WHISTLE-BLOWING POLICY AND PROCEDURE

INTRODUCTORY STATEMENT

Education Development Trust is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of any funding bodies and the standards of public life set out in the reports of the Nolan Committee. In line with this commitment we expect employees who have serious concerns about any aspect of EDT's work to come forward and voice those concerns.

Employees are often the first to realise that there might be something seriously wrong within EDT. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to EDT. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may be just a suspicion of malpractice.

A culture of "turning a blind eye" to such problems means that the alarm is not sounded and those in charge do not get the chance to take action before real damage is done. EDT is committed to developing a culture where it is safe and acceptable for all employees and stakeholders to raise concerns about poor or unacceptable practice and misconduct.

THE AIMS OF THIS POLICY

This policy sets out EDT provisions in respect of Whistle-Blowing, and aims to:

- Encourage you to feel confident in raising serious genuine concerns and to question and act upon concerns about practice;
- Provide avenues for you to raise those concerns and receive feedback on any action taken;
- Ensure that you are aware of how to pursue your concerns if you are not satisfied with the action taken;
- Reassure you that you will be protected from possible reprisals or victimisation if you have a genuine belief that you have made any disclosure in good faith and it is not made for personal gain

BACKGROUND

The Public Interest Disclosure Act 1998 (PIDA), which came into force on 2 July 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs.
However, where an individual discovers information, which is believed to show malpractice or wrongdoing within the organisation, then this information should be disclosed without fear of reprisal and may be made independently of line management

The Act protects workers who ordinarily work in Great Britain, excluding Isle of Man. However, the behaviour that gives rise to the concern does not have to take place within the United Kingdom.

WHAT IS WHISTLE-BLOWING?

The term "whistle-blowing" has no legal definition within EC or UK law. However, it has been used to describe incidents where an employee publicly discloses some alleged wrongdoing within an organisation.

A whistle-blower is not a "sneak" or a "trouble maker" but someone who comes to a decision to express a concern after a great deal of thought. The law only requires that there be a genuine doubt – the individual is not expected to produce unquestionable evidence to support the concern. If the concern is raised in good faith, the person raising that concern will not be at risk of losing his or her job or suffering any other form of reprisal for doing so.

PURPOSE AND SCOPE

The purpose of this policy is to assist individuals who believe they have discovered malpractice or impropriety.

It is not designed for the questioning of financial or business decisions taken within EDT; nor will it apply to personal grievances concerning an individual's terms and conditions of employment, or other aspects of the working relationship, complaint of bullying or harassment, or disciplinary matters. Such complaints will be dealt with under existing procedures on grievance, bullying and harassment, discipline and capability.

This policy is intended to cover major concerns that fall outside the scope of other procedures and include:

- Safeguarding issues, where they are concerned that the DSL has not followed up appropriately a safeguarding concern that has been raised about a child;
- Conduct which is an offence or a breach of law;
- Disclosures relating to miscarriages of justice;
- Health and safety risks, including risks to the public, as well as other employees;
- Damage to the environment;
- The unauthorised use of public funds;
- Possible fraud and corruption;
- Sexual or physical abuse of employees or clients;
- Serious failure to comply with appropriate professional standards;
- Abuse of power, or use of EDT's power and authority for any unauthorised use or personal gain;
- Breach of EDT's or statutory codes of practice;
- Deliberate breach of EDT policy;
- Other unethical conduct

The policy applies to all employees of EDT as well as contractors providing services, most agency workers, home workers and trainees on vocational and work experience schemes. Once this policy is in place it is reasonable to expect employees of EDT, and other "workers" to use it rather than to air their concerns outside the organisation.

WORKERS' RIGHTS UNDER THE PIDA

It is automatically unfair to dismiss a worker or select him/her for redundancy for making a Qualifying Disclosure in good faith to someone to whom he/she is entitled to make it or to penalise him/her for doing so. The protection is available regardless of how long the individual has been employed and without age limit. There is no upper limit to the amount of compensation a tribunal may award for dismissal of whistle-blowers.

A Qualifying Disclosure is the term used in the Public Interest Disclosure Act 1998 to identify the categories of information which a worker may disclose to an Appropriate Person without fear of reprisal and is defined as one which tends to show one or more of the following:

- A criminal offence if being committed, is likely to be committed or has been committed;
- A person has failed or is failing or is likely to fail to comply with any legal obligation to which he/she is bound;
- A miscarriage of justice has occurred, is occurring or is likely to occur;
- Health and safety or any individual has been, is being, or is likely to be endangered;
- The environment has been, is being or is likely to be damaged;
- Information tending to show any matter falling within any one of the above categories has been, or is likely to be deliberately concealed.

SAFEGUARDS

- EDT is committed to good practice and high standards and wants to be supportive of its employees.

- EDT recognises that a decision to report a concern can be a difficult one to make. If you believe that what you are saying is true you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

- EDT will not tolerate any harassment or victimisation, including informal pressures, and will take appropriate action to protect you when you raise a concern wherever possible. Employees suffering harassment or victimisation should inform their line manager or the individual with whom they raised their initial concern.

- Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect an employee.

CONFIDENTIALITY

All concerns will be treated in confidence and every effort will be made, subject to legal constraints, not to reveal your identity, if you so wish. If it does become necessary to reveal your identity you will be consulted before this action is taken. This may apply in cases where the allegations are so serious that it may be necessary to take protective action and/or refer the matter to the police.

Whilst it may be possible to raise concerns anonymously, this policy encourages you to put your name to your concern wherever possible. Concerns expressed anonymously are much less powerful but will be considered at the discretion of EDT, taking into account factors such as the seriousness of the issues raised, the credibility of the concern and the likelihood of confirming the allegation from other attributable sources.

UNTRUE ALLEGATIONS

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. However, if you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

ROLE OF TRADE UNION

EDT recognises that you may wish to seek advice from your trade union representative and may be accompanied by your trade union representative when using this procedure.

THE RESPONSIBLE OFFICER

The Director of Schools has overall responsibility for the maintenance and operation of this policy, and will maintain a record of concerns raised and the outcomes in a form that does not endanger your confidentiality. The Director of Schools will report as necessary to the EDT board.

THE PROCEDURE

HOW TO RAISE A CONCERN

1.1 As a first step, employees should normally raise concerns with their immediate manager or superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. If you feel departmental avenues are inappropriate you should contact the Director of Schools directly.

1.2 Employees may wish to consider discussing their concern with their Trade Union representative or a colleague first and they may find it easier to raise the matter if there are two or more employees who have the same experience or concerns.

1.3 You may invite a Trade Union representative or work colleague to be present during any meetings or interviews in connection with the concerns you have raised.

1.4 Concerns may be raised verbally or in writing. Those who wish to make a written report are invited to use the following format:

- The background and history of the concern, giving relevant dates;
- The reason why you are particularly concerned about the situation;
- The extent to which you have personally witnessed or experienced the problem, providing documentary evidence where possible.

1.5 The earlier you express the concern the easier it will be to take action.

1.6 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

2. HOW WILL EDT RESPOND

2.1 EDT will respond to your concerns. Bear in mind that testing out your concerns is not the same as either accepting or rejecting them.

2.2 Where appropriate, the matters raised may:

- Be investigated by management, or through the disciplinary process;
- Be referred to the police by either EDT or the complainant;
- Be referred to an external agency
- Be referred to ISI
- Form the subject of an independent enquiry

2.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which EDT will have in mind, is the public interest. Concerns or allegations that fall within the scope of specific procedures (for example discrimination or harassment) will normally be referred for consideration under those procedures.

2.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

2.5 Where practicable, within 10 working days of a concern being raised, the Director of Schools, will write to you:

- Acknowledging that the concern has been received;
- Where applicable, supplying you with information on staff support mechanisms.

2.6 The amount of contact between you and the people considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of information provided. If necessary, EDT will seek further information from you. Subject to any legal constraints, you will be kept informed of the progress of enquiries.

2.7 Where any meeting is arranged, this may take place off-site at a mutually agreed location if you wish.

2.8 EDT will take steps to minimise any difficulties you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary procedures, EDT will arrange for you to receive advice during the procedure.

2.9 EDT accepts that you need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, we will inform you of the outcome of any investigation.

HOW THE MATTER CAN BE TAKEN FURTHER

Raising your concern externally

The main purpose of this policy is to give you the opportunity and protection you need to raise your concerns internally. It is anticipated that **all** cases can be dealt with via the EDT internal procedure. However, if, in very exceptional cases you feel you cannot raise your concerns internally and you honestly and reasonably believe the information and any allegations are true, you should consider raising the matter externally with the appropriate regulator.

For example:

- Health and Safety Executive
- Trade Union
- Your local Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- A relevant voluntary organisation
- The police
- LADO
- ISI (the school's inspectorate)

If you do take the matter outside EDT you should ensure that you do not disclose confidential information.

The new NSPCC Whistleblowing advice line for professionals, commissioned by the Home Office as a firm commitment by the Government in its response to failures to protect children from sexual exploitation, provides free advice and support to professionals wanting to raise concerns about how children or young adults (vulnerable) protection issues are being handled in their own or other organisations.

Anyone can call the advice line (anonymously) if they believe:

- Their own or another employer will cover an issue up
- Their employer will treat them unfairly for complaining
- The concern hasn't been acted upon by the employer

Full details are available on the NSPCC website. *Phone number: 0800 028 0285 or help@nspcc.org.uk.*

Under no circumstances should a member of staff go to the media.

Mrs E. Steinmann-Gilbert
Principal
St. Andrew's School

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