EATON HOUSE SCHOOLS

SHARING OF CONCERNS AND WHISTLEBLOWING POLICY

Responsibility:	Mrs Roosha Sue (Head, EHTM Nursery) Mrs Claire Fildes (Head, EHTM Girls') Mr David Wingfield (Head, EHTM Prep) Mrs Kirsten Bond (Head, EHTM Pre-Prep) Dr Christopher Halls (Head, EHB) Mrs Alison Fleming (Principal, Eaton House Schools) Mr Liam Corbett (Bursar, Eaton House Schools)
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Summary

Eaton House Schools is committed to the highest standards of ethics, transparency, and accountability. The school has a culture of safety and of raising concerns and we value staff and reflective practise. The school wants to perform its duties in an honest and open way for the advancement of its pupils' education and positively encourages the identification and correction of failures that may hinder this practice.

The aim of this policy is to provide a framework which enable's individuals to raise matters of concern that are in the public interest (often referred to as whistleblowing), such as: malpractice, impropriety or wrongdoing, at a high level within the school, without fear of reprisal, so that they may be investigated and where appropriate acted upon.

At Eaton House Schools we welcome genuine concerns and is committed to dealing responsibly, openly and professionally in response.

This policy applies to all employees and workers and copies are to be provided when requested.

Employers' Duties

The Senior Management Team of Eaton House Schools:

- Develop an environment within the Organisation that encourages staff to share their concerns about actual or potential breaches of duty or a particular failure internally and in confidence
- Instances of whistleblowing must be made to the Principal or the Bursar
- Ensure that staff do not suffer any detriment or victimisation as a result of making a protected disclosure
- Ensure that any action taken against staff who make a disclosure is not related to that disclosure
- Ensure the disclosure is treated seriously and confidentially
- Under no circumstances attempt to suppress evidence of any breaches or failures
- Ensure that appropriate staff are trained to deal with whistleblowing and the related procedures.
- Is committed to tackling allegations of failures
- Will identify examples of failures and they will be dealt with seriously
- Give an assurance that allegations will be treated appropriately, investigated promptly and (if requested) confidentially
- Make it clear that victimisation or harassment of a whistle-blower will be considered a disciplinary offence which could lead to dismissal.
- Ensure that a staff member is not dismissed for making a protected disclosure
- Keep the whistle-blower informed, confidentially, about the steps being taken to address the disclosure

Employers should not

- Destroy any relevant evidence
- Fail to deal with the disclosure
- Fail to keep the whistle-blower informed about how the disclosure is being dealt with
- Discipline, dismiss or otherwise treat the whistle-blower unfavourably for making the disclosure
- Suppress evidence of any breaches or failures

Employees' Duties

Employees should:

- Always follow the internal procedures set down for whistleblowing
- In most circumstances, raise concerns internally to their Head Teacher or line managers before making a disclosure to any external body
- Comply with the Schools whistleblowing policy
- Consider making a disclosure to a prescribed regulator before disclosing it more widely
- If a case is exceptionally serious, and there are good reasons for doing so, bypass the disclosure procedures
- Ensure that any disclosure of information is "reasonable in all the circumstances".
- In relation to a whistleblowing allegation, not engage in harassing behaviour of the employer/manager concerned.

Employees' Rights

- A staff member will be protected from dismissal or victimisation if they follow the whistleblowing procedure when making a disclosure.
- Protection from dismissal or victimisation is available for disclosure concerning financial irregularities, criminal offences, law breaking, miscarriages of justice, mistreatment of pupils, health and safety risks, environmental damage or risks and any attempted concealment of any of these offences (whether they have occurred or are likely to occur).
- Any disclosure by a staff member must be dealt with in the strictest confidence if the staff member so wishes.
- Any staff member who believes they have suffered a detriment after making a protected disclosure can complain to the Head Teacher, senior management or the safeguarding governor.
- If the school fails to deal with any complaint from a staff member who feels they have suffered a detriment after making a protected disclosure, then the staff member can take their case to an employment tribunal.

Duties and Responsibilities

- A worker should report any malpractice they have witnessed within their organisation.
- Unless circumstances are exceptional, any concern should be raised internally before being referred to an external regulator or more widely if neither of the other options is appropriate.
- The whistleblowing procedure should always be followed when reporting a breach or failure.
- In relation to a whistleblowing allegation, a staff (or former staff member) should not engage in harassing behaviour of the employer/manager concerned.

Key Principles:

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. All members of the Organisation should be watchful for illegal or unethical conduct and are encouraged to report anything of that nature that they become aware of.
- All concerns raised by an individual will be treated fairly and properly.
- Where there are grounds for proceeding any matter raised under this policy will be investigated thoroughly, promptly, and confidentially.
- Individuals making a protected 'qualified disclosure' in line with this Policy will not be penalised for doing so.
- All complaints of victimisation of an individual for raising a qualified disclosure will be treated seriously and may provide grounds for disciplinary or other appropriate action.
- If misconduct is discovered as a result of any investigation under this procedure the Schools disciplinary procedure will apply, in addition to any appropriate external measures.
- Maliciously making a false allegation is a disciplinary offence.

This policy cannot be used by individuals to challenge financial and business decisions properly taken by Eaton House Schools or seek reconsideration of any matter already addressed under other internal procedures for example complaints, disciplinary and grievance procedures.

Qualifying Disclosures

A "qualifying disclosure" for the purpose of this policy is defined as one which "tends to show one or more of the following:-

- that a criminal offence has been committed, is being committed or is likely to be committed,
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- that a miscarriage of justice has occurred, is occurring or is likely to occur,
- that the health or safety of any individual has been, is being or is likely to be endangered,
- that the environment has been, is being or is likely to be damaged, or
- 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"

Protected Disclosures

For a whistle-blower to be protected under the Employment Rights Act 1996 (as amended), the disclosure needs to be both a qualifying disclosure and a protected disclosure. They must be made in the public interest. Protected disclosures are made:

- to an employer
- to the person responsible for the breach or failure; the worker must reasonably believe that the person has a legal responsibility for the matter at the time they make the disclosure to that person — once the worker's belief is reasonable, it does not matter whether their belief is correct or not.
- to a legal advisor (this does not need to be in good faith) in the course of obtaining legal advice
- to prescribed persons (There is a full list of prescribed persons in the public Interest Disclosure (Prescribed Persons) (Amendment) order 2003.
- as an external disclosure (e.g. police, MP's, non-prescribed regulators)
- in an exceptionally serious case to a third party such as the police or a newspaper.

Internal Disclosure

A staff member should, if possible, first try to deal with any concern about a breach or failure internally. A disclosure will be a qualifying disclosure and therefore protected if it is made to:

- the staff member's employer, or
- another person whom the staff member reasonably believes to be responsible for the relevant failure.

Prescribed Persons

First, whistleblowing legislation protects those who make disclosures to "prescribed persons". There is a full list of the approximately 50 prescribed persons in the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003. The list includes:

- HM Revenue & Customs (HMRC)
- the Health and Safety Executive
- Prudential Regulation Authority
- the Food Standards Agency
- local authorities (LAs) responsible for the enforcement of food standards or health and safety legislation
- the Information Commissioner
- the Environmental Agency
- the Charity Commissioners
- the Director of the Serious Fraud Office
- the Secretary of State for Business, Energy and Industrial Strategy
- the Secretary of State for Transport
- the Pensions Regulator.

The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2015 came into force on 21 July 2015. This extends, in the field of education, the range of bodies to whom a worker can make a qualifying disclosure.

The whistle-blower is protected if he or she reasonably believes that the subject matter properly falls within the prescribed person's remit, the disclosure is made in the public interest, and that the information and any allegation in the information are substantially true. In June 2014, the Employment Relations Minister announced that individuals can now go directly to their Member of Parliament "if their employer is not responding to their concerns".

Wider Disclosure

Whistle-blowers may disclose information more widely, e.g. to the police, MPs, and non-prescribed regulators. Such a disclosure is protected if:

- it is made in the public interest and not for personal gain (including any payment by the media)
- it is reasonable in all the circumstances
- the whistle-blower reasonably believes that the information and any allegations in it are substantially true.

And in addition, the disclosure fits any one of the following three criteria.

- The disclosure had already been raised internally or with a prescribed person.
- The whistle-blower reasonably believed he or she would have been victimised had he or she raised the matter internally or with a prescribed regulator.
- The whistle-blower reasonably believed a complaint would lead to the evidence being concealed or destroyed and there was no prescribed person.

How the School supports the ability to address concerns

This policy is supported by a detailed Public Interest Disclosure (Whistleblowing) Procedure**.**

It is recognised and expected that the majority of concerns will be raised openly with managers as part of day-to-day practice and this policy does not seek to undermine this.

As any qualified disclosure needs to be in the 'public interest' the policy cannot be used to raise purely private matters (e.g. in relation to a member's individual contract) or in relation to a grievance which seeks to redress a wrong done to oneself. There are however a number of other appropriate policies and procedures available to staff through which individuals may raise and attempt to resolve such specific concerns, e.g. relating to a grievance, disciplinary, misconduct, or harassment matters.

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 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: help@nspcc.org.uk

Training

The sharing of concerns policy (includes whistleblowing) is included in the Induction Training when new staff, external staff and volunteers begin working for Eaton House Schools. The policy is also included within their Induction Pack and staff are required to read this and sign the induction procedures form. Staff are also informed that if they have any questions relating to the policies or need help reading or understanding the policies that they can contact HR, the Compliance Manager as well as their line manager. Senior Management complete an e-learning course on Whistleblowing.

Appendix 1: Procedures

1. Introduction

1.1 This procedure sets out the way in which individuals can internally raise serious concerns i.e. make a disclosure, which is in the public interest and how those concerns will be dealt with.

2. Qualifying Disclosure

2.1 A disclosure should be made in writing or verbally to your Headteacher or line manager (referred to from here as a 'designated person').

2.2 Qualifying disclosures under this procedure are disclosures of information which the staff member (or any other person within the scope of this Policy) reasonably believes that one or more of the matters listed below, is either happening now, took place in the past or is likely to happen in the future (and it is in the public interest to report it):
a) a criminal offence;
b) a failure to comply with any legal obligation. This can include a legal obligation that arises from a contract of employment;
c) a miscarriage of justice;
d) endangering the health or safety of any individual (includes risks to the general public as well as other employees or pupils of the school);
e) damaging to the environment;
f) deliberately concealing information demonstrating that one or more of the above are taking place.

2.3 Examples (not exhaustive) within the Independent Education context could include:
a) information which relates to child protection, the safety of a child or any concern about a person's behaviour as listed in the child protection policy
b) financial or non-financial maladministration and malpractice, bribery or fraud;
c) evidence of academic or professional malpractice e.g., falsifying or misrepresenting academic qualifications;
d) failure of an individual(s) to disclose a serious conflict of interest;
e) action or inaction that could lead to damaging the reputation of the schools, (such as a failure to notify management of any health and safety issues which may cause injury to an individual on the schools' premises).

2.4 Although individuals are not expected to prove the truth of any allegation, s/he will need to demonstrate that there is a sufficient reason for making initial enquiries.

2.5 All 'workers' making a qualifying disclosure in line with the legislative requirements are protected under the PIDA from detriment, whilst 'employees' in addition, have the right not to be dismissed, if the reason is the protected disclosure.

3. Confidentiality

3.1 All disclosures under this procedure will be treated in a confidential and sensitive manner. If required, the identity of the person raising the matter will be kept confidential for as long as possible provided that this is compatible with an effective investigation and is reasonably practicable. The investigation process may at some stage have to reveal the source of the information and the individual making the disclosure may need to make a statement as part of the evidence required.

4. Anonymous Disclosures

4.1 Individuals making a disclosure are normally expected to identify themselves, since part of the purpose of this policy is to promote openness and discourage a fear of reprisals. Disclosures raised anonymously are also far less capable of being addressed effectively. However such disclosures may be considered after taking into account the seriousness of the issue, the credibility of the concern, the likelihood of being able to investigate the matter and confirm the allegation from alternative sources, and fairness to any individual mentioned in the disclosure. An anonymous disclosure can be made in writing or verbally to a designated person. However, it is also important to note that the ability to provide relevant feedback and protect against victimisation will depend on the schools knowing the identity of the individual making a disclosure.

5. Process for making an internal disclosure (See Whistleblowing Flowchart)

5.1 It is recognised and expected that many concerns will be raised openly with managers as part of day-to-day practice. Where a manager is uncertain as to which procedure is most appropriate to address an issue, advice can be sought in confidence from the Principal and Bursar.

5.2 Where an individual considers that it may be necessary or appropriate to raise the matter formally under this procedure, i.e. their concerns fulfil the criteria defined in section 2.2 above, such a disclosure should be made verbally or in writing to a designated person. The individual should advise the designated person that they are raising their concern under the Whistleblowing Policy. If a disclosure involves or implicates a designated person then it should be made to another of the designated persons, as appropriate.

6. Responding to a disclosure

6.1 The designated person to whom the disclosure has been made will acknowledge receipt of a disclosure to the individual (where their identity is known), usually within 3 working days, before initially considering the matters disclosed, and, if there are grounds for proceeding further, will:

- decide whether an investigation should be conducted;
- determine what form the investigation should take;
- appoint a relevant person/s to carry out the investigation where an internal investigation is deemed appropriate.

6.2 If the designated person decides that there are no grounds for proceeding further, the person making the disclosure will be informed of this decision and the reasons for this.

6.3 If the designated person considers that the concern falls within the scope of another procedure,

such as the grievance procedure, they will advise the individual of this and refer it to the relevant manager for appropriate action. This does not mean that a concern is not taken seriously but that it can be addressed more effectively using another procedure. The individual will be informed which procedure will be used to address the concerns they have raised.

7. Investigation

7.1 As the person conducting the investigation must not be the person who would ultimately take decisions based on the outcomes, the designated person to whom the disclosure has been made will not personally conduct the investigation and will remain separate from it, having assigned a relevant person(s) to undertake the investigation.

7.2 The investigation may involve the individual making the disclosure and others giving a written statement. The individual's statement will be taken into account, and s/he will be asked to comment on any additional evidence obtained, as appropriate.

7.3 Any individual wishing to make a disclosure verbally or to give further details as the matter is investigated may be accompanied by another person of his or her choice.

7.4 When an allegation is made against a "named individual", s/he will be informed of the allegation and supporting evidence. The point at which this occurs will depend on the specific nature of the case. S/he will be given an opportunity to respond either in writing or verbally and, if interviewed about the matter, will be given an opportunity to be accompanied by a person of his/her choice.

7.5 When the matter has been investigated the designate person will determine what action, if any, should be taken in the circumstances. This may include the initiation of formal procedures within the Schools or reference to an appropriate government department or regulatory agency depending upon the circumstances of the case.

7.6 If no action is to be taken, the reason for this will be explained to the individual who has made the disclosure.

8. Seeking Independent Advice

8.1 An individual considering reporting a concern may wish to seek independent advice, before doing so, particularly if (ideally having first sought to address the concern under this internal procedure) they are considering making a disclosure to a regulator/prescribed person or other external body, as this must be made to the correct prescribed person or body for the issue and has additional requirements that will need to be met in order to qualify for the protections provided under the Public Interest Disclosure Act. The independent whistleblowing charity, Protect, operates a confidential helpline. Their contact details are found at https://protect-advice.org.uk/. A list of the prescribed people and bodies to whom a disclosure can be made is available at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2

9. False Allegations

9.1 A qualifying disclosure that is not confirmed by subsequent investigation, will not lead to any action, penalty or detriment against the person making the disclosure. However, individuals knowingly making false allegations/misusing this process may be subject to disciplinary or other appropriate action.

10. Victimisation

10.1 It is unacceptable to subject an individual to a detriment or victimisation because they have made a qualifying disclosure under this policy. All such complaints will be treated seriously and may provide grounds for grievance, disciplinary or other appropriate action. It is important to note that individual members of staff who victimise or cause a detriment to an individual who has made a disclosure can be named personally in a legal complaint and may be required to pay compensation personally to a successful claimant.

11. Timescales

11.1 Investigations will be conducted as speedily as possible, whilst having regard to the nature and complexity of the disclosure.

12. Feedback throughout the process

12.1 The person making the disclosure will be kept informed as to the handling of the matter and given as much feedback as appropriate in respect of the outcome, as long as it does not infringe on the duty of confidence owed to someone else.

13. Records

13.1 All concerns raised and action taken in response to qualifying disclosures will be recorded, and reports on all disclosures and investigations will be retained by the "designated person" for 7 years. A summary of which, the designated person will forward, to the Principal and Bursar at the conclusion of the process, to enable a confidential central record to be maintained to support monitoring and the schools reporting requirements.

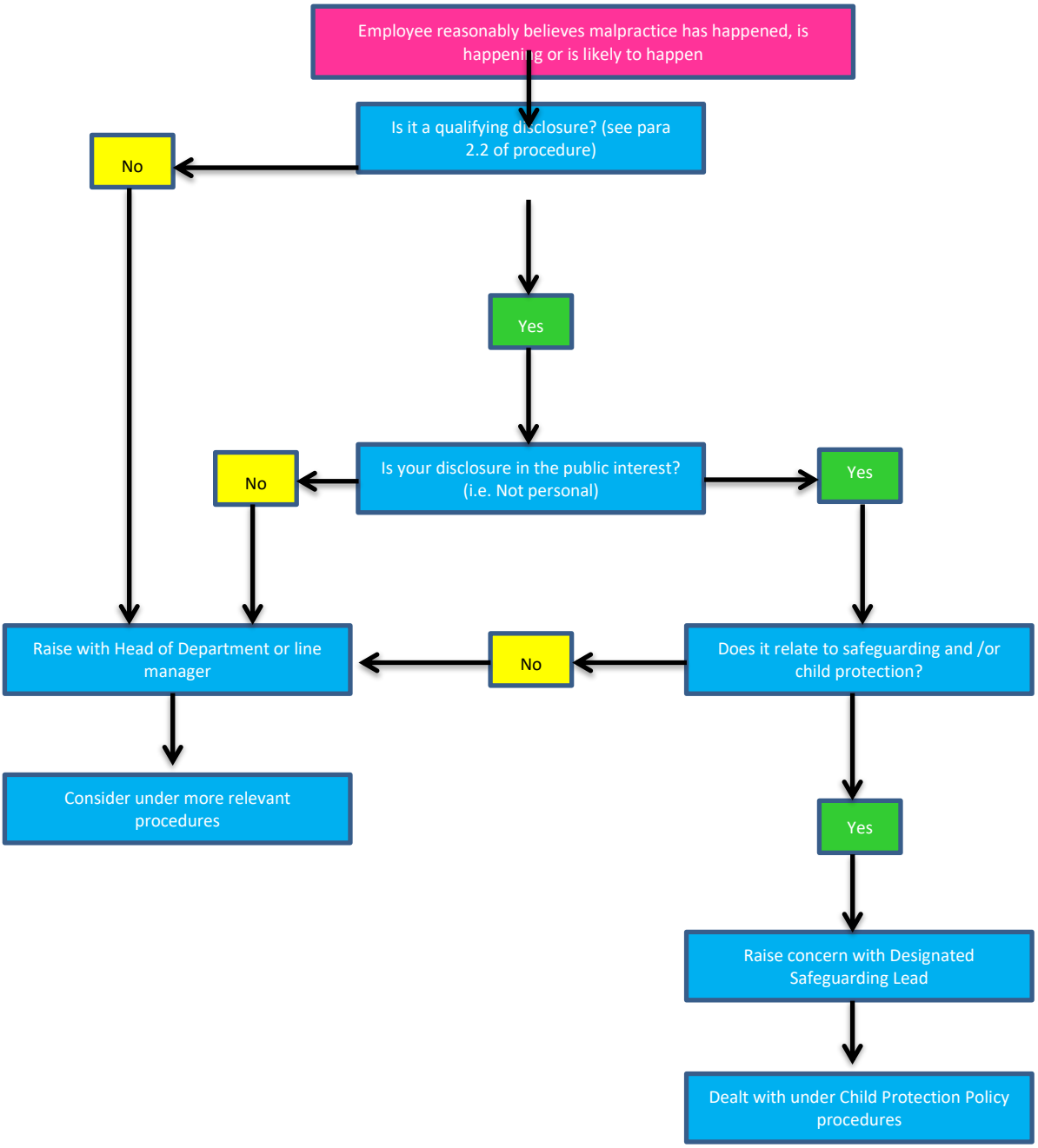
13.2 A written record should be kept of each stage of the procedure.

Appendix 2: Whistleblowing Flowchart

This flowchart should be read in conjunction with Eaton House Schools Sharing of Concerns (Whistleblowing) Policy and Procedures.

***If designated person implicated or involved, case is referred to another designated person (whichever is deemed relevant).**

EMPLOYEE


Employee reasonably believes malpractice has happened, is happening or is likely to happen
Is it a qualifying disclosure? (see para 2.2 of procedure)
No
Yes
Is your disclosure in the public interest? (i.e. Not personal)
No
Yes
Raise with Head of Department or line manager
No
Does it relate to safeguarding and /or child protection?
Consider under more relevant procedures
Yes
Raise concern with Designated Safeguarding Lead
Dealt with under Child Protection Policy procedures

DESIGNATED PERSON

