

THE PAINSLY CATHOLIC ACADEMY



The Painsley Catholic Academy
Better Together

WHISTLEBLOWING POLICY
September 2018

Whistleblowing Policy

1. Introduction

1.1 Painsley Catholic Academy is founded by and forms part of the Catholic Church. In addition to the Church's funds which established the MAC/school, it is sustained in its mission by receipt of public monies. Accordingly it is accountable to the Catholic community of which it is a part and also to the public whose funds it expends.

1.2 The multi-academy and each individual MAC/school within it is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we expect employees and others who work at the MAC/school, who have serious concerns about any aspect of the MAC/school's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

1.3 This policy is intended to encourage and enable employees to raise serious concerns they may have within the MAC/school. In doing so, the Board of Directors wish to make it clear that individuals can inform their employers without fear of victimisation, discrimination or disadvantage as a result of their 'whistleblowing'.

This policy enables you to report, confidentially, serious concerns about any aspects of the Academy's work which you suspect involves criminal behaviour or other specific forms of malpractice – damage to the environment, for example, or action that threatens health and safety.

1.4 Provided that you act in good faith, and that you have a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur, you can disclose your concerns, using this procedure, and be protected by law from victimisation or dismissal.

2. Legislative Background

2.1 *The Public Interest Disclosure Act 1998* (known as the 'Whistleblowers Act') protects employees against any detrimental treatment or dismissal if, in the interest of the public, they disclose to their employer matters concerning the conduct of the MAC/school and its personnel that would normally be regarded as confidential.

2.2 It does not apply to any grievance that an employee may have about his/her own employment for which Directors have already established statutory procedures to enable them to seek redress under the provisions of the MAC/school Staffing (England) Regulations 2003, Regulation 6 (1)(b)1.

3. AIMS AND SCOPE OF THIS POLICY

3.1 This policy is intended to cover any major concerns that qualify for protection as 'qualifying disclosures' and fall outside the scope of other statutory procedures adopted by the Board of Directors. Qualifying disclosures are disclosures of information which the employee reasonably believes to show one of the following matters is happening now, took place in the past or is likely to happen in the future:

- conduct which is an offence, a breach of the law or contrary to Church teaching;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public or Church funds;
- possible fraud and corruption;
- abuse of students;
- any other unethical or immoral conduct;
- the deliberate covering up any malpractice listed above.

3.2 Thus, any serious concerns that any employee may have about malpractice in any aspect of service provision or the conduct of employees or Directors/Governors of the MAC/school or others acting on behalf of the MAC/school can be reported under this policy.

3.3 The conduct in question may be something that makes an employee feel uncomfortable in terms of known standards, his/her experience or the values, beliefs and standards to which the MAC/school subscribes, is against the MAC/school's trust deed or instrument of government or policies, falls below established standards of practice; or amounts to improper conduct

4. Eligibility

4.1 This policy, like the Act, covers all employees of the Academy, contractors, agency staff and the Academy's partners, formal and informal.

5. Provisions

5.1 This policy describes the circumstances in which concerns can be reported confidentially or 'disclosed', and the conditions which must be met if the protection offered by the Act is to apply.

6. Safeguards for Whistleblowers

6.1 The MAC/school will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect employees when they raise a concern in good faith.

6.2 Qualifying disclosures may be made to **the employer** or via internal procedures.

6.3 A qualifying disclosure will be a protected disclosure where:

it is made to the employer either directly or by procedures authorised by the employer for that purpose;
or

it is made to another person whom the worker reasonably believes to be solely or mainly responsible for the relevant failure;

and

the employee acts in good faith.

6.4 Qualifying disclosures may be made to a **prescribed person**.

See Appendix 2 for a list of prescribed persons and the matters for which they are prescribed.

6.5 A qualifying disclosure will be a protected disclosure where:

it is made to a person or body which has been prescribed by the Secretary of State for the purpose of receiving disclosures about the matter concerned;

the employee believes that the matter falls within the description of matters for which the person or body has been prescribed;

the employee reasonably believes that the information and any allegation it contains are substantially true;

the employee makes the disclosure in good faith.

6.6 Qualifying disclosures may be made to a **legal adviser**.

6.7 A qualifying disclosure will be a protected disclosure where:

it is made to a legal adviser in the course of obtaining legal advice;

6.8 Qualifying disclosures may be made to a **Government Minister**.

6.9 A qualifying disclosure will be a protected disclosure where:

it is made by an employee of a Government appointed organisation such as a non-departmental public body to a Government Minister either directly or via departmental officials

it is made in good faith

6.10 Qualifying disclosures may be made to **others** not listed above.

6.11 A qualifying disclosure will only be a protected disclosure where:

the employee reasonably believes that the information and any allegation it contains are substantially true;

- the employee makes the disclosure in good faith;
- the employee does not act for personal gain;
- the employee reasonably believes that he/she would be subjected to a detriment by his/her employer if disclosure were to be made to the employer or to a prescribed person;
- in the absence of an appropriate prescribed person the employee reasonably believed that the disclosure to the employer would result in the destruction or concealment of information about the wrongdoing;
- the employee had previously disclosed substantially the same information to his/her employer or to a prescribed person;
- it is reasonable for the employee to make the disclosure;

6.12 An employment tribunal will decide whether the employee acted reasonably in the circumstances but in particular will take into account:

- the identity of the person to whom the disclosure was made e.g. it may be more likely to be considered reasonable to disclose to a professional body that has responsibility for standards and conduct in a particular field rather than to the media;
- the seriousness of the relevant failure;
- whether the relevant failure is continuing or is likely to occur again;
- whether the disclosure breaches the employer's duty of confidentiality to others;
- what action has or might reasonably be expected to have been taken if a disclosure was made previously to the employer or a prescribed person;
- whether the employee complied with any internal procedures approved by the employer if a disclosure was made previously to the employer;

6.13 Qualifying disclosures may be made about **exceptionally serious failures** and in these cases employees do not need to go through the normal channels and can publicly 'blow the whistle' straight away.

6.14 However, it is not enough for something to be an 'exceptionally serious failure' in the employee's opinion alone e.g. if he/she does not agree with a working practice. It must be a matter of fact that something is a genuinely serious failure. An example could be an exceptionally serious health and safety issue that is putting employees or others' lives at risk.

6.15 Making a public disclosure e.g. to the media, is a serious matter and employees should get professional advice to confirm that the matter could be classed as an 'exceptionally serious failure' before taking such action.

6.16 A qualifying disclosure will be a protected disclosure where:

- the employee reasonably believes that the information and any allegation it contains are substantially true;
- the employee makes the disclosure in good faith;
- the employee does not act for personal gain;
- it is reasonable for the worker to make the disclosure in view of all the circumstances, having regard in particular to the identity of the person to whom the disclosure is made.

6.17 Any investigation into allegations of potential malpractice will not influence employees or be influenced by any disciplinary or redundancy procedures that might affect them.

6.18 Any provision in an agreement between employee and employer which would prevent the employee from making disclosures protected by the new provisions is void.

6.19 Employees do not have to raise a grievance in order to make a protected disclosure. The statutory minimum grievance procedures apply to a protected disclosure only if the employee actually intends that the disclosure constitutes raising the matter with his employer as a grievance.

7. Confidentiality

7.1 All concerns will be treated in confidence and every effort will be made not to reveal an employee's identity if they so wish. At the appropriate time, however, he/she may need to come forward as a witness. Employees reporting concerns also have a duty to observe this confidentiality.

8 Anonymous Allegations

8.1 Employees are encouraged to put their name to their allegation wherever possible. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the MAC/school. In exercising this discretion the factors to be taken into account will include:

- the seriousness of the issue raised;
- the credibility of the concern;
- the likelihood of confirming the allegation from attributable sources.

9 Untrue Allegations

9.1 It should be noted that in making a disclosure the employee must have reasonable belief that the information disclosed tends to show a relevant failure as listed in **paragraph 3.1** above.

9.2 If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against him/her.

9.3 If, however, an employee makes an allegation frivolously, maliciously, or for personal gain, disciplinary action may follow.

10 Raising a concern

10.1 If an employee reasonably believes that he/she has discovered serious malpractice within the MAC/school he/she should ideally raise these concerns with his/her line manager who would take the matter to the Principal in each school or, in the case of the central support team, to an Executive Leader (ie the CEO/DCEO/CFO).

10.2 However, if, for whatever reason this is not possible or appropriate, the employee should contact the Executive Leader or Principal directly.

10.3 If the employee suspects that the Principal or an Executive Leader may be involved in the malpractice then he/she should contact the CEO.

10.4 If the employee also suspects involvement by the CEO, then he/she should contact the Chair of the Board of Directors or Vice Chair if it also involves the Chair.

10.5 Employees will be given the opportunity to discuss their suspicions with the appropriate investigating officer who will arrange for an investigation to take place.

10.6 Who the investigating officer might be, will depend upon the circumstances of the concern and the individual(s) whom the employee suspects may be involved. If the concern has been raised with an Executive Leader (other than the CEO), the Principal or the Chair of the Local Governing Body, they should seek advice from the CEO and Chair of the Board of Directors. If the concern has been raised about the CEO, the Chair of the Board of Directors will seek advice from the Director of MAC/schools at the Diocesan Education Service and an appropriate investigating officer will be appointed. Such advice should also be sought when the concern is about the Chair of the Board of Directors. In such cases, the Investigating Officer may be an Executive Leader, the Principal, a Director, an officer of the Diocese, or other qualified person depending upon who is involved in the concerns.

10.7 Within ten working days of the initial meeting, the investigating officer will write to confirm the details of the concern and that an investigation will take place.

10.8 Throughout the investigation, the complainant will be kept informed of progress and will normally be advised of the eventual outcome, subject to third party rights.

10.9 All correspondence will be addressed to the complainant's home.

10.10 If a meeting is needed, it may be arranged off site if desired, and a union representative or a friend may accompany the complainant.

10.11 Although records will need to be kept as the enquiries progress, these will be of an anonymous nature.

10.12 There can be no prescribed time limits for completion of the investigative process, but it will obviously be in the interests of all concerned if the issue is resolved without delay.

10.13 If the complainant has any concerns about the way in which the investigation is being handled then he/she should raise this with the designated investigating officer in the first instance. If the complaint remains unresolved then the complainant may contact the Diocesan Director of MAC/schools with his/her concerns.

10.14 When the investigation is complete a report will be presented to the Board of Directors, which will decide upon the appropriate course of action.

10.15 Subject to any relevant legal constraints, the complainant will be informed of the action to be taken. If the complainant does not agree with the outcome then he/she will have seven days in which to make his/her concerns known to the Board of Directors, via the Chair of the Board of Directors or the Diocesan Education Service in the case of the Chair.

10.16 If the complainant remains dissatisfied with the response from the Board of Directors, then he/she may consider contacting the Diocesan Education Service in the first instance or, ultimately, the Secretary of State for Education, who has the power to intervene if the Board of Directors appears to be acting unreasonably. The complainant should be aware, however, that this course of action could have serious implications.

APPENDIX 2 LIST OF PRESCRIBED PERSONS AND THE MATTERS FOR WHICH THEY ARE PRESCRIBED The Public Sector Audit Appointments Ltd – The proper conduct of public business, value for money, fraud and corruption in local government.

PSAA Limited
3rd Floor
Local Government House
Smith Square
London, SW1P 3HZ

The Charity Commissioners for England and Wales – The proper administration of charities and of funds given or held for charitable purposes.

whistleblowing@charitycommission.gsi.gov.uk

Children's Commissioner – Matters relating to the views and interests of children.
Children's Commissioner for England
Sanctuary Buildings
20 Great Smith Street
London SW1P 3BT

Health and Safety Executive – Matters which may affect the health and safety of any individual at work; matters which may affect the health and Safety of any member of the public arising out of or in connection with the activities of persons at work.

Health and Safety Executive
19 Ridgeway
9 Quinton Business Park
Quinton
Birmingham
B32 1AL

Information Commissioner – Compliance with the requirements of legislation relating to data protection and to freedom of information.

The Office of the Information Commissioner
Wycliffe House
Water Lane
Wilmslow Cheshire
SK9 5AF
01625 545700