

Y Bont Faen Primary School



Whistleblowing Policy

March 2023

Disclaimer

Please ensure that you are using the most up to date version of this policy.

If the review date has passed please contact the Reviewer.

OUT OF DATE POLICY DOCUMENTS MUST NOT BE RELIED UPON

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1. Introduction

Whistleblowing has been defined in the Public Concern at Work Guidelines 1997 as:

“The disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employee or his/her fellow employees.”

Statutory protection for employees who whistleblow is provided by the Public Interest Disclosure Act 1998 (“PIDA”) as amended by the Enterprise and Regulatory Reform Act 2013 (ERRA 2013).

The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns they believe are in the public interest concerning conduct or practice within the school which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice.

With effect from 25 June 2013, a qualifying disclosure (protected) for the purposes of the Employment Rights Act 1996 (as amended) (ERA 1996) s.43B(1) is any disclosure of information that a worker reasonably believes is in the public interest and tends to show one or more of the following:

1. A criminal offence has been, is being or is likely to be committed.
2. A person has failed, is failing or is likely to fail to comply with any of their legal obligations.
3. A miscarriage of justice has occurred, is occurring or is likely to occur.
4. The health or safety of any individual has been, is being or is likely to be endangered.
5. The environment has been, is being or is likely to be damaged.
6. That information tending to show any of the above matters has been, is being or is likely to be deliberately concealed.

The PIDA sets out the full statutory rights and obligations of members of the staff wishing to whistleblow. Where members of staff are unclear about any of the PIDA requirements they should seek further advice.

Public Concern at Work is an independent charity that provides free advice for persons who wish to express concerns about wrongdoing, fraud or other serious malpractice (telephone 020 7404 6609 or www.pcaw.co.uk).

This policy is based on the Welsh Government Whistleblowing in Schools Procedure and Model Policy.

2. Aims and scope of policy

The governing body is committed to high standards in all aspects of the school and expect staff to raise concerns of poor practice with their Head teacher/Governors in the first instance before they reach the whistle blowing stage.

Where matters are raised in line with this policy Governors will treat whistleblowing as a serious matter. In the line with the governing body’s commitment to openness, probity and accountability, members of staff are encouraged to report concerns which will be taken seriously, investigated and appropriate action taken in response.

Employees are encouraged to obtain the advice and support of their trade unions when considering how to deal with any concerns under this policy.

This policy aims to:

- Ensure that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in the public interest and within the meaning of the PIDA (as amended by the ERRA 2013)
- Give confidence to members of staff about raising concerns which they have a reasonable belief to be in the public interest about conduct or practice and which are potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with school standards and policies so that s/he is encouraged to act on those concerns
- Provide members of staff with avenues to raise concerns
- Ensure that members of staff receive a response in a timely manner to the concern they have raised and feedback on any action taken

This policy applies to all staff including full and part time, casual, temporary or agency staff and individuals undertaking work experience in the school.

Any reference to the Governing Body duties will include responsibilities delegated to an individual or Committee.

3. Safeguarding against reprisal, harassment and victimisation

The governing body will not tolerate harassment or victimisation of members of staff when matters are raised in accordance with the PIDA provisions. Any member of staff who victimises or harasses a member of staff as a result of them having raised a concern in accordance with the whistleblowing policy will be dealt with under the governing body's staff disciplinary procedures.

The PIDA provides protection to employees in circumstances where their disclosure can be classed as a protected disclosure. Under the PIDA it would be unlawful to dismiss or make any employee/member of staff redundant because they had made a protected disclosure. It would be also unlawful to subject them to any other detriment, such as demotion or a fine. In the event of such action an Employment Tribunal have the power to order re-instatement, re-engagement or order the award of compensation to successful claimants. The Governing Body are fully committed to the principals of the Act and will provide appropriate assistance to staff who raise a relevant complaint.

4. Confidentiality

The governing body recognises that members of staff may want to raise concerns in confidence and will ensure that the identity of members of staff who raise a concern are kept totally confidential as far as reasonably practical. Any deliberate breach of confidentiality will be regarded as a serious matter and will be dealt with in line with the Schools Disciplinary procedure.

However, investigation into the concern could reveal the source of the information, and statements may be required from the member of staff as part of the evidence which would be seen by all parties involved. If the investigation leads to prosecution the whistleblower is likely to be called in to give evidence in court.

In the event that it may be necessary to disclose the identity of staff member, the Governing Body will discuss the matter with them and will provide reasonable support to alleviate concerns.

5. Anonymous allegations

Staff should put their name to allegations whenever possible – anonymous concerns are much less powerful but will be considered at the discretion of the Governing Body. In relation to determining whether an anonymous allegation will be taken forward the governing body will take the following factors into account:

- The seriousness of the issue raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources, and obtaining information provided.

6. Untrue and malicious/vexatious allegations

If a member of staff makes an allegation they reasonably believe is in the public interest but it is not confirmed by further inquiry the matter will be closed and no further action taken. If, however, the inquiry shows that untrue allegations were malicious and/or vexatious or made for a personal gain then the governing body will consider taking disciplinary action against the member of staff.

7. Allegations concerning child protection issues

If a member of staff raises a concern related to a child protection issue, the head teacher or chair of the governors should urgently consult the Local Authority officer designated to lead on child protection (or if they are not available the designated manager for child protection in the authority's social services department) so that the action for the handling of such allegations under the All Wales Child Protection Procedures can be initiated.

However, in relation to child protection issues, it is open to the member of staff to make a direct referral to the Local Authority designated manager either before raising their concern with the governing body or where the head teacher or chair of governors fails to do so after raising their concern and the member of staff remains concerned about the situation.

8. Procedure for making a whistleblowing allegation

You should raise your concern with your line manager, the head teacher, the chair of governors, or the governor nominated for whistleblowing if appointed by the School. The person to be approached depends to an extent on the seriousness and sensitivity of the issue and who is thought to be involved.

If you feel you cannot express your concerns to the Head or Governors, it is open to you to raise your concern with someone outside the school setting from the following list:

- The Council's Head of Audit – 01656 754901 or in writing to them at Bridgend and Vale Internal Audit Shared Service, Innovation Centre, Bridgend Science Park, Bridgend, CF31 3NA
- The Council's confidential Fraud Hotline – 0800 731 2525
- For Child Protection matters – the Duty Manager (Intake and Family Support) on 01446 725202 during normal office hours or the Emergency Duty Team – 029 2078 8570 outside normal hours

If possible put your concern in writing for the avoidance of doubt. You should set out the background and history of the concern; giving names, dates and places where possible, and explaining the reason for your concerns. If you feel unable to put the matter in writing you can still raise your concern verbally and should telephone or arrange to meet the appropriate

person. You can also ask your trade union or professional association to raise the matter on your behalf or to support you in raising the concern.

9. Response to a whistleblowing allegation

The matter raised may:

- Need inquiry internally in the school
- Need to be passed to the police if it relates to alleged criminal activity
- Need to be passed to the person in the LA who deals with complaints about financial management or financial property in schools
- Need to be referred to the LA officer designated to lead on child protection if there is a concern relating to child protection, or if that person is not available the local authority's designated social services manager for child protection.

At this stage concerns/allegations are neither accepted nor rejected.

10. Timescale for response

The person nominated by the governing body to look into whistleblowing allegations will normally provide a written response to you within 5 working days (except in the case of anonymous allegations):

- Acknowledging that the concern had been received
- Indicating how it is proposed to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Advising whether any enquiries have been made
- Advising whether further enquiries will take place
- Informing you of support available whilst matters are looked into
- Maintaining confidentiality wherever possible, but also explaining that it may not be possible that you can remain anonymous

11. The inquiry process

The nominated person to deal with the complaint will:

- Look into the allegation – seeking evidence and interviewing witnesses as necessary.
- Maintain confidentiality wherever possible but will be mindful that there is no guarantee that the whistle blower can remain anonymous.
- If appropriate, bring the matter to the attention of the LA appointed person dealing with complaints about financial management schools.
- If appropriate, for concerns of criminal behaviour refer the matter to the police.
- If appropriate, for concerns of child protection, refer the matter to the LA officer designated to lead on child protection/local authority social services designated manager for child protection. The whistleblowing process will be suspended until the statutory authorities have completed their investigation and confirmed that it is appropriate to continue with the whistleblowing process.

If the person appointed by the governing body needs to talk to you, you are permitted to be accompanied by a trade union or professional associated representative or a fellow member or staff not involved in the area of work which the concern relates.

The target is to complete the inquiry **within 10-15 working days** from the date of the initial written response where reasonably possible. If the enquiry extends beyond the timescales

outlined for specific reasons all individuals concerned will be notified of this in writing with an indication of when the inquiry will be completed.

If the inquiry extends to involve the Police and you are required to provide them with information/evidence, they will make you aware of your rights and you are advised to seek advice/support from your trade union representative.

In the event of Police or other statutory authority involvement, any investigation undertaken by them will take priority over internal process which may lead to a delay in timescales outlined above.

12. The inquiry report

Following completion of the inquiry process the person appointed will make a written report and submit to the chair of the governing body normally **within 5 working days**. **The report will not contain the whistleblower's name unless you have expressly started that you wish to be named.**

Following receipt of the inquiry report, the chair of governors will convene a committee with at least one other governor and an independent person from outside the governing body, e.g. the LA or a governor of another school to consider the inquiry report and decide on the action to be taken. This should normally take place **within 5-10 working days** following receipt of the inquiry report.

Following notification of the committee's decision, the chair of governors will notify you of the outcome normally **within 5 working days** (except in relation to anonymous allegations), setting out the action to be taken or that no further action is to be taken and the reasons why.

13. Taking the matter further

If no action is to be taken and/or you are not satisfied with the way the matter has been dealt with, you can make a complaint under the governing body's complaints procedure or raise your concerns with the other organisations as listed below:

- The local authority
- A relevant professional body or regulatory organisation such as the General Teacher council for Wales (GTCW) or the Wales Audit Office
- The children's commissioner for Wales
- The public service Ombudsman for Wales
- The Care and Social Services Inspector For Wales
- A solicitor
- The Police (for concerns of criminal behaviour)
- A trade union or professional association
- Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Telephone 020 7404 6609 or www.pcaw.co.uk).

14. Review

This Procedure will be reviewed subject to any changes in legislation.

Appendix: Guidance note for members of staff

This guidance should be followed if you suspect any conduct or practice in any area of the school's activities which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice and you have a reasonable belief it is in the public interest that the information is disclosed.

DO:

- Make an immediate 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; or any action observed.
- Convey your suspicions to someone with the appropriate authority and experience e.g. your line manager, a member of the senior management team, the head teacher, chair of governors.
- Deal with the matter promptly.
- Keep a copy of all notes/details etc.
- Ask for a copy of your school's whistleblowing policy if this has not routinely been made available to all school staff.

DO NOT:

- Do nothing.
- Be afraid of raising your concerns. You must not suffer any recrimination as a result of voicing a reasonably held suspicion. The head teacher and/or chair of governors will treat any matter you raise sensitively and confidentially wherever possible (if you feel that the matter raised is not being treated sensitively and seriously then seek professional or alternative advice).
- Approach or accuse any individuals directly.
- Try to investigate the matter yourself. There are rules surrounding the gathering of evidence for use in criminal cases and in relation to child protection 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 those with the proper authority although other organisations such as a trade union or professional association may help you raise your concerns.
- If you wish to remain anonymous, do not include your name/position or any other information which could lead to your identity being disclosed.

Remember the Public Interest Disclosure Act 1998 protects you from victimisation by dismissal, redundancy or any other detrimental action provided that:

- You have disclosed the information which you reasonably believe is in the public interest.
- You believe it to be substantially true.
- You have not acted maliciously or made a false allegation.
- You are not seeking any personal gain.
- It was reasonable for the disclosure to have been made.

Glossary of terms

- PIDA: Public Interest Disclosure Act 1998
- ERRA: Enterprise and Regulatory Reform Act 2013
- ERA: Employment Rights Act