

Whistle Blowing Policy

1. Introduction

- 1.1 Nightingale is committed to the provision of high quality services and promoting the highest standards of openness, probity and accountability. Members of staff and others who have serious concerns about any aspect of Nightingale's work should be able to raise these concerns without fear of victimisation, discrimination or disadvantage. It is in the interests of Nightingale, the Management Committee, members of staff and the public that wrongdoing is exposed and dealt with effectively.
- 1.2 Members of staff are often the first to realise that there may be something seriously wrong within an organisation. In many circumstances it will be appropriate for staff to raise their concerns with the Head of School or manager and this procedure is not intended to discourage this. However, where staff may be cautious about expressing their concerns because they feel that speaking up would be disloyal to their colleagues or to Nightingale, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. Alternatively, there may also be circumstances where a member of staff has reported their concern to their Head of School or manager and received an unsatisfactory response.
- 1.3 This policy and procedure are intended to ensure that suspicion of wrongdoing can be dealt with speedily and effectively. It seeks to balance safeguards for members of staff who raise genuine concerns about malpractice against the need to protect other members of staff, Nightingale and the Management Committee against uninformed or vexatious allegations which can cause serious difficulty for innocent individuals.

2. Aims

- 2.1 The aims of this policy are to:
- promote a culture of openness and a shared sense of integrity throughout Nightingale by inviting all members of staff to act responsibly in order to uphold the reputation of Nightingale and maintain public confidence
 - provide safeguards so that members of staff feel able to raise concerns about malpractice ('a disclosure') within Nightingale, without fear of adverse repercussions to the individual and an effective mechanism for investigation of those concerns
 - provide feedback on action taken and advice on how to pursue those concerns further if the individual is not satisfied with the outcome
- 2.2 Malpractice for the purpose of this policy, includes the following on the part of another member of staff, a member of the Management Committee, or any other person or persons acting on Nightingale's behalf:
- Abuse of clients, improper discrimination against or relationship with clients
 - Fraud or financial irregularity
 - Corruption, bribery or blackmail
 - Other criminal offences
 - Failure to comply with a legal or regulatory duty or obligation
 - Miscarriage of justice
 - Endangering the health or safety of any individual
 - Endangering the environment which results in permanent damage
 - Improper use of authority or powers
 - Serious financial maladministration arising from the deliberate commission of improper conduct
 - Unethical or improper conduct or conduct which breaches Nightingale policies or falls below the standards which Nightingale subscribes to
 - Concealment of any of the above

3. Application of the Policy

3.1 This policy is intended to tackle genuine concerns of malpractice experienced by:

- a member of Nightingale staff
- agency staff and self employed staff employed on school work
- contractors employed on school work
- members of Nightingale's Management Committee

3.2 For the purposes of this policy, an individual who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with Nightingale, is referred to as 'the Discloser'.

3.3 This policy does not apply to:

- the relationship between members of staff, their managers and the Management Committee, for which the employee complaints procedure or collective dispute procedures are more appropriate
- concerns and complaints by members of the public to which Nightingale's complaints procedure will apply
- agency, self-employed or contract workers where alternative dispute resolution procedures are available

5. Designated Assessors

5.1 Designated Assessors are senior members of staff of appropriate experience and standing within the London Borough of Bromley who have received appropriate training in this procedure and have been appointed to act as "Designated Assessors".

5.2 Following receipt of a disclosure the Chief Officer (or a senior contact officer to which this is delegated) will identify a Designated Assessor who will be responsible for the preliminary investigation of a disclosure and making recommendations to the Council's Monitoring Officer to what further steps, if any, should be taken.

5.3 With the agreement of the Chief Officer (or senior officer to whom this is delegated) a Designated Assessor may seek assistance from another officer where specialist knowledge or additional support may be required for proper investigation of the disclosure. The Chief Officer may revoke any such designation as necessary and appoint new Designated Assessors.

6. Making a Disclosure

6.1 **Stage One.** An individual, who has grounds to believe that the malpractice has occurred, is occurring or is likely to occur in connection with Nightingale, should raise their concerns first with the Head of School or manager. This may be done orally or in writing.

6.2 **Stage Two.** If the individual feels unable for whatever reason to raise the matter with their Head of School or manager under stage one, then they should raise the matter with the Chair of Management Committee. On receipt of the disclosure, the Head of School or Chair of Management Committee will offer to interview the Discloser in confidence. The interview should take place as soon as practicable after the initial disclosure. The Discloser may be accompanied by a local trade union representative or work colleague at the interview. The Head of School or Chair of Management Committee may also be accompanied by an administrative assistant to take notes, which will not identify the Discloser. For safeguards in relation to confidentiality, see section 9 below. The purpose of the interview will be for the Head of School or Chair of Management Committee to:

- obtain as much information as possible from the Discloser about the grounds of the belief of malpractice

- to consult with the Discloser about further steps which could be taken.

6.3 Stage Three. If stage one and/or two have been followed and the individual still has concerns, or if they consider that the matter is such that they feel they cannot raise it with their Head of School or the Chair of Management Committee, for example because it concerns them or it is very serious, then the Discloser should communicate the disclosure by email to the Chief Officer:

doug.patterson@bromley.gov.uk

6.4 The Discloser should provide as much supporting written evidence as possible about the disclosure, the grounds for the belief of malpractice and indicate why they have not felt able to raise their concerns through normal management channels. Disclosers are encouraged to give details of their identity. If in making a disclosure the Discloser provides details of their identity, these will not be passed to a member of School or Council staff without the Discloser's express consent (and see Section 9 below). Anonymous disclosures are much less powerful but may nevertheless be considered having regard to:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation through other suitable sources.

6.5 On receipt of the disclosure, where their identity is known, the Designated Assessor will offer to interview the Discloser in confidence. The interview should take place as soon as practicable after the initial disclosure but no later than within 3 weeks of the matter being referred to the Designated Assessor. The Discloser may be accompanied by a local trade union representative or work colleague. The Designated Assessor may be accompanied by an administrative assistant to take notes, which will not identify the Discloser. For safeguards in relation to confidentiality, see section 9 below. The purpose of the interview will be for the Designated Assessor to:

- obtain as much information as possible from the Discloser about the grounds of the belief of malpractice including why the disclosure is considered to be in the public interest; and
- to consult with the Discloser about further steps which could be taken.

7. Enquiries and Report by Head of School/Chair of Governor/ Designated Assessor

7.1 As soon as practicable after the interview (or after the initial disclosure if no interview takes place) and where possible within 3 weeks of the interview or initial disclosure if no interview takes place, the Head of School/Chair of Management Committee or the Designated Assessor will determine their recommendations as to the further steps that should be taken such as:

- a report to the police or other appropriate public authority
- investigation by the Council's Internal Auditor (this will be the usual course where there are allegations of financial irregularities)
- a full investigation either internally by the Council or externally e.g. by the Council's auditors or by investigators appointed by the Council
- action under Nightingale's grievance, disciplinary, harassment and bullying or complaints procedures
- referral for consideration under other specific procedures (e.g. child protection)
- no further action (the basis for which see below).

7.2 The Head of School, Chair of Management Committee or Designated Assessor's recommendations will be made to the Council's Monitoring Officer to decide whether or not they agree with them. If the recommendations are agreed they will be referred to the Management Committee for implementation. The recommendation will be made without revealing the identity of the Discloser except in the circumstances set in Section 9 below. The grounds on which the Head of School, Chair of Management Committee or Designated Assessor may recommend that no further action are as follows:

- if satisfied that the Discloser has not shown that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur
- if satisfied that the Discloser is not acting in good faith e.g. if after investigation it appears that the disclosure is wilfully malicious or vexatious, (in which case it may be referred for disciplinary action)
- if the matter concerned is already the subject of legal proceedings, or has already been referred to the police or other public authority
- if the matter is already, has already been, or should be, the subject of proceedings under one of Nightingale/LBB's other procedures relating to staff.

7.3 Once it has been decided what further steps (if any) should be taken, the Head of School, Chair of Management Committee or Designated Assessor will, where their identity is known, inform the Discloser of the decision. If no further action is proposed, the Head of School, Chair of Management Committee or Designated Assessor will give the Discloser the reasons for this in writing.

8. External Disclosure

8.1 It is recognised that in exceptional circumstances, or if dissatisfied after using this procedure, an individual might wish to make a disclosure without using Nightingale's procedure. However, individuals considering such a step are advised to take legal advice before making an external disclosure. They may make an external disclosure:

- on a confidential basis directly with bodies such as the external auditor or other appropriate public authority or such person as may be prescribed by the Secretary of State under Section 43F of the Public Interest Disclosure Act 1998. Before taking any such action, the Discloser is encouraged to inform the Head of School, Chair of Management Committee or Designated Assessor where one is already undertaking an investigation
- if they have reasonable grounds for believing that disclosure would lead to evidence being concealed or destroyed or that the Discloser will be subjected to a detriment as a result of making the disclosure
- on a confidential basis for the purpose of taking legal advice.

9. Safeguards and Confidentiality

9.1 Any document, report or recommendation prepared by the Head of School, Chair of Management Committee or Designated Assessor in relation to the matter will not identify the Discloser, unless:

- the Discloser has consented to this in writing; or
- there are grounds to believe the Discloser has acted maliciously; or
- where the Head of School, Chair of Management Committee or Designated Assessor is under a legal obligation to do so; or
- where the information is already in the public domain; or
- on a strictly confidential basis to the Designated Assessor's administrative assistant/administrative support; or
- on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

9.2 The Head of School, Chair of Management Committee or Designated Assessor will ensure that all information relating to the disclosure (including that held electronically) is kept secure so that, as far as practicable, only the Head of School, Chair of Management Committee or Designated Assessor shall have access to it. Disclosers will be under an obligation to use all reasonable endeavours to ensure that they and their representative or work colleague (if any) keeps this matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain.

- 9.3 The Discloser will not be required by the Management Committee, without his or her consent, to participate in any enquiry or investigation into the matter established by Nightingale unless there are grounds to believe that the Discloser may have been involved in the misconduct or malpractice.
- 9.4 Where the Discloser participates in any enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis. The obligations of the Head of School, Chair of Management Committee or Designated Assessor detailed above will remain in relation to the identity of the individual as the original Discloser of information. The Management Committee will not (and it will use all reasonable endeavours to ensure that members of staff do not) subject the Discloser to any detriment, on the grounds of the Discloser's disclosure of information under this procedure (unless there is proved abuse of this procedure through the making of wilfully malicious or vexatious disclosures). The Discloser should report any complaints of such treatment to the Head of School, Chair of Management Committee or Designated Assessor. If the Discloser wishes the Head of School, Chair of Management Committee or Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to the Head of School, Chair of Management Committee or Designated Assessor revealing the Discloser's identity for the purposes of any such action.

10. Further information

- 10.1 Please contact Mrs F. Roberts for advice on the procedure:

Email: fiona.roberts@bromley.gov.uk
Telephone: 01689 829648

Next Review Date: November 2020

APPENDIX A: GUIDANCE FOR HEAD OF SCHOOL/MANAGERS ON RESPONDING TO A DISCLOSURE

1. You should ensure that members of staff, agency or self employed staff and contractors employed on school work are aware of the Whistle Blowing Policy and know where it can be located.
2. If you receive a disclosure in respect of any of the matters set out under section 2 'Aims' in the Whistle Blowing Policy you must take the following action:
 - take the matter seriously and do not dismiss or belittle the information;
 - respect as far as possible the confidentiality of the employee, and adhere to the procedure under section 9 'Safeguards and Confidentiality' where the employee has specifically asked for confidentiality;
 - ensure that the employee understands the Whistle Blowing procedure;
 - offer to interview the Discloser in confidence;
 - discuss ways that the employee could be supported;
 - investigate the concern objectively, dealing with all parties with sensitivity and tact;
 - seek advice from the contact officer nominated by the Chief Officer if applicable or using the contact details given on page 5 of this document;
 - set out clearly how the concern is to be taken forward, ensure that dated notes are made and kept of the process followed, notes of discussions etc;
 - keep the Discloser informed about the progress made and outcome of the investigation;
 - provide the contact officer nominated by the Chief Officer if applicable with details of the concern and inform them about the progress and outcome of the investigation.
 - if at the conclusion of your investigations you are of the view that the concern was not raised in good faith, seek further advice
3. Note that if the concern relates to an alleged fraud, this should be reported to the Council's Internal Auditor.