



Locks Heath Junior School Safeguarding Policies

3.1c Procedures for dealing with allegations against staff (Including Whistle blowing)

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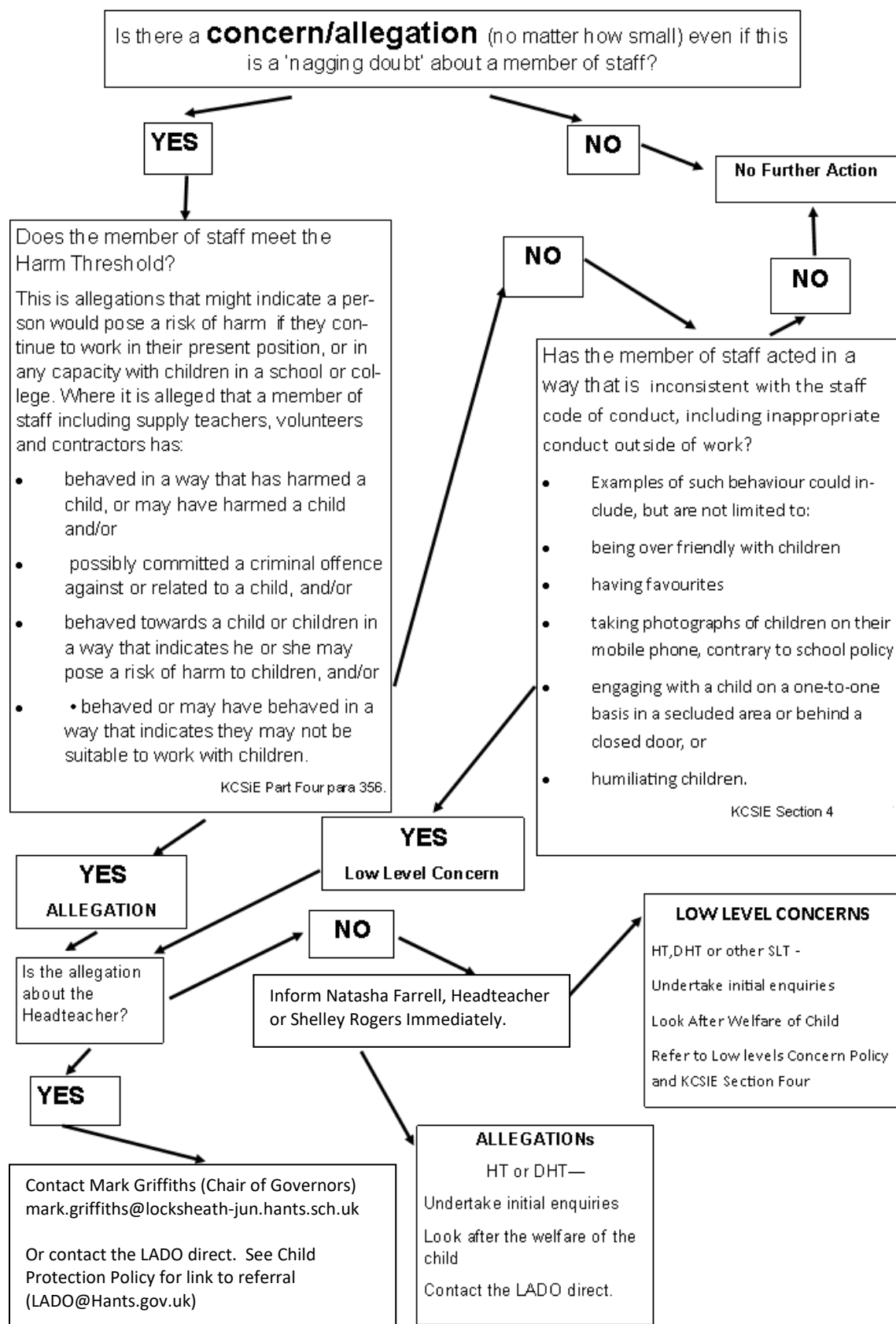
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P2	Update to Flow Chart

Safeguarding concerns or allegations made about staff, including supply teachers, volunteers and contractors

This policy has two sections covering allegations (as opposed to Low-level concerns two levels of concerns and Whistleblowing procedures.

The following flow chart is helpful in determining whether a concern is an allegation or a Low-Level Concern.



In the event of the determination being an 'a low-level concern', this policy ceases to apply and the Low-Level Concern Policy should be used.

The initial response to an allegation

Where the school identifies that a child has been harmed, that there may be an immediate risk of harm to a child, or if the situation is an emergency, they should contact children's social care and the police immediately. This would normally, be the headteacher but in the headteacher's absence another senior member of staff should do this without delay. There are two aspects to consider when an allegation is made:

Looking after the welfare of the child – the designated safeguarding lead (deputy) is responsible for ensuring that the child is not at risk and referring cases of suspected abuse to the local authority children's social care.

Investigating and supporting the person subject to the allegation – the headteacher should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.

When dealing with allegations, schools and colleges should

- apply common sense and judgement,
- deal with allegations quickly, fairly and consistently,
- and provide effective protection for the child and support the person subject to the allegation.

Before contacting the LADO, basic enquiries will be made to establish the facts and to help them determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigation. For example:

- whether the individual in the school or college at the time of the allegations
- whether the individual did or could have come into contact with the child,
- whether there any witnesses, and
- if there is any CCTV footage.

If there is cause to suspect a child is suffering, or is likely to suffer significant harm, a strategy discussion involving the police and/or local authority children's social care will be convened in accordance with the statutory guidance Working Together Safeguard Children. If the allegation is about physical contact, for example restraint, the strategy discussion or initial evaluation with the LADO should take into account that teachers and other school staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

Where the headteacher is concerned about the welfare of other children in the community or the member of staff's family, they should discuss these concerns with another DDSL and make a risk assessment of the situation. It

may be necessary for the designated safeguarding lead to make a referral to local authority children's social care. Where it is clear that an investigation by the police or local authority children's social care is unnecessary, or the strategy discussion or initial assessment decides that is the case, the LADO should discuss the next steps with the headteacher.

From this point forward the Headteacher (or Chair of Governors in the case of an allegation against the Headteacher) will be guided through the process by the LADO and EPS advisor, with reference to part 4 of the KCSIE document.

Supply teachers and all contracted staff

In some circumstances school will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply because agencies will have their own policies and procedures; for example, supply teachers or contracted staff provided by an employment agency or business.

Whilst schools are not the employer of supply teachers, they should ensure allegations are dealt with properly. In no circumstances should a school decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the LADO to determine a suitable outcome. The governing body should discuss with the supply agency or agencies where the supply teacher is working across a number of schools or colleges, whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school, whilst they carry out their investigation.

Agencies should be fully involved and co-operate with any enquiries from the LADO, police and/or local authority children's social care. The school will usually take the lead because agencies do not have direct access to children or other school staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school or college, are under the supervision, direction and control of the governing body when working in the school. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting, which is often arranged by the LADO, should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency or agencies are considered by the school or college during the investigation. When using a supply agency, schools and colleges should inform the agency of the process for managing allegations but also take account of the agency's policies and the duty placed on agencies to refer to the DBS as personnel suppliers. This should include inviting the agency's human resource manager

or equivalent to meetings and keeping them up to date with information about its policies.

Organisations or Individuals using school premises

Schools and colleges may receive an allegation relating to an incident that happened when an individual or organisation was using their school premises for the purposes of running activities for children (for example community groups, sports associations, or service providers that run extra-curricular activities). As with any safeguarding allegation, schools and colleges should follow their safeguarding policies and procedures, including informing the LADO.

Governors

If an allegation is made against a governor, schools and colleges should follow their own local procedures. Where an allegation is substantiated, they should follow the procedures to consider removing them from office.

Duty of care

The welfare of a child is paramount and this will be the prime concern in terms of investigating an allegation against a person in a position of trust. However, when an allegation or safeguarding concern is being investigated it is likely to be a very stressful experience for the adult subject to the investigation, and potentially for their family members. It is important that an employer offer appropriate welfare support at such a time and recognises the sensitivity of the situation. Information is confidential and should not ordinarily be share

with other staff or with children or parents who are not directly involved in the investigation.

Employers have a duty of care to their employees. They should:

- manage and minimise the stress caused by the allegation
- inform the individual as soon as possible, explaining the likely course of action guided by the LADO, and the police where necessary
- advise the individual to contact their trade union representative, or a colleague for support
- appoint a named representative to keep the person informed about the progress of the case
- provide access to counselling or medical advice where appropriate. E.g through Health Assured,
- and not prevent social contact with work colleagues and friends, when staff are suspended, unless there is evidence to suggest this may prejudice the gathering of evidence.

Parents or carers of the child or children involved should be:

- normally told about the allegation as soon as possible. The headteacher should consult the LADO and where involved, local authority children's social care and/or the police, on what information can be disclosed,
- kept informed about the progress of the case, only in relation to their child – no information can be shared regarding the staff member, and
- made aware of the requirement to maintain confidentiality and unwanted publicity about any allegations made against teachers in schools whilst investigations are in progress as set out in section 141F of the Education Act 2002.

Confidentiality and Information sharing

In an allegations management meeting or during the initial assessment of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

The school will make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions. These provisions made it an offence (except in the limited circumstance expressly permitted by the legislation), for any person to publish any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a child from the same school

(where that identification would identify the teacher as the subject of the allegation).

The reporting restrictions apply until:

- the point that the accused person is charged with a relevant offence, or
- the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation.

The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a court lifts the reporting restrictions in response to a request to do so.

The legislation prevents the “publication” of material by any person that may lead to the identification of the teacher who is the subject of the allegation. “Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public.” This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public). In circumstances where schools need to make parents aware about an allegation, they should make parents and others aware that there are restrictions on publishing information.

In accordance with the Authorised Professional Practice published by the College of Policing in May 2017, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police wish to depart from that rule, for example

an appeal to trace a suspect, they must apply to a magistrates' court to request that reporting restrictions be lifted.

The headteacher should take advice from the LADO, the police and local authority children's social care to agree the following:

- who needs to know and exactly what information can be shared
- how to manage speculation, leaks and gossip
- what, if any, information can be reasonably given to the wider community to reduce speculation and
- how to manage press interest if, and when, it should arise.

Allegation outcomes

The definitions that should be used when determining the outcome of an allegation are set out below:

- **Substantiated:** there is sufficient evidence to prove the allegation
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation
- **False:** there is sufficient evidence to disprove the allegation
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence, or
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.

Ultimately the options open to the school depend on the nature and circumstances of the allegations and the evidence and information available. This will range from taking no further action, to dismissal or a decision not to use the person's services in future.

Procedure for Protected Disclosures ("Whistleblowing")

1. Introduction

This procedure is intended to operate in accordance with the provisions of the Public Interest Disclosure Act 1998 (as amended) (hereafter known as 'the Act'). The Act gives protection to staff and workers who report colleagues they believe are doing something wrong or illegal, or who are neglecting their duties. The matters that come within scope of the Act and this procedure are set out in Step 2 of the procedure below.

The 'Whistleblowing' procedure has been developed for use in maintained schools and can also be adopted by, and used in, Academy schools. It is intended to enable staff to report wrongdoing in the school where it would be in the public interest to do so. The wrongdoing has to be such as to potentially affect the general public, rather than simply being a complaint of an individual nature, such as a personal grievance*, which is not normally covered under whistleblowing law. [*An individual personal grievance will normally need to be dealt with via other internal school procedures.]

The 'Whistleblowing' procedure provides for matters to be referred externally where necessary, ultimately to a 'prescribed person' (see Step 5.2 of the procedure below). However, the procedure encourages staff to raise their concerns initially within the school as a first priority, rather than to make a disclosure outside of the school. In the vast majority of cases this will enable matters to be dealt with much more efficiently and speedily.

The Act applies to all workers as well as staff and this procedure applies to all teaching and other staff, whether employed by the County Council or employed directly by the school, external contractors providing services on behalf of the school or the County Council, teacher trainees and other trainees, volunteers and other individuals who work for or provide services on behalf of the school. These individuals are collectively referred to in this procedure as staff or staff members.

2. Principles

The Governing Body of the school will treat all disclosures made under the procedure very seriously and allegations about such matters will be dealt with quickly and with appropriate confidentiality at all times.

The procedure gives protection from victimisation, discrimination or disadvantage to staff who make such a disclosure in the public interest. This protection applies in respect of such a detriment arising from an act, or a failure to act, either by the employer or by a fellow worker, whether the latter be with or without the employer's knowledge. The procedure also ensures that the person making the disclosure receives an appropriate response to their disclosure and is made aware of how they may pursue the matter outside of the school if the response given is not satisfactory.

This "Whistleblowing" Procedure should not be confused with others, such as individual or collective grievance procedures that exist to enable staff to raise concerns about their own employment. It is designed to deal with issues that fall outside of the scope of those procedures and therefore excludes all matters that are more appropriately covered by them.

3. Time limits

There are no time limits on raising concerns under this procedure, but they should be raised at the earliest opportunity. Where time limits are included within this procedure, they exist to ensure that disclosures are dealt with as quickly as possible, and to ensure a prompt initial response from management. The investigation that takes place after a disclosure is made is

not time limited, but will be conducted as quickly as possible within the circumstances of the disclosure.

4. Representation

Staff are entitled to representation by a professional association/trade union representative/work colleague at any meeting or interview held in relation to the disclosure made. Staff should specify that they are making a disclosure under this procedure.

5. Unfounded or improperly made allegations

- If an allegation is unfounded or unsubstantiated (i.e. there is no factual basis or evidence to support the allegation) but the staff member has made the allegation honestly and in the reasonable belief that it was in the public interest, no action will be taken against them.
- If an allegation is deemed to have been made falsely, maliciously, frivolously or for personal gain, then the person making the allegation may face disciplinary action. Care should be taken in dealing with such allegations as some facts may not be wholly untrue. Some parts of an allegation may have been fabricated or exaggerated but elements may be based on truth.

Model Procedure

Step 1 - Raising a concern

Concerns under this procedure should initially be raised with the staff member's immediate line manager. If the staff member believes their manager is involved in the malpractice, they may raise their concerns with a more senior member of staff, including the Headteacher. If the staff member believes it is not appropriate to raise the matter with the Headteacher, he/she may approach the Chair of Governors. (In the event that the matter cannot be raised within the school, the staff member may raise their concerns in accordance with Step 5). The relevant manager is encouraged to take advice from Education Personnel Services who may involve other departments of Hampshire County Council or other relevant external organisations where appropriate.

Within ten working days of a concern being raised, the person receiving it will write to the staff member acknowledging receipt and indicating what initial steps will be taken to deal with it. Where possible an estimate will be given of the time it will take to provide a final response.

Concerns may be raised orally or, preferably, in writing. These disclosures should provide as much information as possible about the matter, including dates, individuals involved, other possible sources of information, etc. Staff must be able to demonstrate to the person hearing the disclosure that there are reasonable grounds for making the allegations.

Staff may wish to make anonymous disclosures although it may be important for the investigating manager to know the source of information to enable a full investigation. The manager would also need to take into account the nature and credibility of an allegation before deciding to proceed with an investigation. However, staff should be re-assured that all disclosures will be treated in confidence and every effort will be made to preserve anonymity. The Act provides protection against victimisation to anyone who makes a protected disclosure in good faith.

Step 2 – Determine whether the concern raised is a Protected Disclosure

Qualifying disclosures are disclosures of information where the staff member reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- a criminal offence (e.g. fraud, corruption, sexual or physical abuse of pupils/students or others);
- a failure by a person to comply with any legal obligation to which he/she is subject;
- a miscarriage of justice;
- a danger to the health or safety of any individual;
- damage to the environment, or
- a deliberate attempt to conceal any of the above matters.

Following disclosure of one of the above matters, the person receiving the disclosure must determine whether it is a 'qualifying disclosure' under the Act, by considering the following:

- whether any factual information was actually disclosed, as opposed to opinion only, to the employer (or relevant person);
- whether the individual making the disclosure believed that the information tended to show that one of the matters above has occurred, is occurring or is likely to occur; and
- whether that belief was reasonable.

If the above criteria are met, the disclosure will qualify as a protected disclosure, and the remainder of this procedure will apply. If the criteria are not all met but the staff member's disclosure was made in good faith, investigations should still take place into the allegations and the staff member should not be discriminated against because they have raised such an allegation. If it is found that the disclosure was made for malicious purposes or for personal gain, the school should deal with this under the disciplinary procedure, where relevant ([guidance on disciplinary issues](#) can be found in the Manual of Personnel Practice).

Step 3 - Investigation

A preliminary investigation will need to be undertaken to establish whether the alleged act or omission could actually have occurred, be occurring or be likely to occur in the future. The investigation is not, at this stage, to determine

whether the alleged act or omission has actually occurred, but to determine the facts of the case (e.g. was the alleged individual actually where they were purported to be, what does the evidence show). More about [investigations](#) can be found in the Manual of Personnel Practice:.

Allegations that have some foundation to them should be followed up with a full internal investigation, which may result in one or more of the following:

- no case to answer;
- disciplinary action taken against the alleged individual;
- referral to Social Services or the Police, or other relevant organisation;
- referral to Internal Audit or other County Council departments (for County Council maintained schools).

If the allegations are unfounded (no evidence or proper basis that supports the allegation), or unsubstantiated (can neither be proven nor disproven), no action need be taken by the school, although it would be pertinent to determine why the staff member felt the need to raise the allegation in the first place, e.g. is there a training need within the school?

If it is found that the allegation was made for malicious purposes or for personal gain, the school should deal with this under the disciplinary procedure ([guidance on disciplinary issues](#) can be found in the Manual of Personnel Practice).

Step 4 - Communication

Subject to legal constraints and the need to protect the rights of individuals, the staff member raising the concern will be informed of the outcome of any investigation at the earliest practicable opportunity. Such information will not include confidential details about formal action taken against another staff member.

For reasons of sensitivity and confidentiality, all communications with a staff member who takes action under this procedure will be sent to their home address, unless an alternative arrangement has been mutually agreed.

Step 5 - Taking the matter further

In the event that a staff member feels that their concerns have not been resolved through the above process, they may write to the Chair of the Governing Body, if he/she has not already been involved, outlining their concern, the action taken to date and the reasons for their dissatisfaction.

Within 10 working days of a concern being raised, the Chair of Governors will write to the staff member to acknowledge that the concern has been received and indicate what further steps will be taken, as well as providing an estimate of the time it will take to provide a final response. The Chair of Governors may decide to set up a small group of governors, where appropriate, to investigate the concerns. The Chair of Governors will then inform the staff member of the outcome of this process on the same basis as required of the manager above.

Where appropriate, the Chair of Governors should also involve the relevant Diocese at an early opportunity.

In the event that the matter cannot be satisfactorily resolved within the school, the staff member may escalate their concerns further. How they do this will depend on the status of the school, as follows:

5.1 Hampshire County Council maintained schools

Staff should raise their concerns, in writing, with the following officers of the County Council, and in the following order:

- a. Area Director for the relevant school
- b. Director of Children's Services
- c. Chief Executive of Hampshire County Council

These officers will follow the same basic procedure outlined above in the same timescales and will feed back the outcome to the staff member. The address for all of the above is: Children's Services Department, Hampshire County Council, Elizabeth II Court West, The Castle, Winchester, SO23 8UG or childrens.services@hants.gov.uk.

If a staff member is dissatisfied with the response of the Governing Body and the County Council, and subject to the concern being a protected disclosure (see step 2 above), they can raise the matter, as appropriate, with any of the following:

- an elected Member of the County Council;
- the Local Government Ombudsman;
- others as set out below.

5.2 Hampshire County Council Maintained and Academy and Independent schools

Staff in Hampshire County Council maintained schools who are dissatisfied after having raised concerns under 5.1 above, and staff in Academy and Independent schools, can also raise their concerns, as appropriate, with any of the following, subject to the concern being a protected disclosure (see step 2 above):

- a local Member of Parliament;
- a relevant professional body or inspectorate (e.g. Ofsted or Health & Safety Executive);
- A 'prescribed person' as designated by the Act, a full list of whom can be found on the Gov.uk website under ["Whistleblowing: list of prescribed people and bodies"](#).

Staff can only make a disclosure to a prescribed person if they:

- make the disclosure in good faith;
- reasonably believe the information is substantially true;

- reasonably believe they are disclosing the issue to the appropriate person or body (e.g. Health and Safety issues to the HSE).

In taking their concern outside of the school, staff must ensure that, as far as possible, the matter is raised without personal information relating to other staff, or confidential information about unrelated matters, being disclosed. A staff member who approaches an accredited legal advice centre, e.g. Protect (formerly known as Public Concern at Work, 020 3117 2520 or <https://protect-advice.org.uk>) or Citizens Advice Bureau, must not breach the duty of confidence in this procedure to the Governing Body.

6. Failure to follow this procedure

Any staff member who unreasonably and without justification raises such issues on a wider basis, such as with the press, without following the steps and advice in this procedure may be liable to disciplinary action.