in good faith.

3.1.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

3.2 Confidentiality

3.2.1. All concerns will be treated in confidence and the School will keep your identity confidential if you so wish. At the appropriate time, however, you may need to come forward as a witness.

4. ANONYMOUS ALLEGATIONS

4.1 This policy encourages you to put your name to your allegation whenever possible.

4.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the School.

4.3 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.

5. UNTRUE ALLEGATIONS

5.1. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

6. HOW TO RAISE A CONCERN

6.1 As a first step, you will normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved you will approach the:-

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6.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to include the following information:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

6.3 The earlier you express the concern the easier it is to take action.

6.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

6.5 If ultimately you feel you have to take the matter externally to the Information Commissioner their details are listed at Section 9 of this policy.

6.6 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

6.7 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

7. **HOW THE SCHOOL WILL RESPOND**

7.1 The School will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

7.2 Where appropriate, the matters raised may:

- be investigated by the Data Protection Officer
- be referred to the Information Commissioner's Officer if found to be a reportable breach of data protection legislation
- be lead to a disciplinary investigation
- form the subject of an independent inquiry.

7.3 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 will take. The overriding principle which the School will have in mind is the necessity to provide assurance that the school complies with its' data protection obligations.

7.4 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.

7.5 Within ten working days of a concern being raised, the responsible person will write to you:

- acknowledging that the concern has been received
- indicating how we 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.

7.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the School will seek further information from you.

7.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.

7.8 The School will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the School will arrange for you to receive advice about the procedure.

7.9 The School accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

8. THE RESPONSIBLE OFFICER

8.1 The Chair of Governors has overall responsibility for the Policy. The day to day maintenance and operation of the policy will be undertaken by the Head Teacher. They will maintain a record of concerns raised and the outcome (but in a form which does not endanger your confidentiality) and will report as necessary to the Governors/Board of the School.

9. HOW THE MATTER CAN BE TAKEN FURTHER

9.1 This policy is intended to provide you with an avenue within the School to raise concerns. The School hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the School, to the Information Commissioner their contact details are:

Information Commissioner

Information Commissioner's Office, Wycliffe House Water Lane Wilmslow
Cheshire SK9 5AF

Tel: 0303 123 1113

Email: casework@ico.org.uk.

Or go to their website at: <https://ico.org.uk/global/contact-us/email/>

- 9.2 If you do take the matter outside the School, you must ensure that you do not disclose confidential information in a manner that is in breach of the Schools Data Protection Policy, e.g. you must not disclose personal data and so any reporting by you should, whilst explaining your concerns, should not disclose the identity of any individuals, be they students, parents, or members of staff. Should the ICO in response to any referral by you seek information from the School the School will co-operate fully and will provide such information to the ICO as is necessary for the purposes of any follow-up investigation by them.