

HARLANDS PRIMARY SCHOOL (HARLANDS EDUCATIONAL TRUST)

WHISTLEBLOWING POLICY

Approved by: Chair/Headteacher, October 2019

Review date: October 2021

Reviewed: November 2021 (word Governors replaced with Trustees)

Policy Statement

Harlands (Educational Trust) is committed to the highest standards of openness, probity and accountability. In line with this commitment, Harlands encourages individuals with serious concerns about an activity in the school to voice those concerns. This also applies to concerns about the actions of employees, members of the leadership team, Trustees and external organisations in their dealing with the school.

This document outlines how issues can be raised internally and, if necessary, outside the management structure of Harlands. It records our assurance that concerns will be seriously considered and appropriate action taken; and further that anyone who raises these concerns will be protected from reprisals or victimisation.

The aims of this policy are:

- To encourage staff to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected;
- To provide staff with guidance as to how to raise those concerns;
- To reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

It should be noted that any clause within an employee's contract of employment is void if it attempts to prevent an individual from making a protected disclosure under the Act. This policy does not remove or diminish the existing contractual or statutory rights of employees.

Part IV of the Employment Rights Act 1996 (ERA 1996) inserted by the Public Interest Disclosure Act 1998 (PIDA) provides a framework of protection against detriment or dismissal in connection with "blowing the whistle" on illegal practices in the workplace.

Scope

This policy applies to all employees of Harlands. However, the Act also covers those contractors working for Harlands on its premises. It also covers suppliers and those providing services under a contract with Harlands in their own premises. Consultants, casual workers and agency workers are also covered. The term "individual" used throughout this document is used to include all the above.

Principles

This policy is intended to cover concerns that fall outside the scope of individual grievances and relates to all employees (and trustees).

This policy is in addition to Harlands' complaints procedure and other statutory reporting procedures, and seeks to encourage individuals to raise concerns internally within the organisation.

If an individual is unsure whether or not to use protected disclosure provisions, or if an individual needs independent advice at any stage, he/she can contact Public Concern at Work, which is an independent charity which can give free confidential advice at any stage on how to raise a concern about serious malpractice at work.

What is Whistleblowing?

Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

- Criminal activity;
- Child protection and/or safeguarding concerns;
- Miscarriage of justice;
- Danger to health and safety;
- Damage to the environment;
- Failure to comply with any legal or professional obligation or regulatory requirements;
- Financial fraud or mismanagement;
- Negligence;
- Breach of the Academy/Trust internal policies and procedures;
- Conduct likely to damage the Academy/Trust's reputation;
- Unauthorised disclosure of confidential information;
- The deliberate concealment of any of the above matters.

A "whistleblower" is a person who raises a genuine concern in good faith relating to any of the above. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of the Academy/Trust activities (a whistleblowing concern) you should report it under this policy.

Grievances

There is an existing policy and procedure in place to enable staff to raise grievances about their own employment. In these cases, the Whistleblowing procedure is not the right process and you should use the Grievance Procedure instead.

An individual does not have to raise a grievance in order to make a “protected disclosure”. However, if the individual intends to raise the matter as a grievance, this intention must be clearly stated.

Protection and Support for Whistleblowers

In making the disclosure in the public interest, an individual must have a reasonable belief that the information disclosed shows one or more of the offences or breaches listed above. The belief need not be correct, but the individual must show that they held the belief and that it was a reasonable belief, in the circumstances, at the time of the disclosure.

Individuals are encouraged to come forward with genuine concerns in the knowledge that they will be taken seriously (even if they turn out to be mistaken). Harlands recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisals from those responsible for the malpractice. As far as possible, Harlands will seek to respect the confidentiality and anonymity of the individual raising the concern and will seek to protect him/her from reprisals. In this regard, Harlands will not tolerate any detrimental treatment of the individual who has raised the concerns, nor will any attempt to prevent individuals from raising concerns be acceptable. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern.

If someone believes that they have suffered any such treatment, they should report this immediately. If the matter is not remedied, they should raise it formally using the Grievance or Complaints procedure, as appropriate. Threats or retaliation against whistleblowers will not be tolerated. Any person involved in such conduct may be subject to disciplinary action.

Confidentiality

When an individual raises a concern but does not want their name to be disclosed, Harlands will do its best to protect his/her identity. However, if it is felt that a formal investigation process may be necessary, a statement may be required from the individual to form part of the evidence, otherwise it might not be possible to proceed with further action. This will be discussed with the individual.

One of the aims of this policy is to encourage individuals to put their name, with confidence, to any allegation whenever possible. Harlands does not encourage individuals to make disclosures anonymously. Proper investigation may be more

difficult or impossible if it cannot obtain further information from you. Concerns expressed anonymously are much harder to investigate and there needs to be much clearer evidence, in particular if we are unable to correspond with the individual, but they may be considered at Harlands' discretion.

When considering anonymous allegations, a number of factors would be taken into account and may include:

- The seriousness of the issue raised;
- The credibility of the concern;
- The likelihood of being able to confirm that the allegation is from identifiable sources; or
- The ability to trace the source of unfounded or malicious allegations.

Raising a concern with Harlands

As a first step, an individual should normally raise the concern with your immediate manager. Some concerns may be resolved by agreed action without the need for investigation. Alternatively, if urgent action is required, this will be taken before any investigation commences, eg health and safety issues.

Reporting suspected fraud, irregularity, bribery and corruption – if a matter suspected relates to fraud, corruption or money laundering, the individual must report it to the Principal (Accounting Officer) or, if not appropriate, the Chair of Trustees.

Alternatively, if the whistleblower considers the matter too serious or sensitive to raise within the internal environment of the school, the matter should be directed to the Education Funding Agency.

Raising concerns about safeguarding children

Harlands fosters a culture of openness and will put in place strategies and procedures to ensure that staff feel enabled to raise concerns relating to the safeguarding of children or poor practice within the school that may cause a risk to children.

Employees should refer to the latest version of the Harlands Safeguarding and Child Protection Policy for further guidance.

The West Sussex Local Authority Designated Officer (LADO) (telephone: 01403 229900) should be contacted whenever there are concerns about child protection and safeguarding practice within the school; or alternatively concerns about the conduct of staff which do not appear to be dealt with by the school.

Raising Unfounded or Malicious Concerns

If an allegation is made but is not confirmed by the investigation, no action will be taken against the individual raising the concern and Harlands will endeavour to protect the individual from reprisals or victimisation.

However, if an individual makes an allegation which – through the internal investigation process – is found to be malicious, mischievous or vexatious, or a disclosure made for personal gain, such actions will be considered as disciplinary offences and are likely to result in disciplinary action being taken against the individual.

Making knowingly untrue or unfounded allegations may expose individuals to actions for libel or slander which together make up the civil wrong of defamation. This is a complex area of law. In essence a person puts themselves at risk of being sued for damages if, without justification, they publish or communicate a false statement about someone which may injure his or her reputation in the eyes of ordinary members of society.

However, a whistleblower will not generally be liable provided that they had a legal, moral or social duty or interest in making the statement to a person with a similar interest. If they report confidentially and sensibly, we can work with them to understand the extent of the evidence.

Dissatisfaction with a Response

While Harlands cannot always guarantee the outcome the individual may be seeking, it will deal with the concern in a fair and appropriate way. If the individual is dissatisfied with the resolution of the matter, or has genuine concerns that the matter has not been dealt with appropriately, these concerns should initially be raised with the investigating officer.

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases the individual should not find it necessary to alert anyone externally.

That law recognises that in some circumstances it may be appropriate for the individual to report concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media.

External Disclosures

Where the concern is of a particularly serious nature and the individual remains dissatisfied, the individual may feel that it is more appropriate to take the matter outside of the school. If an individual would like independent advice about how to raise serious concerns constructively, Harlands encourages the individual to seek advice by contacting Public Concern at Work.

There are a number of bodies which have been prescribed by the Secretary of State for the purpose of receiving disclosures. Further details can be found on the GOV.UK website: www.gov.uk/whistleblowing or in pdf format at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

The list includes, but is not limited to, the following:

- The Police
- The DfE/EFA
- A Member of Parliament
- The National Audit Office
- The Health and Safety Executive (HSE)

The individual must believe that the information given and the allegations made are substantially true and ensure that they are not acting for personal gain.

If an individual does take the matter outside the school, they must ensure that they do not disclose confidential information which is unrelated to the issue being raised.

In making a disclosure outside of school to a prescribed body, individuals should be aware that the disclosure must be made to an appropriate prescribed person or organisation and that the individual must believe that the information disclosed any allegations made are true.

Responsible Officers

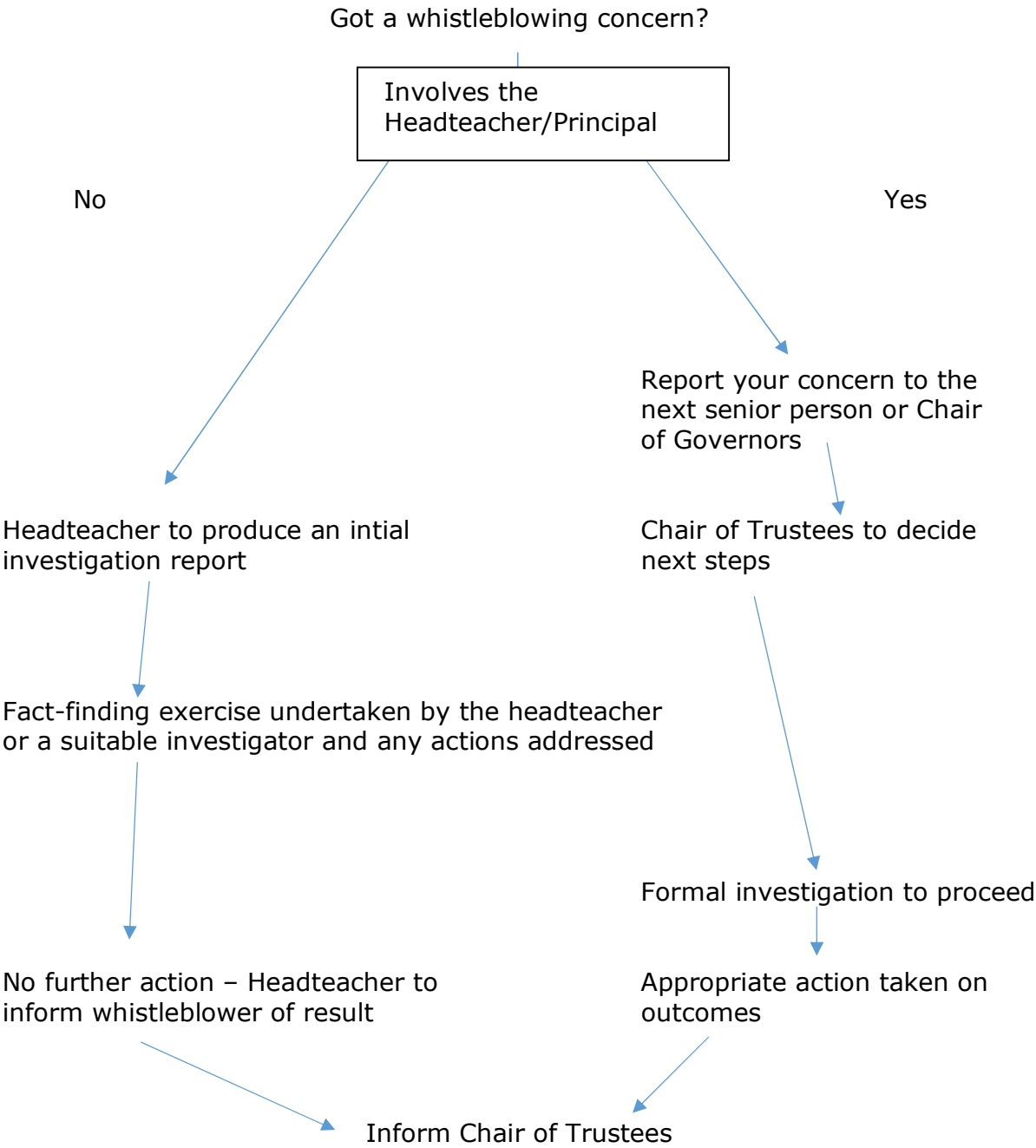
The Responsible Officers are the Headteacher/Principal and the Chair of Trustees.

The Headteacher/Principal also has day-to-day operational responsibility for this policy, and must ensure all other school leaders and other staff who may deal with concerns or investigations under this policy receive regular and appropriate training.

Monitoring and Review

This policy will be subject to period review in accordance with legislative changes and best practice, and may be amended from time to time. If we need to do something different, we will always be fair and reasonable, and school staff will be advised.

APPENDIX 1 – WHISTLEBLOWING FLOWCHART



APPENDIX II - Whistleblowing procedures

Making the disclosure as an employee

- Employees or volunteers based in school should make their disclosure to the Headteacher/Principal (or to the Chair of Trustees if it concerns the Headteacher/Principal) who will determine if the disclosure should be taken forward.
- If a concern against an Academy Trustee is received, then this will be treated in the same way as any other concern. It will receive the same serious consideration. The concern will be raised by the Headteacher/Principal with the Chair of Trustees who will decide how it should be dealt with.
- If the concern is against the Chair of Trustees, then clearly this process cannot be followed. In such circumstances, the concern will be taken directly to the Headteacher who will decide in consultation with the Vice Chair of Trustees how it should be dealt with. In normal circumstances such a concern would be referred to the Department for Education for action.
- Even where extreme circumstances are thought to exist, an employee should not approach the media with details of the suspected wrongdoing. If they do so, Harlands may consider this to be gross misconduct and disciplinary action may be taken against them.

What information should the employee provide with their disclosure

- In making a disclosure an employee needs to be clear about why they think wrongdoing has occurred, or is occurring, or is going to occur.
- If the employee has evidence to support their disclosure, they should have/make it available.
- If the employee does not have evidence to support their disclosure but still suspects that there may have been wrongdoing, that is fine. They must be clear about why they suspect that wrongdoing has occurred, or is occurring.

Managing a Disclosure as Line Manager

Receiving a disclosure

- If a colleague informs their line manager that they wish to disclose a concern or a suspicion of wrongdoing that may constitute whistleblowing, then the issue must be dealt with seriously and sensitively, and they should be referred to the Headteacher/Principal.
- It is important that whistleblowing disclosures are dealt with in a consistent manner. The Headteacher/Principal should provide the whistleblower with a copy of this policy.
- Reassure the whistleblower that their disclosure will not affect their position at work.

- This may be a difficult or anxious time for the whistleblower, they must be reassured that they will be protected and supported by the school.
- At this point, the Headteacher/Principal should ask for an outline of the concerns to help them ascertain how urgent the matter is and whether it needs to be escalated to a more senior level immediately. If the matter needs to be escalated then the Headteacher/Principal should do so immediately.
- They should consider whether the nature of the disclosure in outline is likely to meet the test of whistleblowing rather than personal grievance; the concern is in the public interest; that it relates to potential wrongdoing that meets the test of whistleblowing.
- The Headteacher/Principal should arrange a time for a formal meeting at which they will want to gather all of the information to better understand the situation. The meeting should be held as soon as is reasonably possible. The whistleblower is entitled to have a representative accompany them at the meeting.
- The Headteacher/Principal should maintain confidentiality about the identity of the whistleblower within the limits that have been explained to the whistleblower. Where appropriate (eg where the issue could affect matters that governors oversee or could have an impact at strategic rather than operational level), the Headteacher/Principal should inform the Chair of Trustees that a whistleblowing disclosure is being managed.

Managing a Disclosure Meeting

- It is the responsibility of the Headteacher/Principal hosting a disclosure meeting to ensure that the whistleblower is put at their ease, as far as is reasonable possible, and that the mood of the meeting is professional but supportive. The priority at this stage is to listen to the whistleblower and understand their concern.
- A summary record of the meeting must be made and a copy provided to the whistleblower.
- The Headteacher/Principal must gather all of the information available so that they can fully understand the nature of the concern and who may be involved.
- To be provided with evidence is very helpful. However, it is legitimate for a whistleblower to share a concern or suspicion for which they do not have evidence. In this case, try to ascertain the basis for the suspicion.
- The whistleblower should be reassured that to disclose a genuinely held suspicion that later proves to be wrong is fine. There are no negative consequences for someone who discloses a genuinely held suspicion whether it proves to be unfounded or not.
- Once the Headteacher/Principal has all of the information they must explain to the whistleblower what will happen next.
- Once all the necessary information and evidence is available the Headteacher/Principal will determine the appropriate action to take.
- If the appropriate action includes potential processes involving other employees then the school also has a duty of care and duty of

confidentiality towards those employees. It will not be possible therefore to feedback to the whistleblower about specific processes or actions applied to other individuals. It is possible, however, that under some circumstances the whistleblower may be asked to be a witness if formal procedures are instigated.

- The whistleblower should be given clear timescales for when they can expect feedback on the outcome of their disclosure.

Assessing the Disclosure

- Following the disclosure meeting and in consultation with the Headteacher/Principal a decision will be made about whether there is enough information available to come to a conclusion about the disclosure. The possible conclusions are:
 - 1 The disclosure meets the whistleblowing criteria and needs to be progressed to a formal investigation.
 - 2 The disclosure is based on a misunderstanding of legitimate behaviours by other staff.
 - 3 The disclosure constitutes a personal grievance rather than whistleblowing.
 - 4 The disclosure is potentially malicious.
- The conclusion reached must be based on the evidence available; objective assessment; treating all individuals potentially involved equitably and fairly; based on the principles of natural justice.
- The Headteacher/Principal's conclusion, along with a summary of the disclosure and the information available, must then be recorded and reported to the Chair of Trustees.
- If it is suspected that a criminal offence has occurred, then there must be no further attempt to collect evidence or take witness statements. Such action may undermine a police criminal investigation by tainting evidence.

Feedback to employees who are whistleblowing

- Wherever possible feedback will be provided to the employee who raised the disclosure within the limits of the law and the duty of confidentiality to other members of staff.
- The Headteacher/Principal that conducted the disclosure interview should provide the employee that raised the concern with an estimate of the timings for next steps and actions.
- The whistleblowing procedures provide examples of the nature of specific types of feedback under certain circumstances. The limits of information that can be fed back must be made clear at the outset.
- The employee who raised the concern should be told when the process has been concluded and what the conclusion was, but again within the limits of law and duty of confidentiality to other employees.

APPENDIX 3 – DON'T THINK WHAT IF I'M WRONG, THINK WHAT IF I'M RIGHT

Reasons for whistleblowing

- Each individual has a responsibility for raising concerns about unacceptable practice or behaviour
- The present the problem worsening or widening.
- To protect or reduce risks to others.
- To prevent becoming implicated yourself.

What stops people from whistleblowing

- Starting a change of events which spirals.
- Disrupting the work or project.
- Fear of getting it wrong.
- Fear of repercussions or damaging careers.
- Fear of not being believed.

How to raise a concern

- You should voice your concerns, suspicions or uneasiness as soon as you feel you can. The earlier a concern is expressed, the easier and sooner action can be taken.
- Try to pinpoint exactly what practice is concerning you and why.
- Approach your immediate manager, Headteacher, or the Designated Safeguarding Officer.
- If your concern is about your immediate manager/Headteacher, or you feel you need to take it to someone outside the school, contact the Chair of Trustees
- Make sure you get a satisfactory response – don't let matters rest.
- You should then put your concerns in writing, outlining the background and history, giving names, dates and places where you can.
- A member of staff is not expected to prove the truth of an allegation but will need to demonstrate sufficient grounds for the concern.