

St. Thomas of Canterbury Catholic Primary School

*'We learn, love, respect and accept our responsibilities through
or faith in Jesus Christ'*

Whistle Blowing Policy

**Reporting illegal or improper conduct
(disclosures under the Public Interest
Disclosures Act 1998) or
concerns about safeguarding
children or young people**

July 2019

**This Policy combines elements of the Model Policies produced by The
Diocese of Westminster (2014) and Herts for Learning (April 2016).
The review date for the latter is April 2018**

The Herts for Learning Policy has been negotiated with the Professional
Associations/Trade Unions and is recommended for adoption.

Preamble

The School is a Catholic School, founded by and forming part of the Catholic Church. In addition to the

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Church's funds which established the School, it is sustained in its mission by the receipt of public funds. Accordingly, it is accountable to the Catholic community of which it is a part and which provided the School and to the public whose funds it expends.

The School is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others with whom we deal, who have serious concerns about any aspect of the School's work, to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

This Policy makes it clear that you can do so without fear of victimisation, discrimination or disadvantage. This Policy is intended to encourage and enable employees to raise serious concerns within the School in the first instance so that it is not necessary to resort to outside agencies.

1 Safeguards

1.1 The school will not tolerate any harassment or victimisation (including informal pressure) on a Whistle blower acting in accordance with the terms of this policy.

2 Confidentiality

2.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. However, at the appropriate time you may need to come forward as a witness. Also, you have a duty to observe this confidentiality.

2.2 At no stage should you contact the media without written permission of the Chair of Governors. Such action would be in breach of confidentiality and could result in disciplinary proceedings against you.

3 Anonymous Allegations

3.1 Wherever possible you are encouraged to put your name to your allegation. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the School. In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issue raised;
- the credibility of the concern;
- the likelihood of confirming the allegation from attributable sources

4 Introduction

4.1 This Policy and procedure applies to all employees and governors. Other individuals performing functions in relation to the organisation, such as agency workers and contractors, should have access to it.

4.2 It is important to the School that any fraud, misconduct or wrongdoing by employees or governors of the School is reported and properly dealt with. The Governing Body will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the school, **which are in the public interest**. This policy and procedure sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

4.3 St. Thomas of Canterbury School expects the highest standards of conduct from all employees and governors and will treat seriously any concern raised about illegal or improper conduct.

4.4 Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Head Teacher (or the Chair of Governors if the concerns relate to the Head Teacher) any serious impropriety or breach of procedure.

4.5 Employees who do not follow the steps identified in this procedure or other agreed internal procedures, and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation.

4.6 This Policy does not form part of any employee's contract of employment and it may be amended at any time. The School may also vary any time limits as appropriate in any case

5 Background

5.1 The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures' A qualifying disclosure is one made in the public interest by the employee who has a reasonable belief that one or more of the following -:

- A criminal offence
- A breach of a legal obligation
- Disclosures related to miscarriages of justice
- An act creating risk to health and safety of any individual
- An act causing damage to the environment
- The deliberate concealment of information regarding any of the above categories is being, has been, or is likely to be, committed

5.2 It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed, a reasonable belief is sufficient. However, 'reasonable belief' is more than unsubstantiated rumour or opinion. The employee has no responsibility for investigating the matter; it is the School's responsibility to ensure that an investigation takes place

5.3 Where the concerns are about **safeguarding children or young people**, the School's Designated Senior Person for Child Protection should be notified (see 10 below).

5.4 It is a procedure in which the Head Teacher or Chair of Governors will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the School's disciplinary procedure.

5.5 Concern about a colleague's professional capability should **not** be dealt with using this procedure (but see 10 below).

6 When should it be used?

6.1 This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his/her own contract has been, or is likely to be, broken he/she should use the school's Grievance procedures.

6.2 **Where a disclosure is merely an allegation that amounts to an expression of opinion** that fails to show that a legal obligation has been or is likely to be breached, it **cannot** amount to a protected or qualifying disclosure for the purposes of the whistle blowing legislation. The disclosure must be of information. The employee making the disclosure must convey facts, although he/she will be protected even if those facts are already known by the school.

6.3 **Recent changes to the Law.** A qualifying disclosure means any disclosure of information that in the reasonable belief of the employee is made in the public interest. This is why an employee will generally be precluded from being able to 'blow the whistle' about breaches of his/her own employment contract. The requirement that a whistle blower make a qualifying disclosure 'in good faith' has been removed. Therefore, while the employer can seek a declaration from the whistle blower that he/she is not knowingly making a false allegation, disciplinary action is likely to be appropriate only where there is clear evidence that the employee has misused this Policy.

6.4 This Policy and procedure is not designed to replace or be used as an alternative to the Grievance procedure, which should be used where an employee is only aggrieved about his/her own situation. Nor should this Policy and procedure apply where the employee simply disagrees with the way the school is run.

6.5 Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour.

6.6 An employee who makes such a protected disclosure has the right not to be subjected to detrimental treatment which includes:- dismissal, disciplinary action, threats or other unfavourable treatment because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this procedure will not be penalised for doing so. The School will not tolerate harassment and/or victimisation of any employee raising concerns.

6.7 An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed may contact the Herts for Learning Head of HR - (details in section 12), the Diocesan Director of Education or their Professional Association/Trade Union.

6.8 Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to Internal Audit for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Head Teacher or Chair of Governors (but see 9), who will in turn report it to Internal Audit.

7. Principles

7.1 Any matter raised under this Policy and procedure will be investigated thoroughly, promptly and confidentially. Whilst the School will aim to keep the employee informed of the progress of the investigation and likely timescales sometimes the requirement of confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed. The outcome of the investigation reported back to the employee who raised the issue.

7.2 No employee will be victimised for raising a matter under this Policy. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern.

7.3 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.

7.4 If misconduct is discovered in consequence of any investigation under this procedure the matter will be considered under the School's Disciplinary procedure, in addition to any appropriate external measures.

7.5 Maliciously making a false allegation is a disciplinary offence.

7.6 An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent.

8. Procedure

8.1 In the first instance, unless the employee reasonably believes his/her Head Teacher to be involved in the wrongdoing, any concerns should be raised with the employee's Head Teacher. If the employee suspects that the Head Teacher may be involved in the malpractice then he/she should contact the Chair of Governors. If the employee suspects the involvement of the Chair of Governors, then he/she should contact Herts HR or the Diocesan Director of Education. The employee will be given the opportunity to discuss his/her suspicions with the appropriate person.

8.2 The Head Teacher/Chair of Governors will arrange an investigation into the matter (either by investigating the matter himself/herself or immediately passing the issue to someone in a senior position). The investigation may require the employee and others involved giving written statements. Any investigation will be carried out in accordance with the principles set out above.

8.3 Within ten working days of the initial meeting, the investigating officer will write to the employee to confirm details of his/her concern and that an investigation will take place. Throughout the investigation, the employee will be kept informed of progress and he/she will normally be advised of the eventual outcome, subject to third party rights. All correspondence will be addressed to the employee's home. If a meeting is needed, it may be arranged off-site if he/she wishes. Although records will need to be kept as the enquiries progress, these will be of an anonymous nature. There can be no time limits for the completion of the investigative process, but it will obviously be in the interests of all concerned if the issue is resolved without delay.

8.4 If the employee has any complaint about the way in which the investigation is being handled then he/she should raise this with the designated investigating officer in the first instance. If the complaint remains unresolved then he/she may contact Herts HR or the Diocesan Director of Education with his/her concerns.

8.5 Where anonymity is requested efforts will be made to meet the request, where appropriate, but that might not always be possible. The earlier and more open the expression of concern the easier it will be to take appropriate action.

8.6 Employees who want to use the procedure but feel uneasy about it may wish to consult their Professional Association/Trade Union initially and bring a colleague or Professional Association/Trade Union Representative along to any discussions, so long as the third party is not involved in the issue.

8.7 Employees are not encouraged to make disclosures anonymously. Proper investigation may be more difficult or impossible if further information cannot be obtained from the employee. It is also more difficult to establish whether any allegations are credible. Employees who are concerned about possible reprisals if their identity is revealed should come forward to one of the contacts listed in Section 13 of this Policy, and appropriate measures can be taken to preserve confidentiality, although no guarantee can be given that this will always be possible.

8.8 When the investigation is completed the Head Teacher (or the person who carried out the investigation) will present a report to the Chair of Governors/Governing Body who will take the necessary action, including reporting the matter to any appropriate department or regulatory agency. If disciplinary action is required this will be taken forward by the Head Teacher/Chair of Governors/Governing body in consultation with the School's HR Advisory Team and, if necessary, the Diocesan Director of Education. On conclusion of any investigation the employee will be told the outcome of the investigation and what the next steps will be (subject to issues of confidentiality). If no action is to be taken the reason for this will be explained.

8.9 If the employee does not agree with the outcome of the investigation he/she will have seven days in which to make his/her concerns known to the Governing Body via the Chair of Governors. If the employee remains dissatisfied with the response from the Governing Body then he/she may consider contacting the Secretary of State for Education who has the power to intervene if the Governing Body appears to be acting unreasonably. The employee should be aware, however, that this course of action could have serious consequences for the School.

8.10 If the employee is concerned that his/her Head Teacher is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigation, he/she should inform the Herts for Learning, Head of HR or the Diocesan Director of Education. Employees who feel unable to follow this route, for whatever reason, have the option of contacting one of the following:

- The Police
- HM Revenue and Customs
- The Financial Conduct Authority
- The Office of Fair Trading
- The Health and Safety Executive
- The Environment Agency
- The Serious Fraud Office
- The Education Funding Agency
- The Department for Education
- The National College for Teaching and Leadership

9. What should be done if an issue is raised with a member of staff?

9.1 If a member of staff, other than the Head Teacher, is approached by a colleague on a matter of concern as defined in this document, he/she is advised to take the matter to the Head Teacher (but see 8.1).

10. Safeguarding Children and Young People

10.1 Separate to the obligations under this Policy, all employees have a duty to report concerns about the safety and welfare of pupils/students.

10.2 Concerns about any of the following should be reported to the Designated Senior Person for Child Protection (DSP):

- physical abuse of a pupil/student
- sexual abuse of a pupil/student
- emotional abuse of a pupil/student
- neglect of a pupil/student
- an intimate or improper relationship between an adult and a pupil/student

The School's DSP is Mr. Andrew Booth - Assistant Head Teacher

10.3 The reason for the concern may be the actions of a colleague (including a more senior colleague), a Governor, another pupil/student or someone outside the school. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself a disciplinary matter.

11. Law Relating to This Document

11.1 The legislation protecting an individual who makes a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

11.2 Section 43J of the Employment Rights Act 1996 provides that a settlement agreement made between an employee and employer cannot prevent future protected disclosures. Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.

12. Contacts

Head Teacher: Mrs. Michelle Keating Tel 01920 821450

Chair of Governors: Mr Vincent King Tel 01920 821450

Clerk to the Governing Body: Ms. Jodee White Tel 01438 844800

Herts HR (for Maintained Schools and ESCs)

Assistant Director
Tel:01992 556653

Director of Education

Diocese of Westminster
Vaughan House
46 Francis Street
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Tel 020 7798 9005

Herts for Learning (for Academies)

Head of HR Tel:01438 844873 **Secretary of State**

Legal, Member & Statutory Services

Chief Legal Officer
Tel:01992 555527

Department for Education
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

County Internal Audit

Head of Assurance Services
Tel:01438 845502

Tel 020 7925 5000

or via your Professional Association or Trade Union Representative.