

# Esher Church School



## Whistleblowing Policy

**September 2023**

Vision : To be a safe, happy, loving community where excellent teaching inspires children to learn and explore, care for each other and believe that they can make a difference

<b>Headteacher:</b>	<b>Ben Foley</b>
<b>Chair of Governors:</b>	<b>Gerard Harper</b>
<b>Status / Review Cycle :</b>	<b>Statutory / Annual</b>
<b>Date agreed:</b>	<b>September 2023</b>
<b>Review date:</b>	<b>September 2024</b>

## **Rationale:**

The welfare and wellbeing of our staff, pupils and visitors is of paramount importance to Esher Church School and as such we take the responsibility of care seriously. We are committed to high standards, openness, transparency and candour in all aspects of the school. In line with the school's commitment to openness, probity and accountability, members of staff are encouraged to report any concerns about the actions of others which will be taken seriously, investigated and appropriate action taken in response. As guided by law, members of staff who do whistle blow will be protected against all forms of victimisation.

## **Aims:**

This policy aims to:

- Encourage individuals affected to report suspected wrongdoing as soon as possible in the knowledge that their concerns will be taken seriously and investigated and that their confidentiality will be respected
- Let all staff in the trust know how to raise concerns about potential wrongdoing in or by the trust
- Set clear procedures for how the trust will respond to such concerns
- Let all staff know the protection available to them if they raise a whistle-blowing concern
- Assure staff that they will not be victimised for raising a legitimate concern through the steps set out in the policy even if they turn out to be mistaken (though vexatious or malicious concerns may be considered a disciplinary issue)

## **1 What is 'Whistleblowing'?**

Whistleblowing inside the work place is the term used to describe reporting by employees or ex-employees, of wrongdoing on the part of management, the Governing Board or by fellow employees. Employees may, for this purpose include, for example, contractors and agency workers.

Examples of whistle-blowing include (but are not limited to):

- Criminal offences, such as fraud or corruption
- Pupils' or staffs' health and safety being put in danger
- Failure to comply with a legal obligation or statutory requirement
- Breaches of financial management procedures
- Attempts to cover up the above, or any other wrongdoing in the public interest
- Damage to the environment
- Any other illegal or unethical act or breaches of the Code of Conduct

A whistle-blower is a person who raises a genuine concern relating to the above.

Not all concerns about the trust count as whistleblowing. For example, personal staff grievances such as bullying or harassment do not usually count as whistleblowing. If something affects a staff member as an individual, or relates to an individual employment contract, this is likely a grievance.

When staff have a concern they should consider whether it would be better to follow our staff grievance or complaints procedures.

## **2 Protecting the Whistleblower**

Under the Public Interest Disclosure Act 1998 a Whistleblower is protected from detriment and unfair dismissal. The school will support and not discriminate against concerned employees who apply the Whistleblowing procedure, provided any claim is made in good faith.

### **3 When should Whistleblowing procedures be used?**

**3.1** If an employee has concerns about wrongdoing at the school and feels that those concerns are sufficiently serious to require reporting, this procedure outlines what should be done.

**3.2** Each individual member of staff should feel able to speak freely on such matters. However, the School and colleagues have the right to protect themselves against unfounded false or malicious accusations.

**3.3** Whistleblowing should only be used when the party implementing the procedure (Representor) has reasonable grounds for believing that a serious offence has been or may be committed. It must never be used without good grounds, falsely or maliciously.

**3.4** Whistleblowing is not appropriate for dealing with issues between an employee and the school which relate to the employee's own employment or rights or employment conditions generally. Alternative dispute resolution procedures for that purpose are outlined in the employment terms and conditions.

**3.5** Whistleblowing is not appropriate for dealing with pupil complaints, which will be dealt with separately.

**3.6** Whistleblowing is not appropriate to specific cases of child safety or safeguarding which will be dealt with under the procedures specified in that connection. If any staff member has concerns that a pupil is being dealt with unfairly in school, they should raise their concern, in the first instance with the Headteacher who is the Designated Safeguarding Lead.

### **4 The procedure**

**4.1** Any issue raised will be kept confidential while the procedure is being used.

**4.2** The Representor (the person raising the concern) should raise their concern with their line manager. Concerns should be made in writing wherever possible. They should include names of those committing wrongdoing, dates, places and as much evidence and context as possible. Staff raising a concern should also include details of any personal interest in the matter.

**4.3** However, if the concern relates to the Representor's line manager or any person to whom he or she reports, other than the Headteacher, the Representor should raise the issue with the Headteacher.

**4.4** If the concern relates to the Headteacher, the Representor should raise the matter with the Chair of the Governing Board via [chair@esherchurchschool.org.uk](mailto:chair@esherchurchschool.org.uk).

**4.5** The person with whom the matter is raised is referred to as the "Assessor".

The Assessor will:

**4.5.1** Interview the Representor as soon as possible within seven working days, in confidence. Early interview will be essential if the concern relates to an immediate danger to loss of life or serious injury or risk to pupils;

**4.5.2** Obtain as much information as possible from the Representor about the grounds for the belief of wrongdoing;

**4.5.3** Consult with the Representor about further steps which could be taken;

**4.5.4** Advise the Representor of the appropriate route if the matter does not fall under this Procedure;

**4.5.5** Other than in the case of paragraph 4.4, report all matters raised under this procedure to the Chair of the Governing Board.

**4.6** At the interview with the Assessor, the Representor may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of the school staff to take notes.

The Assessor may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The Assessor may also discuss the issue, in confidence, to other suitable professionals, such as independent HR consultants or school governance providers in order to assess the nature of the case and to inform the outcome of the investigation.

**4.7** Promptly within ten working days of the interview, the Assessor will recommend one or more of the following:

**4.7.1** The matter be further investigated internally by the school;

**4.7.2** The matter be further investigated by external consultants appointed by the school;

**4.7.3** The matter be reported to an external agency;

**4.7.4** Disciplinary proceedings be implemented against an employee;

**4.7.5** The route for the Representor to pursue the matter if it does not fall within this procedure; or

**4.7.6** That no further action is taken by the school.

**4.8** The grounds on which no further action is taken include:

**4.8.1** The Assessor is satisfied that, on the balance of probabilities, there is no evidence that wrongdoing within the meaning of this procedure has occurred, is occurring or is likely to occur;

**4.8.2** The Assessor is satisfied that the Representor is not acting in good faith;

**4.8.3** The matter is already (or has been) the subject of proceedings under one of the School's other procedures or policies;

**4.8.4** The matter concerned is already (or has been) the subject of legal proceedings, or has already been referred to an external agency.

**4.9** The recommendation of the Assessor will be made to the Headteacher. However, should it be alleged that the Headteacher is involved in the alleged wrongdoing; the recommendation will be made to the Governing Board.

**4.10** The Headteacher or Chair of the Governing Board, as appropriate, will ensure that the recommendation is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Governing Board.

**4.11** The Representor's identity will be kept confidential unless the Representor otherwise consents or unless there are grounds to believe that the Representor has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representor except:

**4.11.1** Where the Assessor is under a legal obligation to do so;

**4.11.2** Where the information is already in the public domain; or

**4.11.3** On a legally privileged basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

**4.12** The conclusion of any agreed investigation will be reported by the Assessor to the Representor promptly **within twenty eight working days of the initial interview.**

**4.13** All responses to the Representor will be made in writing and sent to the Representor's home address.

**4.14** If the Representor has not had a response within the above time limit or such reasonable extension as the School requires, the Representor may go to an appropriate external agency, under paragraph 6, but will inform the Assessor before doing so.

**4.15** The Representor may at any time disclose the matter on a legally privileged basis to a professionally qualified lawyer for the purpose of taking legal advice.

## **5 Malicious or vexatious allegations**

**5.1** Staff are encouraged to raise concerns when they believe there to potentially be an issue. If an allegation is made in good faith, but the investigation finds no wrongdoing, there will be no disciplinary action against the member of staff who raised the concern.

**5.2** If, however, an allegation is shown to be deliberately invented or malicious, the trust will consider whether any disciplinary action is appropriate against the person making the allegation and will be dealt with under the School's disciplinary procedure, as well as potentially exposing the Representor to legal liability.

## **6 Informing External Agencies**

**6.1** Within the school all staff have a duty of confidentiality. The duty of confidentiality is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that the information is disclosed or unless the School fails to follow required procedures. Other legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.

**6.2** Whistleblowing to an external agency without first going through the internal procedure is a breach of the Code of Conduct. The external agencies which may be used if disclosure is permitted under paragraph 6.1 are:

**6.2.1** Department for Education (Education Funding Agency). (In these circumstances, the DfE/EFA will assess whether all school processes have been applied and that the Assessor has done everything possible to resolve the issue. If this is not the case, the DfE/EFA will refer the matter back to the Assessor);

**6.2.2** Member of Parliament;

**6.2.3** National Audit Office;

**6.2.4** Health and Safety Executive;

**6.2.5** Police.

**6.3** Whistleblowing to the media is not appropriate or permitted in any circumstances.

## **7 Confidential Employee Enquiries**

**7.1** Employees may, on a confidential basis, seek prior guidance from the Headteacher if they wish to establish whether any course of conduct on their part or on the part of another employee may amount to wrongdoing under these procedures. Such enquiry shall be kept confidential. The Headteacher will attempt to provide guidance on the basis of the information provided, but such guidance shall not prejudice the rights of the School or any person under these procedures.

## **8 Monitoring, Evaluation and Review**

**8.1** The Governing Board will assess the implementation and effectiveness of this policy every two years. The policy will be promoted and implemented throughout the school.

## **9 Links with other policies**

- Staff grievance policy
- Complaints procedure
- Child protection policy