St Mary's Catholic Primary School

Whistle Blowing

We grow and learn in the footsteps of Jesus

Approved by	
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Position:	Chair of Governors
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Date:	8.5.2024
Proposed review date[2]:	May 2025

[1] This procedure must be approved by the Governing Body.
[2] This procedure must be reviewed annually.

REVIEW SHEET

Each entry in the table below summarises the changes to this Procedure made since the last review (if any).

Version Number	Version Description	Date of Revision
1	Original	April 2017
2	Updated to include reference to Allegations against staff and others and low-level concerns.	February 2023
3	New. Changes not highlighted. Re-written to provide a more user-friendly structure and format, with clarifications throughout to ensure the procedure and what to expect in response is clear. Updates on low level concerns. School review	September 2023 May 2024

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WHISTLEBLOWING PROCEDURE

1. Summary

This procedure aims to ensure that the staff of St. Mary's Catholic Primary School are able to raise concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice, in a safe and professional way. The procedure covers:

- the legal context;
- what constitutes whistleblowing;
- the process for raising and handling a concern.

Although this procedure is aimed primarily at school employees, this does not reduce the Governor's commitment to dealing with concerns raised by individuals outside of the school staff, e.g., parents, pupils, volunteers, governors etc. under the complaints or low level concern procedure (see Code of Conduct for staff and other adults).

2. Introduction

School staff are often the first to realise that there is something seriously wrong; or to see the signs of conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice, or to perceive that things are not as they should be. However, they may have reservations about expressing their concerns because they feel that speaking up would be disloyal to their colleagues, the Governing Body or damaging to the reputation of the school. They may also fear victimisation or harassment. As a result, a member of staff could decide to ignore the concern rather than report what may just be a suspicion of malpractice.

The Governing Body are committed to the highest possible standards of:

- openness and inclusiveness
- accountability;
- integrity; and to
- upholding fundamental British values.

In line with the above commitment, employees and others with serious concerns about any aspect of the School's work are encouraged to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This procedure makes it clear that employees can do so without fear of reprisal. This procedure is intended to encourage and enable employees to raise serious concerns within the School rather than overlooking the problem. Staff and others are also encouraged to make use of the low-level concern procedure and reporting system.

It is recognised, however, that under some circumstances members of staff may feel unable to express their concerns within school. Staff are encouraged to first approach an appropriate person in the school unless they feel unable to when they should approach an appropriate organisation outside of the school setting with their concerns (see section 9.6 for a list).

The whistleblowing procedure is specific and is essentially about employment issues for employees. It is separate and distinct from other Policies and procedures that the Governors have in place for complaints, including complaints involving pupils, staff performance and capability, health and safety, staff grievance and staff discipline. This procedure should not be used to raise matters relating to an employee's own terms and conditions of service and is intended to cover concerns that fall outside the scope of these other Policies and procedures. Employees who wish to raise a concern or grievance about their own employment, should refer to the school's grievance procedure.

3. Legal context

Whistleblowing is defined in Section 43B of the Employment Rights Act 1996 as the disclosure of information by a person who reasonably believes that it is in the public interest, and which shows:

- 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.

In the legislation whistleblowing is called a 'protected disclosure'. The Public Interest Disclosure Act 1998 (PIDA 1998) protects employees from suffering a detriment in their employment or being unfairly dismissed by their employer if they make disclosures in accordance with the legislation.

An employee has certain common law confidentiality obligations to their employer. However, in a limited set of circumstances, whistleblowing may override these obligations if an employee reveals information about their employment or the work of the School/Trust. This procedure sets out the circumstances under which these disclosures may lawfully be made.

Irrespective of the legal provisions relating to whistleblowing, the Governors and the Senior Leadership team will seek to establish a culture in this school in which members of staff can express their concerns, confident that such concerns will be taken seriously, investigated and appropriate action taken in response.

4. Aims and scope

This procedure applies to all employees including full and part-time, casual, temporary and substitute staff, and to individuals undertaking work experience or training in the school. The aim of this procedure is to:

- encourage those working in the school to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected;
- provide guidance on how to raise concerns;
- provide avenues to raise those concerns and receive feedback on any action taken;
- ensure that employees receive a response to their concerns and are aware of how to pursue them if they are not satisfied; and
- offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action

Employees must act in good faith and must have a reasonable belief that the information they disclose and any allegations contained in the disclosure are accurate.

A concern must relate to something which:

(a) is a breach of the School's Policies or procedures;

(b) falls below established standards or practice;

(c) amounts to improper conduct, including something that may be:

- unlawful conduct;
- a failure to comply with a statutory or legal obligation;
- a neglect of duty;
- maladministration, misconduct or malpractice;
- an actual or possible miscarriage of justice;
- a health and safety risk or action which involves risks to the public (includes pupils) as well as other staff;
- action that has caused or is likely to cause danger to the environment;
- action that has caused or is likely to cause physical danger to any person or risk serious damage to school property;
- misuse or unauthorised use of public or other funds;

- fraud, corruption or unethical conduct;
- breaches of financial regulations or policies
- unfair discrimination or harassment related to the protected characteristics – age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation,
- undermining of fundamental British values or promoting radical and/or extremist views;
- sexual, physical or emotional abuse of members of staff or pupils
- mistreatment of any person
- any attempt to prevent disclosure of any of the issues listed.

The above issues could have arisen in the past, be currently happening or likely to happen in the future.

5. Allegations in relation to child protection

If the concern raised relates to a child protection issue neither the Head teacher nor the Chair of the Governors will undertake their own internal child protection enquiries but will consult the LA Designated Officer (LADO) for Child Protection A decision will be made as to whether to make a referral to the LA Safeguarding Hub.

In relation to child protection concerns, anyone can make a referral to the LA Safeguarding Hub this can be made either before raising their concern with the Governors, or where the Head teacher or Chair of Governors fails to take action after the concern has been raised and the member of staff remains concerned about the situation.

In such cases, the Governors will refer to the Allegations management section of the Child Protection procedures and the local authority advice – '[Allegations against staff]' issued by the Cumbria Safeguarding Children Partnership (CSCP).

6. Whistleblower's safeguard against reprisal, harassment and victimisation

The Governors recognise that the decision to whistleblow can be a difficult one for members of staff but that it is in the long-term interests of the school that concerns are addressed. Although we aim to create a culture where all staff members feel able to raise concerns, it is important that staff are aware of the legal requirements surrounding whistleblowing.

As outlined in section 3. above, statutory protection is provided to whistleblowers by the Employment Rights Act 1996, namely "Part IVA: protected disclosures". Part IVA provides protection to employees in circumstances where their disclosure can be classed as a protected disclosure. In brief a protected disclosure is one which is:

- a qualifying disclosure; and
- is made in the public interest

If a member of staff is unclear about whether their concern is a protected disclosure, they may seek further advice from their trade union representative or 'Protect' the UK's whistleblowing charity which provides free advice for those who wish to express concerns about fraud or other serious malpractice.

Protect (Speak up, stop harm) – Free, confidential whistleblowing advice. Tel No: 020 3117 2520

Disclosure of information is not a protected disclosure within the meaning of Part IVA if:

- the person making it commits an offence by doing so, or
- it is made by a person to whom the information has been disclosed in the course of obtaining legal advice and a claim to legal professional privilege could be maintained in legal proceedings.

Part IVA provides that it would be automatically unfair to dismiss or make any employee/member of staff redundant because they had made a protected disclosure; and that it would be unlawful to subject them to any other detriment, such as demotion or a fine. In the event of such action an Employment Tribunal has the power to order re-instatement, re-engagement or order the award of compensation to successful claimants.

The Governing Body will absolutely not tolerate harassment or victimisation of members of staff when matters are raised in accordance with Part IVA provisions. Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with the whistleblowing procedure will be dealt with under the Governors staff disciplinary procedure.

7. Confidentiality and anonymous allegations

The Governors encourage members of staff to put their name to allegations whenever possible – anonymous concerns are much less powerful. Nonetheless, anonymous allegations will be considered in extreme circumstances under the whistleblowing procedure, especially concerns raised relating to the safety and welfare of children. In determining whether to take an anonymous allegation forward the Governors will take the following factors into account:

- the seriousness of the issue raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources and obtaining information from them.

The Governing Body will do its utmost to protect the identity of any member of staff who raises a concern and who do not want their name disclosed. It is, however, important that all staff understand that any investigation into the concern could reveal them as the source of the information; and statements may be required from members of staff as part of the evidence which would be seen by all parties involved. If the investigation leads to prosecution the whistleblower is likely to be called on to give evidence in Court. If the whistleblower is unwilling to give details of their concern because of fear of disclosure of their identity but the Chair of Governors or Head teacher remains concerned about the seriousness of the allegation, the Chair of Governors or Head teacher will discuss this with the member of staff and ask them to reconsider so that the matter can be taken forward.

A member of staff will not be placed under undue pressure to disclose their name and the Governing Body will proceed with investigating the concern on the basis of an anonymous allegation. If a further meeting is required with the whistleblower, then the member of staff may be asked if they want this to be held at a mutually agreed place away from the workplace. The member of staff may also ask their Trade Union representative or professional association to raise the matter on their behalf or to support them in raising the concern to further protect their confidentiality.

8. Untrue and malicious/vexatious allegations

When it is, or becomes, apparent from the investigation that the person making the disclosure has acted frivolously, maliciously or for personal gain, the School may consider taking action against the employee in accordance with the School's Disciplinary or Capability procedures. If the disclosure itself amounts to a criminal offence, this procedure will not protect the employee from the consequences of that criminal offence.

9. Process for raising and enquiring into a concern

9.1 How to raise a concern

As a first step, a member of staff should normally raise a concern with their immediate line manager, or the Head teacher. Where the Head teacher is the subject of a concern, or in a situation where there is a conflict of interest in reporting the matter to the Head teacher, the concern must be reported to the Chair of Governors. The person to be approached depends to an extent on the seriousness and sensitivity of the issue and who is thought to be involved.

If a member of staff feels unable to express their concerns within the school, they can raise them with a suitable organisation outside of the school setting, See section 9.6 on taking matters further for a list of suggested organisations. However, where the concern relates to a child protection matter if the member of staff does not raise this through the school, they must consult the LADO to lead on child protection or if that person is not available, the local authority's Safeguarding Hub. This is in case the organisation with

which they raise their concern is not familiar with child protection procedures and consequently does not instigate them.

The sooner a concern is raised the easier it is for the Senior Leaders in the school to take action. Concerns are better raised in writing for the avoidance of doubt.

The member of staff should set out the background and history to the concern, giving names, dates and places where possible, and the reason why they are concerned. If the member of staff feels unable to put the matter in writing, they can still raise their concern verbally and should telephone or arrange to meet the appropriate person. Where a concern is raised verbally, the person receiving the concern should make a written note of it immediately, recording the date and time, and sign it. Where possible the record should be read back to the whistleblower to confirm its accuracy. The member of staff may also ask their Trade Union or professional association to raise the matter on their behalf or to support them in raising the concern.

If the member of staff believes that the concern is what is termed a 'low-level' concern in relation to a child protection issue, they may prefer to use the school's low level concern procedure. An explanation of what constitutes a low-level concern (which may be no more than a niggling doubt that something appears to be wrong or amiss) and the procedure to follow is outlined in the school's staff Code of Conduct. The low-level concern procedure is accompanied by a form which must be completed – this can be anonymous.

Although members of staff are not expected to prove beyond doubt the truth of the concern or allegation, they need to demonstrate to the person contacted that they have sufficient evidence or other reasonable grounds for the concern. In determining what action to take, the person who is appointed to handle the member of staff's concern needs to assess whether there are sufficient grounds for the Head teacher or Governors to act. All low-level concerns must be directed to the Head teacher or DSL.

9.2 Response following the raising of a concern

The action to be taken will depend on the seriousness of the concern. The matters raised may need:

- inquiry internally in the school;
- to be discussed with the school's HR provider;
- to be passed to the Police if they relate to alleged criminal activity;
- to be passed to the Chief Legal Officer (the Council's Monitoring Officer) within the LA who deals with complaints about financial management or financial propriety in schools if there is concern relating to financial impropriety;
- to be referred to the LADO if there is concern relating to child protection, or if that person is not available the relevant LA Safeguarding Hub.

For those concerns which are referred to the Police, or other statutory authority, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.

[Section 48 of the School Standards and Framework Act 1998 requires that LAs must include in their scheme for financing schools, details of to whom in the authority complaints should be made by persons working at the school or by school governors about financial management or financial propriety at the school and how such complaints will be dealt with.

For matters not requiring referral to the Police, LA/EFSA at the outset, initial enquiries should determine whether the formal whistleblowing procedure should be instigated for considering the concerns raised. Some concerns may be resolved by agreed action without the need for investigation, although in such cases a record of the disclosure and the action taken will be made by the School and a copy of such written report provided to the member of staff who made the disclosure. Where formal inquiry is instigated, concerns will be looked at initially under the whistleblowing procedure. However, some allegations may raise issues which may subsequently need to be dealt with under other existing Governing Body procedures, such as staff disciplinary or staff grievance.

All concerns will be treated sensitively and with due regard to confidentiality and where possible every effort will be made to protect the identity of the person raising the concern if they so wish. Nevertheless,

this information will need to be passed on to those with a legitimate need to have this information and it may be necessary for the person raising the concern to provide a written statement or act as a witness in any subsequent disciplinary proceedings or enquiry. This will always be discussed first. Additional support may be sought from the member of staff's Trade Union.

Where any meeting is arranged with the member of staff who is the subject of a whistleblowing allegation, the Governing Body will make clear, the purpose of the meeting. Where the meeting is intended to notify the member of staff that they may be subject to disciplinary proceedings, then the Governing Body will ensure that the meeting is held in accordance with the school's disciplinary procedure and the member of staff has the right to be accompanied by a Trade Union/professional association representative or a colleague at the meeting as long as the Trade Union representative or colleague is independent of the issue. If the meeting is intended to only establish facts relating to the allegation the member of staff will be given the opportunity to be similarly accompanied.

9.3 Timescale for response

The person receiving the whistleblowing allegation needs to respond to the issues raised. It will be made clear to the whistleblower that it is necessary to look into the concerns, and that at this stage the concerns/allegations are neither accepted nor rejected.

It is considered best practice for the person in school identified to deal with the concern raised to provide a written response to the whistleblower normally within 10 working days (except in the case of anonymous allegations):

- 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;
- informing them of whether any initial enquiries have been made;
- informing them whether further enquiries or investigations will take place;
- giving information on support available to them whilst matters are looked into, and confirming confidentiality will be maintained wherever possible but explaining that there is no guarantee that the whistleblower can remain anonymous.

If a lengthier process is involved, regular feedback on progress will be given in writing to the member of staff who made the disclosure.

The person with whom the concern has been raised will, where necessary, notify the School's HR provider that a whistleblowing allegation has been made.

Further advice on dealing with concerns is available from the School's HR provider or the School's financial or legal advisers.

9.4 The inquiry process

Initial enquiries will be made to decide whether an investigation is appropriate. Where an investigation is necessary, it may take the form of one or more of the following:

- an internal investigation by the Head teacher or a governor, which may, for example, take the form of a disciplinary investigation;
- an investigation by the Internal Audit Service;
- a referral to the Police;
- the setting up of an external independent inquiry.

Under no circumstances will the full Governing Body consider whistleblowing allegations/concerns since there may be a need to institute staff disciplinary or other proceedings at a later stage. Instead, the Governing Body will appoint an appropriate person to deal with the whistleblowing concern. This could be the Head teacher, a Governor or another person such as a Governor of another school, LA Governor Support Officer or other LA Officer. The person will not be the Chair of Governors. The person appointed should:

- look into the allegation - seeking evidence and interviewing witnesses as necessary;

- maintain confidentiality wherever possible but be mindful that there can be no guarantee that the whistleblower can remain anonymous;
- if appropriate, bring the matter to the attention of the Chief Legal Officer (the Council's Monitoring Officer) dealing with complaints about financial management of schools;
- if appropriate, for example, for allegations of criminal behaviour report the matter to the Police;
- report the matter to the LADO if the allegation relates to a child protection issue or, if that person is not available the relevant LA Safeguarding Hub. In the case of a concern relating to inappropriate behaviour towards a child, the LADO will be informed at the earliest opportunity and a Case Manager will be appointed. (Refer to School Child Protection Policy and procedures for additional information and guidance on the process for referral to the Designated Officer).

For those concerns which are referred to the Police, or other statutory authority, the person investigating will halt the whistleblowing process until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.

If the person appointed by the Governing Body to handle the concerns raised needs to talk to the whistleblower, the member of staff will have the right to be accompanied by a Trade Union or professional association representative or a staff colleague not involved in the area of work to which the concern relates, at any meeting.

The inquiry should normally be completed within 10-15 working days following the initial response to the whistleblower. If the inquiry extends beyond the timescales outlined for specific reasons, all individuals concerned will be notified of this in writing with an indication of when the inquiry will be completed.

The person appointed to conduct the inquiry must keep all notes of telephone and face to face discussions, records and documents reviewed, tests undertaken and results in date order and in a safe and secure place. They should ensure that the correct form of evidence is obtained and appropriately kept including original documents, certified copies of papers, physical objects, secondary evidence (for example, discussions), and details of any circumstantial evidence.

9.5 The inquiry report

Following completion of the inquiry process a written report will be made by the person appointed to undertake the enquiries and submitted to the Chair of the Governing Body normally within 5 working days.

The report will keep the name of the whistleblower confidential, unless they have expressly agreed that they wish to be named, and should set out:

- how the inquiry arose;
- who the concerns are raised against;
- the position in the school of the person against whom the concerns are raised and their responsibilities;
- how the inquiry was undertaken;
- the facts and evidence which were identified;
- a summary of the findings and recommendations in respect of the concern itself and any work required on system weaknesses identified during the inquiry.

Following receipt of the inquiry report, the Chair of Governors will convene a Committee with at least one other Governor and possibly an independent person from outside the Governing Body, for example, the LA or Governor of another school, to consider the concern and the inquiry report and decide on the action to be taken. This will normally take place within 5 - 10 working days following receipt of the inquiry report. The Committee will determine:

- the need for disciplinary action or other appropriate action to be taken under a Governing body procedure, for example, staff performance, staff grievance, etc. If a need for disciplinary action is determined the Chair of Governors must ensure that the Governing Body staff discipline Committee members are not tainted by also considering the concern under the whistleblowing process;
- the further action to be taken and the reasons why;
- if no action should be taken and the reasons why.

The Committee should notify the Chair of Governors of the outcome immediately.

Following notification of the Committee's decision, the Chair of Governors will notify the whistleblower of the outcome in writing normally within 5 working days (except in relation to anonymous allegations). This will set out the action to be taken or if no further action is to be taken the reasons why.

9.6 Taking the matter further

If no action is to be taken following the raising of a concern and/or the member of staff is not satisfied with the way the matter has been dealt with, the member of staff should raise their concern with another organisation, such as listed below.

If a member of staff does not wish to raise their concern with their school it is open to them to take concerns to other organisations such as:

- the Local Authority;
- a Diocesan Authority
- the school's HR provider
- a Solicitor
- the Police - for concerns of criminal behaviour
- a Trade Union or professional association/regulatory body
- the Citizens Advice Bureau
- The Local Government Ombudsman
- Equality and Human Rights Commission
- Protect (The UK's whistleblowing charity that provides free advice). Telephone 020 3117 2520
- NSPCC – The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally or who believe that their concerns are not being taken seriously. Staff can call 0800 028 0285 or e-mail help@nspcc.org,uk.

Note: if the matter is taken to another organisation staff must take care not to disclose privileged confidential information and must still have regard to Part IVA of the Employment Rights Act 1996 in raising their concerns. The disclosure must be made "in the public interest"; and in the circumstances it must be reasonable for the disclosure to be made.

If there is an issue of an exceptionally serious nature which is believed to be substantially true, then the concern may be disclosed to someone other than those listed above. In determining whether it is reasonable for the disclosure to have been made, the identity of the person to whom the disclosure is made will be taken into account. Disclosures to anyone outside of the recognised bodies specified above may not be protected disclosures under the Act.

Employees have a duty not to disclosure confidential information. This does not prevent employees from seeking independent advice at any stage or from discussing the issue with the charity 'Protect' on 020 3117 2520 in accordance with the provisions of the Public Interest Disclosure Act 1998.

10. Review and reporting of the Procedure

The Governing Body will make all staff, including casual or temporary school staff and individuals undertaking work experience or training in the school, aware of the whistleblowing procedure:

- on induction when they first take up appointment or placement in the school – individual copy provided;
- with the inclusion of a reference to the procedure and where a copy of it can be obtained in letter of appointment/placement;
- by way of a leaflet or poster in the staffroom
- by inclusion on the school's internal shared IT drive.

The procedure will be reviewed annually to ensure its continued relevance to the school or setting.