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Trafford Alternative Education Provision

WHISTLEBLOWING POLICY

[2022]



Trafford Alternative Education Provision



Our Mission Statement:

Trafford Alternative Education Provision is committed to providing....

A 21st Century education that promotes the academic, emotional, and social development of our students. Our aim is to create a holistic, nurturing, and inspiring environment where students are supported and encouraged to take charge of their lives, their learning, and their decisions. Every student will have an understanding of their personal journey, challenges, and future opportunities. All will be encouraged to become independent thinkers and learn to value and respect others thus enabling them to meet the challenges of the wider world. In partnership with parents, carers, schools, and outside agencies we will provide students and staff with a positive and supportive learning experience.

We will achieve our vision by constantly thinking about the bigger picture, working as one team, valuing our staff and their continual development, and by frequently reviewing, debating, and developing the curriculum.



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Trafford Alternative Education Provision

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Contents

1.	What are the aims of the 1996 and 1998 Acts?
2.	When can I whistleblow under the 1998 Act?
3.	When can I take action until the 1996 Act?
4.	How should I raise my concern?
5.	Who should I raise my concern with?
6.	Who should I raise my concern with?
7.	Harassment or Victimisation?
8.	Confidentiality
9.	Untrue or Malicious Allegations
10.	How will your school respond if I raise a concern?
11.	Who are the “Prescribed Persons”?
	Appendix 1: Report Form

1. What are the aims of the 1996 and 1998 Acts?

1.1. To protect staff and Management Committee members who make certain disclosures (whistleblow) to your school or in some limited circumstances outside your school under the 1998 Act.

1.2 To protect Health and Safety Representatives who take action in performing their health and safety functions under the 1996 Act.

1.3 To protect a member of staff or a Management Committee Member who has reported a danger to health or safety, to Trafford Alternative Education Provision Management Committee or the Council, where it was not reasonably practicable to raise the matter with the Health and Safety Representative, and subsequently takes certain actions under the 1996 Act.

2. When can I whistleblow under the 1998 Act?

2.1 Whistleblowing disclosures are protected when they relate to any action of your school or a member of staff or Management Committee Members that:

- Is a criminal offence;
- Relates to a failure to comply with a legal obligation;
- Is about a miscarriage of justice;
- Is about endangering the health and safety of another;
- Is about damage to the environment; or
- Indicates that there is or is likely to be concealment of any of the matters set out above.

2.2 This does not stop you from raising other issues of concern with the person that you normally report to, but you must not voice them outside your school. You are also free to seek your own legal advice.

2.3 If you, as an employee of your school, make a disclosure under this Policy, your school will protect you and maintain confidentiality.

3. When can I take action until the 1996 Act?

3.1 A Health and Safety Representative can act in performing his/her health and safety functions without suffering a detriment or being unfairly dismissed.

3.2 You, as an employee or Management Committee Member of your school, are protected from suffering a detriment or being unfairly dismissed where the Health and Safety Representative cannot reasonably be informed of a danger or potential danger to health or safety. Additionally, you will also be protected if you reasonably believe there is serious and imminent danger which you cannot reasonably be expected to prevent, necessitating leaving work or refusing to return because of the danger or taking appropriate steps to protect yourself or others from the danger, and where you have informed your school of the danger,.

4. How should I raise my concern?

4.1 Concerns are best raised in writing. You should set out the background and history of the concern, giving names, dates, and places where possible, and the reason why you are particularly concerned about the situation.

4.2 A form is available if you wish to use it, to set out your concerns (see Appendix A). If you do not feel able to put your concern in writing, you can telephone or meet an officer as detailed in paragraph 10.1 below. By using the form this will ensure that you include all relevant and appropriate details.

4.3 If you do not feel able to put your concern in writing, you can meet with and discuss your concern with any appropriate person e.g. your Headteacher, Chair of the Management Committee

4.4 If your concern is about the Chair of the Management Committee, you may arrange to meet with Vice Chair.

4.5 The earlier you express the concern, the easier it is to take action. You may also wish to involve your trade union or professional association representative at this stage.

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

4.7 Advice and guidance on how matters of concern may be pursued can be obtained confidentially by contacting the Council's Fraud Hotline on 0161 912 2166/1839/2771. Alternatively, you can:

Email: counterfraud@trafford.gov.uk

Or

Write to: Counter Fraud & Enforcement team, 2nd Floor, Sale Waterside, Sale M33 7ZF.

4.8 Your trade union, professional association representative, or a colleague may accompany you when you meet with the Headteacher, Chair of the Management Committee, or Council officer. If you take a colleague to the meeting, s/he will be permitted to take a reasonable amount of time off for this purpose.

5. Who should I raise my concern with?

5.1 As a first step, you should raise concerns in good faith within your school, normally with the Headteacher or, if the complaint is about the Executive Headteacher, the Chair of the Management Committee. If the concern relates to the Chair of the Management Committee, it should be raised with the Vice Chair.

5.2 You may however make a disclosure to a prescribed person, in good faith where you reasonably believe that the failure or malpractice falls within that person's remit and that your allegations are substantially true. A list of the most relevant prescribed persons is set out in paragraph 6 below. The full list is contained in The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 SI No 1993, which can be found at <http://www.opsi.gov.uk/si/si2003/20031993.htm>

5.3 If you make a whistleblowing disclosure to anyone else (for example to the Press) you must make it for all the following reasons:

- In good faith;
- In the reasonable belief that the information disclosed and any allegation contained in it are substantially true;
- Not for personal gain;
 - In the reasonable belief that your school may subject you to a detriment or will conceal or destroy the evidence;

AND

- In all the circumstances of the case, it is reasonable to make the disclosure.

5.4 The above is an exceptionally high standard to meet and you are advised not to follow this course of action because the courts will have regard to:

- (a) The reasonableness of your disclosure;
- (b) The seriousness of the failure;
- (c) Whether there is a breach of confidentiality; and

whether you have followed the Whistleblowing procedure set out in this policy.

5.5 Where you disclose an exceptionally serious failure to anyone else it may be deemed not reasonable for you to have made the disclosure, depending on the identity of the person to whom it is made. The disclosure must have been made for all the following reasons:

- In good faith;
- In the reasonable belief that the information disclosed and any allegation contained in it are substantially true;
- Not for personal gain;
- The relevant failure is of an exceptionally serious nature;

AND

- In all the circumstances of the case it is reasonable to make the disclosure.

5.6 If you fail to comply with the above requirements regarding disclosure the law will not protect your actions and your school may consider disciplinary action against you including disciplinary action for gross misconduct.

6. Harassment or Victimisation?

6.1 It is recognised that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the failure or malpractice. Your school will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.

6.2 If you are already the subject of Disciplinary, Grievance, or Redundancy procedures, those procedures will not be halted as a result of your disclosure.

7. Confidentiality

7.1 Trafford Alternative Education and the Management Committee will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. The investigation process may, however, reveal the source of the information and a statement by you may be required as part of the evidence.

8. Anonymous Allegations

8.1 This policy strongly encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful and less likely to be effective, although they may be considered at the discretion of the governing body.

8.2 In exercising this discretion, the factors to be taken into account would include:

- The seriousness of the issues raised;
- The credibility of the concern;

AND

- The likelihood of confirming the allegation from named individuals or other sources of information.

8.3 If you ask for your disclosure to be treated 'in confidence' then you should know that whilst schools must respect confidences so far as they are able, with due regard to the individual's rights to privacy under data protection and human rights legislation. A person who is under inquiry is entitled to know the nature of the allegations being made, and any person disciplined or criticised as a result of an inquiry has a right to be told the nature of the evidence upon which the criticism has been based.

8.4 Whilst schools must take every step to try to ensure that a complainant's identity is not revealed without their consent, in some cases, the nature of the allegations or evidence may give an indication as to their source. Also, in limited cases, there may be an obligation to reveal information under the freedom of information legislation or by order of the court in legal proceedings. Information obtained in the course of an inquiry may, in the public interest be published in an inquiry report.

8.5 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or have the same concerns, however, you need to exercise care and judgement in such circumstances. The earlier you express the concern the easier it is for both management / the appropriate persons to consider matters.

8.6 Although you are not expected to prove beyond doubt the truth of an allegation, either separately or jointly you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

8.7 You may invite your trade union representative, professional association representative, or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised.

9. Untrue or Malicious Allegations

9.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. However, malicious or vexatious

allegations may lead to disciplinary action including proceedings for gross misconduct.

10. How will your school respond if I raise a concern?

10.1 The action taken by the Headteacher, Chair of the Management Committee, or a Council Officer will depend on the nature of the concern. The matters raised may be subject to:

- internal investigation;
- referral to the Police;
- referral to the Council's Internal Auditors;
- consideration under your school's Disciplinary Procedure if the matters relate to an employee(s).

10.2 In order to protect individuals and your school, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of other specific procedures (for example, child protection) will normally be referred for consideration under those procedures.

10.3 Some concerns may be resolved by agreed action without the need for investigation.

10.4 Within ten working days of a concern being received, the Headteacher or Chair of the Management Committee will write to you:

- Acknowledging that the concern has been received;
- Indicating how it proposes to deal with the matter;
- Giving an estimate of how long it will take to provide a response;
- Indicating whether an initial enquiry has been made;
- Indicating whether further investigations will take place, and if not, why not.

10.5 The amount of contact between the person who considers the above issues and you 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 you.

10.6 If the person investigating the matter arranges a meeting, you have the right if you so wish, to be accompanied by a trade union representative, professional association representative or a colleague of your choice.

10.7 The Headteacher or Chair of the Management Committee will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, you will be advised about the procedure. You can also obtain your own independent legal advice.

10.8 Trafford Alternative Education and the Management Committee accept that you need to be assured that the matter has been properly addressed. Thus, subject to legal and confidentiality constraints, you will receive information about the outcomes of any investigations.

11. Who are the “Prescribed Persons”?

11.1 This policy is intended to provide you with an avenue to raise concerns within your school. The Management Committee hopes you will be satisfied with the internal procedure. If you are not satisfied and your allegations are substantially true and you feel it is right in good faith to take the matter outside your school, the following are permissible contact points for their areas of regulatory activity:

- Audit & Assurance Services contact number 0161 912 1275 and Trafford Councils switchboard number 0161 912 2000.
- Audit Commission - the proper conduct of public business, value for money, fraud, and corruption;
- Her Majesty's Revenue & Customs (HMRC) - income tax, maternity and sick pay, tax credits, child benefits, collection of student loans, and the national minimum wage;
- Environment Agency – matters affecting the environment or the management or regulation of the environment, including pollution;
- Food Standards Agency - matters which may affect the health of any member of public in relation to the consumption of food and any other matters concerning the protection of the interests of consumers in relation to food;
- General Social Care Council - matters relating to the registration of social care workers under the Care Standards Act 2000;
- Healthy and Safety Executive - matters which may affect the health or safety of any individual at work or member of the public in connection with the activities of persons at work;

- Information Commissioner - compliance with the requirements of legislation relating to data protection and freedom of information;
- Occupational Pensions Authority - matters relating to occupational pension schemes.

11.2 This is not an exhaustive list but it summarises the main bodies that are most likely to be of relevance to the work of a school or the Local Education Authority. The full list can be found at www.hmsa.gov.uk

Appendix 1: Report Form

**Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003
Statutory Instrument 2003 No. 1993.**

STRICTLY CONFIDENTIAL

Trafford Council

Public interest disclosure (whistleblowing) form

REPORT FORM	
Name of employee/Management Committee Member making the report (You are encouraged to insert your name, but may choose not to - the recipient of the Form will attempt to preserve confidentiality)	
School where reporting employee works	
Person(s) reported	
Concerns reported (Give full details of the background to the concern; names, dates, and places; and the reasons why you are concerned - Attach a separate sheet if necessary)	

<p>Concerns reported (cont.)</p>	
<p>Date</p>	
<p>Signed (If employees' name appears above)</p>	

Legislative requirements contained within the Public Interest Disclosure Act 1998, and the Employment Rights Act 1996 are embedded within the Whistleblowing Policy for Community, Voluntary Controlled, Foundation, and Voluntary – Aided Schools (which can be obtained from the Headteacher). This gives the Whistleblower protection from reprisals and victimisation provided that the disclosure is made in good faith and relates to a concern set out in the policy.