



SEFTON COUNCIL

# CONFIDENTIAL REPORTING

## Policy and Procedure for Schools ("Whistleblowing" in the Public Interest)

Produced by Personnel; Schools Team

[www.sefton.gov.uk](http://www.sefton.gov.uk)

Version 1.0 August 2012

School:

Thomas Gray

Date Adopted by the Governing Body:

13/07/16

Signed:

Chair:

A.P. Taylor

Headteacher:

R. Per

## **Introduction**

The Confidential Reporting Policy ("Whistleblowing" - In the Public Interest) for Schools/Colleges has been developed to ensure compliance with the Public Interest Disclosure Act 1998. The Act introduced new rights for employees not to suffer detriment or dismissal for making a protected disclosure.

### **Policy Statement**

"Thomas Gray is committed to the highest possible standards of openness, probity, integrity and accountability. In line with that commitment the school expects employees and others that Thomas Gray deal with, who have serious concerns about any aspect of Thomas Gray's work, to come forward and voice those concerns without fear of victimisation, subsequent discrimination or disadvantage.

It is recognised that most cases will have to proceed on a confidential basis.

### **1.0 Preamble**

1.1 Employees are often the first to realise that there may be something seriously wrong within Thomas Gray. However, individuals may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to Thomas Gray. They may also fear harassment or victimisation. In these circumstances they may feel that it is easier to ignore the concern rather than report what may just be a suspicion of malpractice.

1.2 The Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within Thomas Gray rather than overlooking a problem or "blowing the whistle" outside.

1.3 This Policy is in addition to the Council's complaints procedures and other statutory reporting procedures applying to Schools.

1.4 Consultation about this policy has taken place with the relevant trade unions and professional organisations

### **2.0 Aims of this Policy**

2.1 This policy aims to:

- Encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for employees to raise genuine concerns and receive feedback on any action taken;
- Ensure that employees receive a response to their concerns and are aware as to how to take the matter further if they are dissatisfied with Thomas Gray's response
- Reassure employees that steps will be taken to protect employees from possible reprisals or victimisation for whistleblowing in good faith.

### **3.0 Scope of This Policy**

3.1 The Policy covers all employees with a contract of employment with Thomas Gray, including non-permanent contracts and any other persons acting in the name of Thomas Gray, for example agency workers and employees on secondment from other organisations.

3.2 There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- Conduct which is a criminal offence;
- Disclosures related to miscarriages of justice;
- Health and safety risks, including risks to the public as well as other employees;

- Damage to the environment;
- Unauthorised use of public funds;
- Possible fraud and corruption;
- Sexual, racial or physical abuse of pupils/employees; or
- Other unethical conduct.

3.3 Any serious concerns that employees have about any aspect of service provision or the conduct of other employees or members of Thomas Gray or others acting on behalf of Thomas Gray can be reported under the Confidential Reporting Policy. This may be about something that:

- Makes them feel uncomfortable in terms of known standards, their experience or the standards they believe Thomas Gray subscribe to; or
- Is against Thomas Gray's policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct

3.4 This policy does **not** replace Sefton's Corporate complaints procedure or Thomas Gray's complaints procedure. There is also Sefton's Corporate Confidential Reporting Policy for issues outside of Thomas Gray.

## 4.0 Safeguards

4.1 Thomas Gray recognises that the decision to report a concern can be a difficult one to make. If what an employee is saying is true, they should have nothing to fear in doing their duty to the employer and those for whom a service is being provided.

4.2 Thomas Gray is committed to good practice and high standards, wants to be supportive of employees and will ensure the following safeguards:

### 4.2.1 Harassment and Victimisation

Thomas Gray will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect employees when they raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence, or be influenced by any disciplinary or redundancy procedures that already affect an employee.

### 4.2.2. Confidentiality

All concerns will be treated in confidence and every effort will be made where possible not to reveal the identity of the employee raising the concern if it is so wished. However, it must be appreciated that, in the interests of natural justice, any investigation process may reveal the source of the information and a statement by the individual raising the concern may be required as part of the evidence.

### 4.2.3 Anonymous Allegations

This Policy strongly encourages employees to put their name to any allegation. Concerns expressed anonymously are much less powerful. Anonymous allegations will be considered and any action taken at the discretion of Thomas Gray.

In exercising this discretion Thomas Gray will take the following factors into account when considering how to deal with any allegations:

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

#### **4.2.4 Malicious or Vexatious Allegations**

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the employee who raised the concern. If, however, an allegation is made maliciously or for personal gain, disciplinary action will be taken against the employee concerned in accordance with Thomas Gray's Disciplinary Procedure. Thomas Gray will provide full support to anyone who is falsely or maliciously accused of malpractice or wrongdoing.

### **5.0 How to Raise a Concern**

5.1 As a first step, employees should normally raise a concern with an immediate Line Manager or Headteacher. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if it is believed that the employee's line manager is involved, then an approach to the Headteacher may be appropriate. If it is believed that the Headteacher is involved, an approach to the Chair of Governors would be appropriate. If the governing body is involved, then a referral to the Local Authority's Complaints Officer would be appropriate.

5.2 Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to set out the following:

- The background and history of the concern, giving names, dates and places where possible
- The reason why there is particular concern about the situation.

5.3 The earlier an expression of concern is made the easier it will be for Thomas Gray to take action.

5.4 Although employees are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for initial enquiries to be made.

5.5 Advice and guidance on how matters of concern may be pursued can be obtained from:

- The relevant Line Manager
- The Headteacher
- Chair of Governors
- Complaints Officer

5.6 Employees may wish to consider discussing their concern with a colleague first and may find it easier to raise the matter if there are two (or more) of them who have had the same experience or concerns.

5.7 Employees may invite their trade union representative or a work colleague to be present during any meetings or interviews in connection with the concerns raised.

### **6.0 How Thomas Gray Will Respond**

6.1 Thomas Gray will respond to concerns raised. However, testing out concerns is not the same as either accepting or rejecting them.

6.2 The action taken by Thomas Gray will depend on the nature of the concern. The matters raised may:

- Be investigated internally by the relevant Line Manager, Headteacher, Chair of Governors supported by the appropriate Local Authority Officers e.g. HR Officer-Schools, Internal Audit, or through the disciplinary process;
- Be referred to the police (following consultation with the relevant Local Authority officers);
- Be referred to the external auditor;
- Form the subject of an independent inquiry.

Note: The course of action will be taken by the person to whom the matter is referred and not by the individual employee who raises the issue.

6.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which Thomas Gray 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.

6.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

6.5 Within ten working days of a concern being raised, Thomas Gray will write to the employee:

- Acknowledging that the concern has been received;
- Indicating how Thomas Gray proposes to deal with the matter;
- Giving an estimate of how long it will take to deal with the matter and provide a final response;
- Informing them whether any initial enquiries have been made;
- Supplying information on employee support mechanisms; and
- Stating whether further investigations will take place and if not, why not.

6.6 The amount of contact between the person considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the person considering the concern on behalf of Thomas Gray will seek further information.

6.7 Where any meeting is arranged, an employee can be accompanied by a trade union representative or a work colleague, who is not involved in the area of work to which the concern relates and who could not be called as a witness. The meeting can be arranged off site if preferred.

6.8 Thomas Gray will take steps to minimise any difficulties, which may be experienced, as a result of raising a concern. For instance, if employees are required to give evidence in criminal or disciplinary proceedings, Thomas Gray will arrange for them to receive advice about the procedure.

6.9 Thomas Gray accepts that an employee needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, Thomas Gray will inform the member of staff of the outcomes of any investigation.

6.10 Any employee who is the subject of an allegation should, at the appropriate times, be given details of the allegation in order to respond. The employee concerned would have the right to trade union representation.

## **7.0 The Responsible Officer**

7.1 Within Thomas Gray, the Headteacher, as Monitoring Officer, has overall responsibility for the maintenance and operation of this policy. The Monitoring Officer maintains a record of genuine concerns raised and the outcomes are reported as necessary to the Governing body in a form that endeavours to maintain the employee's confidentiality as far as possible. See 4.2.2

## **8.0 How the Matter can be Taken Further**

8.1 This policy is intended to provide an avenue within Thomas Gray to raise concerns. Thomas Gray hopes employees will be satisfied with any action taken. If not, and if they feel it is right to take the matter outside the School, the following are possible contact points:

- Public Concern at Work (0207 4046609 or <http://www.pcaw.co.uk/>);
- External Auditor;

- Local Government Ombudsman (01904 380200 or <http://www.lgo.org.uk/>);
- Trade Union;
- Local Citizens Advice Bureau;
- Relevant professional bodies or regulatory organisations;
- Relevant voluntary organisation;
- Police
- Other bodies prescribed under the Public Interest Disclosure Act 1998 e.g.:
  - The Audit Commission for England and Wales
  - Data Protection Registrar
  - Serious Fraud Office
  - Environment Agency
  - Health and Safety Executive

8.2 If the matter is taken outside the school, steps should be taken to ensure that there is no disclosure of confidential or privileged information. Where confidential or privileged information is inappropriately disclosed, the employee disclosing the information may be subject to disciplinary action.

# **Management Guidelines on the Confidential Reporting Policy ("Whistleblowing" in the Public Interest)**

## **1. Introduction**

The Public Interest Disclosure Act 1998 is designed to protect staff from being penalised by their employers for raising concerns about serious misconduct or malpractice that threatens the public interest. The legislation requires individuals to raise such matters internally at first, if they are to be protected. If this recourse is ineffective, an external disclosure through an appropriate avenue may be necessary.

As an employer the School is required to:

- ensure that procedures are in place in line with the legislation;
- develop rules and codes of conduct on "whistleblowing"; and
- establish dedicated "whistleblowing Contacts" and support structures.

Any member of Thomas Gray's Leadership Team can be approached by an employee expressing concern under the "Whistleblowing" Policy. Depending on the matter of concern other "contacts" could be the Chair of Governors or the LA's Complaints Officer.

## **2. The Role of the "Contact"**

The role of the "Contact" is to:

- offer to interview the employee raising the concern within **two working days**, (or immediately, if circumstances require);
- give advice regarding the route to lodge a complaint if it does not fall within the Confidential Reporting Policy (see paragraph 7 below); and
- make recommendations to management regarding remedial action, provide feedback and/or implement the recommendations/action to be taken.
- in the case of the LA's Complaints Officer he/she will inform the appropriate officer of the complaint in order that it can be dealt with in the prescribed timescales.

## **3. Raising the Concern**

Concerns can be raised verbally, or in writing. In either case, the employee must be invited to provide the following information:

- details of the background and history of the concern - giving relevant dates;
- the reason why there is particular concern about the situation.

Every effort must be made not to reveal the identity of the employee raising the concern; however, it may be necessary to use him/her as a witness at a later date.

The employee may invite his/her trade union/professional association representative, or a work colleague to be present during any meetings or interviews in connection with the concern(s) raised. However, it must be made clear that this person's attendance is for the purpose of providing support only, and he/she will not be allowed to become involved in the proceedings. The manager, as the "Contact" may be accompanied by a note taker, who will not identify the discloser in any way.

In order to protect individuals and those accused of misdeeds or possible malpractice, the manager will make initial enquiries to decide whether an investigation is appropriate and, if so, what form it should take. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, it must be taken before any investigation is conducted.

Within **ten working days** of a concern being raised the manager, as "Contact", will write to the employee:

- ◆ acknowledging receipt of the complaint;

- ◆ indicate how you will deal with the matter;
- ◆ give an estimate of how long it will take to provide a full response;
- ◆ inform him/her whether any initial enquiries have been made;
- ◆ supply information on employee support mechanisms (e.g. Counselling); and
- ◆ state whether further investigations will take place and if not, why not.

#### **4. Course(s) of Action**

The course of action must be taken by the manager, as the "Contact" to whom the matter is referred, not by the individual employee who raises the issue. The manager may need to refer to, or seek the advice of, another member of the Leadership Team or the appropriate officer of the LA.

Where appropriate, the action taken could be that:

- the matter be investigated internally drawing on appropriate support (e.g. relevant Managers, or staff from within the Human Resources/Finance/Legal Department(s));
- the matter be reported to Internal Audit, or a relevant public body;
- the matter be reported to the Police (following liaison with the Legal Director);
- the employee be given the opportunity to seek redress through another Procedure of the Authority (see paragraph 7 below);
- that no further action be taken.

#### **5. The Grounds on Which No Further Action Be Taken**

The grounds on which no further action should be taken are as follows:

- the manager is satisfied that on the balance of probabilities, there is no evidence that malpractice within the meaning of the policy has occurred, is occurring, or is likely to occur;
- the manager is satisfied that the employee is not acting in good faith;
- the matter is already (or has been) the subject of proceedings under one of the School's other procedures;
- the matter concerned is already the subject of legal proceedings, or has already been referred elsewhere i.e. Internal Audit, the Police, and other relevant public authority.

The outcome of an investigation and any action proposed/taken will be reported back to the concerned employee. All responses to the employee who raises the concern will be made in writing to his/her home address. If no further action is proposed, the employee will be informed of reason for this.

#### **6. Further Action That May Be Taken By An Employee**

If the employee who raised a concern has exhausted the internal channels, as laid out in the Policy, or has not had a response within the above stated times, or otherwise feels that the complaint is not being dealt with appropriately, he/she may take the matter further. However, before taking any such action, the employee should inform the manager, as the "Contact".

The employee may take the matter externally (as detailed in paragraph 8 of the Policy) and may at anytime disclose the matter, on a confidential basis, to a professionally qualified lawyer for the purpose of taking legal advice.

#### **7. Complementary Policies and Procedures**

The Confidential Reporting Policy ("Whistleblowing" in the Public Interest) is complementary to the following policies/procedures:

- Disciplinary
- Grievance
- Anti-fraud
- Dignity at Work - Dealing with Harassment & Bullying