



Darul Uloom London School

# STAFF DISCIPLINARY, GRIEVANCE AND WHISLEBLOWING POLICY

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# STAFF DISCIPLINARY AND GRIEVANCE AND WHISTLEBLOWING POLICY

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## ABBREVIATION

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LEA: Local Educational Authority

## STAFF DISCIPLINARY

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1. The Trustees are obliged under the Education Act 1996 to establish disciplinary rules and procedures (including suspension and dismissal).

This document sets out the disciplinary procedure to be followed by the trustees and the principal in the maintenance of acceptable standards of conduct and behaviour of employees in the school.

2. Articles of Government and the Conditions of Service for staff and other staff should be considered in conjunction with this document.
3. This procedure will remain in force until amended or withdrawn by the trustees after reasonable notice and consultation.
4. The trustees are responsible for the conduct and discipline of all staff in the school although most disciplinary matters will, in the first instance, be dealt with by the principal. The employee should be informed of the details of any allegation.
5. The Trustees will establish a Committee of no less than 3 and not more than 5 to hear disciplinary cases and a separate Committee of at least equal number to hear appeals. This is a requirement of the Education Act 1996 and the Articles of Government.
6. The LEA is entitled to attend all the relevant proceedings in the disciplinary process where dismissal may be the outcome and the trustees are obliged to consider any advice given by or on behalf of the LEA.
7. Where the trustees so decide through due process, the LEA is obliged to give notice to or dismiss employees.
8. Employees have the right to be accompanied by a representative or friend who may make representations on their behalf at all stages of this procedure.
9. Where appropriate the trustees or the principal may suspend any employee from work pending investigation of alleged misconduct which is sufficiently serious or the situation is such that harm to the employer, children, colleagues or property may result. The principal or trustees should immediately inform the LEA of the suspension. The trustees should be informed of the suspension but not the details of the incident or allegation at the earliest opportunity.

Precautionary suspension is only appropriate where:

- I. The allegation if substantiated would amount to gross misconduct (ie. conduct which would go to the root of the contract).
  - or
  - II. To not suspend would potentially interfere with the investigation.
10. Employees will be suspended on normal pay (i.e. without loss of earnings). Such precautionary suspension is not disciplinary action. The investigation will be undertaken as soon as possible after the suspension. If a member of staff is precautionary suspended, a designated manager from the school will be assigned to provide support throughout the period of suspension.

11. When a disciplinary matter arises, the principal should first establish the facts promptly, before recollections fade or distort, and take written statements from all witnesses. The employee will be further informed that their conduct or behaviour is in question and of the allegations surrounding any incident. If the employee is to be interviewed during the investigation, it should be made absolutely clear that the interview is for investigation purposes and is not the disciplinary hearing. The employee must be given the opportunity to seek advice before making a statement and/or be accompanied by a representative or friend. The principal should take notes of all investigatory meetings.

NB: In cases of alleged abuse of children refer to the Child Protection Procedures.

12. Witnesses should make written statements and will be advised that they may be required to attend the disciplinary hearing at the request of either party. They should be warned that the matter is confidential and must not be discussed with anyone and that statements will be made available to the employee involved.

13. The matter having been investigated, the principal will determine what course of action should be followed. This may be that:

I. There is no case to answer.

II. Staff are to be given informal advice as to their future conduct.

III. Staff are to be given formal advice as to their future conduct. This will be confirmed in writing.

IV. A formal disciplinary hearing be convened to be heard by:

a. The principal for less serious offences where the potential outcome is a verbal or first written warning.

b. The trustees for more serious offences where the potential outcome is a final written warning or dismissal or when the principal has investigated the matter.

14. The principal or designated Committee of the trustees should, as soon as practical, hold a disciplinary hearing. The employee will be requested in writing (with at least 10 working days' notice) to attend the hearing. He will be informed of the allegation(s) to be considered and be provided with copies of the disciplinary procedure and all the evidence to be presented and be advised of the names of witnesses to be called. The employee will also be reminded of the right to be represented.

15. If the hearing is to be conducted by the principal, he will present the results of the investigation to the hearing. This may include witness statements which may be supported by presentation of oral evidence by the witnesses themselves and other written evidence. The employee will then have the opportunity to state their case, ask questions, present evidence and call witnesses.

16. The principal will decide what action to take, after an adjournment if necessary, and will inform the employee and their representative accordingly. The decision will be confirmed in writing as soon as possible.

17. If the allegation(s) are considered to be unfounded the employee will be informed. Confirmation will be given in writing and no further action will be taken.

18. When the hearing is to be conducted by a Committee of the trustees, the committee should notify the employee, the trustees and any witnesses of the date of the hearing

19. This should be communicated to the employee in writing with a copy provided to their representative.

20. The employee should be advised of the areas of concern and the improvement required. The concerns should be explained in detail in a constructive manner with clear examples given where possible. The employee should be left in no doubt of the improvement required and strategies

for support, monitoring and a timescale should be agreed. This should be confirmed in writing to the employee with a copy provided for his representative.

21. The employee will be told that his conduct is unacceptable, advised of what is expected of him and that a verbal warning will be recorded on his file. The employee should be told that this is the first action within the disciplinary procedure and that if his conduct does not improve further action will be taken. The verbal warning will be confirmed to the employee in writing and he will be advised of his right of appeal.
22. A record of the verbal warning will be kept but it will be disregarded for disciplinary purposes after 6 months (from the date of giving the verbal warning) subject to satisfactory conduct and behaviour.
23. If the offence is of a more serious nature, or if a further offence occurs within the currency of a previous warning a written warning may be given to the employee. This will give details of the complaint, the improvement required and the consequences of future misconduct. It will warn that further action will be considered if there is no satisfactory improvement or any further breach of conduct and will advise of the right of appeal. A copy of this written warning will be kept but it will be disregarded for disciplinary purposes after 6 months (from the date of the written warning) subject to satisfactory conduct and behaviour.
24. Copies of the written warning will be sent to the employee and his representative (if appropriate) and a copy retained on the employee's personal file.
25. If there is still a failure to improve and conduct or behaviour is still unsatisfactory within the currency of a written warning, or if the misconduct is sufficiently serious to warrant only one written warning a final written warning may be given to the employee. This will give details of the complaint, will warn that dismissal may result if there is no satisfactory improvement or a further breach of conduct and will advise of the right of appeal. A copy of this final written warning will be kept. After 12 months from the date of the letter giving the final written warning, the final written warning will be reduced to the level of a written warning (subject to satisfactory conduct and behaviour). After 18 months from the date of the letter giving the final written warning, the warning will no longer count for progression to the next stage of the formal disciplinary procedure (subject to satisfactory conduct and behaviour).
26. Copies of the final warning will be sent to the employee and his representative (if appropriate) and a copy retained on the employee's file.
27. If the conduct or behaviour is still unsatisfactory and the employee still fails to reach the prescribed standards after receipt of a final written warning, dismissal with notice may apply. Dismissal without notice (summary dismissal) may apply in cases of gross misconduct regardless of any, or the absence of, written warnings.
28. The Trustees have the sole authority to dismiss an employee. Where the principal, in the course of hearing a disciplinary case, considers dismissal may be the appropriate course of action, the hearing should be adjourned, and the employee informed that the case will be referred to a hearing of the Disciplinary Committee of the Trustees. The employee will be requested in writing to attend the meeting of the Trustees and will be reminded of their right to be accompanied.
29. The Trustees Disciplinary Committee meeting will constitute a full hearing of the case.
30. The principal will normally present the case to the Committee and the employee and/or their representative will be able to respond.
31. The task of presenting the case may be delegated by the principal to a member of the school's senior management team or assistance may be sought from an officer of the LEA.
32. The trustees will decide whether or not to dismiss the employee, impose a lesser penalty or reject the allegations entirely or in part.
33. The LEA is obliged to accept and carry out any recommendation to dismiss made by the trustees.

34. The trustees may decide that the misconduct warrants dismissal but having regard to extenuating circumstances may substitute relegation to a lower graded post without protection of salary, provided there is scope within the Darul Uloom London staffing establishment. A final written warning will always be given in conjunction with relegation.

Relegation without protection of salary cannot apply to teachers. However, a teacher may be willing to agree to such a relegation as an alternative to dismissal.

35. Employees have the right of appeal to the Appeals Committee of the trustees against decisions of the Disciplinary Committee or the principal. The appeal may be against the decision taken, the sanction imposed, or the procedure adopted.

36. Unless otherwise directed by the disciplinary committee, appeals must be notified in writing to the clerk to the disciplinary committee within 10 working days from the date of written notification of the decision. A copy should be sent to the principal.

37. Employees have no right of appeal beyond the Appeals Committee but may have recourse to an Industrial Tribunal.

38. Having established a Committee to deal with disciplinary issues, a separate Committee will be set up to hear appeals. The Appeals Committee will have the authority to uphold the original decision or to substitute a lesser penalty or to reject the original decision. The minutes of the Appeals Committee will be circulated to the trustees.

No member of the Appeals Committee (including nominated substitutes) will be involved in any preceding disciplinary action.

39. The appeal hearing should be convened as quickly as possible, normally within 4 working weeks of receipt of the appeal but allowing sufficient time for the employee to prepare for the hearing

40. A formal warning will remain effective during the period of time specified. This means that it will be taken into consideration, as part of the cumulative process, when determining the level of disciplinary action warranted for any further offences which may occur during the period.

## GRIEVANCE PROCEDURE

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1. It is essential that a fair and established procedure should exist in Darul Uloom London whereby staff may air a grievance related to their employment and ensure that it is resolved.
2. Most grievances will involve other members of staff or the trustees and will therefore be capable of resolution at school level. Some grievances will, however, need the Local Authority to assist in their resolution.
3. It is not intended that this procedure should apply to matters relating to applications for regarding or grading appeals, rates of pay, allowances, payroll matters (including pensions) and changes to conditions of service; these are outside the scope of the procedure. Disciplinary, sickness and capability matter, model pay policies and any other policies/procedures, which contain a right of appeal, are subject to separate procedures.
4. Grievances can arise from a variety of sources. They can arise amongst members of staff or with the principal. They can be of a relatively simple nature or of fundamental importance. They can involve the trustees or the administration of Darul Uloom London or the Local Authority. To meet this situation, this policy sets out:
  - I. Procedures which may enable grievances to be resolved informally and without recourse to any formal procedures; and
  - II. Formal procedures where informal procedures are inappropriate or have failed.

5. This grievance procedure is established by the trustees and its operation shall be under the trustees' control.
6. The trustees shall be responsible for considering all grievance cases referred to it under the formal stages of the procedure
7. Where any complaint involves a grievance against the principal, the role of the principal as set out below should be undertaken by the trustees.
8. The employee has a right to be accompanied at all stages of the grievance procedure by his trade union representative or work colleague of his choice. In the event of an employee wishing to bring a friend not employed by the school this will need the approval of the principal or trustees
9. It is hoped that most grievances will be resolved at the informal stage and the necessity to proceed to the formal stage will not be required.
10. The aggrieved member of staff shall approach any other member(s) of staff concerned to seek to resolve the grievance by discussion or, if necessary, in discussion with the principal. If the grievance is against the principal, the employee shall contact the chair of governors.
11. No staff member shall be required to approach any person against whom they have a grievance if they feel uncomfortable about doing so. The member of staff may, instead, put their concerns to the person in writing.
12. Where the grievance is against the trustees, the aggrieved member of staff shall discuss the grievance with the principal, who shall then raise the issue with the trustees
13. Where the member of staff requests a personal interview with the principal, the request shall be granted within 5 working days.
14. Where appropriate, the principal shall seek to resolve the problem personally or, by mutual agreement, in consultation with other members of staff.

The principal may also, by mutual agreement, seek consultation with the trustees, the Director of Children & Young People's Services (or his/her representative), or with representatives of the trade union(s) concerned, as may be thought appropriate.

#### 15. Standard three step procedure for staff

##### I. The Written Statement

You must report the grievance, in writing, to the principal. If your grievance is against the principal, you should report it to the trustees

##### II. The Meeting

- a. The principal or trustees will acknowledge your grievance in writing and will arrange a meeting to discuss the matter with you and investigate your grievance within 10 working days of receipt of your letter. You must take all reasonable steps to attend the meeting. You should be in a position to show the principal or trustees any supporting evidence of your complaint or to indicate any witnesses of the events of the grievance.
- b. You will receive a written reply from the principal or trustees, normally within 10 working days after the initial meeting, informing you of the decision unless, by agreement, the period is extended. You will also be told of your right to appeal if you are not satisfied with the decision.

##### III. The Appeal Meeting

- a. If you are dissatisfied with the outcome and wish to pursue the matter further, you may appeal by sending a copy of your grievance letter with a covering letter explaining why you wish to appeal to the trustees. Please ensure that you retain a copy for your own information.

- b. The trustees will acknowledge your grievance in writing. You will be invited to attend a meeting with the Appeals Committee of the trustees, a set of papers will be circulated, prior to the meeting, including:
      - i. The written reply from the principal or trustees,
      - ii. Your completed grievance form and
      - iii. Any other papers either party may wish to submit.
16. At the meeting you will need to explain what the grievance is, against whom you have a grievance and how the grievance might be resolved. At the meeting you must be in a position to demonstrate to the trustees any supporting evidence of your complaint or to indicate any witnesses of the events of the grievance. This meeting will take place within 10 working days unless it is mutually agreed that there is a different timescale. You must take all reasonable steps to attend the meeting. The principal or trustees who initially investigated the grievance will also be present on behalf of the school to explain their decision.
17. Within 10 working days of meeting with you to discuss your grievance, the trustees that heard the grievance will respond to you, in writing, to give a decision following the meeting, further investigation may be required, dependent upon the information presented at the meeting from both the employee and the principal or trustees. If the grievance is particularly complex the trustees will write within this period to give an interim reply and a commitment when a final decision will be available. There will only be one such interim reply unless it is mutually agreed to vary this. The decision of the trustees shall be final and shall be implemented in relation to any matter under the control of the trustees and shall be the subject of a recommendation to the Local Authority in relation to a matter under the Local Authority's control. Such final decisions are, however, subject to the right of the employee to take their complaint to an Employment Tribunal.
18. Where the principal has a grievance he shall, first of all, endeavour to resolve the matter by direct, but informal, approach to the person(s) who they believe are causing them to feel aggrieved.
19. Where the matter remains unresolved, the principal shall discuss it with the trustees who may, by mutual agreement, seek consultation with the Director of Children & Young People's Services or his/her representative, or with the representatives of the trade union(s) concerned, as may be thought appropriate

#### Standard three step procedure for the principal

##### I. The Written Statement

The principal must report the grievance, in writing, to the trustees

##### II. The Meeting

The trustees will acknowledge your grievance in writing and will arrange a meeting to discuss the matter with you and investigate your grievance within 10 working days of receipt of your letter and completed grievance form. You must take all reasonable steps to attend the meeting. You should be in a position to produce any supporting evidence of your complaint or to indicate any witnesses of the events of the grievance.

You will receive a written reply from the trustees, normally within 10 working days after the initial meeting, informing you of the decision unless, by agreement, the period is extended. You will also be told of your right to appeal if you are not satisfied with the decision.

### III. The Appeal Meeting

- a. If you are dissatisfied with the outcome and wish to pursue the matter further, you may appeal by sending a copy of your completed grievance letter, with a covering letter explaining why you wish to appeal, to the trustees requesting a review. Retain a copy of all documents
  - b. The trustees will acknowledge your grievance in writing. You will be invited to attend a meeting with the trustees and a set of papers will be circulated prior to the meeting, including
    - the written reply from the trustees
    - your grievance letter
    - any other papers either party may wish to submit. At the meeting you will need to explain what the grievance is, against whom you have a grievance and how the grievance might be resolved. At the meeting you must be in a position to demonstrate to the trustees any supporting evidence of your complaint or to indicate any witnesses of the events of the grievance. This meeting will take place within 10 working days unless it is mutually agreed that there is a different timescale. You must take all reasonable steps to attend the meeting. The trustees who initially investigated the grievance will also be present to explain their decision.
  - c. Within 10 working days of meeting you to discuss your grievance, the trustees that heard the grievance will respond to you, in writing, to give a decision following the meeting; further investigation may be required as this is dependent upon the information presented at the meeting from both the employee and the trustees. If the grievance is particularly complex the trustees will write within this period to give an interim reply and a commitment when a final decision will be available. There will only be one such interim reply unless it is mutually agreed to vary this. The decision of the committee shall be final and shall be implemented in relation to any matter under the control of the trustees and shall be the subject of a recommendation to the Local Authority in relation to a matter under the Local Authority's control. Such final decisions are, however, subject to the right of the employee to take their complaint to an Employment Tribunal.
20. The employee has a right to be represented at all stages of the grievance procedure by his trade union representative or fellow worker of his choice.
21. The responsibility for the attendance of witnesses lies entirely with the person, i.e. the employee or principal, whoever requires the witness(es) to attend. If, however, the witness is an employee of the school, reasonable facilities will be allowed to enable him to attend. In this context, any time off should normally be paid on a 'no loss of earnings' basis during the witness' normal working hours. Attendance outside of normal working hours will be unpaid.
22. A two-step grievance procedure will apply in circumstances where the standard grievance procedure would otherwise apply but where the employment has ended and either:
- the employer was not aware of the grievance before the employment ended; or
  - if the employer was so aware but the standard grievance procedure had not started or had not been completed by the time the employment ended; and
  - the parties must have agreed in writing that the modified, rather than the standard, grievance procedure shall apply.
23. The modified procedure is applicable in such cases as it would be unreasonable to oblige the parties to follow the standard procedure, including attending meetings, where there is no on-going employment relationship and the parties have no interest in following the standard procedures, and where they are in mutual agreement on this point or it is not reasonably



practicable for one or other part to carry out the standard procedure. For example, if one of them has left the country for an extended period

24. If this is the case, the 'Two Step Grievance' is as follows: -
  - I. You must set out the grievance and the basis of it in writing and send the statement to the principal
  - II. The principal will investigate your grievance and will set out their response in writing and send you the statement normally within 10 working days from receipt of your statement.
25. In some circumstances, the grievance procedure will be deemed as having being complied even if they have not. These situations include the following:
  - I. Where the employee follows a grievance procedure in a collective agreement. This provision will allow grievances to be dealt with collectively where more than one employee has the same grievance. This will save the time and resources of both Darul Uloom London and employees
  - II. Where a trade union representative or work colleague has raised the grievance on behalf of two or more named employees, the employees sharing the grievance may choose one person to act as their representative.
  - III. Where the grievance is that disciplinary action short of dismissal is, or would be, unlawful discrimination or that the actual grounds for the employer's actions are not the grounds cited by the employer and the employee sends a written statement of the grievance to the employer before any disciplinary appeal hearing takes place or employment tribunal claim is lodged
  - IV. Where the standard grievance procedure applies, an employee who is no longer employed has sent a written statement of the grievance and since the end of his employment it has ceased to be reasonably practicable for the parties to comply with the requirements in relation to the step-two meeting or the step-three appeal. If the parties have had a meeting to discuss the grievance Darul Uloom London must still inform the employee of its response to the grievance
26. Through all stages of the procedure you will be expected to continue working normally. However, in exceptional circumstances with the agreement of all parties if this is not practicable then it may be possible for the person to be moved elsewhere within the school. If your grievance is against the principal, you should still carry out your normal day to day duties, wherever possible.
27. Every effort will be made to deal with the grievance as speedily as possible. It should be remembered, however, that some cases need time to investigate fully. You will be given every opportunity in the meeting to explain the details of the case.
28. You are asked only to raise questions which are related to your employment.

## HEARING PROCEDURE

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1. Introduction by the Chair of the Committee and a reminder to all present of:
  - a. The procedure under which the meeting has been called;
  - b. The degree of confidentiality;
  - c. Those present and the purpose of the meeting;
  - d. The supporting papers.
2. Explanation by the member of staff who raised the grievance, and/or representative, as to why an appeal has been lodged and against whom, and how the grievance might be resolved. Witnesses (where appropriate) may be called. When witnesses have given evidence and answered all questions put to them, they should leave the room.
3. Questions by the trustees
4. Explanation by the principal or trustees regarding their decision.
5. Questions by the trustees
6. Opportunity for the member of staff and/or representative to submit any final points.
7. Opportunity for the principal or trustees to submit any final points.
8. Withdrawal by the member of staff and representative(s) and the principal.
9. Meeting concluded.
10. Consideration of the matter by the committee
11. Within 10 working days of the meeting, the trustees to confirm the decision of the committee to the employee, in writing, following, if appropriate, further investigation of any matters raised.
12. If the grievance is particularly complex the trustees will write to the employee with an interim reply and a commitment when a final decision will be reached. There will only be one such interim reply unless it is mutually agreed to vary this.
13. The decision of the trustees shall be final and shall be implemented in relation to any matter under the control of the governing body, and shall be the subject of a recommendation to the Local Authority in relation to a matter under the Local Authority's control. Such final decisions are, however, subject to the right of the employee to take their complaint to an Employment Tribunal.

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## WHISTLE BLOWING POLICY

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### INTRODUCTION

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1. This policy has been produced to ensure that the Trustees complies with the Public Interest Disclosure Act 1998.
2. 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 itself. They may also fear harassment or victimisation. In these circumstances they may feel that it might be easier to ignore the concern rather than to report what may just be a suspicion of malpractice.
3. The Trustees 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 concerns about any aspect of the school's work, to come forward and voice those concerns. Generally, cases will proceed on a confidential basis, although this may not be possible if legal proceedings result from the disclosure.
4. This Confidential Reporting (Whistle-blowers') Policy makes it clear that employees can state their concerns without fear of victimisation, subsequent discrimination or disadvantage. Its aim is to encourage and enable employees to raise concerns within the school rather than to overlook a problem or take it outside.
5. Nothing in this policy must remove the obligation of staff with respect to child protection issues.

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### SCOPE

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The policy applies to all employees and those contractors working for the Council or Trustees on school premises, for example: agency staff. It also covers suppliers and those providing services under a contract with the school in their own premises and volunteers.

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### AIMS OF THE POLICY

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The policy aims to:

- encourage individuals to feel confident in raising concerns and to question, and act upon concerns about, practice;
- provide avenues for individuals to raise those concerns and receive feedback on any action taken;
- ensure that individuals receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied;
- Reassure employees that they will be protected from possible dismissal/detriment or victimisation if they have a reasonable belief that they have made any disclosure in good faith.

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### ROLE OF THE MONITORING OFFICER

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Section 5 of the Local Government and Housing Act, 1989, defines the duties of the monitoring officer, who, in the case of the school, would be the trustees.

As a result of the Act it is the duty of the monitoring officer, if at any time it appears that any proposal, decision or omission by the school, by any committee, or officer of the school, has given rise to or is likely to give rise to:

- a. a contravention by the school, by any committee, or officer of the school of any enactment or rule of law or of any code of practice made or approved by or under any enactment; or
- b. any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974 (Local Commissioners)...

to prepare a report to the LEA/Trustees with respect to that proposal, decision or omission”.

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## RESPONSIBILITY OF TRUSTEES

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Governing bodies are responsible for ensuring that managers in their school, who are involved in drawing up contracts, liaising with suppliers and other providers of services and dealing with service provision make those groups aware of the existence of this policy and the accompanying procedure.

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## CONFIDENTIAL REPORTING (WHISTLEBLOWERS’) PROCEDURE

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### WHISTLEBLOWING IN RELATION TO OTHER PROCEDURES

#### PART 1

#### 1. Introduction

1.1 The Confidential Reporting (Whistle-blowers’) Policy is not intended to cover complaints for which there are existing procedures, such as matters of individual discipline, staff grievances, complaints about poor standards of service, personal harassment, equal opportunities complaints. The Confidential Reporting (Whistle-blowers’) Policy is intended to cover other concerns, which a member of staff may have about the school/City Council, its employees or its practices. Such concerns could include:

- financial malpractice, financial impropriety, or fraud
- failure to comply with the School’s regulations and procedures
- failure to observe safety obligations
- endangering health and safety, including risks to the public as well as other employees and pupils
- damaging the environment
- criminal activity at the school
- deliberate miscarriage of justice
- academic malpractice
- abuse of authority for illegal or unethical purposes
- wilful failure to declare a relevant interest in the Registers of Interests
- sexual or physical abuse of clients
- covering up any of the above.

1.2 Cases arising from the Confidential Reporting (Whistle-blowers’) Policy may be routed through appropriate school procedures or investigated by a specially constituted panel or the principal. Unless there is a good reason to the contrary, the school will proceed on the basis that investigation of disclosure in parallel with other procedures will be avoided.

1.3 Concerns may include such actions as have already occurred, are occurring, or are likely to occur.

## **2. Who can use the procedure?**

2.1 This procedure is open to all members of the school and others, defined below:

- BoT of the school
- Current employees of the school including casuals and agency employees
- Staff working for departments or units of the school who may not be formally employed by the school
- Providers of goods and services for the school

2.2 A discloser need not be personally or professionally affected by the malpractice, which is to be disclosed by him or her

2.3 This policy does not replace the governing body's non-curriculum complaints procedure.

## **3. Protection of Disclosure – Safeguards**

3.1 If s/he complies in full with this procedure, the discloser will:-

- a) be protected as far as possible from their identity being revealed, although there may be occasions when the type of information revealed will be such that the identity of the discloser can be inferred by others;
- b) be protected from reprisal or unfair treatment attributable to the making of the disclosure;
- c) be kept informed at all stages of the procedure;
- d) have a choice of impartial individuals in the school to contact for an initial assessment. Fairness is ensured in that none of these persons may make the initial assessment if they are themselves the subject of a public interest disclosure inquiry, or thought by the discloser not to be impartial; or have a later part to play in the procedure;
- e) be assured that any malpractice will be thoroughly but quickly investigated.

3.2 These protections apply even if it is concluded that there is no action from a disclosure. In accordance with the Act, the protections apply, provided that: the discloser makes the disclosure in good faith; and in the reasonable belief that the disclosure tends to show malpractice; and not maliciously or for personal gain. The school procedure does not offer protection in the case of a vexatious disclosure.

## **4. Type of Protection Given to Someone Named in a Disclosure**

4.1 The identity of a person who is subject of a public interest disclosure under this procedure will be protected as far as possible. If the case against him/her is heard under the Confidential Reporting (Whistleblowing) Procedure, his/her rights to respond to accusations or to remain silent and to have representation, will be the same as under the relevant disciplinary procedure. If a person chooses to remain silent, the school reserves the right to investigate the disclosure by any means at its disposal.

## **5. Protection for officers designated in the procedure**

5.1 No officer designated in the procedure shall be held personally liable for any errors in, or consequences arising from, the commission of his/her duties under this procedure.

## **6. If a member of the school knows of wrongdoing, is making a disclosure about it obligatory?**

6.1 The Public Interest Disclosure Act and in turn, the school's procedure is intended to facilitate disclosure. It affords protection to an individual who wishes to disclose information and therefore it is intended to permit the school to deal with malpractice as it arises. The spirit of the procedure is to protect individuals who wish to make a disclosure in the interest of the public and of the school. It does not constitute an obligation to disclose information. This however does not apply to the child protection procedures.

## **7. What happens if a discloser changes his or her mind**

7.1 Once the disclosure has been made it may be retracted at any time. The school reserves the right to proceed with the investigation by any other means at its disposal, and to act in light of its findings, even if the discloser does not wish to proceed further.

## **8. Confidentiality: outside of the school**

8.1 Depending on the circumstances, the school might be obliged to make a report to the police or other appropriate public body. This will not affect the protection afforded to the discloser.

8.2 If an individual chooses to disclose externally, this procedure will afford protection if he or she:

- a. Reasonably believes that the information tends to show malpractice; and
- b. Acts in good faith; and
- c. Is not making the disclosure for personal gain; and
- d. Reasonably believes that the information is substantially true; and
- e. Makes the disclosure to an appropriate external statutory body, such as the Department for Education and Employment (DfEE), the National Audit Officer (NAO) or the Health and Safety Executive.

8.3 The confidentiality of any discussions with a lawyer, for the purpose of legal advice in connections with a disclosure under this procedure, is protected under legal advice and client privilege.

8.4 The discloser should not reveal any part of his or her disclosure outside the school until all steps in this procedure have been exhausted, except: to a public body; or to a professionally qualified lawyer for the purpose of taking legal advice.

8.5 The discloser will be responsible for ensuring that any representative or lawyer, whom he or she has informed of the disclosure, observes the provisions of this procedure.

## **9. Confidentiality: within the school**

9.1 The school will treat the identity of a person making disclosures as confidential, (subject to 8.1), unless the discloser fails to comply at all times fully with this procedure; the school's officers are legally obliged to reveal the identity, or the discloser's identity is introduced to the public domain by other means.

9.2 The chair of the Trustees will keep records of the disclosure and all proceedings. S/he will if possible consult the discloser before granting at any time during or subsequent to the disclosure procedure access to the papers for any person not privy to the papers. Unless there is a legal obligation to reveal the papers, they will be revealed to other parties only in conformity with school procedures and prevailing legislation.

## **10. Anonymous Allegations**

10.1 Disclosers will be expected to put their name to any disclosures they make, on the understanding that great care will be taken to protect their identity as provided for in this procedure. Disclosures made anonymously will only be considered if the LEA or for voluntary aided schools the Diocese thinks it warranted on the basis of:

- a) The gravity of the issues raised; and
- b) The amount of evidence provided; and
- c) The likelihood of confirming the allegation from alternative credible sources.

## **11. Untrue Allegations — Disciplinary Offences**

11.1 Under this procedure it will be a disciplinary offence to:

- a) make a disclosure found to be vexatious or malicious; or
- b) obtain benefit from a disclosure.

11.2 If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the discloser.

## **12. The Public Interest**

12.1 The overriding principle, which the school will have in mind, is the public interest. Concerns or allegations, which fall within the scope of specific procedures (for example, child protection or discrimination issues), will normally be referred for consideration under those procedures.

## **PART TWO**

Implementation of the Procedure

### **1. Purpose**

1.1 This document is intended as a procedural statement. Issues of principles and guidance on when it is appropriate to use this procedure are found in Part One of this document, which should be read in conjunction with this procedural section.

### **2. Obtaining Advice and Guidance**

2.1. 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.

2.2 Advice and guidance on how to pursue matters of concern may be obtained from:

- chair of governors
- your line manager or head teacher
- Public Concern at Work
- LEA (Personnel)

### **3. How to make a disclosure under the procedure**

3.1 Public Interest disclosures should be notified in the first instance to one, or if the discloser wishes, to more than one of the following receiving officers:

3.2 Your immediate head or, if for some reason that is not possible, the principal. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice

3.3 Concerns may be raised verbally, or in writing:

- the nature, background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.
- names of those alleged to be involved in the malpractice

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

3.5 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.

#### **4. How the school will respond**

4.1 The school will respond to your concerns and the receipt of your report will be acknowledged, in writing, within 5 working days. You should be aware that further enquiries may be made, possibly leading to a formal investigation, but this does not indicate that your concern has been either accepted or rejected. The Trustees will take an objective and fair view, until clear evidence emerges.

4.2 Where appropriate, following initial enquiries, the matters raised may:

- be investigated by a specially constituted panel, principal, internal audit, or through the disciplinary process;
- be referred to the Police;
- be referred to an independent outside agency, specially appointed to carry out investigations. Arrangements will be made as required, depending upon the nature and circumstances of the case.
- form the subject of an independent inquiry by an appropriate body, depending upon the nature and circumstances of the case;

#### **5. Action by the Receiving Officer**

5.1 Within five working days of a concern being raised, the receiving officer will write to you:

- Acknowledging that the concern has been received;
- Indicating how it is proposed 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 available support, where appropriate, and
- Telling you whether further investigations will take place and if not, why not.

5.2 Following this, 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 officers considering the matter will seek further information from you.

5.3 Other Officers to be informed by the Receiving Officer

5.4 The receiving officer will be responsible for informing other officers, within 5 working days, or sooner if stated below, as follows:

- a. In the case of legal or financial concerns, the LEA should be informed immediately so that s/he can alert the Chief Legal Officer and/or the Chief Financial Officer.
- b. In all cases, the chair of governors, for monitoring purposes.



5.5 Some concerns may be resolved by agreeing action without the need for a detailed investigation. If urgent action is required, this will, wherever possible, be taken by the head teacher

## **6. Representation and Advice at Meetings**

6.1 During any meetings/interviews, which you attend in connection with the concerns you have raised, you have the right to be accompanied by a friend or other representative, if you so wish. The attendance of any representative or witness who is an employee of the school will require the prior approval of his/her supervisor for absence during his/her normal working hours.

6.2 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.

6.3 The school accepts that you need to be assured that the matter has been properly addressed. You will, therefore, be informed of the outcome of any investigation.

## **7. The Responsible Officer**

7.1 The chair of governors, who is also the monitoring officer for the school, has overall responsibility for the maintenance and operation of this policy. The principal or when appropriate the LEA will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality).

## **8. External help**

For any reason if you feel you cannot or should not contact the school then contact:

- Bromley council
- Ofsted
- Department for education
- Police

## **9. How the Matter can be taken Further**

9.1 This procedure is intended to provide you with an avenue within the school to raise concerns. The trustees hope you will be satisfied with any action taken. If not then contact:

- Bromley council
- Ofsted
- Department for education
- Police

## APPENDIX 1 – DISCIPLINARY RULES

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Misconduct usually applies where such breaches of discipline do not normally result in dismissal for a first offence but may result in dismissal if repeated or if the misconduct is considered sufficiently serious in the first instance. This list is neither exclusive nor exhaustive. Examples of misconduct may include:

- Persistent poor timekeeping;
- Unauthorised absence
- Failure to comply with the school's sickness absence procedures;
- Improper disclosure of confidential information
- Breach of the School's guidelines on e-mail/internet use;
- Disregard of safety instructions
- Negligence causing minor damage to property;
- Unsatisfactory standards in performance of duties;
- Offensive behaviour or using abusive language;
- Breach of the School's approach to equality
- Failure to carry out a reasonable management instruction, whether in writing or not, including failure to observe operational regulations and policies

### GROSS MISCONDUCT

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This is an act of misconduct, which may include any of the above, and that is serious enough to destroy the employment contract between the employee and employer, breaking down the relationship based on trust and confidence and making the future working relationship impossible. Below are specific examples of misconduct which could be considered gross misconduct, but this list should not be considered to be either exclusive or exhaustive:

- Serious Safeguarding issues or inappropriate professional conduct involving a child or young person
- Violence or threat of violence to the employer or another employee including Contractors, pupils and Visitors
- Theft of School or another employee's property
- Harassment and bullying
- Deliberate falsification of any document
- Criminal conduct at work or on school premises
- Corrupt or improper practice in breach of the Code of Conduct
- Discrimination against another employee, an applicant for employment or any other person on the grounds of gender, transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility
- Breach of the School Health and Safety rules including negligence which causes unacceptable loss, damage or injury
- Breaches of the School Safeguarding Principles or where the action impacts adversely on the health and well-being of children and vulnerable adults
- Reporting for, or being at work whilst adversely affected by drink or non-prescribed drugs
- Unauthorised use, misuse or damage to a School owned vehicle, School equipment, property or facilities, including communication and information technology

- Knowingly disclosing confidential information in breach of the Data Protection legislation or the Confidential Reporting Procedure (Whistleblowing)
- Claiming sickness for any other reason than your personal illness
- Neglect of duty or behaviour liable to bring the School into disrepute
- Breaching standards of professional conduct
- Public criticism of the School decisions and/or activities connected with the employee's own work
- Blatant and/or persistent refusal to carry out a reasonable management instruction.
- Unauthorised employment (either engaging in other employment whilst contracted to work for the School or employment outside of office hours which is detrimental to the School interests)
- Smoking within School Premises including vehicles
- Under influence of alcohol, illicit drugs or any other illegal substances on or near school premises
- In possession of any weapons on or near school premises.
- Conviction of or under investigation for a criminal offence related to, or liable to have an adverse effect on the work of the employee, other employees or on the credibility of the School
- Breaches of the School's IT and Acceptable Use Policies

## POLICY REVIEWED BY

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Moulana Ibrahim Teladia (Head of Administration and Facilities)

Reviewed on Monday 23<sup>rd</sup> July 2018

Sign:

Majeed Ullah (Head of Boarding and Designated Safeguarding Lead)

Reviewed on Monday 23<sup>rd</sup> July 2018

Sign:

Moulana Abdullah Dalal (Chair of Trustees)

Reviewed on

Sign: