

THE SCHOOLS OF KING EDWARD VI IN BIRMINGHAM

WHISTLEBLOWING POLICY & PROCEDURE

Status	APPROVED
Dates Approved	Grammar Schools’ Governing Bodies: October 2016 Foundation Board: 28 September 2016
Reference	Appendix F to the Approved Financial Regulations
Scope	Governors and employees
Policy Owner	Executive Director
Next Review Date	2018

1. Introduction & Purpose

The purpose of this policy is to set out a framework outlining The Schools of King Edward VI in Birmingham (“the Foundation”) and its Schools’ approach to whistleblowing.

2. Definitions

The Foundation charity is the legal entity The Schools of King Edward VI in Birmingham comprising the two Independent Schools and the Foundation Office (registration no: 529051). The five Selective Academies are separate legal entities registered with Companies House.

Within this policy the **Foundation Schools** refers to the two Independent Schools, the five Selective Academies and the Foundation Office.

King Edward VI Sheldon Heath Academy (KESH) has its own whistleblowing policy for staff and students. In the future this policy will be reworded to take account of the King Edward VI Multi-Academy Trust (effective from 1 September 2017) which will incorporate KESH into this policy.

3. Whistleblowing Law

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have ‘blown the whistle’.

4. Policy Statement

The Staff and Governors of the Foundation Schools seek to run all aspects of business and activity with full regard for high standards of conduct and integrity. In the event that members of staff, parents, governors or the school community at large become aware of activities which give cause for concern, the Schools have established the following whistleblowing policy, or code of practice. This will act as a framework to allow concerns to be raised confidentially and provides for a thorough and appropriate investigation of the matter to bring it to a satisfactory conclusion.

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Throughout this policy, the term whistleblower denotes the person raising the concern or making the complaint. It is not meant in a pejorative sense and is entirely consistent with the terminology used by Lord Nolan as recommended in the Second Report of the Committee on Standards in Public Life: Local Spending Bodies published in May 1996.

The Foundation Schools are committed to tackling fraud and other forms of malpractice and treat these issues seriously. They recognise that some situations may be extremely sensitive and have therefore developed a system which allows for the confidential raising of concerns within the school environment but also has recourse to an external party outside the management structure.

The Foundation Schools are committed to creating a climate of trust and openness so that a person who has a genuine concern or suspicion can raise the matter with full confidence that the matter will be appropriately considered and resolved.

The provisions of this policy apply to matters of suspected fraud and impropriety and not matters of more general grievance which would be dealt with under the grievance procedures.

5. Employer Responsibilities

The Department for Business Innovation and Skills has published the following guidance for employers:

As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer's commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. This is also demonstrated by the following:

- Recognising workers are valuable ears and eyes;
- Getting the right culture;
- Training and support;
- Being able to respond;
- Better control;
- Resolving the wrongdoing quickly

The Heads of the Foundation Schools are responsible for ensuring that this policy is communicated to all staff and the Executive Director to all Foundation Office staff.

6. When might the whistleblowing policy apply?

Concerns to be reported under this policy may relate to something which involves an issue in the public interest where the individual raising the concern has reasonable belief that is either happening, has taken place, or is likely to happen in the future.

A “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the member of staff making the disclosure, tends to show one or more of the following:

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- i. that a criminal offence has been committed, is being committed or is likely to be committed, e.g. fraud and deceit, manipulation of accounting records and finances, decision-making for personal gain, abuse of position;
- ii. that a person has failed, is failing or is likely to comply with any legal obligation to which he is subject (i.e. the School is breaking the law) - e.g. not having appropriate insurance, inappropriate use of school assets or funds, serious breaches of procedures which may advantage a particular party (e.g. tampering with tender documentation, failure to register a personal interest);
- iii. that a miscarriage of justice has occurred, is occurring or is likely to occur;
- iv. that the health or safety of any individual has been, is being or is likely to be endangered;
- v. that the environment has been, is being or is likely to be damaged, or
- vi. 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.

This policy also applies to behaviour likely to bring the Foundation and its Schools into disrepute or to attract public opprobrium.

7. What action should the whistleblower take?

The whistleblower should raise the matter internally in the first instance to allow those school staff and governors in positions of responsibility and authority the opportunity to right the wrong and give an explanation for the behaviour or activity. Please refer to Appendix A for the supporting procedure.

A number of individuals have been designated specifically to deal with such matters and the whistleblower is invited to decide which of the individuals would be the most appropriate person to deal with the matter.

1. For school-based staff:

Chief Master/Principal/Head Teacher; or

Chairman of Governors of the school concerned; c/o the Foundation Office, Edgbaston Park Road, Birmingham, B15 2UD, or

The Clerk to the Governors, c/o the Foundation Office, Edgbaston Park Road, Birmingham, B15 2UD heath.monk@ske.uk.net.

- 2 For staff not attached to any school or for matters not pertaining to any school:

The Executive Director, c/o the Foundation Office, Edgbaston Park Road, Birmingham, B15 2UD heath.monk@ske.uk.net; or

The Chairman of the Audit Committee; c/o the Foundation Office, Edgbaston Park Road, Birmingham B15 2UD; or

The Chairman of the Grammar Schools Joint' Audit Committee; c/o the Foundation Office, Edgbaston Park Road, Birmingham B15 2UD (for Grammar Schools); or

The Chairman of the Board; c/o the Foundation Office, Edgbaston Park Road, Birmingham B15 2UD.

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The Foundation Office telephone number is 0121 472 1147. Ask for Heath Monk. The whistleblower may prefer to raise the matter in person, by telephone, by email or in written form marked private and confidential and addressed to one of the above individuals. All matters will be treated in strict confidence and anonymity will be respected wherever possible.

Procedures for dealing with such matters have been developed and will be applied and every effort will be made to respect the confidentiality of the whistleblower. These procedures ensure that relevant external bodies are informed if necessary.

In addition information and advice can be obtained from the charity Public Concern at Work. This charity offers free legal advice in certain circumstances to people concerned about serious malpractice at work. Their literature states that matters are handled in strict confidence and without obligation. Contact details for the charity are as follows:

Public Concern at Work
CAN Mezzanine
7 - 14 Great Dover Street
London
SE1 4YR
Telephone Number: 020 7404 6600 Email: whistle@pcaw.org.uk

There may be occasions, for whatever reason where the whistleblower feels uncomfortable about reporting the matter within the organisation. There are other ways, some of which are set out in law, that a worker may make a disclosure without losing their rights under whistleblowing law. One option for external disclosures of this type is prescribed persons. Prescribed persons are mainly regulators and professional bodies but include other persons and bodies such as MPs.

The Prescribed Persons Order 2014 sets out a list of over 60 organisations and individuals that a worker may approach outside their workplace to report suspected or known wrongdoing. The organisations and individuals on the list have usually been designated as prescribed persons because they have an authoritative or oversight relationship with the sector, often as a regulatory body. The relevant contacts for the Foundation are:

The Charity Commission for England and Wales - about the proper administration of charities in England and Wales and of funds given or held for charitable purposes in England and Wales.

Charity Commission
Tel: 0300 066 9197
Email: whistleblowing@charitycommission.gsi.gov.uk www.charitycommission.gov.uk

Secretary of State for Education - about matters relating to the following educational institutions in England: Independent schools (including academies and free schools).

Ministerial and Public Communications Division
Department for Education
Piccadilly Gate
Store Street
Manchester
M1 2WD
Tel: 0370 000 2288
Online contact form: www.education.gov.uk/contactus

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8. How will the matter be processed?

An investigating officer will be appointed to carry out a preliminary investigation.

This will seek to establish the facts of the matter and assess whether the concern is justified and can be resolved internally.

The initial assessment may identify the need to involve third parties to provide further information, advice or assistance, for example involvement of other members of school staff, the school's external auditors, legal or personnel advisors, the police, the Department for Education, the Charity Commissioners.

Records will be kept of work undertaken and actions taken throughout the investigation. The investigating officer will consider how best to report the findings and what corrective action needs to be taken which may include some form of disciplinary action or third party referral such as the police.

The whistleblower will be informed of the results of the investigation and the action taken to address the matter. Depending on the nature of the concern or allegation and whether or not it has been substantiated, the matter will be reported to the appropriate Governing Body/committee.

If the whistleblower is dissatisfied with the conduct of the investigation or resolution of the matter or has genuine concerns that the matter has not been handled appropriately, the concerns should be raised with the investigating officer in the first instance and if these concerns remain unresolved then the whistleblower should contact the Chairman of the School Governors/Chairman of the Foundation Board.

9. Respecting confidentiality

Wherever possible the Foundation Schools seek to respect the confidentiality and anonymity of the whistleblower and will as far as possible protect him/her from reprisals. They will not tolerate any attempt to victimise the whistleblower or attempts to prevent concerns being raised and will consider any necessary disciplinary or corrective action appropriate to the circumstances.

10. Raising unfounded malicious concerns

Individuals are encouraged to come forward in good faith with genuine concerns with the knowledge they will be taken seriously. Matters raised anonymously, however, fall outside this procedure. If individuals raise malicious unfounded concerns or attempt to make mischief, this will also be taken seriously and will constitute a disciplinary offence and require some form of penalty appropriate to the circumstances.

11. Conclusion

Existing good practice within the Foundation Schools in terms of their systems of internal control, both financial and non-financial, and the external regulatory environment in which the organisation operates ensure that cases of suspected fraud or impropriety rarely occur. This whistleblowing policy is provided as a reference document to establish a framework within which issues can be raised confidentially internally and if necessary outside the management structure. This document is a public commitment that concerns are taken seriously and will be actioned.

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Whistleblowing Procedure

Appendix A

- 1 **Wrongdoing at work:** This procedure is designed to deal with disclosure of information by an employee who relates to some danger, bribery, corruption, fraud or other unlawful or unethical conduct in the workplace. Employment legislation governs the making of disclosures concerning workplace activities and is intended to protect employees who blow the whistle on bad practice from being subjected to any detriment or from being unfairly dismissed as a result. This procedure is available to all employees who discover something they feel that they should pass on in the interests of the public. All types of wrongdoing are included whether they are acts committed by fellow employees, faults in School procedures or oversights which should be rectified. The procedure should be used even in the event that the act or omission causing you concern has finished or has not yet started.
- 2 **Safeguarding:** Nothing within this procedure is intended to prevent staff from complying with their statutory obligations in accordance with *Keeping Children Safe in Education* (DfE, September 2016). In particular:
 - 2.1 **Safeguarding / Child Protection Policy:** You should raise any initial safeguarding concerns about a child with the Designated Safeguarding Lead in accordance with the School's Child Protection and Safeguarding Policy and Procedures.
 - 2.2 **Safeguarding - member of staff:** You should raise any concerns about another staff member with the Head/Principal/Chief Master, or if the concern is about the Head/Principal/Chief Master, with the Chair of Governors (without first notifying the Head) in accordance with the relevant section of the School's Child Protection and Safeguarding Policy and Procedures.
 - 2.3 **Whistleblowing Policy:** You should follow this procedure to raise concerns about poor or unsafe safeguarding practices at the School or potential failures by the School or staff to properly safeguard the welfare of pupils if you are concerned that the School's Child Protection and Safeguarding Policy and Procedures are not being followed correctly.
 - 2.4 **Children's Social Care:** In exceptional circumstances, or if at any point there is a risk of immediate serious harm to a child, a referral should be made to Children's Social Care and/or police immediately.
- 3 **Exit interviews:** All staff have an awareness of what they are expected and encouraged to raise concerns they have, whether related to the safeguarding and welfare of pupils, the conduct of staff or other matters, during the course of their employment in accordance with this policy. Safeguarding children is at the centre of the School's culture and is considered formally during staff performance development reviews and appraisal and finally at exit interviews which are held with all leavers. Staff who raise concerns about working practices at the School to the Designated Safeguarding Lead or an appropriate senior member of Staff will be protected from detriment under this policy.
- 4 **Grievances:** This procedure should not however be used where you have a complaint relating to your personal circumstances in the workplace. The Grievance Procedure contained in the Employment Manual should be used in such cases.

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- 5 **Detriment:** Provided that this procedure is used appropriately and correctly, you will not suffer any detriment as a result of reporting the wrongdoing. A failure to follow this procedure may however make the disclosure unreasonable and the protection given to you by this procedure may be lost.

Stage one

- 6 **Procedure:** You should disclose the suspected wrongdoing first to your Head of Department / Line Manager. In the event that your Head of Department / Line Manager is involved in the suspected wrongdoing, you shall be entitled to proceed directly to Stage Two of this procedure.
- 7 **Response:** You can expect a response detailing to whom the disclosure has been notified or any action taken within seven days of your Head of Department / Line Manager becoming aware of the disclosure.

Stage two

- 8 **Procedure:** If no response is forthcoming after seven days or if your Head of Department / Line Manager is involved in the suspected wrongdoing you shall be entitled to notify the Head as appropriate.
- 9 **Response:** You can expect a response detailing any action taken within seven days of the Head becoming aware of the disclosure.

Stage three

- 10 **Procedure:** If no such response is forthcoming you should inform the Chair of Governors of the disclosure or the individuals listed in Section 7 of this policy.

Stage four

- 11 **Outside body:** If you do not receive a response within seven days you shall be entitled to notify a relevant and appropriate body outside the School which may include:
- the Local Authority Designated Officer;
 - Children's Social Care;
 - the NSPCC Whistleblowing Helpline;
 - the Health and Safety Executive;
 - the Environment Agency;
 - the Information Commissioner;
 - the Department for Education (DfE);
 - the Department for Business, Enterprise and Regulatory Reform;
 - the Police;
 - the Charity Commission;
 - the Office for Standards in Education, Children's Services and Skills (Ofsted).

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- 12 **NSPCC:** The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 (8am-8pm Monday-Friday) or email help@nspcc.org.uk.
- 13 **Bypassing the procedure:** In extreme circumstances you will have the right to raise your concern directly with a relevant and appropriate outside body without first having followed the stages above. This may however cause damage to the School and its reputation as well as constitute a breach of your own duty of confidentiality towards the School and this action should only be taken in extreme circumstances and after careful thought.
- 14 **Extreme circumstances:** The School will consider extreme circumstances exist where you have a reasonable belief that: the School will subject you to detriment if you inform your Head of Department / Line Manager in accordance with Stage one above or if you inform the Head in accordance with Stage two or you inform the Chair of Governors in accordance with Stage three; a cover-up is being mounted by the School; or a disclosure made previously to your Head of Department / Line Manager or the Head or the Chair of Governors in accordance with the stages above has not prompted a satisfactory response.
- 15 **The media:** Even where extreme circumstances are thought to exist, you should under no circumstances approach a commercial body or the media with details of the suspected wrongdoing. If you approach any such body and / or where your concern is disclosed for personal gain, the School may consider this to be gross misconduct and immediate disciplinary action may be taken against you.
- 16 **Queries:** If you have any queries about this procedure, you should contact the Head/Principal/Chief Master or Executive Director for Foundation Office staff.