

Concern at Work Policy (Whistleblowing)

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1. Introduction

- 1.1 Futura Learning Partnership (the trust) is committed to the highest standards of openness, integrity and accountability. We want any of our workers who have concerns about any aspect of the trust's work to come forward and voice those concerns.
- 1.2 A Concern at Work Policy and Procedure is about the ways in which concerns about malpractice or wrongdoing may properly be raised within the trust schools and if necessary outside of the trust.

2. Definition

- 2.1 Reporting a concern inside the workplace is the reporting by workers of wrong doing on the part of the senior leadership teams, governors, the Audit and Risk Committee or by fellow workers. Workers may include contractors and agency staff.
- 2.2 There are existing procedures in place for employees to lodge grievances concerning their employment, and for any safeguarding issue to be raised. Parents and members of the public can raise issues under the Complaints Procedure.
- 2.3 The following is not an exhaustive list but is a guide to the range of issues which may be covered under this policy:
 - Conduct which is a criminal offence or breach of a legal obligation
 - Sexual, physical or verbal harassment or abuse of workers or volunteers at the trust or of other adult members of the trust community (*note: if the person raising the concern is an employee and are themselves the alleged victim they should raise this under the Grievance Procedure*)
 - Discrimination on any of the grounds under the Equality Act or victimisation (*note: if the person raising the concern is an employee and are themselves the alleged victim they should raise this under the Grievance Procedure*)
 - Health and safety issues, including action likely to cause danger to any person and / or to cause serious damage to property
 - Action likely to cause or which has caused damage to the environment
 - Breaches of financial regulations, fraud or corruption including unauthorised or inappropriate use of public funds
 - Breach of policies
 - Unethical or improper conduct
 - Failure to take reasonable steps to report or rectify any situation likely to give rise to significant, avoidable financial loss to the trust or otherwise seriously prejudice the trust
 - Abuse of authority or the use of school authority for any unauthorised purpose
 - Deliberate concealment of information about any of these matters.
- 2.4 When safeguarding issues are raised these should be dealt with under the statutory

3. Principles

3.1 The principles of this policy and procedure are to:

- Create an ethical, open culture
- Encourage workers to feel confident about raising concerns
- Ensure that all those involved in the procedure including the concerned person are protected from discrimination on any grounds under the Equality Act 2010 and that the concerned person is protected from any form of harassment or victimisation
- Ensure that any attempts to cover up any concerns disclosed to the trust is recognised as a disciplinary offence
- Protect the reputation of the trust and the welfare of all students and workers at the trust
- Promote good practice and deter malpractice
- Establish safe routes for the communication of concerns and a fair and impartial investigative procedure
- Remind staff of the duty of confidentiality which is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the trust fails to properly consider or deal with the issue
- Safeguard against abuse of the procedure by ensuring that the malicious raising of unfounded allegations is recognised as a disciplinary offence
- Make clear the right of the worker to consult with their trade union or Public Concern at Work (an independent charity which provides confidential advice for employees) and uphold the right of the worker to disclose a concern to a 'prescribed body' if the trust does not deal with the matter,
- Ensure there is a review mechanism using the comments and experience of those who have invoked the concern at work procedure.

The Audit and Risk Committee have delegated responsibility from the Trust Board for the operational requirements of the policy including notifying the Trust Board and Academy Governance Committee of any incidence, receiving reports on concerns, identification of risk and monitoring of controls, notification of the Regulator as appropriate.

4. Legislation

4.1 The Public Interest Disclosure Act 1998 is designed to protect the concerned person from detriment and unfair dismissal. The people protected by the Act include employees, workers, third party contractor staff, agency staff and those participating in work experience.

4.2 Workers are eligible for protection under the Act if:

- they honestly think what they are reporting is true
- they think they are telling the right person
- they reasonably believe their disclosure is in the public interest.

4.3 The PIDA sets out the full statutory rights and obligations of workers wishing to raise a concern.

5. The Procedure

5.1 The concerned person should:

- Raise their concern with their line manager or the Principal / Headteacher / Chief Operating Officer. This should normally be done in writing for the avoidance of doubt. The concerned person should set out the background / history of the concern(s) giving relevant details (e.g. names, date) and the reason why they are concerned. If the concerned person feels unable to put their concern in writing they can arrange to meet the line manager or the Principal / Headteacher / Chief Operating Officer or ask their trade union representative to raise their concern on their behalf or support them in raising the concern. The concerned person must declare any personal interest they have in the matter.
- If the line manager believes the concern to be genuine and that it is appropriate to use the Concern at Work Procedure, the manager should contact the Principal / Headteacher / Chief Operating Officer.
- If the line manager / Principal / Headteacher / Chief Operating Officer believes the concern to fall within the scope of the Grievance Policy, Allegations of Abuse Guidance or the Complaints Procedure they should follow the procedures set out within these.
- Should it be alleged that the Principal / Headteacher / Chief Operating Officer is involved in the alleged malpractice; the Chief Executive should be contacted. Should it be alleged that the Chief Executive is involved in the alleged malpractice, the Principal / Headteacher / Chief Operating Officer should be notified and then it should be raised with the Audit and Risk Committee via the Clerk to the Audit and Risk Committee who will notify the Department for Education as appropriate
- If the Principal / Headteacher / Chief Operating Officer/ Chief Executive is the subject of the allegation, the Chair of the Audit and Risk Committee will determine who the Investigator should be.
- If a trustee is the subject of the allegation the Chief Executive will determine the investigation process.
- If the concerned person feels unable to raise their concern with their line manager or the Principal / Headteacher / Chief Operating Officer, in the first instance, they may contact the Chief Executive directly. If this occurs the concerned person will be asked to justify why they feel unable to raise the concern with their line manager or the Principal / Headteacher / Chief Operating Officer.

5.2 The concerned person must not attempt to investigate a concern themselves. Concerned

persons will need to demonstrate that there are reasonable grounds for concern.

5.3 The Investigator should:

- Interview the concerned person as soon as possible, in confidence, or earlier and as a matter of urgency if there is an immediate danger to loss of life or serious injury.
- Obtain as much information as possible from the concerned person about the grounds for concern.
- Consult with the concerned person about further steps which could be taken;
- Advise the concerned person of the appropriate route if the matter does not fall under the trust's Concern at Work Procedure.
- *Where the Investigator is not the Principal / Headteacher / Chief Operating Officer or the Chief Executive*, report all matters raised under this procedure to the Principal / Headteacher / Chief Operating Officer or, where relevant, the Chief Executive / Audit and Risk Committee.

5.4 At the interview with the Investigator, the concerned person may be accompanied by a recognised trade union representative or a work colleague. The Investigator may be accompanied by a notetaker.

5.5 As soon as reasonably practicable following the interview, the Investigator will decide (*if the Investigator is the Principal / Headteacher / Chief Operating Officer or Chief Executive*) or recommend to the Principal / Headteacher / Chief Operating Officer or Chief Executive, one or more of the following:

- the concern can be resolved without the need for further investigation by action agreed with the concerned person
- urgent action be taken before a further investigation takes place, e.g. suspension of an employee / worker, if sufficient initial evidence indicates this is warranted (see the trust's Disciplinary Policy for details on suspension)
- the matter be investigated further internally by the trust
- the matter be investigated by the external auditors of the trust
- the matter be reported to the Department for Education
- the matter be reported to the police
- the route for the concerned person to pursue the matter if it does not fall within this procedure; or
- that no further action is taken by the trust.

The decision / recommendations and the reason(s) for the decision / recommendations should be recorded.

5.6 Where a referral is made to a statutory authority the concern at work procedure will be halted until the external authorities have concluded their investigation. Where this is confirmed in writing to be appropriate by the external authority, the trust may then continue with the procedure.

5.7 The grounds on which no further action is taken include:

- the Investigator is satisfied that, on the balance of probabilities, there is no evidence that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur
 - the Investigator is satisfied that the concerned person is not acting in good faith
 - the matter is already (or has been) the subject of proceedings under one of the trust's other procedures or policies
 - the matter concerned is already the subject of legal proceedings, or has already been referred to the Police, the external auditors or other public authority.
- 5.8 The Principal / Headteacher / Chief Operating Officer / Chief Executive or Audit and Risk Committee will ensure that any recommendation is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Audit and Risk Committee.
- 5.9 The Principal / Headteacher / Chief Operating Officer / Chief Executive or Audit and Risk Committee will write to the concerned person as soon as possible:
- stating that their concern is being looked into
 - indicating how the trust propose to deal with the issue
 - telling them whether any further investigations will take place (and if not, explaining why this is the case) and
 - supplying them with information on staff support mechanisms.
- 5.10 If it is decided that the matter be investigated further internally, any further investigation will be concluded within a reasonable timeframe and where possible within 10 working days.
- 5.11 Following the completion of their inquiry, the Investigator will set out in a written report: their findings, the evidence on which these findings are based and their conclusions / recommendations. The Investigator will decide / or recommend, one or more of the following:
- the trust take disciplinary action against the worker(s) alleged to have been involved in the wrongdoing or malpractice
 - the matter be investigated by the external auditors of the trust
 - the matter be reported to the Department for Education
 - the matter be reported to the Police
 - the route for the member of staff to pursue the matter if it does not fall within this procedure or
 - that no further action is taken by the trust.
- 5.12 The outcome of any agreed investigation will be reported by the Principal / Headteacher / Chief Operating Officer/ Chief Executive or Audit and Risk Committee member to the concerned person within a reasonable timeframe and where possible within 10 working days. All responses to the concerned person will be made in writing and sent to the concerned person's home address. In some circumstances, it may not be possible to reveal the full details

of the outcome of the inquiry, for example, where this relates to personal issues involving a third party or legal constraints.

- 5.13 If the concerned person has not had a response within a reasonable timeframe as indicated above, they may appeal to the Audit and Risk Committee via the Clerk to the Audit and Risk Committee or, if appropriate, to the appointed external body, but will inform the Principal / Headteacher / Chief Operating Officer/ Chief Executive before doing so. A nominated trustee on behalf of the committee will ensure immediate action is taken to provide a suitable response to the concerned person as indicated in 5.12 above.

6. Records

- 6.1 Records of meetings held as part of the Concern at Work Procedure and the outcome of those meetings will be kept detailing:
- the nature of any concerns / allegations
 - the results of any investigation
 - the action taken and the reasons for it
 - any subsequent developments.

7. Confidentiality

- 7.1 The concerned person's identity will be kept confidential unless the concerned person otherwise consents. In the absence of such consent, the Investigator will not reveal the identity of the concerned person except:
- where the Investigator is under a legal obligation to do so
 - where the information is already in the public domain
 - on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice or
 - where it is essential that the concerned person provides evidence at a disciplinary hearing or other proceedings .
- 7.2 Confidentiality should be maintained during all stages of the concern at work procedure. This is to be done by ensuring that only people who need to know have access to the details of the case. Other staff should not normally be informed of a disciplinary process unless they are required to be interviewed as part of that process and/or there is an effect on day to day working relationships. If it is considered necessary to inform other staff then no details of the case should normally be discussed. In this situation the views of the affected individuals should be sought in relation to the information which is conveyed to other staff.
- 7.3 All records relating to the procedure must be marked private and confidential and kept securely in accordance the Data Protection Act, and Freedom of Information Act, which require the release of certain data to individuals on their request.

7.4 All staff involved in the concern at work procedure should ensure that confidentiality is maintained at all times. A breach of this requirement may lead to disciplinary action.

8. False or malicious accusations

8.1 Deliberately false or malicious accusations made by a concerned person will be dealt with under the trust's disciplinary procedure.

9. Anonymous allegations

9.1 This policy encourages workers to put their name to their allegation whenever possible.

9.2 Concerns expressed anonymously will be considered at the discretion of the trust. In exercising such discretion, the following factors will be taken into account:

- the seriousness of the issues raised
- the credibility of the concern and
- the likelihood of confirming the allegation from attributable sources.

10. Harassment and victimisation

10.1 Any employee who victimises or harasses a member of staff as a result of them having raised a concern will be dealt with under the trust's Disciplinary Policy.

11. External bodies / sources

11.1 No-one should disclose to an external source without first going through the internal procedure without compelling reasons. Compelling reasons could be the involvement of the Audit and Risk Committee as a whole.

11.2 Workers making disclosures to prescribed bodies have their employment rights protected.

11.3 If the concerned person does take their concerns outside the trust, they should ensure that they do not disclose confidential information. Concerned persons should not take concerns directly to the media. If the trust believes that its reputation has been damaged by unfounded allegations in the public domain it reserves the right to take action.

*See **Appendix 1** for further information about external bodies.*

12. Promotion, monitoring, evaluation and review

12.1 The trust schools will share this policy with all its workers and review this policy regularly and assess its implementation and effectiveness.

13. Other relevant policies / guidance

Allegations of Abuse Guidance (for safeguarding related concerns)

Complaints Procedure

Disciplinary Policy and Guidance

Grievance Policy and Guidance

Appendix 1: External Sources

The external sources ('prescribed bodies') which could be used include:

- Member of Parliament
- Relevant professional body or regulatory organisation (for example Ofsted / Ofqual, National Audit Office, Health and Safety Executive)
- Police – for concerns of criminal behaviour

For further information about prescribed bodies, please see the list of prescribed bodies on the GOV.UK website: www.gov.uk .

Individuals may choose to consult with their trade union or Public Concern at Work (the leading authority on public interest whistleblowing).

The contact details of Public Concern at Work are:

CAN Mezzanine

7-14 Great Dover Street

London SE1 4YR

Website: www.pcaw.co.uk

Tel: 020 7404 6609 (Whistleblowing Advice Line)

Fax: 020 7403 8823

E-mail: whistle@pcaw.org.uk

Appendix 2: Template for Investigation Report Outcome into a Concern at work Allegation

The investigating officer (normally the chair of the investigation panel) will prepare a report at the conclusion of the investigation which states the findings and the recommended action to be taken.

The report will be presented to the Audit and Risk Committee of the Audit and Risk Committee.

The report should include the following information:

- What led to the investigation
- Details of the allegations that were made
- Which employees were investigated and the nature of their jobs
- How the investigation was carried out
- What facts were established and what evidence supported these (enclose prime documents or certified copies)
- Notes of all interviews, signed and dated
- Information about any financial implications, including losses and recovery arrangements
- A summary of the findings and conclusions
- Recommended action(s)

N.B. Where the person raising the concern has indicated that he/she has provided information in confidence, nothing in the report should identify that person.