



Wigan 
Council

Whistleblowing Policy – Schools

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Introduction

Whistleblowing is when an individual ‘makes a disclosure in the public interest’ about a matter which has come to their attention through work. Whistleblowing occurs when a worker raises a concern about a danger or illegality that affects others, for example members of the public. The disclosure may be about the alleged wrongful conduct of their employer, a colleague, or any third party. This whistleblowing policy covers all employees, volunteers, trainees, agency workers and contractors.

Typically, the whistleblower is not directly, personally affected by the danger or illegality, although they may be. Personal complaints such as harassment, discrimination, or breaches in respect of their own employment contract, are not usually treated as whistleblowing and should be handled according to the School’s Grievance or Dignity at Work policies. School policies and procedures can be accessed via the “Your HR Hub”.

Examples of the situations covered may include:

- Financial malpractice (including Wigan Council’s Standing Orders and Financial Regulations relating to the use of public funds)
- Criminal offences
- Behaviour amounting to improper conduct
- Matters which fall below established standards of practice
- Risks to health and safety
- Failure to comply with a legal obligation or contravening School’s policy
- A miscarriage of justice
- Environmental damage
- Deliberate attempts to conceal any of the above

Purpose

The Governing Body of this School and Wigan Council are committed to the highest possible standards of openness, probity and accountability and to working in close partnership in resolving matters raised through this Whistleblowing Policy.

Employees are often the first to realise that there may be something seriously wrong within their workplace environment. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear

harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. In line with these commitments, employees with serious concerns about any aspect of the school's work are encouraged to come forward and voice those concerns without fear of reprisals from the School, their colleagues or Wigan Council.

This Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns within the School or Wigan Council rather than overlooking a problem or 'blowing the whistle' outside. However, the policy does not override any statutory rights an employee may have.

Safeguards

Harassment or Victimation

The Governing Body and Wigan Council recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of possible reprisal from those responsible for the malpractice. The Governing Body and the Council will not tolerate harassment or victimisation by the school, colleagues or the Council and will do what it lawfully can to protect employees when they raise concerns under this policy.

This does not mean that if an employee is already the subject of disciplinary or redundancy procedures, that those procedures will be halted because of their whistleblowing.

Confidentiality

The Governing Body and the Council will do its best to protect the identity of an employee when a concern is raised, and the employee has expressed that they do not want their identity to be disclosed. However, in some circumstances, the investigation process may reveal the source of the information and a statement by the employee may be required as part of the evidence, particularly if the Police or External Auditors or the Courts become involved. Additionally, the employer may be required by law to disclose the source of the information, in which case confidentiality cannot be guaranteed. To take effective action, the Governing Body and/or Wigan Council will need genuine evidence which may be required to stand up to examination in Courts or Tribunals.

Raising a Concern Anonymously

This policy encourages employees to put their names to an allegation. Concerns expressed anonymously are much less powerful as they can be difficult to investigate and address, but they will be considered at the discretion of the Governing Body and Wigan Council.

In exercising the discretion, the factors to be considered would include:

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

Unfounded Concerns

If a concern is raised under this policy in the public interest, but it is not founded in the outcome of the investigation, no action will be taken against the employee raising the concern. This includes protection for the employee of no less favourable treatment for raising the concern, by the School/Wigan Council or the employee's colleagues. If an employee has concerns about this, they should raise these through the appropriate internal policies and procedures detailed in the 'Introduction' section.

If, however, an employee makes a malicious or vexatious allegation, an investigation will take place to determine whether the employee had a reasonable belief that the concern was in the public interest at the time. If it is found that it was not, then disciplinary action may be taken.

The Responsible Officer

The Assistant Director – Legal, Governance and Elections (as Monitoring Officer) has overall responsibility for the maintenance and operation of this policy. They maintain a record of concerns raised including the outcomes and will report as necessary to the School and Wigan Council. If the employee requests their identity to remain anonymous, then the monitoring officer will do what they lawfully can to protect the employee's identity, but they may be obliged to disclose it by law to the Police, the External Auditor or the Courts.

The Law

The **Public Interest Disclosure Act 1998 (PIDA)** and the Employment Rights Act 1996 protect individuals who 'blow the whistle' in the public interest. The law protects 'workers', which includes employees.

Disclosures in the "public interest" would include those which highlight misconduct, wrongdoing, or risks to the public. The scope of "public interest" is, therefore, potentially very broad. It must be noted however, that "public interest" is not the same as "what the public is interested in". In addition, if an employee reports their concern to the media, in most cases they will lose their whistleblowing law rights.

A worker will have to show three things to claim PIDA protection:

1. That they made a qualifying disclosure in the public interest.
2. That they followed the correct disclosure procedure.
3. That they were dismissed or suffered a detriment as a result of making the disclosure.

This protection however does not detract nor remove from the employee's own responsibilities in accordance with their role e.g. you must still take actions to respond to a safeguarding concern with a child, in line with safeguarding procedures, in addition to raising a whistleblowing complaint highlighting the cause of the incident which is in the public interest.

An employee who makes a protected disclosure after their employment has terminated will still be protected by the legislation regardless of any confidentiality clauses used in any settlement agreements.

How to Raise a Concern

Raising a Concern to your Employer

As a first step, you should normally raise concerns with your immediate manager e.g. Head of Key Stage or Department, a member of the Senior Management Team or the Headteacher. This depends, however, on the seriousness and sensitivity of the issue(s) involved and who is thought to be involved in the malpractice. For example, if you believe that leadership is involved, you should approach the Headteacher, Chair of Governors, or alternatively, the Director of Children's Services for Wigan Council, the Chief Executive, or the Assistant Director – Legal, Governance & Elections.

For Voluntary Aided Schools, the Council would still be responsible for managing and responding to a whistleblowing complaint as the authority. However, the Schools Governing Body has primary responsibility to ensure they link in with Wigan Council regarding the complaint.

For Academies, the Council does not have any involvement in managing the response. However, Academies are advised to contact Wigan Council's Legal Services if they require legal advice (at a cost).

Employees are encouraged to raise their concerns in writing, setting out the background and history of the concern, giving names, dates and places where possible, and the reasons why they are particularly concerned about the situation. However, if they feel unable put their concerns in writing, they can telephone or meet the appropriate person as listed above. Please note, if concerns are raised by telephone a record of the concerns raised will be sent to the individual to ensure the recorded information is correct.

The earlier the concern is raised, the easier it is to take action.

Although employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

You may invite a union or professional association representative or a work colleague to raise the matter on your behalf. However, they must not be directly involved with the matter relating to the complaint. You may also have a companion to represent you at any meeting which is held relating to your concern.

How the School will respond

The action taken by the school and/or Council will depend on the nature of the concern as determined by the Assistant Director – Legal, Governance & Elections or Assistant Director - HR&OD Services. The school and/or Council could decide that the matters raised may:

- Be investigated internally.
- Be referred to the Police.
- Be referred to the External Auditor.
- Form the subject of an independent inquiry.

To protect individuals and the School/Council, initial enquiries will be made to decide whether an investigation is appropriate and if so, what form it should take. The overriding principle, which the school and/or Council 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.

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.

Within ten school working days of a concern being received, the person you raised your concern to e.g. your immediate line manager, Chair of Governors, Headteacher etc will write to you:

- Acknowledging that the concern has been received.
- Indicating how it proposes to deal with the matter, if possible, at such an early stage.
- Giving an estimate of how long it will take to provide a final response, if possible, at such an early stage.
- Informing you whether any initial enquiries have been made, and;
- Informing you whether further investigations will take place, and if not, why not.

The amount of contact between the persons considering the issues and the employee raising these concerns, will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from the employee.

When any meeting is arranged, which can be off-site if required, whistleblowers have the right to be accompanied by a chosen companion. This may be a union or professional association representative or a work colleague. However, they must not be directly involved with the matter relating to the complaint. A summary of the meeting will be made for record keeping purposes, which may be provided to the whistleblower if requested. Personal notes can also be made at the meeting.

The School and Council will do what it lawfully can to minimise any difficulties that individuals may experience because of raising a concern in line with this policy. For example, if they are required to give evidence in criminal or disciplinary proceedings, the school and/or the Council may provide advice about the procedure. The School or Council cannot however provide legal advice or representation to staff.

Where appropriate, counselling may be provided, which can be accessed through, the Employee Assistance Programme (EAP), including Wellbeing Hub, telephone, and face to face counselling (if your School is subscribed to this service) or the employee's GP. In addition, the Education Support Partnership (formerly the Teachers Support Network) is available to provide support on a wide range of issues.

The School may also wish to explore providing mediation for individuals, to help rebuild trust and relationships in the workplace. Further information about this can be provided upon request from the HR Operations Team.

The contact details for the HR Operations Team can be found under Further Information.

Subject to legal and confidentiality constraints, individuals who have raised concerns in line with this policy will receive information about the outcomes of any investigations, within the confines of the school's internal policies and procedures.

Raising a Concern Externally

This policy is intended to provide employees with an avenue to raise concerns within the school.

If you are dissatisfied with the handling of your concerns, or if you feel it is right to take the matter outside the school, you may raise your concerns to the appropriate 'prescribed persons'. The relevant prescribed person depends on the subject matter of the disclosure. A list of these persons can be found on the Government Website

Prescribed persons have individual policies and procedures for handling concerns and complaints. Generally, these will be accessible on their websites.

Alternatively, the employee may wish to raise their concerns with:

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- The Police.
- A Solicitor.
- Wigan Council's External Auditor (Mazars).
- Relevant professional bodies / regulatory organisations.
- Their trade union/professional association.
- ACAS.

Contacts

Wigan Council

Alison McKenzie-Folan - Chief Executive

E-mail: A.Mckenzie-Folan@wigan.gov.uk

Tony Clarke – Director – Legal & Finance

E-mail: T.Clarke@wigan.gov.uk

Colette Dutton – Director – Children's Services

E-mail: Colette.Dutton@wigan.gov.uk

Sonia Halliwell – Director – Customer

E-mail: S.Halliwell@wigan.gov.uk

Janet Davies - Assistant Director – Legal, Governance & Elections (The Responsible Officer)

E-mail: Janet.Davies@wigan.gov.uk

Lisa Selby – Assistant Director – HR&OD

E-mail: L.Selby@wigan.gov.uk

Nicola Welch - Chief Internal Auditor

E-mail: N.Welch@wigan.gov.uk

Public Concern at Work

Whistleblowing Charity (Protect)

Telephone: 020 3117 2520

Lawyers who provide independent and confidential advice to workers who are unsure whether or how to raise a public interest concern. Their advice line is managed by qualified lawyers with a wealth of experience in whistleblowing law and practice.

Advisory, Conciliation and Arbitration Service (ACAS)

Telephone: 0300 123 1100

Text Relay: 18001 0300 123 1100

Prescribed Persons

A list of these persons can be found on the Government Website.

Prescribed persons have individual policies and procedures for handling concerns and complaints. Generally, these will be accessible on their websites.

External Auditor – Grant Thornton

Telephone Number: 0161 9536900

Audit Commission Public Enquiries Team

Telephone Number: 0303 444 8330

Greater Manchester Police

Telephone Number: 0161 8725050

Employee Assistance Programme

Telephone Number: 0800 028 0199

(Please note the Employee Assistance Programme Line is only available to Schools who purchase the Wellbeing SLA).

Education Support Partnership

Telephone: 08000 562561

Email: enquiries@edsupport.org.uk

Further Information

Managers and employees can seek advice and support on the application of this policy from the HR Operations Advisory Hub on 01942 404030 or by emailing, **hrcaseworkandadvice@wigan.gov.uk**.