

CTC KINGSHURST ACADEMY

THE PUBLIC INTEREST DISCLOSURE ACT ("WHISTLEBLOWING")



POLICY AND PROCEDURE

Effective from 7 February 2017

1. INTRODUCTION

The Public Interest Disclosure or "Whistleblowing" Act came into force in July 1999. "Whistleblowing" is about accountability and responsibility.

What does the Act do?

The Act protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing.

Who does it cover?

The Act protects most workers in the public, private and voluntary sectors. The Act does not apply to genuinely self-employed professionals, voluntary workers (including charity trustees and charity volunteers), police officers or the intelligence services.

How does the Act protect workers?

The Act protects workers in a number of ways, for example:

If an employee is dismissed because he has made a protected disclosure that will be treated as unfair dismissal; and

In any event workers are given a new right not to be subjected to any 'detriment' by their employers on the ground that they have made a protected disclosure, and to present a complaint to an employment tribunal if they suffer detriment as a result of making a protected disclosure.

What type of disclosures will be protected?

For a disclosure to be protected by the Act's provisions it must relate to matters that "qualify" for protection under the Act. Qualifying disclosures are disclosures which the worker reasonably believes show that one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence;
- the breach of a legal obligation; including possible fraud and/or corruption ;
- the unauthorised use of public funds
- a miscarriage of justice;
- a danger to the health and safety of any individual (parents, public or employees);
- damage to the environment;
- other unethical conduct.
- deliberate concealment of information tending to show any of the above matters.

A qualifying disclosure will be a "protected" disclosure provided the worker: reasonably believes that their disclosures are made in the public interest; and reasonably believes that the information disclosed and any allegation contained in it are substantially true.

This may cover something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the CTC subscribes to
- is against the CTC policies
- falls below established standards of practice
- amounts to improper conduct

The earlier concern is expressed the easier it is to take action.

The CTC is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of CTC life to come forward and voice those concerns. Individuals are often the first to realise that there may be something seriously wrong within an organisation. However they may not feel able to express their concerns because they believe that speaking up would be disloyal to their colleagues or to the CTC. They may also fear harassment or victimisation. They may feel it would be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

In the majority of cases, individuals with concerns will share those concerns with a member of the CTC's Senior Management Team but it is recognised that certain cases will have to proceed on a confidential basis. The Policy and Procedure makes it clear that individuals can follow the procedure without fear of reprisal. It is intended to encourage and enable all individuals to raise concerns within the CTC to maintain public confidence, rather than overlooking a concern, or blowing the whistle outside of CTC.

The overriding concern is that it would be in the public interest for the malpractice or concern to be corrected and, if appropriate, sanctions applied.

2. SCOPE

The Policy and Procedure applies to all CTC employees and contractors working for the CTC. It also applies to volunteers, governors and others not within an employment contract, although the provisions of the Public Interest Disclosure Act do not protect them.

It is not to be used by individuals who are aggrieved about their personal position. The CTC's Grievance Procedure should be used under those circumstances.

It is not to be used by individuals who have concerns over child protection issues. These concerns should be dealt with under the Child Protection Procedures.

3. POLICY AND PROCEDURE OBJECTIVES

The Policy and Procedure aims to:

- ensure that serious concerns and malpractice are identified, investigated and corrected.
- encourage individuals to feel confident in raising serious 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 individuals that they will be protected from possible reprisals or intimidation if they have a reasonable belief that they have made any disclosure in the public interest.
- minimise any difficulties experienced as a result of raising a concern, e.g. if an individual is required to give evidence in criminal or disciplinary proceedings the CTC will arrange for advice and support.
- ensure that individuals against whom malicious allegations have been made are supported.

4. ROLES AND RESPONSIBILITIES

i. GOVERNING BODY AND PRINCIPAL

- To establish a culture whereby all individuals fully understand that it is safe and accepted to raise concerns regarding malpractice.
- To actively want and expect individuals to raise concerns about malpractice.
- To ensure that victimisation of anyone who uses the “Whistleblowing” procedure is not tolerated.

ii. PRINCIPAL/CHAIR OF GOVERNORS

The governing body has designated the Principal to specifically deal with matters concerning “Whistleblowing”.

If the concern is about the Principal, then the designated person is the Chair of Governors. If the concern is about the Chair of Governors, then the designated person is Principal, in consultation with the Vice Chair of Governors

Their responsibilities are:

- To reassure and support individuals who use these procedures.
- To receive concerns raised by individuals.
- To respect an individual’s request that a concern is raised in confidence.
- To ensure that they effectively communicate with individuals.
- To carry out an initial assessment.
- To acknowledge the concern to the person raising it, within ten working days of it being raised; indicate how it is proposed to deal with the matter; estimate how long it will take to provide a final response; advise whether any initial enquiries have been made and supply information on individual support mechanisms.
- To inform, where appropriate, the person against whom alleged concerns have been raised of the nature of the concerns and how it is proposed to deal with the matter.

5. SAFEGUARDS

i. Harassment or Victimisation

The CTC recognises that the decision to report a concern or malpractice can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice.

Harassment, victimisation or subsequent discrimination or disadvantage of anyone raising a genuine concern will not be tolerated when individuals are acting in good faith and the CTC will take action to protect such individuals. This assurance does not include anyone who maliciously raises a matter they know is untrue.

ii. Confidentiality

The CTC will do its best to protect a person's identity when they raise a concern and do not want their name to be disclosed. It should be appreciated, however, that after an investigation has been conducted as a result of "Whistleblowing", it is likely that the source of the information may be revealed or a signed statement may be required as part of the evidence or evidence may be needed in a Court of Law.

iii. Anonymous Allegations

The CTC encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful but they will be considered.

The factors to be taken into account would include the:

- seriousness of the issues raised;
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

iv. Untrue Allegations

If an individual makes an allegation in the public interest, but it is not confirmed by the investigation, no action will be taken against them.

6. HOW TO RAISE A CONCERN - THE PROCEDURE

Concerns may be raised verbally or in writing. It should be noted however that concerns in writing are more formal in nature and therefore may lead to a more formal approach from the outset. The concern will be formally recorded and the matter will be treated as confidential.

Individuals making a written report should include:

- the background and history of the concern (giving relevant dates)
- full details of the circumstances and the reason why they are particularly concerned about the situation.

Although individuals are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concerns.

Who to Contact

CTC staff should initially raise concerns with their line manager. In the event that the line manager is unable to satisfy the individual raising the concern then that individual should request that the Principal in line with this policy deal with the concern. Staff also have the option of contacting the Principal in the first instance due to the circumstances.

If, due to the seriousness and sensitivity of the issues involved, or the individual is not satisfied with the response received from the Principal, they can contact:

- The Chair of the Governors
- The DfE
- The Charity Commission

If the above is inappropriate or an individual is dissatisfied with the responses then they can seek independent advice.

7. INDEPENDENT ADVICE / FURTHER INFORMATION

Individuals may wish to talk to their teacher professional association or trade union representative.

The charity **Public Concern at Work** provides free confidential advice to workers who have concerns about wrongdoing in the workplace. The charity can be contacted at Suite 306, 16 Baldwins Gardens, London, EC1N 7RJ or by telephone on 02074046609 or by email at whistle@pcaw.demon.co.uk.

8. HOW THE CTC WILL RESPOND

An initial assessment will be undertaken by the Principal in order to establish whether the concerns:

- may be resolved without the need for an investigation ;
- require urgent action being taken before any investigation is conducted ;
- fall within the scope of specific procedures (for example, Child Protection) and should be dealt with under those procedures ;
- require an investigation and, if so, what form it should take.

The concerns may:

- be investigated through the CTCs disciplinary procedure ;
- be referred to the police or the DfE;
- form the subject of an independent inquiry.

Within ten days of a concern being raised the individual will receive a written acknowledgement stating that the concern has been received, and:

- indicating how it is proposed to deal with the matter;
- estimating how long it will take to provide a final response;
- advising whether any initial enquiries have been made;
- supplying information on individual support mechanisms;
- advising whether further investigations will take place and if not, why not.

The Principal will inform the individual of the outcome of any investigation, subject to legal constraints or where this would infringe a duty of confidence owed by the CTC to someone else.

9. COMMUNICATION WITH THE PERSON AGAINST WHOM ALLEGED CONCERNS HAVE BEEN RAISED

The Principal will, where appropriate, inform the person against whom alleged concerns have been raised of the nature of the concerns and how it is proposed to deal with the matter.

Within legal restraints, and the restraints of the investigation, information will be provided and he/she will be informed of the outcome of the investigation.

10. HOW THE MATTER CAN BE TAKEN FURTHER

This Policy and Procedure is intended to provide individuals with an avenue to raise concerns within the CTC. If they feel it is right to take the matter outside the CTC, the following are possible contact points.

- Teacher Professional Association / Trade Union
- Public Concern at Work - Telephone. No. 0207 404 6609
- The Charity Commission
- Health & Safety Executive – **Prescribed Regulator**
- The DfE

- Financial Conduct Authority– **Prescribed Regulator**
- Environment Agency– **Prescribed Regulator**
- National Audit Office
- Police/ National Crime Agency

If individuals do take the matter outside the CTC, they should ensure that they are acting in the public interest, have evidence to back up their concerns and that they do not disclose confidential information.

11. MONITORING

The Principal will report any concerns raised under the Act annually to a full Governing Body meeting.

12. POLICY REVIEW

This policy will be kept under review in order to keep it in line with relevant legislation and modifications authorised by the governing body and the SLT.

Policy owner: **Principal**
 Supported by: Chair of Governors

| Authorisation and Issue | | | | |
|-------------------------|--|----------------------|---------------|---|
| Action | Date | Committee / Position | Name | Signature |
| Approved | 01.09.16 | Chair of Governors | Angela Pocock |  |
| Issued | 01.09.16 | Principal | Damon Hewson |  |
| Annual Review | June – August 2017 (for September 2017) | | | |

DEFINITIONS

Confidential reporting and “Whistleblowing” is the raising of concerns, either internally or externally, about possible malpractice.

Malpractice

The Act applies to people at work raising genuine concerns about crime, failure to comply with any legal duty (including negligence, breach of contract, breach of administrative law), miscarriage of justice, danger to health and safety or the environment and cover-up of any of these. It applies whether or not the information is confidential and whether the malpractice is occurring in the UK or overseas.

Individual is used throughout the Policy and Procedure and applies to all employees and those contractors working for the CTC, for example agency staff. It also covers suppliers and those providing services under a contract with the CTC in their own premises.

The Policy and Procedure also applies to volunteers, governors and others not within an employment contract, although the provisions of the Public Interest Disclosure Act do not protect them.

A Prescribed Regulator is an external authority, prescribed by the Act with whom concerns can be raised. See the ‘How the Matter Can Be Taken Further’ section of the Procedure.