

Forres Sandle Manor (Non-Academic) Policy

Policy Title	Confidential Reporting (formally Whistleblowing)
Policy Lead (Appointment (& Initials))	Head (JW)
Date of Last Review	August 2020
Date of Next Review	May 2021

CONFIDENTIAL REPORTING

FSM has adopted this policy to enable members of staff to raise concerns internally and in a confidential fashion about fraud, malpractice, health and safety, criminal offences, miscarriages of justice, and failure to comply with legal obligations or unethical conduct, and are able to do so without fear of victimisation and with confidence that their concerns will be taken seriously and dealt with properly. The policy also provides if necessary, for such concerns to be raised outside the organisation.

DEFINITION

Confidential reporting is the disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employee or his/her fellow employees.

Statutory protection for employees who report is provided by the **Public Interest Disclosure Act 1998 (“PIDA”)**. The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns about conduct or practice within the school which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice.

PROCEDURE

This procedure is separate from FSM’s adopted procedures regarding grievances. Employees should not use the confidential reporting procedure to raise grievances about their personal employment situation.

This procedure is to enable members of staff to express a legitimate concern regarding suspected malpractice within FSM.

Malpractice is not easily defined; however, it includes child protection issues, allegations of fraud, financial irregularities, corruption, bribery, dishonesty, acting contrary to the staff code of ethics, criminal activities, or failing to comply with a legal obligation, a miscarriage of justice, or creating or ignoring a serious risk to health, safety or the environment.

AIMS AND SCOPE OF A CONFIDENTIAL REPORTING PROCEDURE

The governing body is committed to high standards in all aspects of the school and will treat confidential reporting as a serious matter. In line with the governing body’s commitment to

openness, probity and accountability, members of staff are encouraged to report concerns which will be taken seriously, investigated and appropriate action taken in response.

This policy aims to:

- Give confidence to members of staff about raising concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with school standards and policies so that s/he is encouraged to act on those concerns
- Provide members of staff with avenues to raise concerns
- Ensure that members of staff receive a response to the concerns they have raised and feedback on any action taken
- Offer assurance that members of staff are protected from reprisals or victimisation for confidential reporting undertaken in good faith.

The procedure applies to all FSM staff including full and part time, casual, temporary and substitute staff and to individuals undertaking work experience in the school.

The procedure covers reporting about alleged:

- Unlawful conduct
- Miscarriages of justice in the conduct of statutory or other processes
- Failure to comply with a statutory or legal obligation
- Maladministration, misconduct or malpractice
- Health and safety issues including risks to the public as well as risks to pupils and members of staff
- Action that has caused or is likely to cause danger to the environment
- Abuse of authority
- Unauthorised use of public or other funds
- Fraud or corruption
- Breaches of financial regulations or policies
- Mistreatment of any person
- Action that has caused or is likely to cause physical danger to any person or risk serious damage to school property
- Sexual, physical or emotional abuse of members of staff or pupils
- Unfair discrimination or favouritism
- Racist incidents or acts, or racial harassment and
- Any attempt to prevent disclosure of any of the issues listed.

This list is not exhaustive but the confidential reporting policy is distinct from other policies within schools.

The PIDA sets out the full statutory rights and obligations of members of staff wishing to report. Where members of staff are unclear about any of the PIDA requirements they should seek further advice. Public Concern at Work is an independent charity that provides free advice for persons who wish to express concerns about fraud or other serious malpractice (telephone 0207 404 6609 or www.pcaaw.co.uk). Members of staff could also approach their trade union for further advice.

SAFEGUARD AGAINST REPRISAL, HARASSMENT AND VICTIMISATION

The governing body will not tolerate harassment or victimisation of members of staff when matters are raised in accordance with the PIDA 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 confidential reporting policy will be dealt with under the Staff Disciplinary procedures.

The PIDA provides protection to employees in circumstances where their disclosure can be classed as a protected disclosure. Under the PIDA 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.

CONFIDENTIALITY

Employees who wish to raise a concern under this procedure are entitled to have the matter treated confidentially and their name will not be disclosed to the alleged perpetrator of malpractice without their prior approval. It may be appropriate to preserve confidentiality that concerns are raised orally rather than in writing, although members of staff are encouraged to express their concern in writing wherever possible. If there is evidence of criminal activity then the Police will in all cases be informed.

FSM will do its utmost to protect the identity of members of staff who raise a concern and do not want their name disclosed. However the reporter will need to understand that 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 reporter is likely to be called on to give evidence in court. If the reporter is unwilling to give details of their concern because of fear of disclosure of their identity but the Chair of Governors or Head remains concerned about the seriousness of the allegation, the Chair of Governors or Head should discuss this with the member of staff and ask them to reconsider so that the matter can be taken forward.

Members of staff should not be placed under undue pressure to disclose their name and FSM will proceed with investigating the concern on the basis of an anonymous allegation. If a further meeting is required with the reporter then the member of staff should 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.

ANONYMOUS ALLEGATIONS

Staff should put their name to allegations whenever possible. Anonymous concerns are much less powerful. Nonetheless anonymous allegations will be considered under this confidential reporting procedure especially concerns raised relating to the welfare of

children. In relation to determining whether an anonymous allegation will be taken forward the governing body 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.

Untrue and Malicious/Vexatious Allegations

If a member of staff makes an allegation in good faith but it is not confirmed by further inquiry the matter will be closed and no further action taken. If, however, the inquiry shows that untrue allegations were malicious and/or vexatious or made for personal gain then the governing body will consider taking disciplinary action against the member of staff.

Allegations Concerning Child Protection Issues

If a member of staff raises a concern related to a child protection issue, the Head or Chair of Governors will immediately consult with the Local Authority Designated Officer (LADO). However, in relation to child protection issues, it is open to the member of staff to make a direct referral to the social services TEAM either before raising their concern with the governing body or where the Head or Chair of Governors fails to do so after raising their concern and the member of staff remains concerned about the situation.

PROCESSES FOR RAISING AND ENQUIRING INTO A CONCERN

HOW TO RAISE A CONCERN

1. As a first step, unless the concern is of a safeguarding allegation against a member of staff, where appropriate procedures will be followed as per FSM's Child Protection Policy, a member of staff should normally raise a concern with his/her immediate line manager, a Deputy, the Head or 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. For example, if the concern involves the Head, members of staff should approach the Chair of Governors.

2. If a member of staff feels unable to express their concerns within the school, they can raise their concerns with other organisations outside of the school setting. The LEA, Public Concern at Work, IAPS, ISI and the trade unions are suggested as the key organisations to contact in such circumstances. 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 Local Authority Designated Officer (LADO)

3. The sooner a concern is raised the easier it is to take action. Concerns are better raised in writing for the avoidance of doubt. Members 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 reporter to confirm its accuracy. Members 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.

4. Although members of staff are not expected to prove the truth of an allegation, they need to demonstrate to the person contacted that there are 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 or Governing body to act.

THE INVESTIGATION

It is our aim to foster a culture where all staff members feel able to raise concerns, although it is important that staff are aware of the legal requirements surrounding confidential reporting.

Response to Confidential Reporting

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

- Need inquiry internally in the school
- Need to be passed to the Police if they relate to alleged criminal activity
- Need to be passed to the named person within the LEA who deals with complaints about financial management or financial propriety in schools if there is concern relating to financial impropriety
- Need to be referred to the LADO if there is concern relating to child protection.

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

For matters not requiring referral to the Police at the outset, initial enquiries should determine whether the formal confidential reporting procedure should be instigated for considering the concerns raised. It may be possible to resolve some concerns without the need for any formal inquiry or further process. Where formal inquiry is instigated concerns will be looked at initially under the confidential reporting 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.

Where any meeting is arranged with the member of staff who is the subject of a confidential reporting allegation, the governing body need to be clear on the purpose of the meeting. If the meeting is intended to notify the member of staff that they may be subject to disciplinary proceedings, then the governing body must ensure that the meeting is held in accordance with the governing body's disciplinary procedure and the member of staff has the right to be accompanied by a trade union or professional association representative or a fellow worker at the meeting. If the meeting is intended to only establish facts relating to the allegation it would be good practice to permit the staff member to be similarly accompanied.

Timescale for response

The person receiving the confidential reporting allegation needs to respond to the concerns raised. It should be made clear to the reporter that it is necessary to look into the concerns; and that at this stage the concerns/allegations are neither accepted nor rejected.

The person appointed to deal with the concern raised should provide a written response to the reporter normally within 5 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 enquiries have been made
- Informing them whether further enquiries 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 reporter can remain anonymous.

THE INQUIRY PROCESS

The appointed person will:

- Look into the allegation - seeking evidence and interviewing witnesses as necessary.
- Maintain confidentiality wherever possible but will be mindful that there is no guarantee that the reporter can remain anonymous.
- If appropriate, bring the matter to the attention of the LEA appointed person dealing with complaints about financial management of schools.
- If appropriate, for concerns of criminal behaviour refer the matter to the Police.
- If appropriate, for concerns of child protection, refer the matter to the LADO

The process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the process.

If the person appointed by the governing body needs to talk to you, you are permitted to be accompanied by a trade union or professional association representative or a fellow member of staff not involved in the area of work to which the concern relates.

The target is to complete the inquiry **within 10-15 working days** from the date of the initial written response. If the enquiry extends beyond the timescales outlined for specific reasons all individuals concerned will be notified of this in writing with an indication when the inquiry will be completed.

THE INQUIRY REPORT

Following completion of the inquiry process the person appointed will make a written report and submit to the Chair of the Governing body normally **within 5 working days**. **The report will not contain the reporter's name unless you have expressly stated that you wish to be named.**

Following receipt of the inquiry report, the Chair of Governors will convene a committee with at least one other governor and an independent person from outside the governing body to consider the inquiry report and decide on the action to be taken. This should normally take place **within 5 - 10 working days** following receipt of the inquiry report.

Following notification of the committee's decision, the Chair of Governors will notify you of the outcome normally **within 5 working days** (except in relation to anonymous allegations), setting out the action to be taken or that no further action is to be taken and the reasons why.

Taking the Matter Further

If no action is to be taken and/or you are not satisfied with the way the matter has been dealt with, you can make a complaint under the governing body's complaints procedure or raise your concerns with other organisations as listed below:

- The local authority
- A relevant professional body or regulatory organisation such as the Independent Association of Prep Schools (IAPS)
- The Children's Commissioner
- The Public Services Ombudsman
- A solicitor
- The Police - for concerns of criminal behaviour
- A trade union or professional association
- Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Telephone 0207 404 6609 or www.pcaw.co.uk).

It should also be noted that under the Public Interest Disclosure Act 1998, there are circumstances where a member of staff may be entitled to raise a concern directly with an external body where the employee reasonably believes:

- That exceptionally serious circumstances justify it.
- That FSM would conceal or destroy the relevant evidence.
- Where they believe they would be victimised by FSM.
- Where the Secretary of State has ordered it.