

WHISTLEBLOWING TOOLKIT

FOR SCHOOLS

- 1. INTRODUCTION 2
- 2. SCOPE 2
- 3. ROLES AND RESPONSIBILITIES 3
- 4. PRINCIPLES 5
- 5. DEFINITION OF WHISTLEBLOWING 6
- 6. EXCLUSIONS 7
- 7. MISUSE OF THE POLICY 7
- 8. CONFIDENTIALITY AND ANONYMITY 7
- 9. SAFEGUARDING 8
- 10. RAISING A CONCERN UNDER THE WHISTLEBLOWING POLICY 8
- 11. FORMAL STAGES OF THE WHISTLEBLOWING PROCEDURE10
- 12. HEADTEACHERS/GOVERNORS14
- 13. INVESTIGATION15
- 14. ACTION UNDER THE WHISTLEBLOWING POLICY15
- 15. RECORDS16
- APPENDIX 1 – WHICH POLICY TO USE WHEN A CONCERN IS RAISED18
- APPENDIX 2 – THE COUNCIL’S WHISTLEBLOWING PROCESS19
- APPENDIX 3 - FREQUENTLY ASKED QUESTIONS20

1. INTRODUCTION

The purpose of the Whistleblowing Policy is to encourage a culture of openness and transparency by encouraging employees/workers to raise concerns about any aspect of the School/Council's work without fear of reprisal. This allows the School/Council the opportunity to investigate any concerns and eliminate any risks to the organisation or members of the general public.

The expectation is that Managers will adhere to the provisions contained in the School's Whistleblowing Policy. It is important to remember that it will be automatic unfair dismissal to dismiss an employee/worker for making a disclosure if they believe it is in the public interest, irrespective of their length of service. Furthermore, the compensation payable in such circumstances is uncapped.

This Toolkit has been designed to interpret the Whistleblowing Policy, which should always take precedence over the Toolkit. It aims to provide more detail on how the policy should be implemented and to guide managers through what can be a difficult process. Please read through this before seeking further professional advice from Human Resources.

The guidance notes contained in the Toolkit are not mandatory but are intended to assist with promoting best practice in managing whistleblowing within the workplace.

The numbering in the Toolkit follows and makes reference to the sub-headings in the Whistleblowing Policy.

2. SCOPE

2.1 The School's Whistleblowing Policy applies to:

- a. All Teachers on Teachers pay and conditions and Buckinghamshire County Council employees employed in schools under the terms of Bucks Pay Employment Conditions.
- b. Workers, including agency staff, consultants, self employed individuals and trainees engaged to work in Schools.
- c. Contractors working for the Council/Governing Body on School premises and suppliers and those providing services under a contract with the Council/Governing Body on their own premises.
- d. Organisations working in partnership with the Council/Governing Body.
- e. Volunteers working with or for the Council/Governing Body (note that Volunteers are not currently covered by Public Interest Disclosures Act 1998).

The policy does not apply to:

- a. Members of the general public including parents and/or guardians of pupils. Concerns raised by the general public should be made via the School's complaints procedure.

- 2.2 Procedures are in place to enable employees/workers to lodge a grievance relating to their own employment. Any serious concerns that a member of staff has about an aspect of service provision or conduct of staff/governors or others acting on behalf of the school, can and should be reported under this Whistleblowing policy.

3. ROLES AND RESPONSIBILITIES

a. Headteachers/Governors and Chair of Governors will:

- Make workers aware of the procedure and include it in the induction of new employees/workers.
- As the Hearing Officer, identify the appropriate Investigation Officer(s) to undertake any investigations.
- Deal promptly with any concern raised under the Whistleblowing Policy that an employee/worker progresses to Stage 2.
- If they are unable to deal with the concern raised, they must appoint a Hearing Officer at a more senior level to the original manager that heard the concern at Stage 1 of the Whistleblowing Process.
- Ensure that a room is booked and that the meeting with the worker takes place in private.
- Protect the identity of the employee/worker who raises the concern and does not want their name revealed, by only telling those who need to know and asking them to respect the confidentiality of this information.
- Ensure that, even in the case of anonymity, the employee/worker is aware that any investigation may reveal the source of the information and that they may be asked to give a statement as part of the process of gathering evidence.
- Respond to any requests by the Council's Monitoring Officer or Chair of Governors for information on disciplinary action resulting from a concern raised under the Whistleblowing Policy.
- In the event that a Governor wishes to raise a concern under the Whistleblowing Policy, they should address their concerns to the Service Director Education or to an elected Member of the Council.

b. Line Managers will:

- Treat all concerns raised under the Whistleblowing policy seriously, dealing with each one fairly, consistently and sensitively.
- Investigate thoroughly establishing the source of the problem, the history and the circumstances surrounding the concern.
- Seek advice from HR where further clarification is needed.

- Ensure that the employee/worker is given a copy of the Whistleblowing Policy and is aware of the procedure, including the right to be accompanied at any of the meetings.
- Ensure that the employee/worker is given ample opportunity at the meeting to explain the concern and any background surrounding the issue prior to any decision being made.
- Ensure both parties are treated fairly by giving the person who is the subject of the concern the opportunity to respond to the complaint raised. This is in keeping with the principles of natural justice.
- Confirm in writing the decision and the reasons for the decision and details of the next stage in the Whistleblowing Policy.

c. All Employees/Workers

To be protected by the Public Interest Disclosure Act 1998 employees/workers must:

- Have a genuine belief that the information being disclosed is in the public interest.
- Not make the disclosure maliciously or for personal gain.
- They should also raise the concern internally first, prior to going to an external body, unless they believe evidence would be destroyed if they raised it internally.

d. Representative

A representative is defined as either a union representative or workplace colleague. A representative may only attend in a union capacity if they are a full time official, or certified by their union as having the necessary experience to perform such a role. The Council/Governing Body will not meet any costs that may be incurred by the employee/worker in arranging representation other than granting paid time off where the representative is an employee of the Council/Governing Body and is subject to the relevant Facilities Agreement.

e. The Role of the Representative or Work Colleague

The representative will be an accredited union representative or a work colleague. The role of the representative is to support the employee/worker during the meetings and:

- Address the hearing to give details of the employee/worker's concern
- Respond on the employee/worker's behalf to any view expressed at the hearing. However if the employee/worker indicates that they do not want their representative to do so, then the Hearing Officer need not allow them to.
- Confer with the employee/worker before, during and after the hearing, as the employee/worker considers reasonable.
- The representative **MAY NOT** answer questions on the employee/worker's behalf.

Neither the representative nor the work colleague may discuss the case or the hearing with other colleagues and, if found to do so, will be subject to the School's disciplinary procedure

or, if an official of the Union, the matter will be dealt with by the Union. The representative can only discuss the case/hearing with a union official to ensure correct procedures are being followed.

Both the representative and the work colleague are protected against detriment and dismissal in respect of their action in accompanying the employee/worker and for addressing or seeking to address the hearing.

f. Investigating Officer

The Investigating Officer must be someone who has not been involved at Stage 1 and can be another manager within the service or an independent investigator. They are responsible for investigating the concern that has been raised through the Whistleblowing procedure to ascertain the facts and produce a report for the Hearing Officer. Depending on the terms of reference for the investigation, the report may include recommendations to the Hearing Officer to assist in resolving the concern.

g. Human Resources (HR)

HR will provide advice and support to managers and employees/workers on the application of the policy and will be present at a Stage 2 internal meeting regarding any concern raised under the Whistleblowing Policy. They may be involved in compiling any relevant documentation, in conjunction with the Investigating Officer, depending on the nature of the concern.

4. PRINCIPLES

4.1 The Whistleblowing Policy is founded on the following principles:

- a. That employees/workers have a legal right to report their concerns if they have a reasonable belief that wrongdoing may be occurring, or may have occurred, within the School.
- b. That the Public Interest Disclosure Act 1998 protects employees/workers from reprisal, victimisation or harassment at work if they raise a concern that they reasonably believe is in the public interest.
- c. To encourage employees/workers to raise serious concerns within the School initially, rather than overlooking a problem or whistleblowing directly to an outside organisation.
- d. To encourage and enable individuals to raise concerns about any aspect of the School's work and receive feedback on any action taken without fear of reprisal.
- e. To ensure that individuals receive a timely response to their concerns.
- f. Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, caste, religion or belief, sex or sexual orientation, other grounds protected by law (e.g. part-time worker status, trade union membership or HIV positive status).

5. DEFINITION OF WHISTLEBLOWING

- a. Whistleblowing is a concern that can be raised by an employee/worker that centres around an activity at work that they believe to be dangerous or illegal. It may not affect the worker reporting it and as a result they may not have a personal interest in the outcome.
- b. It is important to note that the employee/worker is acting as a witness and not a complainant under the Whistleblowing Policy. Therefore the employee/worker does not have to prove their case, merely report the facts, as they understand them. Additionally, the employee/worker is still protected under the Public Interest Disclosure Act 1998 as long as they have a reasonable belief that the wrongdoing, which must be in the public interest, has occurred, even if on further investigation it turns out to be unfounded.
- c. Examples of when Whistleblowing may apply include:-
- Conduct which is an offence or a breach of the law
 - Failing to comply with a legal obligation although not usually in terms of an employee's employment unless it is in the public interest
 - Issues which are against the Local Authority/Governing Body standing orders, financial regulations, contracts code or other policies
 - Disclosures related to miscarriages of justice
 - Health & Safety risks, including risks to the public as well as other employees
 - Damage to the environment
 - Safeguarding concerns relating to children, young people or vulnerable adults
 - Practice which falls below established standards of practice
 - The unauthorised use of public funds
 - Possible fraud and /or corruption
 - Unreasonable conduct resulting in unfair pressures on staff
 - Other unethical conduct
 - Deliberate concealment of any of the above.
- d. In any case where fraud is suspected, the school's fraud response plan should be complied with. This can be found in the School's Anti-Fraud and Corruption Strategy.
- If any concerns raised include possible financial implications the County Council's Director of Finance and Assets should also be notified.

6. EXCLUSIONS

- a. There are other policies that deal with issues at work and it is important to identify the correct policy to follow. See Appendix 1 for further information on which policy to use when a concern is raised. If you are in any doubt, contact the HR Service Desk for further advice.
- b. For clarification, whistleblowing is where an employee has concerns about a danger or illegality that has a public interest to it, usually because it threatens others. A grievance or private complaint is by contrast a dispute about the employee's own employment position and has no additional public interest. The School's complaints procedure is for external complaints e.g. parents of a child that attends the School.
- c. Safeguarding issues i.e. abuse towards a child, young person or vulnerable adult, should be brought up under the Whistleblowing policy as it ensures the employee/worker raising the concern is protected under the Public Interest Disclosure Act 1998. However, the allegation in these instances would be dealt with under the policy and procedures surrounding Safeguarding Children in Education. This documentation can be found via the Schoolsweb A-Z under Safeguarding Children.
- d. It is common when a concern is raised via the Whistleblowing Procedure, that other policies may be instigated as a result of this e.g. if a concern is raised it may be that, after initial investigation, the School's Conduct and Discipline policy will be used to complete a full investigation and carry out the hearing(s) as this policy allows for sanctions to be imposed against the employee/worker whom the allegations are being made. Similarly, if after initial investigation, it is found that the behaviour/action may be centred on capability issues, the School's Capability Policy would then be followed to bring about resolution to the issue being raised under the Whistleblowing Policy.

However, even where another process is followed, there are still obligations under the Whistleblowing procedure to keep the employee/worker who raised the concern updated with any decisions/actions taken.

7. MISUSE OF THE POLICY

- 7.1 The Council/Governing Body will take seriously any concerns raised that are subsequently proven to have been made maliciously. Any employee/worker who is found to have acted maliciously may be subject to the Schools' Conduct and Discipline Policy.
- 7.2 If, however, an employee/worker raises a concern from an honest and reasonable belief that it is in the public interest that is not later confirmed by investigations, no action will be taken against that individual.

8. CONFIDENTIALITY AND ANONYMITY

- a. An employee/worker may choose to raise a concern confidentially. In this instance it is important that their name is not disclosed without their consent, unless required by law. There may be situations where you are unable to resolve the concern without

revealing their identity e.g. if evidence goes to court. In these instances you must ensure you have a conversation with the whistleblower to explain the situation and agree how to proceed. However, the Council/Governing Body will not disclose the identity of the whistleblower to the person who is the subject of the disclosure or others not involved in the investigation unless it is required by law and only with prior consent from the whistleblower.

- b. When an employee/worker raises a concern anonymously, whilst the School/Governing Body will do its best to investigate, it may be difficult to apply all aspects of the policy and complete a full investigation without being able to have a conversation with the whistleblower. Clearly in this situation it is not possible to keep the employee/worker updated with any progress.
- c. It is expected that all parties involved in the process maintain confidentiality, discussing the details of the concern only with those directly involved. If it is found that any party involved has discussed the case with any other colleagues, the person may be subject to the School's disciplinary procedure.

9. SAFEGUARDING

- a. In instances where safeguarding concerns are raised, the employee/worker will raise the concern under the School's Whistleblowing Policy and will be kept up to date with the progress through this procedure.
- b. However, the actual allegation itself will be dealt with using the policy and procedure surrounding Safeguarding Children in Education. This can be found via the Schoolsweb A-Z under Safeguarding Children in Education.
- c. If a concern is raised in confidence, the employee's or worker's identity will not be disclosed and anonymity will be guaranteed. However, if the Whistleblower requires anonymity to remain should the case become a criminal one, then the case cannot progress.
- d. In addition to guidance below in section 10, an employee/worker may raise their concern regarding a person who works with children, young people or vulnerable adults with a Local Authority Designated Officer (LADO).

10. RAISING A CONCERN UNDER THE WHISTLEBLOWING POLICY

- a. If you are an employee/worker who has concerns about an activity or practice at work, it is a good idea to:
 - **Make a note of your concerns** - note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.
 - **Deal with the matter promptly, if you feel your concerns are warranted** - any delay may cause increased risks to the public who use the Council's service.

- **Convey your suspicions to your line manager or your line manager's manager** – see below for further information on the process.

Don't:

- **Do nothing**
 - **Be afraid of raising your concerns** – the Public Interest Disclosure Act 1998 protects employees/workers who have a reasonably held suspicion of wrongdoing in the workplace, provided it is in the public interest. Your concern will be dealt with sensitively and confidentially and you will not suffer any recrimination or detriment as a result of raising this concern.
 - **Approach or accuse any individuals concerned directly**
 - **Try to investigate the matter yourself** – this is particularly important if your concern is about a crime or breach of legal obligation. There are specific rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case.
 - **Convey your suspicions to anyone other than the person who you raise the concern with**
- b. In the first instance, the employee/worker should raise their concern orally or in writing with an appropriate level of line management e.g Teacher/Headteacher/Line Manager. If the concern raised involves the Headteacher, an approach should be made to the Chair of Governors. If the concern raised involves the Chair of Governors the employee/worker should approach HR or the Service Director Education.
- c. Governors should raise concerns to the Service Director Education or to an elected Member of the Council.
- d. Workers, such as agency workers or contractors, should raise a concern with their contact within the School, usually the person to whom they report.
- e. If the employee/worker feels unable to raise a concern to an appropriate level of line manager they may alternatively use the Council's Whistleblowing hotline on **01296 382237** or email audit@buckscc.gov.uk.
- f. Concerns can also be raised through the employee/workers trade union representative. The representative should then seek advice on procedures from the branch secretary.
- g. The employee/worker must make it clear that they are raising the concern under the Whistleblowing policy.
- h. Employees/workers will not be required to provide evidence of the concern but will be expected to demonstrate that there are reasonable grounds for raising the issue.
- i. A concern can be raised confidentially or anonymously. If you choose to raise the concern anonymously, this may restrict the investigation and the progress of the complaint and the School/Council will be unable to update you with any progress. If

you wish to remain anonymous, you should make this clear to the person you contact.

- j. Employees/Workers should have nothing to fear by reporting concerns and individuals who do invoke the whistleblowing procedures will be seen as 'witnesses' rather than 'complainants' by the School.
- k. It is important to note that, in order to be raising a protected disclosure under the Public Interest Disclosure Act 1998 you would need to raise the concern internally in the first instance. It is unlikely that an employee/worker who makes an external disclosure, other than to a regulator, without first using the internal whistleblowing procedure, will be protected.
- l. Any investigations that are deemed necessary following the reporting of a concern will not be influenced by any disciplinary or redundancy procedures that may already affect employees/workers.
- m. If an initial concern raised within the Authority includes any possible financial irregularity, the Director of Finance and Assets should be informed by the Headteacher/Chair of Governors.
- n. At any meeting during the whistleblowing process, the employee/worker has a right to be accompanied by an accredited trade union representative or work colleague. Section 3 of this Toolkit provides guidance regarding the role and responsibilities of representatives.
- o. The manager may at their discretion allow the employee to bring a companion who is not a colleague or trade union representative where this will help overcome a particular difficulty caused by disability, or where the employee has a difficulty understanding English.
- p. If a disabled employee/worker raises a concern through the Whistleblowing Policy, it is important to allow for any reasonable adjustments to be made throughout the process. This may include ensuring that the employee/worker has assistance in drafting the initial letter raising the concern, and additional support in the form of a sign language interpreter or holding the hearing in a location that provides ease of access. It is important to ensure that a disabled employee/worker has the same rights as an able bodied employee/worker.

11. FORMAL STAGES OF THE WHISTLEBLOWING PROCEDURE

The formal whistleblowing procedure consists of 3 stages but not all concerns raised will need to use the whole procedure if the problem can be resolved at an earlier stage.

STAGE 1 - MEETING WITH THE HEADTEACHER/LINE MANAGER

- a. On receipt of the concern from the employee/worker/Teacher, the Headteacher /Line Manager should inform the Council's Monitoring Officer (Assistant Chief Executive) and Service Director Education as to the nature of the concern.

- b. The Headteacher/Line Manager (Hearing Officer) will then either continue to deal with the concern or refer it to another appropriate Senior member of staff or the Chair of Governors. Where concerns raised involve Children, Young People or Vulnerable Adults, the appropriate process should be followed.
- c. In the case of a concern being raised anonymously with a Line Manager, this needs to be dealt with by a more senior manager, such as the Headteacher or Chair of Governors.
- d. The Headteacher/line manager (Hearing Officer) should arrange a meeting promptly and write to the employee/worker within 5 working days of the concern to invite them to the meeting to discuss the details of the concern. A copy of the School's Whistleblowing Policy and a statement to say that the employee/worker is entitled to be accompanied by a trade union representative or a work colleague should be included with this letter.

➤ **Model Letter 1: Acknowledgement of concerns raised under the Whistleblowing Procedure** **Appendix 4**

- e. The meeting should be held in a private location, free from interruption. During the meeting, the following points should be explored:

- What is the nature of the concern?
- Who was involved?
- What event/series of events prompted the concern?
- Is there a history behind this concern/any previous instances/events?
- Were there any other witnesses?
- Does the employee/worker wish for their name to be kept confidential or are they happy for this to be disclosed?
- Does the employee/worker have any concerns regarding the whistleblowing procedure?
- What action does the individual wish you to take now?

During the meeting, the Hearing Officer should:

- Ensure that they listen carefully.
- Ask questions to clarify any points of which they are unsure.
- The employee/worker may be upset or angry or scared of repercussions – reassure them and explain the whistleblowing process and their protection under the Public Interest Disclosure Act 1998
- Try to identify if there is any evidence, written or otherwise, that may support their beliefs

- Take notes of the details of the concern either during or straight after the meeting
- f. After the meeting, take time to consider your response to the concern that has been raised. You must then write to the worker stating one of the following:

- To take no further action (give reasons for your decision)

OR

- To take the following steps to pursue the matter:
 - to take action without the need for investigation (describe action and give reasons)
 - to take urgent action before an investigation takes place (e.g. suspension of an employee/worker) if sufficient initial evidence indicates this is warranted. (see School's Conduct and Discipline procedure)
 - to arrange an investigation to look into the details of your concerns (describe type of investigation – e.g. through the School's Conduct and Discipline procedure; through the Safeguarding Children Policy and Procedures; by internal audit if the case involves financial irregularity or corruption – and give reasons)
 - to refer the matter to the Police (give reasons) *

*It is very important to note that, if you refer the matter straight to the Police to investigate, you **MUST NOT** continue with an investigation through the Whistleblowing Procedure as this could affect the outcome of any Police investigation. In this instance, you must only contact the person who raised the concern to discuss the matter being referred to the Police. You must NOT interview the subject of the concern.

- g. The Hearing Officer will then notify the employee/worker of the outcome in writing within 5 working days of the date of the meeting. This time limit may be extended if the investigation is fairly complex and will take time but the employee/worker who raised the concern must be notified of any delay. This letter must be copied to the Council's Monitoring Officer – the Assistant Chief Executive and the Service Director Education.

➤ **Model Letter 2: Notification of decision under Stage 1 of Whistleblowing Procedure** **Appendix 5**

- h. The Hearing Officer will also notify the person that is the subject of the disclosure within 5 working days of the date of the meeting. Upon receipt of the confirmation the individual will be able to appeal any decisions by writing to the Headteacher or Governing Body
- i. The Hearing Officer will then carry out a preliminary investigation and make a decision on whether a full investigation needs to take place or if urgent action needs to be taken e.g. referral to the police.

- j. Depending on the nature of the concern, you may now decide to investigate further by discussing it with any parties that may be involved. The Hearing Officer should at this point nominate an Investigating Officer. This person can either be another manager or an Independent Investigator who has not yet been involved.
 - k. It is important that anyone implicated by the concern that has been raised gets the opportunity during the investigation to state their case and answer any questions.
 - l. A report will be produced for the Hearing Officer to consider the facts before coming to a decision. Ideally an investigation should be carried out within a period of 28 days (4 weeks) of the date of the letter notifying the employee/worker that an investigation will be carried out. If it is anticipated that the investigation will take longer than this, the employee/worker should be informed and updated as to when they can expect to hear an outcome.
 - m. Once the investigation is completed, the Hearing Officer will consider the facts, come to a decision and notify the employee/worker with regards to the outcome. In addition, the Hearing Officer must inform the Council's Monitoring Officer of the outcome.
- **Model Letter 3: Notification of decision after Investigation at Stage 1 of the Whistleblowing Procedure** **Appendix 6**
- n. If the employee/worker is dissatisfied with the outcome at Stage 1, they may opt to take the matter to Stage 2 by writing to the Headteacher/Chair of Governors within 10 working days of the date of the decision letter at Stage 1.

STAGE 2 - MEETING WITH HEADTEACHER/CHAIR OF GOVERNORS

- a. At this stage, the employee/worker must clearly state their continuing concerns under the Whistleblowing Procedure to the Headteacher/Chair of Governors in writing.
 - b. The Hearing Officer (the Headteacher/Chair of Governors) will write to the employee/worker within 5 working days of receiving the letter to arrange a meeting to discuss the continuing concerns. This meeting should take place promptly.
 - c. The employee/worker is entitled to be accompanied by a work colleague or trade union representative at the meeting.
- **Model Letter 4: Invitation to a meeting under Stage 2 of the Whistleblowing Procedure** **Appendix 7**
- d. Notes should be taken at this meeting and the Hearing Officer must consider all the facts before making an informed decision.
 - e. The Hearing Officer may decide to undertake further investigation and will need to decide what action to take. The employee/worker must be updated with the outcome of the meeting within 5 working days, copying the Council's Monitoring Officer.
 - f. Any change to the original decision must be made very clear, giving reasons why e.g. more information has come to light.
- **Model Letter 5: Notification of decision under Stage 2 of the Whistleblowing Procedure** **Appendix 8**

- g. Following a Hearing if the employee/worker is dissatisfied with the way in which procedures were followed, prior to taking concerns out side of the School, the employee/worker should contact the Chair of Governors to explain why they are dissatisfied with the outcome as it may be possible to address their concerns internally.
- h. If the employee/worker is dissatisfied with the outcome at Stage 2, they can opt to take the matter to Stage 3 by raising the concern outside of the Council, within 10 working days of the date of the decision letter at Stage 2.

STAGE 3 – RAISING THE CONCERN EXTERNALLY

- a. The Whistleblowing Policy is intended to provide an avenue within the Council/School to raise concerns.
- b. Whilst it is hoped this policy gives reassurance to raise matters internally, it is understood that there may be occasions that lead to concerns being taken externally. Employees/Workers are still protected if taking concerns externally, providing they are acting in the public interest and have evidence to back up concerns.
- c. At Stage 3, the employee/worker is entitled to take their concern to any of the following:
 - A County Councillor or the local Member of Parliament
 - Buckinghamshire County Council's External Auditor
 - The Comptroller and Auditor General
 - Secretary of State for Education
 - The Police
 - Public Concern at Work¹ (www.pcaw.co.uk or telephone 020 7404 6609)
 - A relevant professional body or inspectorate (e.g. OFSTED OR SSI)
 - A trade union or professional association
 - The Diocesan Director of Education (employees/workers in Voluntary Aided schools only)

12. HEADTEACHERS/GOVERNORS

- 12.1 Headteachers should raise their concern initially to the Chair of Governors and then an elected Member of the Council if they wish to take the concern to a Stage 2.

¹ Public Concern at Work is an accredited legal advice centre so an employee/worker who approaches this organisation does not breach the duty of confidence that they owe to their employer.

- 12.2 In the event that a Governor wishes to raise a concern under the Whistleblowing Policy, they should address their concerns to the Service Director Education or to an elected Member of the Council.

13. INVESTIGATION

- a. When a concern is raised through the Whistleblowing Policy at Stages 1 and/or 2, it may be necessary to carry out an internal enquiry. In this instance, an Investigating Officer will be appointed by the Hearing Officer and is responsible for investigating events surrounding or leading to the concern raised. Adequate investigation is vital for the fair handling of a concern raised through the Whistleblowing Policy.
- b. The investigation will include interviewing any parties that have been implicated by the concern that has been raised, any further follow up with the employee/worker who has raised the concern, and any potential witnesses.
- c. If further allegations or information come to light during the course of the investigation, the Hearing Officer must be kept informed.
- d. The Investigating Officer will produce a report for the hearing Officer. This report will be the basis on which the Hearing Officer will make the decision on what action needs to be taken.
- e. **Notes and Records of Interviews**

During the investigation the Investigating Officer will make records of any interviews that are held with witnesses and the employee/worker regarding the concern raised under the Whistleblowing Policy.

Two copies of these records will be sent to the interviewee for signature as an agreed record of the interview and one signed copy returned to the Investigating Officer. If the interviewee disagrees with the content of the record, they have the right to ask for their written response to accompany the record. The original record should not be substantially altered and should be retained.

Anyone interviewed as part of this process may wish to respond in confidence. In this instance it is important that their name is not disclosed without first informing them (see Section 8 on Confidentiality and Anonymity).

14. ACTION UNDER THE WHISTLEBLOWING POLICY

- a. the employee/worker should be kept informed as to what decision has been made and an explanation given for the decision. However, it may not be possible to tell the employee/worker the precise action that may be taken as a result as this may infringe a duty of confidence owed by the School/Council to another employee/worker.
- b. Prior to any investigation, the Headteacher/Line Manager/Chair of Governors may decide to:
 - Take action without the need for an investigation

- Take urgent action before an investigation takes place, e.g. suspension of an employee/worker, if sufficient initial evidence indicates this is warranted. See the School's Conduct and Discipline Policy for details on Suspension.
 - Undertake an investigation e.g. through the disciplinary procedure, Managing Allegations against Staff and Volunteers Working with Children and Young People, Safeguarding Vulnerable Adults process or by internal audit through the Anti-Fraud and Corruption Statement of Policy if the case involves financial irregularity or corruption.
 - Refer the concern straight to the police. If a concern is referred straight to the police then an internal investigation **must not** be carried out as the police will wish to speak to all parties involved.
 - Arrange an alternative independent enquiry e.g. Health and Safety Executive
- c. If a decision is made to take action under another policy e.g. Conduct and Discipline or the Managing Allegations, after an investigation, the Headteacher/Line Manager/Chair of Governors should:
- Write to the employee/worker who has raised the concern to inform them of the outcome within 5 working days of the meeting, copying in the Council's Monitoring Officer,
 - Give reasons for the decision made and explain that the employee/worker has a right to take the matter to the next level and give details of how they should do this.
- d. If, following the use of the whistleblowing procedures, an individual believes they are being subjected to detrimental treatment by any person within the School, they must inform their relevant Line Manager immediately and appropriate action will be taken to protect them from any reprisals. In the case of a Governor being subjected to detrimental treatment they should immediately inform the Service Director Education.
- e. As part of the Council/Governing Body's commitment to dealing with concerns raised via this policy, any person who tries to identify, victimises or harasses an individual as a result of them having raised a concern under the procedure, may be subject to the Schools' Conduct and Discipline Policy.
- f. Similarly any person who deters or attempts to deter any individual from genuinely raising concerns under this policy may also be subject to the Schools' Conduct and Discipline Policy.

15. RECORDS

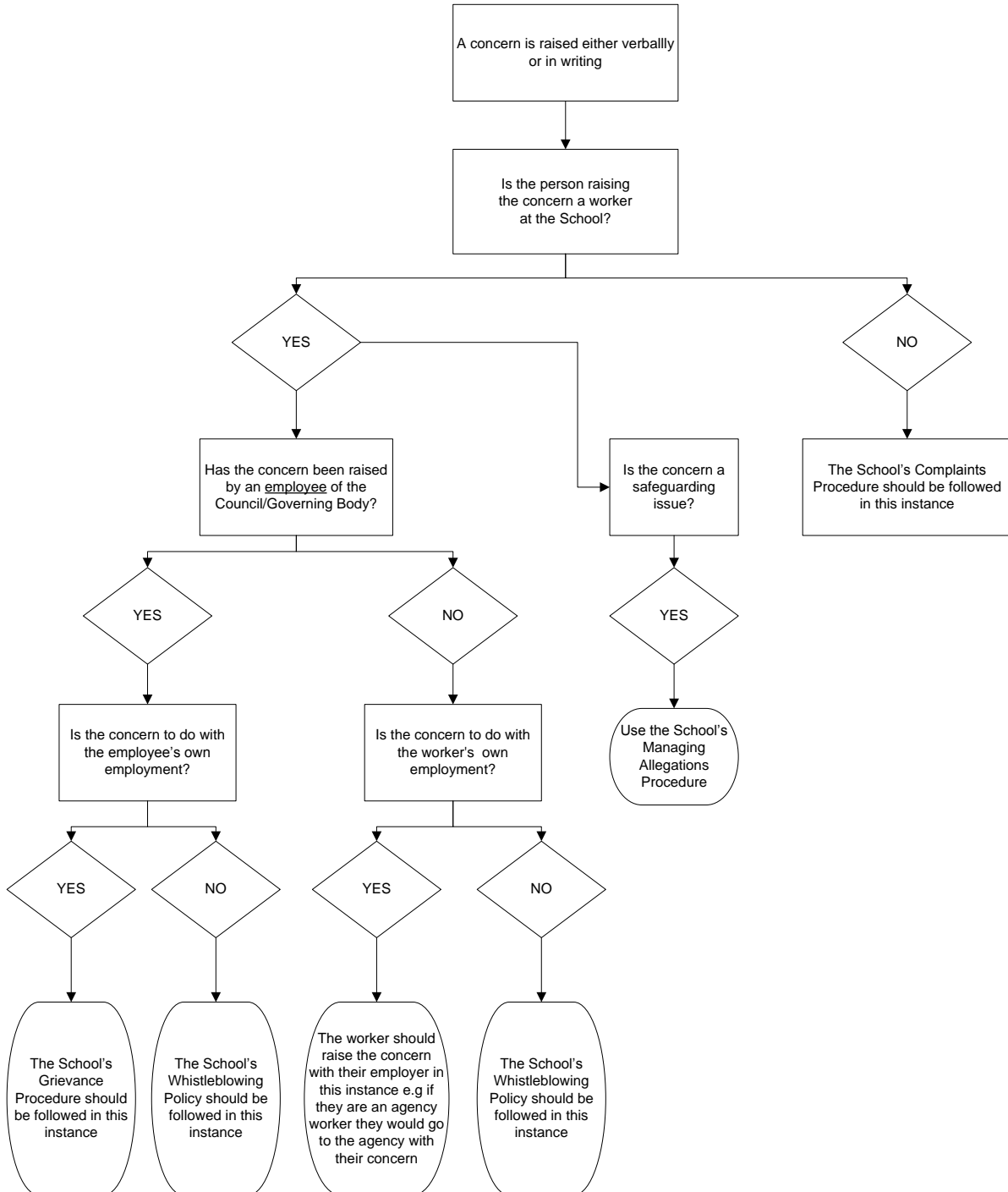
- a. A record should be kept of interviews conducted throughout the Whistleblowing Procedure. The notes do not have to be verbatim but should record the important elements of the case, e.g. the nature of the concern, who was involved, dates and any witnesses. Such notes may be helpful if the case is referred to an external body or if it is needed as a defence at an Employment Tribunal. In less complex cases the

written confirmation of the decisions may contain all the relevant information and serve as the record of the meeting.

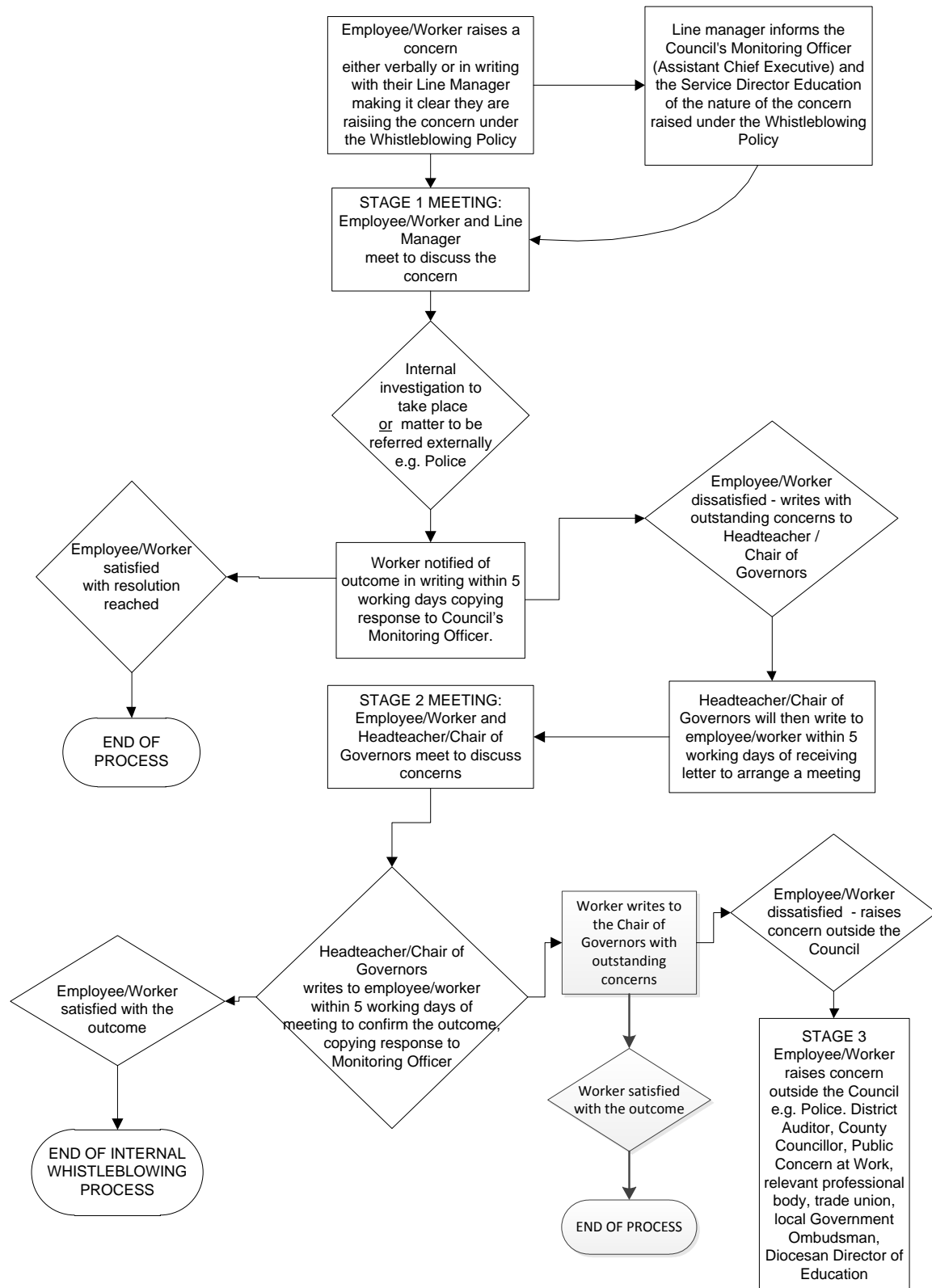
- b. A copy of any meeting record should be given to the employee/worker as soon as possible after the meeting.
- c. All notes, taken either at investigation or during the hearing, must be kept in accordance with the Data Protection Act 1998.
- d. The Council's Monitoring Officer (Assistant Chief Executive) will keep a central register of all concerns raised relating to Buckinghamshire County Council and Schools. Confidential records of the outcome of any concerns raised will also be maintained by HR.
- e. Records should not be kept on the file of the individual who raised the concern under any circumstances.
- f. As part of the ongoing review of the effectiveness of this policy, an annual report will be issued to the Buckinghamshire County Council Regulatory and Audit Committee of all concerns raised under the Whistleblowing policy.

APPENDIX 1 – WHICH POLICY TO USE WHEN A CONCERN IS RAISED

WHICH POLICY TO USE WHEN A CONCERN IS RAISED



APPENDIX 2 – THE COUNCIL’S WHISTLEBLOWING PROCESS



APPENDIX 3 - FREQUENTLY ASKED QUESTIONS

Q. What kind of issues can be raised using the Whistleblowing Policy?

It is difficult to provide a comprehensive list of every issue that might be raised as a concern under the Whistleblowing Policy, but examples may include exposing fraud; physical or emotional abuse of children, young people, or vulnerable adults; health and safety issues concerning the workplace that puts the safety of workers or visitors at risk; failure to investigate allegations of sexual assault by one employee against another; failure to comply with legal obligations such as the Data Protection Act; medical negligence in a health care establishment; payments in exchange for awarding contracts or action that may cause risks to the environment.

Q. What is the difference between the Complaints Procedure, the Grievance Procedure and the Whistleblowing Procedure?

The School's complaints procedure should be used by people who do not work at the School e.g. Parents, to raise concerns or issues with regards to a service they have personally received. In this instance, they are seeking redress or justice for themselves.

A grievance normally concerns treatment directed at the individual employee. The employee has a vested interest in the outcome of the grievance just as the customer or Parent has when raising an official complaint.

However, whistleblowing is used when an employee/worker raises a concern about a danger or illegality that affects other people, e.g. customers, members of the public, pupils at a School, or their employer. The whistleblower rarely has a personal interest in the outcome of any investigation into their concerns and are not usually directly, personally affected by the danger or illegality.

Very occasionally there may be some overlap between a concern raised under the Whistleblowing Policy and a Grievance, e.g. a health and safety matter, where the outcome may affect the employee also. In this instance, the issue should be raised as a grievance.

Q. If the concern I wish to raise through this procedure directly involves my manager, to whom should I raise my concern?

In this instance, you should raise your concern directly with another Senior Manager or the Chair of Governors.

Q. Will I be penalised for raising a concern through the Whistleblowing Policy?

No. You are protected under the Public Interest Disclosure Act 1998 for those disclosures believed to be in the public interest, as long as you have a genuine belief in the information being disclosed and demonstrate that it is reasonable to make the disclosure.

Q. How many people can accompany me at a Whistleblowing meeting?

Employees/workers may be accompanied by one person. These procedures allow for the employee/worker to be accompanied by a work colleague or trade union official. If the employee/worker has a disability and requires additional support, for

example a sign language interpreter, they may bring an additional person. This should be notified and agreed with the Hearing Officer/Investigating Officer prior to the hearing.

Q. What is the nature of the protection afforded to a whistleblower?

It will be an automatic unfair dismissal to dismiss an employee/worker for making a qualifying disclosure in the public interest. An employee/worker may claim automatic unfair dismissal whether they have one year's continuity of employment or not. The compensation that can be awarded to an employee/worker in these situations is also uncapped. However, tribunals may reduce compensation by up to 25% if the disclosure was not made in the public interest and the tribunal considers it just and equitable in all the circumstances to do so.

Q. Am I still protected if the concern turns out to be mistaken?

Yes. Whistleblowers have statutory protection under the Public Interest Disclosure Act 1998 as long as the whistleblower raises their concern as a genuine belief in the information being disclosed and it is considered to be in the public interest.

Q. What is the employer's position if the whistleblower commits an illegal act leading to the disclosure?

If the whistleblower commits an illegal act, to gather evidence or prove the concern being raised, the employee may not be protected and the employer may be able to discipline or dismiss through the School's Conduct and Discipline Policy. The whistleblowing legislation only covers the disclosure itself and not the conduct of the employee leading to that disclosure.

Q. Is there a time limit for submitting a concern under the Whistleblowing Policy?

If it is related to a safeguarding issue, it is crucial that the concern is reported immediately as a child, young person or vulnerable adult may be at risk. Where possible, any concern should be reported as soon as you are aware of an issue to ensure that the Council/Governing Body can deal with the situation as swiftly as possible.

APPENDIX 4 Model Letter 1: Acknowledgement of concerns raised under the Whistleblowing Procedure

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Re: Acknowledgement of concerns raised under the Whistleblowing procedure

I refer to the concern that you have raised under the Whistleblowing Policy and would like to arrange to meet with you on [date] at [time] at [venue]. The purpose of this meeting is to explore the reasons for your concerns more fully and gather any relevant documentation you have in respect of the matter being raised.

You have the right to be accompanied at this meeting by a work colleague or trade union representative. Should you wish to change the date and time of this meeting for any reason, please contact me immediately to reschedule.

Following my meeting with you, an investigation will take place that could involve other relevant parties being interviewed. I anticipate that it will take up to 28 days from the date of our meeting to complete the investigation.

You will then be kept up to date with any progress as far as confidentiality owed by the Council/School to another employee or worker will allow.

(Insert if applicable)

**As you do not want your name revealed, I will do my best to make sure your identity is protected by only telling those who need to know and asking them to respect the confidentiality of this information. However, I have to make it clear to you that any investigation may reveal the source of the information, and you may be asked to give a statement as part of the evidence gathered.*

The Council/School is committed to assuring those who raise concerns under the whistleblowing policy that they have the right to do so. Any form of victimisation, harassment or reprisal at work will be dealt with as a serious disciplinary offence. It is very important that you contact Human Resources if you experience any difficulties as a result of the concerns you have raised.

I should like to ensure you that the matter is being taken seriously and to thank you for bringing it to *my attention/[name of person the individual with whom the concern was raised].

I am enclosing a copy of the Whistleblowing policy and procedure for your information. Please could you contact me to confirm whether you will be able to attend the meeting on (insert telephone no.) and confirm who you wish to bring as your representative.

Whistleblowing Toolkit for Schools

Should you have any concerns or queries, please do not hesitate to contact me.

Yours sincerely

Manager/Headteacher/Chair of Governors

Enc: Whistleblowing Policy and Procedure

Cc: Council's Monitoring Officer
Service Director Education
Human Resources

APPENDIX 5 Model Letter 2: Notification of decision under Stage 1 of Whistleblowing Procedure

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Re: Notification of Decision Under Stage 1 of the Whistleblowing Procedure

Following on from our meeting on [date] at [time], I am writing to inform you of my decision regarding the concerns you raised. At the meeting we discussed

(state concerns or refer to letter setting out concerns)

After listening to your concerns, and considering the matter carefully, I have reached the following decision (delete as appropriate):

*To take no further action (give reasons)

OR

*To take the following steps to pursue the matter:

- to take action without the need for investigation (describe action and give reasons)
- to take urgent action before an investigation takes place (e.g. suspension of a worker) if sufficient initial evidence indicates this is warranted
- to arrange an investigation to look into the details of your concerns (describe type of investigation – e.g. through the disciplinary procedure; through the child/vulnerable adult protection procedure; by internal audit if the case involves financial irregularity or corruption – and give reasons)
- to refer the matter to the Police (give reasons)

An investigating officer will be appointed, supported by a member of Human Resources. I will keep you informed of the progress of the investigation, during which it might be necessary to contact you for more information or help. You can bring a representative or work colleague to any meeting.

If you are dissatisfied with the decision, you have the right to take the matter to Stage 2 of the Whistleblowing Procedure by raising the concern with Headteacher/Chair of Governors]. If you would like to take the matter further, please write to the [Headteacher/Chair of Governors] within 10 working days from the date of this letter to register your concerns, giving reasons why you are not satisfied with the action that has been taken to date.

Insert if applicable:

**As you do not want your name revealed, I will do my best to ensure your identity is protected by only telling those who need to know and asking them to respect the confidentiality of this information. However, I have to make it clear to you that the investigation may reveal the source of the information, and you may be asked to give a statement as part of the evidence gathered.*

I am aware this may be a difficult time for you so please do not hesitate to contact me if you need any further information.

Yours sincerely

Manager /Headteacher/Chair of Governors

Cc: Council's Monitoring Officer
Service Director Education
Human Resources

APPENDIX 6 Model Letter 3: Notification of decision after Investigation at Stage 1 of the Whistleblowing Procedure

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Re: Notification of Decision after investigation at stage 1 of the Whistleblowing Procedure

Further to my letter of [date] regarding the concerns you raised under the Whistleblowing Procedure, Stage 1, I am writing to let you know my decision after full investigation of the matter.

(State decision, giving reasons)

If you are dissatisfied with the decision, you have the right to take the matter to Stage 2 of the Whistleblowing Procedure by raising the concern with the [Headteacher/Chair of Governors]. If you would like to take the matter further, please write to [Headteacher/Chair of Governors] within 10 working days from the date of this letter to register your continuing concerns and giving reasons why you are not satisfied with the action that has been taken to date.

Yours sincerely

Manager /Headteacher/Chair of Governors

Cc: Council's Monitoring Officer
Service Director Education
Human Resources

APPENDIX 7 Model Letter 4: Invitation to a meeting under Stage 2 of the Whistleblowing Procedure

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Re: Invitation to a meeting under stage 2 of the Whistleblowing Procedure

Further to your letter of [date] stating your continuing concerns being raised under the Whistleblowing Policy, I am writing to arrange to meet with you on [date] at [time] at [venue].

You have the right to be accompanied at this meeting by a work colleague or trade union representative. Should you wish to change the date and time of this meeting for any reason, please contact me immediately to reschedule.

The Council/School is committed to assuring those who raise concerns under the whistleblowing policy that they have the right to do so. Any form of victimisation, harassment or reprisal at work will be dealt with as a serious disciplinary offence. It is very important that you contact Human Resources if you experience any difficulties as a result of the concerns you have raised.

Insert if applicable:

**As you do not want your name revealed, I will do my best to ensure your identity is protected by only telling those who need to know and asking them to respect the confidentiality of this information. However, I have to make it clear to you that the investigation may reveal the source of the information, and you may be asked to give a statement as part of the evidence gathered.*

I am aware this may be a difficult time for you, so please do not hesitate to contact me if you need any further information.

Yours sincerely

Headteacher/Chairman of Governors

Cc: Council's Monitoring Officer
Human Resources

APPENDIX 8 Model Letter 5: Notification of decision under Stage 2 of the Whistleblowing Procedure

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Re: Notification of decision under stage 2 of the Whistleblowing procedure

Further to our meeting on [date] I am writing to let you know my decision about the concerns you raised under Stage 2 of the Whistleblowing procedure.

I have carefully considered your continuing concerns about (*state concerns*).

I have decided that (*state your decision and give reasons*).

If you are dissatisfied with the decision and feel that your concerns have not been resolved, you should contact The Chair of Governors in the first instance in order for your continuing concerns to be addressed.

Following contact with the Chair of Governors if you are still dissatisfied with the outcome of Stage 2, you have the right to take your concerns outside the Council to one of the individuals or organisations referred to under Stage 3 of the procedure.

Yours sincerely

Headteacher/Chairman of Governors

Cc: Council's Monitoring Officer
Service Director Education
Human Resources