

## WHISTLEBLOWING POLICIES CHECKLIST

The NASUWT believes that a fair and transparent whistleblowing policy is an essential element to ensure accountability in a school, college or academy trust. In addition, setting out the policy in context will reinforce the culture of openness that is necessary for a whistleblowing policy to work effectively. The law on whistleblowing applies to employees and workers, including agency workers, homeworkers and trainees. There is no length of service requirement for any of this group to 'blow the whistle'.

This policy should enable any member of staff to blow the whistle on conduct which falls below the high standards of honesty, trust and integrity expected of publicly funded organisations. Unacceptable conduct is defined under the Public Interest Disclosure Act 1998 (PIDA). The policy should give staff the assurance that the employer will take a complaint seriously, and that all complaints will be dealt with in a fair and equitable manner, without fear of detriment to the employee.

Whistleblowing policies which accord with the provisions in this checklist will help to resolve serious complaints, problems or concerns that employees raise with or about their employers, and minimise the risk of victimisation.

This checklist sets out the minimum requirements for an effective whistleblowing policy and is consistent with the PIDA. Therefore, employers should make every effort to ensure that the policy covers more than just the matters potentially covered under the law. Employers should want to know about other issues, such as conduct which is unethical, or a breach of internal procedures or professional rules that do not have the force of the law.

### **Whistleblowing policies acceptable to the NASUWT will have the following key elements:**

- A definition of a whistleblowing complaint which clarifies the nature of a 'qualifying disclosure'. This is a disclosure of information, in the public interest, where the employee reasonably believes that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:
  - a criminal offence;
  - the breach of a legal obligation;
  - a miscarriage of justice;
  - a danger to the health and safety of any individual;
  - damage to the environment;
  - an abuse of power or authority;
  - a deliberate attempt to conceal any of the above.
- Clarification that a whistleblowing complaint is not a grievance or a dignity at work complaint, which should be made through the appropriate procedures (unless it is in the public interest).
- Child protection/safeguarding issues should be dealt with in a separate process which should be briefly outlined in the policy. Details of organisations to raise child protection/safeguarding concerns externally should be provided. The whistleblowing policy may be used to raise concerns about child protection/safeguarding issues if they are not dealt with in a timely manner.

- The scope of the policy and to whom it applies, such as staff at all levels including the headteacher, CEO, trust board, SLT, casual and agency workers, trainees, and contractors.
- An equality statement which insists that all stages of the policy will operate in accordance with the duties to promote equality, to eliminate discrimination and to promote good relations between staff with protected characteristics as required under the Equality Act 2010.

### **The policy will make the following provisions:**

- a clear statement detailing who a written complaint should be made to, nominating a limited number of appropriate staff members and/or trustees within the organisation;
- a statement encouraging whistleblowers to ask questions where they are unsure if their concern technically qualifies for protection;
- a statement that a whistleblower will be advised to consult their trade union before making a disclosure;
- details for 'Protect' (formerly 'Public Concern at Work'), the whistleblowing charity, will be provided;
- clear timescales to respond to a whistleblowing complaint. The whistleblower's complaint should be acknowledged within five days, and a meeting should be offered within ten days of making the complaint;
- a statement that a whistleblower may be accompanied to any meeting by a trade union representative or work colleague;
- a statement that notes of the meeting will be provided to the complainant;
- a statement that an investigation will be carried out by a suitably trained person with no involvement in the case, who may be an independent investigator;
- a statement that the investigation will usually be completed within 15 working days;
- a statement that the designated whistleblowing lead will decide, based on the investigation report, whether there is a case to answer, and if so, that the complaint will be dealt with internally or referred externally, or that no action is required;
- a statement that the outcome will be relayed to the whistleblower in writing;
- a commitment to deal with all complaints seriously and to pursue issues through the disciplinary policy and the police if necessary;
- a statement that whistleblowers will be provided with some form of process whereby they can escalate their concerns to the most senior level within their workplace if they are not satisfied with the investigation which has been carried out;
- a statement that staff may raise the complaint externally, to a 'prescribed body', and the details for appropriate organisations, including in the case of an academy trust, the Education and Skills Funding Agency (ESFA).

### **Training**

- The policy should commit the employer to ensure that managers dealing with whistleblowing complaints are properly trained about how to deal with a protected/qualifying disclosure; in particular, the level of confidentiality, independence and accountability required.

### **Confidentiality and protection**

#### **The policy should contain the following provisions:**

- a statement clarifying that a whistleblower's employment rights are protected in the law from victimisation if they follow the criteria below:
  - that they made a qualifying disclosure in good faith;
  - that they reasonably believed the information was substantially true;
  - that it was a qualifying disclosure as per the PIDA;
  - the procedure was followed;
  - if the disclosure was made outside the trust, that it was made to a 'prescribed person or body', rather than another third party such as the press.

- a statement that makes it clear to employees that complaints which are considered by an organisation to be 'in bad faith' or 'malicious' may be subject to disciplinary procedures;
- an assurance that the member of staff will not be victimised or suffer a detriment for making such a complaint;
- a statement that victimisation of staff making a complaint will not be tolerated and disciplinary action will be taken against any person victimising or harassing whistleblowers;
- a statement on confidentiality, ensuring all investigations, papers and any subsequent outcomes, reports and witness statements will be dealt with in the strictest confidence. The identity of the whistleblower will only be released by the appropriate person if there is a legal requirement to do so, such as a court order, or if the whistleblower gives written permission;
- a statement that a whistleblowing complaint will be investigated if made anonymously, although this may hinder investigations.

### **External links**

- The policy will state that if an employee is not satisfied about the way a complaint has been dealt with, or does not believe that their employer will deal with this appropriately, they may contact a 'prescribed person or body'. Guidance is available at: [www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2](http://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2). For academies, this is the ESFA as per: [www.gov.uk/guidance/how-esfa-handles-whistleblowing-disclosures](http://www.gov.uk/guidance/how-esfa-handles-whistleblowing-disclosures).

### **Review**

#### **The policy will state:**

- This policy will be monitored to ensure consistency of application and adherence to the equalities legislation, to ensure that the policy operates in accordance with the duty to promote equality, to eliminate discrimination and to promote good relations between staff with protected characteristics under the Equality Act 2010.
- This policy will be monitored and reviewed by the relevant body in conjunction with recognised trade unions at an agreed date/timescale.
- The trust must keep a record of Public Interest Disclosures, including those made anonymously.

### **Contacts**

- It is important for the policy to provide contact information for persons or organisations referred to in the whistleblowing policy.