



Confidential Reporting (Whistleblowing) Policy 2020 2021

Signed by:

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Date: 11/10/2020

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Date: 11/10/2020

Revision History

Date	Document Version	Document Revision History	Document Author / Reviser
Autumn 2018	1.0	ELT	SMBC Modal Policy/ELT
September 2019	1.1	Document annual review. Minor amendments and reformatting, no significant changes. Ratified on 25/09/2019 by Trust Board then circulated to academies.	J Jones, SBM
Sept 2020	1.2	Document annual review. Incorporated Browne Jacobson model policy and sections of The School Bus model policy. Approved on 11/10/20 following Trust Board meeting on 25/09/20, circulated to Admin Managers/Headteachers on 11/10/20 to circulate to staff and AGBs.	J Jones, ELT Primary SBM

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Introduction

Education Learning Trust is dedicated to providing the utmost care for its pupils and staff. We aim to ensure that all members of the school community feel safe in the knowledge that they can voice any concerns in confidence and that they will be taken seriously and dealt with appropriately.

Staff who are concerned about the conduct of a colleague towards a pupil, for example, or misuse of school funds or resources, are undoubtedly placed in a very difficult position. They may worry that they have misunderstood the situation and they will wonder whether a report could jeopardise their or their colleague's career. This policy enables staff to raise concerns or allegations in confidence and for a sensitive enquiry to take place.

Education Learning Trust takes responsibility for ensuring that all staff are aware of whistleblowing policy and procedures and how concerns will be managed. We will ensure that all concerns raised with them by whistleblowers will be treated properly and fairly.

Definition of 'whistleblowing'

Whistleblowing inside the workplace is defined as the reporting by workers or ex-workers of wrongdoing, such as fraud, malpractice, mismanagement, breach of health and safety law, safeguarding or any other illegal or unethical act either on the part of management, the governing body or fellow employees. This will usually be something you have seen at work, though not always. As well as employees, workers may include volunteers, contractors and outside agencies or others. Such a disclosure, made in the public interest, will be under the protection of the Public Interest Disclosure Act 1998.

Scope of the Policy

The policy applies to all employees, volunteers, governors and contractors either working for the schools or working on their premises, for example, agency staff, builders and cleaners. The policy also covers suppliers and those providing services under a contract with the individual schools or the Education Learning Trust in their own premises.

This policy has due regard to all relevant legislation and guidance documents including, but not limited to, the following:

Employment Rights Act 1996
Public Interest Disclosure Act 1998 (PIDA)
ESFA (2020) Academies financial handbook 2020
Equality Act 2010; Health and Safety at Work Act 1974
Protection from Harassment Act 1997
Management of Health and Safety at Work Regulations 1999 (SI 199/3243)

This policy does not apply to situations covered by statutory reporting procedures or mechanisms that exist for raising particular issues e.g. the grievance procedure exists for issues around employment, parental complaints (managed through the Complaints procedure), child protection issues should be directed in the first instance to the Local Authority Designated Officer.

Policy Statement

The Education Learning Trust acknowledges that employees and contractors are often the first to realise that there may be something seriously wrong within the School. They may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the School. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

“Whistleblowing” describes the disclosure of concerns regarding a danger or illegality that has a public interest, usually because it threatens others or impacts on public funds. By contrast, a grievance or private complaint is a dispute about the individual’s own position and with no public interest.

This policy aims to:

- Encourage employees to feel confident about raising serious concerns and to question and act upon their concerns;
- provide avenues for employees to raise those concerns and receive feedback on any action taken;
- allow employees to take the matter further if they are dissatisfied with the School’s response; and
- reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure in the public interest.

There are existing procedures in place for dealing with grievances, safeguarding children, Health and Safety, Assaults on Staff, stress, violence at work, dignity at work and smoke free arrangements. If concerns cover any of these aspects employees should first consult the relevant school policy. The Confidential Reporting Policy is intended to cover those major concerns made in the public interest that fall outside the scope of these procedures. These include:

- conduct which is an offence or breach of law;
- disclosures related to miscarriage of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- unauthorised use of public funds;
- possible fraud and corruption;
- sexual or physical abuse;
- other unethical conduct; and

- the deliberate covering up of information relating to any of the above bullet points.

Any serious concerns that employees have about operation of the school or the conduct of school staff (including temporary, supply or casual workers) or members of the Governing Board can be reported under the Confidential Reporting Policy. Reporting this concern must be made in the public interest. This may be about something that:

- is against the School's procedures and protocols as set out in its constitution;
- amounts to improper conduct; or
- is an abuse of power for personal gain.

Non-employees

The PIDA and the Employment Rights Act 1996 **do not** protect non-employees as far as whistleblowing is concerned. Irrespective of this, the school will not allow harassment, dismissal or exclusion for any non-employee who raises a genuine concern.

Where an individual feels that they have been unfairly treated following blowing the whistle, they should make a complaint under the ELT Complaints Procedures Policy.

Governors are not employees and, while they are responsible for ensuring there is a whistleblowing procedure in place, they are not protected under the PIDA.

This policy has the support of the relevant trade unions and professional organisations.

Links to other policies

Dignity at Work
ELT Staff Grievance Procedure
Health, Safety and Welfare
The Professional Role
ELT Data Protection Policy
ELT Records Management
Complaints Procedures
ELT Staff Discipline Procedure

Reporting concerns to the school

If you have a concern about another member of staff you should report it to your line manager, a member of the school leadership team, the designated person for safeguarding, or the headteacher.

Complaints about the headteacher should be reported to the chair of governors.

All concerns will be taken seriously by the school and investigated thoroughly. If you are in any doubt as to whether a concern is valid, you should report it, and the school can decide to what extent it needs to be investigated.

Wider disclosure

We encourage all our staff to follow the internal procedures outlined in this policy, but understand that in some cases you may feel it is necessary to take your concerns to external agencies.

Under the terms of the Public Interest Disclosure Act 1998, you may take your concerns to an external agency where you reasonably believe that:

- you would be victimised by the school
- evidence that you submit in relation to the concern would be concealed or destroyed by the school
- you have previously made a disclosure of substantially the same nature.

We urge staff who take their concerns to external agencies to be careful not to disclose any confidential information. Information that is confidential and should therefore not be disclosed should be outlined in your contract of employment. **Note: it is against the law to publish any information which may lead to the identification of a worker who is subject to an allegation.**

The authorities that may be of help to you are: Children's Social Care Services

- Police
- NSPCC
- Health & Safety Executive
- Audit Commission
- Local Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- Department for Education/ESFA
- Ofsted

Confidentiality

All concerns will be treated in confidence, and the school is committed to protecting the identity of whistleblowers as far as is possible. However, in some circumstances it may not be possible to do this, for example: if it will prevent a thorough investigation taking place; if there is reason to reveal the name by law; if the whistleblower has to give evidence at any hearings.

In cases where identities are revealed for whatever reason, the school will do its best to support all parties involved and protect them from discrimination and victimisation.

Confidentiality is a priority throughout any investigation, and continues to be once the investigation is over, and we urge staff to closely follow all guidelines relating to confidentiality. Any member of staff that has acted knowingly against this, or revealed confidential information unnecessarily or for vicious reasons, may face prosecution.

Anonymous allegations

We would encourage staff to put their name to concerns made as it will aid a more thorough investigation. However, the school will investigate all anonymous allegations seriously; following the proceedings outlined in this policy as far as is possible.

False allegations

Education Learning Trust encourages all staff to voice their concerns and allegations safe in the knowledge that those who make allegations in good faith that do not prove to be true will not be reprimanded.

The school may take disciplinary action against staff who make claims that are found to be knowingly false, malicious, vexatious or for personal gain.

Responding to a concern

The school will investigate all allegations and concerns thoroughly, but the act of investigation does not indicate that the school has accepted the allegations as true.

Usually, the first course of action will be one of the following:

- an investigation by managers, internal audit, or through the disciplinary process
- an investigation under other procedures such as child/adult protection
- an investigation under procedures designed to deal with allegations made against professionals
- a referral to the police
- a referral to the external auditor or other external investigation
- an investigation under other forms of prosecution and inspection such as the protection of public health and safety
- a referral to an independent investigator.

Any concerns that fall under specific procedures will be followed up as described in their specific policy, e.g., child protection and safeguarding issues will be followed up as described in the school's child protection and safeguarding policy.

Roles and Responsibilities

This section outlines the roles and responsibilities for the main parties involved in creating a safe environment where individuals with a concern about school practices come forward to report them in the public interest. These lists are not exhaustive.

Trust Board

The Trust Board will be responsible for:

- Establishing and agreeing the whistleblowing procedure.
- Ensuring the agreed whistleblowing procedure is published on the trust's website.
- Monitoring the effectiveness of this policy and undertaking any necessary reviews, e.g. in relation to good practice recommendations or changes in legislation.
- Ensuring all members of the school community have access to this policy.
- Investigating, in liaison with the headteacher, any concerns that are raised.
- Ensuring this policy provides an open and transparent framework where members of the school community can raise their concerns.
- Taking the necessary action against members of staff following an investigation into any alleged malpractice.
- Ensuring that the minutes of the governing board include a record of the school's whistleblowing arrangements and who, both internally and externally, staff members should report concerns to.
- Appointing one governor and one member of staff to act as points of contact for staff members when reporting concerns.

Senior Managers (Headteacher or equivalent)

Senior managers play a lead role in creating an open and transparent culture where school policies and procedures are embedded, monitored and followed. They are responsible for ensuring that:

- all staff are aware of this policy and associated procedures and receive appropriate training where necessary;
- they set a good example by their behaviour;
- all reports of malpractice reported to them are taken seriously and investigated;
- employees who make an allegation in the public interest are not victimised; and
- confidentiality is preserved where appropriate.
- good practice is followed in the areas that they manage;
- respond to and support employees who report concerns under this policy;
- treat all concerns seriously and sensitively;
- ensure that the correct policy is used to pursue concerns if the Confidential Reporting policy is not applicable;

- encourage employees to raise their concerns in writing;
- provide full and clear advice to employees on the procedures to be followed.

If they do not carry out their responsibilities under this policy, then they may be subjected to disciplinary action and claims from the employee that they also contravene the policy.

The **chair of the AGB** will be responsible for receiving any concerns raised about the **headteacher**.

All members of the school community are responsible for:

- reporting any public interest concerns they have as early as possible;
- raising the concerns in writing (if possible);
- putting their name to any allegations rather than making them anonymously (where possible)
- reporting if they are victimised after raising a concern under this policy; and
- acting in the public interest at all times.
- Not raising malicious or unfounded concerns.

Whistleblowing procedures

Harassment or Victimisation (Safeguards)

The Education Learning Trust academies will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect employees when they raise a concern in the public interest.

In addition, the Public Interest Disclosure Act 1998 protects employees from reprisals as long as they meet the rules set out in the Act. The school may be fined for not protecting anybody making a disclosure in the public interest.

Any investigation into allegations of potential wrongdoing including malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect them.

The role of the whistleblower

Concerns will usually be dealt with in this way:

Staff will raise their concern with their manager or member of leadership team, either in person or, preferably, in writing. If their manager is the subject of the concern, they should go straight to the headteacher. Staff will be dealt with in confidence and invited to an interview to discuss the allegation. . A copy of the Confidential Disclosure form can be found on appendix A.

The manager or member of the leadership team that has heard the concern will decide upon the next course of action. If the concern has been raised verbally, they may ask for it to be put in writing. If they decide that it is a genuine concern, and that it is appropriate to follow the whistleblowing procedure, they may take the matter to the headteacher or the chair of the governing body.

If there is any reason that the member of staff making the complaint or raising the concern feels that they are unable to speak any member of the school or governing body, they should contact the relevant authority. If a member of staff feels they should report a concern to the ESFA, they should use the [online contact form](#) found on the Gov.UK website.

A summary of the reporting procedure can be found at Appendix B

A summary of the Disclosure Investigation process is attached at Appendix C.

Role of the leadership team

Hold an interview

Once an allegation has been brought to their attention, the senior staff member, headteacher or chair of governors will hold an interview with the person making the allegation, in confidence. This will take place immediately if there is concern that a child is at risk of harm, or within *XX working days* if this is not the case. During this interview they will:

- get as much information about the basis of the allegation as they can, and will record what is discussed
- discuss the next action points and steps that will be taken with the staff member who has raised the allegation, and ensure that they fully understand what is going to happen; if the standard whistleblowing procedure is not going to be followed, this should be explained and an alternative procedure outlined
- provide support to the whistleblower; they may be worried about their position, getting someone else into trouble, or what they suspect may be happening.

Staff may want to seek the support of their trade union when going through whistleblowing procedures. Staff are allowed to take a representative from their trade union to their interview and subsequent meetings.

Decide on a course of action

If there is cause for concern once the interview has been carried out, the leading member of staff will take the information that they have recorded to the headteacher (or chair of governors if the headteacher is of concern).

If it is decided that no further action will be taken this will be explained to the whistleblower within 10 working days. This may be because:

- the leading member of staff, headteacher or chair of governors does not feel that there is enough evidence to warrant a continued investigation and that it is unlikely that any malpractice has occurred or will occur
- there is a belief that the whistleblower is not acting in good faith
- the matter has already been raised and is being investigated.

The headteacher, if not already involved, will be informed of the concern even if no further action is to be taken.

Role of the headteacher and governing body

The person who receives the report – whether it is the headteacher or governing body – must act on the concern fully. If there is a good reason not to, this will be explained at the next governing body meeting and reported back to the whistleblower.

The headteacher or chair of governors will decide whether any external authorities need to be reported to on the matter, or whether it is a case for internal investigation.

The decision and progress of the case will be reported back to the leadership member involved, and this will be reported by them to the whistleblower.

The outcomes of any investigations will be reported to the whistleblower in writing to their home address within *XX working days*. If they do not receive any information and this time has passed, they may appeal for information through their manager or relevant external authorities. A summary of the Disclosure Investigation process is attached at Appendix C.

Recording, monitoring and evaluation

All staff concerned and involved with any allegation or investigation should keep good records of meetings they attend, discussions that are held, and any outcomes or action points that have been decided.

The headteacher [*and/or governing body*] will review and evaluate all allegations, how they have been dealt with, and their outcomes, to prevent similar future cases, and ensure that procedures are being used correctly and are effective.

This policy will be reviewed annually and any relevant cases that have come up during the past year will be taken into account when it is being reviewed.

Outcomes

All school leaders will try their best to deal with allegations fairly and effectively. If the whistleblower is dissatisfied and feels that an allegation that they have made has not been dealt with seriously or properly, they can take the matter up with the relevant authority;

- local authority councillor
- the external auditor
- a solicitor
- their trade union
- the Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- the police
- the independent charity Public Concern at Work¹

Individuals who would like to seek professional and confidential advice can also contact Protect, a registered charity that advises on whistleblowing queries. The Protect website can be accessed [here](http://www.protect-advice.org.uk) (www.protect-advice.org.uk), or they can be contacted on 020 31172520.

Where an employee takes the matter to an external organisation confidential information must not be disclosed unnecessarily.

Independent advice

This policy is designed to help staff with any whistleblowing concerns and procedures, but the school understands that some staff may wish to get advice from independent external agencies.

Definitions

Whistleblowing: Whistleblowing is when an employee reports suspected wrongdoing, or ‘qualifying disclosures’, at work to their employer.

Qualifying disclosures: As outlined by the PIDA, qualifying disclosures pertain to when any of the following takes place:

- A criminal offence has been committed, is likely to be committed or is being committed
- A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- A miscarriage of justice has occurred, is occurring or is likely to occur
- The health or safety of any individual has been, is being or is likely to be endangered

¹ Public Concern at Work (disclosure hotline 020 7404 6609 or www.pcaw.org.uk for useful advice) is an independent charity that provides free advice for employees who wish to express concerns about fraud or other serious malpractice and employers who wish to create a culture where it is safe and accepted for staff to blow the whistle.

- The environment has been, is being or is likely to be damaged
- Information tending to show any matter falling within any of the preceding points has been, is being or is likely to be deliberately concealed

In the public interests means that an individual acted outside of their own personal interest – they acted for more than personal gain. It is not necessary for the disclosure to be of interest to the entire public. The following considerations are often used as a test to establish whether something is within the scope of public interest:

- The number of people in the group whose interests the disclosure served
- The nature of the interests and the extent by which individuals are affected by the wrongdoing disclosed
- The nature of the wrongdoing disclosed
- The identity of the alleged wrongdoer

Blacklisting refers to an individual who is being refused work because they are viewed as a whistleblower.

Grievances involve someone filing a complaint because they personally have been mistreated in some way – the person making the complaint will have a direct interest in the outcome. It is important to understand the difference between raising a grievance and blowing the whistle.

Review

The Education Learning Trust will review this policy annually.

Appendix A - Confidential Reporting – Disclosure Form

Description of the Concern: Please put as much detail as you can to assist in any investigation which might be required, - include date(s), time(s), person(s) involved, witnesses, location, why you are concerned and length of time you have been concerned (please use extra sheet if necessary).

Have you discussed your concerns with anyone?
- include details of with whom, when and what the results of the discussion were.

You are encouraged to put your name to this report. Concerns expressed anonymously are much harder to investigate

Name

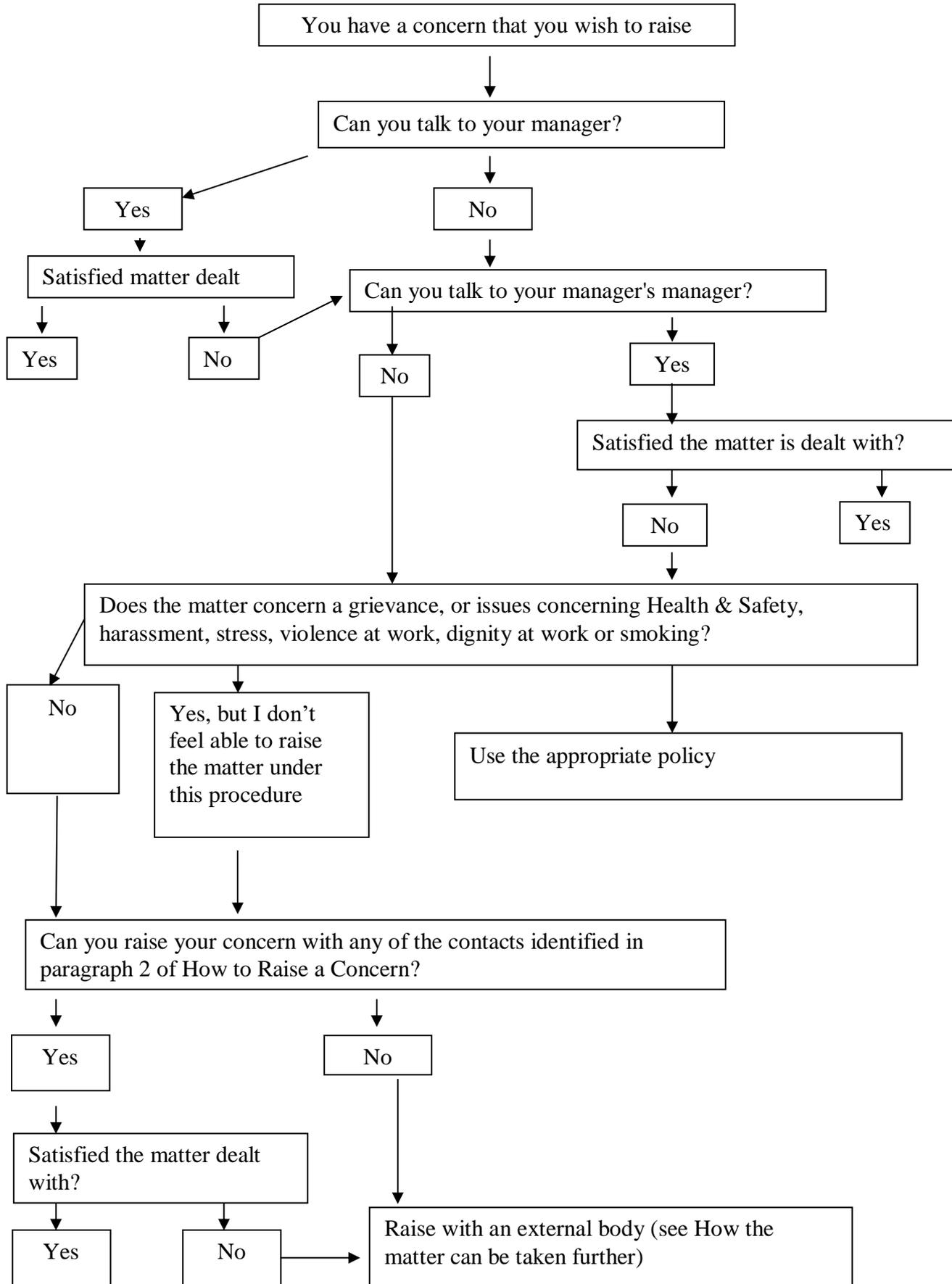
Contact details

Signed

Date

On completion the form should be returned to your line manager, Headteacher, Chair of Governors or Director for Education as appropriate in a sealed envelope marked 'Private and Confidential'

Appendix B - Summary of Confidential Reporting procedure



Appendix C - Summary of Disclosure Investigation Process

