

# CUMBRIA COUNTY COUNCIL CHILDREN'S SERVICES

## WHISTLEBLOWING: PROCEDURE AND GUIDANCE

### 1. Introduction

The County Council expects the highest standards from all employees, including staff in schools, and will treat seriously any concern that an employee may have about illegal or improper conduct.

1.2 The Public Interest Disclosure Act 1998 is in force and affords statutory protection to 'whistleblowers' in certain circumstances. Under the Public Interest Disclosure Act, a worker has the right not to suffer detriment or be unfairly dismissed as a result of speaking out about malpractice. If an employee is dismissed solely in these circumstances he/she is likely to be treated by an Employment tribunal as unfairly dismissed.

1.3 Employees are often the first to realise that there may be something seriously wrong within the School or Cumbria County Council. Their concerns might relate to matters that could affect the School itself, the County Council and/or the Council's employees or the wider public. However, employees may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the School/County Council. 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.

1.4 The School/County Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, employees and others with serious concerns about any aspect of the School's/County Council's work are encouraged to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This procedure makes it clear that staff can do so without fear of reprisals. This Whistleblowing Procedure is intended to encourage and enable staff to raise serious concerns within the School/County Council rather than overlooking a problem.

1.5 This procedure has been discussed with the Recognised Trade Unions and has their support. It explains how the School/County Council meets its obligations under the Public Interest Disclosure Act 1998.

1.6 This procedure can be used by any person who works or who has worked for the School/County Council regardless of whether:

- the work was full or part time; or
- the work was temporary or permanent; or
- an employment agency was involved; or
- the person involved was a trainee or on work experience; or
- the person involved was working for a contractor.

### 2. What is the Purpose of the Procedure?

2.1 This procedure is designed to enable all employees (identified in paragraph 1.6 above) to notify senior colleagues/governors of any reasonable suspicion of illegal or improper conduct. 'Improper conduct' includes neglect of duty and maladministration. The

Procedure requires all employees to act responsibly to uphold the reputation of the School/County Council and to help maintain public confidence.

2.2 The Procedure aims to:

- encourage employees to feel confident in raising serious concerns and to question and act upon concerns of malpractice;
- provide avenues to raise those concerns and receive feedback on any action taken;
- ensure that employees receive a response to their concerns and are aware of how to pursue them if they are not satisfied; and
- reassure employees that they will be protected from possible reprisals or victimisation if the disclosure was made in good faith.

### 3. **When should it be used?**

3.1 There are existing procedures in place to enable employees to lodge a grievance/harassment complaint relating to their own employment. This Whistleblowing Procedure is intended to cover concerns that fall outside the scope of other procedures. This Procedure should be used in matters which may include:

- conduct which is an offence or a breach of the law;
- disclosures related to actual or potential miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- any attempt at concealing the above.

Any concerns that employees have about any aspect of service provision or the conduct of employees, governors or elected Members of the School/ County Council, or others acting on behalf of the School/County Council, can be reported under the Whistleblowing Procedure. This may be about:

- something that makes them feel uncomfortable in terms of known standards, their experience or the standards they believe the School/County Council subscribes to; or
- something that is against the School/County Council Procedures, Rules and Policies; or
- something that falls below established standards of practice; or
- something that amounts to improper conduct; or
- the unauthorised use of public funds; or
- fraud and corruption; or
- homophobic, racial, religious, sexual or physical abuse of clients, staff, governors/members; or
- other unethical conduct.

Employees must act in good faith and must have a reasonable belief that the information they disclose and any allegation contained in it are accurate. When it is apparent from the investigation that the person making the disclosure has acted frivolously, maliciously or for personal gain, the School may decide to take disciplinary action against them. If the disclosure itself amounts to a criminal offence, this Procedure will not protect the employee from the consequences of that criminal offence. No employee who uses this Procedure in good faith will be penalised for doing so.

An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct, or is unsure how to proceed, can contact the following at Cumbria County Council, tel. no. 01228 606060 for advice:

- Head of Legal Services,
- Head of Management Audit,
- Any Audit Manager,
- Director of Children's Services
- Head of Equality and Human Resources,
- Equality Officer,

3.5 Financial Procedure Rules require employees who suspect fraud, corruption or other financial irregularity, to ensure this is reported to the Head of Management Audit for possible investigation. Normally, the employee must first report any suspicion of such irregularity to their headteacher/chair of governors/Director of Children's Services, who will in turn report it to the Head of Management Audit. In most cases this will be done through the line management structure. Exceptionally, if employees believe the matter cannot be resolved in this way, they should report it direct to the Head of Management Audit.

#### **4. Mechanism for raising concerns**

4.1 If employees have a concern they will need to exercise a judgment regarding the person who should be approached with the issue. If the matter is minor, then it will be sufficient just to bring it to the attention of the employee who appears to be at fault. The alternative would be raising the concerns directly through school line management channels.

If the matter is obviously more significant, or where a previous informal approach as above has apparently not proved effective or been disregarded, then the matter should be raised with the headteacher, chair of governors, the Director of Children's Services or a senior officer of the County Council as given at paragraph 3.4 above.

4.3 Exceptionally, if the employee feels unable to pursue any of these routes, he/she should consider approaching an appropriate body outside the School/ County Council. Such bodies include:

- The Audit Commission (for financial irregularities);
- The independent charity "Public Concern at Work", which offers confidential advice (020 7404

6609) to employees and others with serious concerns about public dangers and malpractice;

- The employee's Trade Union.

If the employee does take the matter outside the School/County Council, he/she needs to ensure that confidential information is not disclosed or that disclosure would be privileged. It is suggested the employee checks this with the contact person at the outside body.

4.4 Depending on the nature of the concern, the employee may be asked to explain, and where possible, justify and support the claim. An employee will not be expected to prove the truth/accuracy of an allegation but will need to demonstrate to the person contacted that there are sufficient grounds for concern. Normally the employee will be asked to do this in writing, or agree

to a written summary prepared by the person notified. It would therefore be helpful for the employee, if possible, to note down any facts and dates as they happen.

4.5 Employees who want to use the Procedure, but feel uneasy about it, may wish to consult their Trade Union initially, and bring a colleague or Trade Union representative along to any discussions, so long as that colleague or Trade Union representative is independent of the issue.

4.6 Where anonymity is requested, every effort will be made to meet the request, but that might not always be possible. The earlier and more open the expression of concern, the easier it will be to take appropriate action.

4.7 Normally, each case will be investigated thoroughly, with the aim of informing the employee in writing of the outcome of any investigation as quickly as possible, normally within 21 days. If a more lengthy process is involved, regular feedback in writing on progress will be given to the employee who made the disclosure. Some concerns may be resolved by agreed action without the need for investigation, although in such cases a record of the disclosure and the action taken will be made by the School/County Council and a copy of such written report provided to the employee who made the disclosure.

4.8 The school/County Council accepts that an employee who has acted as a whistleblower will need to be assured that the matter has been properly addressed. Subject to legal constraints, such employees will receive information in writing about the outcomes of any investigations

## **5. What to do if an issue is raised with you as line manager**

5.1 You must exercise judgment, depending on the nature and seriousness of the concern. While it is essential for problems to be tackled effectively with the aim of rectifying the issue, this may well be best achieved in less serious cases by discussion with the relevant section or employee and securing a commitment as to future standards and corrective action. In taking any corrective action, you must, as far as practicable, respect an employee's (as a whistleblower) request for confidentiality, and avoid the threat of recrimination or reprisals. You should notify your own line manager in writing of the action you have taken.

5.2 In other more serious cases, you should pass the matter up to the headteacher or chair of governors of your school. If you believe that school management is involved, you should approach the Director of Children's Services.

5.3 If you have any doubts about the right way to deal with the concern, you should contact one of the persons named in paragraph 3.4 above for advice.

5.4 All employees acting in good faith should be reassured that their concerns will be treated seriously and sensitively, and that the School/ County Council will not tolerate harassment and/or victimisation of any employee raising concerns.