

Esland North Limited

ED0060 - Whistleblowing

Introduction

This policy has been written with regard to:

- Keeping Children Safe in Education (<https://www.gov.uk/government/publications/keeping-children-safe-in-education-2>)

The purpose of the policy aims to:

- Encourage individuals affected to report suspected wrongdoing as soon as possible in the knowledge that their concerns will be taken seriously and investigated, and that their confidentiality will be respected
- Let all staff in the school know how to raise concerns about potential wrongdoing in or by the trust
- Set clear procedures for how the school will respond to such concerns
- Let all staff know the protection available to them if they raise a whistle-blowing concern
- Assure staff that they will not be victimised for raising a legitimate concern through the steps set out in the policy, even if they turn out to be mistaken (though vexatious or malicious concerns may be considered a disciplinary issue)

This policy does not form part of any employee's contract of employment and may be amended at any time. The policy applies to all employees or other workers who provide services to the school in any capacity including self-employed consultants or contractors who provide services on a personal basis and agency workers.

Scope

Whistle-blowers do not need a qualifying period of service to bring a claim of unfair dismissal: in other words, staff are protected as soon as they join Esland.

Protection is afforded to workers as well as employees; this includes bank / zero hours workers, trainees and agency workers.

Protection from detriment also applies to ex-employees making disclosures after the termination of their employment.

Principles

Clear policies, standards, and procedures for making decisions, are essential elements in creating and sustaining an atmosphere of openness and trust in Esland School's management.

Such an atmosphere is the best way of forestalling suspicion or complaint. We aim to be transparent and accountable in relation to how complaints are received and handled.

Staff who raise concerns about malpractice within their place of work have statutory protection against victimisation for making such a disclosure, under the Public Interest Disclosure Act 1998, and the subsequent Enterprise and Regulatory Reform Act 2013.

The worker must reasonably believe the disclosure to be in the public interest, and it must otherwise qualify as a protected act.

All Headteachers are responsible for ensuring that their staff are aware of this policy and have access to it. Staff will be trained in whistleblowing during induction. Headteachers must respond to concerns quickly and in confidence, wherever possible, and take all concerns seriously. They should be supportive and reassure those raising concerns, not sceptical or dismissive.

In turn, Headteachers (or in their absence the Deputy Headteacher must report the concern to the Chief Operating Officer and Quality Director, unless the concern is directly about one of these two people)

What should a concern be about, in terms of the criteria for qualifying disclosures?

Whistle-blowing covers concerns made that report wrongdoing that is "in the public interest." Examples of whistleblowing include (but are not limited to):

- Criminal offences, such as fraud or corruption
- Students' or staff's health and safety being put in danger.
- Failure to comply with a legal obligation or statutory requirement.

- Breaches of financial management procedures
- Attempts to cover up the above, or any other wrongdoing in the public interest.
- Damage to the environment.

A whistle-blower is a person who raises a genuine concern relating to the above.

Not all concerns about the school count as whistleblowing. For example, personal staff grievances such as bullying, or harassment do not usually count as whistleblowing. If something affects a staff member as an individual, or relates to an individual employment contract, this is likely a grievance.

When staff have a concern, they should consider whether it would be better to follow our staff grievance or complaints procedures.

To be afforded protection, workers must raise their concerns in the proper way (see procedure below). Usually, in the first instance, this should be via internal processes.

What kinds of detriment are workers protected from?

The kinds of detriment that could be suffered by whistle-blowers will depend on whether they are job applicants, existing members of staff, or ex-employees. Some examples of detriment linked to a protected disclosure are:

- harassment and bullying,
- inappropriate disciplinary action,
- loss of work or pay,
- damage to career prospects,
- providing poor references,
- defamation,
- inappropriately referring them to external organisations for audit or scrutiny,
- not considering them for a role if they re-apply,
- dismissal or selection for redundancy because of making a qualifying disclosure.

Concerns outside the scope of this policy

This procedure is not intended to substitute for other procedures. Complaints by workers about their personal treatment or the way in which employment policies and practices have been applied to them should be raised via the grievance procedure or other appropriate procedures.

Improper Disclosures

No action will be taken against a whistleblower if a concern is raised in the proper way, which the whistleblower reasonably believes to be in the public interest. However, if allegations are not raised in the proper way, and / or the whistle blower cannot show that they reasonably believe it to be in the public interest, disciplinary action may occur. This is particularly likely if it is believed that the disclosure was also malicious, vexatious, or made for personal gain.

Procedure General Principles

Staff should consider the examples in section 3 when deciding whether their concern is of a whistle-blowing nature.

Consider whether the incident(s) was illegal, breached statutory or trust procedures, put people in danger or was an attempt to cover any such activity up.

Esland encourages workers to raise the matter when it is a concern, as long as they have a reasonable belief in the wrongdoing, rather than have them wait for proof or investigate the matter themselves. Acting sooner rather than later, can avoid any further potential damage.

Individuals are encouraged to put their name to their allegation. Concerns expressed anonymously may be more difficult to substantiate but nevertheless will be considered by Esland in the context of:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from the attributable source(s).

Esland employees should report concerns if they witness or suspect:

- Suspicions or allegations of abuse or potential harm to pupils / students, which cannot be raised under the normal safeguarding procedures
- Fraud and financial irregularities within the home or organisation
- Corruption, bribery, or dishonesty
- Criminal activities
- Serious irregularities such as failing to comply with a legal obligation and creating or ignoring a serious risk to health and safety or the environment.
- A deliberate cover up of any of the above
- Poor or unsafe practice

Please be aware this is not an exhaustive list, **if in doubt report it.**

Every employee should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should always be watchful of illegal or unethical conduct and report anything of that nature that they become aware of.

Employees can either Whistle blow **confidentially** (this is where your name is not revealed without your consent), or **anonymously** (this is where you do not give your name). Esland will respect any promise of confidentiality made to the individual and provide further support where needed, unless required to share the information as a matter of law or in the public interest.

Failure to whistle blow any perceived or actual wrongdoing, or instruction to cover up any perceived or actual wrongdoing, is a disciplinary offence and the company disciplinary procedure will be followed.

Instruction by those senior to an employee, to cover up any wrongdoing or not report any wrongdoing, is not a suitable defense to not taking necessary action regarding whistleblowing.

Victimization of an employee for raising a qualified disclosure will result in disciplinary procedure.

Any employee who whistle-blow will be provided with confidential support, this will usually be a member of the senior management team to discuss any concerns.

Any employee will also be consulted with what measures are to be implemented to protect them and ensure they can continue to carry out their duties.

Employees are reassured that any matter raised will be investigated thoroughly, promptly, and confidentially and the outcome/update reported back to them within 30 days of an issue being raised.

In some circumstances an investigation may take longer, but employees will be kept updated within this time frame to reassure that the concern is being dealt with properly.

- All concerns will be acknowledged in writing by the investigating officer.
- It may be necessary for the investigating officer to speak to the person raising the concern as a part of the investigation, where appropriate we expect the person raising the concerns to support the process.
- The investigating officer will provide written feedback to the person once the concerns have been investigated.

Raising Concerns Externally

Esland expects that, in all cases, with the opportunity and protection provided, raising concerns internally is the most appropriate and reasonable action for workers to take. However, if any worker feels that they cannot raise concerns this way and that they honestly and reasonably believe the information and allegations are true, they should consider raising the matter externally.

Employees can use 'Safecall'. Safecall is an independent whistleblowing provider external to the organisation where concerns can be reported to should employees wish not to use internal whistleblowing processes. Safecall can be contacted on 0800 915 1571 or by email at www.safecall.co.uk/report (<http://www.safecall.co.uk/report>)

The appropriate regulator is the Office for Standards in Education, Children's Services and Skills and for Esland Schools it is the Department of Education. Ofsted can be contacted here (<https://www.gov.uk/complain-about-school>).

Timeframes

Action	Timeframes
Acknowledgement of concerns	Within 48 hours in writing

Outcome of investigation and actions to be taken	Within 30 days of initial concerns being raised Where management investigations exceed the timeframes, the person who has raised the concerns must be notified of the extension required
Check In	A member of the HR team will check back in with the person to ensure they are satisfied with the outcome provided to them.

Esland recognises that it is important, and in the interests of both employer and worker, to keep written records during the concern-raising process. Records, which will be treated as confidential and kept in accordance with the DPR Act 2018 include:

- the nature of the concern raised;
- a copy of the worker's letter setting out the nature of the concern;
- the independent investigator's report;
- Esland's written response, including any action taken and the reasons for action taken;
- Details of any appeal and any outcome;
- Minutes of meetings; and Subsequent developments.

Minutes of meetings will be given to the worker who has raised a concern although in certain circumstances (for example to protect a witness) Esland reserves the right to withhold information to protect confidentiality in respect of a third party who has been involved in the case.

Monitoring and Review

The quality assurance team will review and monitor any whistleblowing concerns raised, so that any trends can be reviewed in line with the quality assurance framework. This will support and learning and development of the organisation.

General points

Any employee who raises a whistleblowing concern is protected under the UK Public Interest Disclosure Act.

Under the Public Interest Disclosure Act 1998 an employee, **cannot be dismissed because of whistleblowing providing they follow the procedure and have a reasonable belief that their disclosures are made in the public interest.** The

following people are also protected: agency workers, individuals training with an employer, but not employed and any self-employed workers, if supervised or working off site.

Workers who are not employees cannot claim unfair dismissal due to whistleblowing, however, they are still protected and can claim 'detrimental treatment'.

Head teachers must ensure that all staff have access to the whistleblowing flow-chart for details of who whistleblowing concerns can be reported to.