

Whistleblowing - 'Public Interest Disclosure'

The statutory guidance 'Working together to safeguard children' 2013, makes it clear that all organisations that provide services for, or work with, children, must have appropriate whistleblowing procedures, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed by the organisation.

What is whistleblowing?

'Whistleblowing' is when a worker reports suspected wrongdoing at work. This is more formally known as 'making a disclosure in the public interest'

A worker can report things that aren't right, are illegal or if anyone at work is neglecting their duties, including:

- someone's health and safety is in danger
- damage to the environment
- a criminal offence (possible fraud or financial malpractice)
- the company isn't obeying the law / breaching a legal obligation
- covering up wrongdoing

Whistleblowing is very different from a complaint or a grievance. It only applies when the person making the disclosure has no vested interest and are acting as a witness to misconduct or malpractice.

Understanding the reality of 'making a disclosure'

'Making a disclosure in the public interest' or 'blowing the whistle' is never easy. Staff may be concerned that they have misread a situation or believe that they owe loyalty to a colleague. Some staff may feel genuine concern about their own safety, or worry that making a disclosure could put their own job at risk.

To ensure a culture of safety in your setting, it is vital that all your staff and those associated with your setting are aware of what to do if they wish to raise a concern and that they feel confident in doing so if a situation arose.

A clear and transparent policy will enable your staff to promptly identify poor practice or abuse and take action as necessary. As a result this will ensure the safeguarding of children in your care, enable you to meet your statutory obligations and help you to maintain your setting's valuable reputation.



Guidance to writing a policy – what to consider and include

1. A statement which clearly explains your **setting's commitment** to safeguarding children and supporting staff.
2. **Links to your Code of Conduct, Induction and Safeguarding policies.** It is important to link your policies and procedures to create a safeguarding portfolio, for example cross referencing policies that include child protection, physical contact, intimate care, safe working practice, safe recruitment, photography and use of images, complaints, and disciplinary procedures etc.
3. The **types of conduct** covered, for example bullying, humiliation, discrimination, poor practice, unsafe practice, abuse and neglect.
4. A statement to explain why whistleblowing / making a disclosure is essential to keeping children safe in your setting and to **acknowledge potential staff reticence.**
5. **Clear and concise procedures** – clearly list how staff should make a disclosure, who to make the disclosure to, how to record information, who will investigate, clear timescales for resolving issues and how outcomes will be communicated.
6. How to report **concerns about a manager/provider.** Clarify whether such concerns should be raised with a chairperson, the local authority, Ofsted, or another body and provide telephone numbers.
7. A commitment of **support for the person making the disclosure** or 'blowing the whistle'
8. **An acknowledgement and confirmation** that any issue raised that suggests a child or children may be at risk of significant harm will be managed through your child protection procedures.
9. The acceptance of **anonymous concerns**, though these are sometimes more difficult to investigate.
10. The rules of **confidentiality** - the need for staff to avoid discussing the issue with other people within or outside the setting. A commitment that the person making the disclosure 'whistleblower' will not be named unless it becomes absolutely necessary to do so.
11. An explanation that making a disclosure / whistleblowing can sometimes identify **poor practice** which may not be deliberate abuse but as an indicator of inexperience or lack of training which can lead to better support for staff.
12. Confirmation that fabricated or **malicious allegations**, for example raising a concern simply to discredit a colleague, will be dealt with through staff disciplinary procedures.



13. **Contact details** – for example the supervisor or manager, management committee, chair, Public Concern at Work, the Multi-Agency Safeguarding Board (MASH), Local Safeguarding Children Board (LSCB), Local Authority Designated Officer (LADO) Ofsted.
14. Contact details and information about the roles of **unions and professional bodies** who can be approached for support.
15. Reference to the **Public Interest Disclosure Act 1998** that protects employees from reprisals for public interest whistleblowing.
16. The **date** of the policy and the renewal date.

What does the law say?

The Public Interest Disclosure Act 1998 (also known as the Whistleblowing Act) is to encourage those working in child-centred workplaces to promote accountability and self-regulation. Where there is genuine concern about child safeguarding, the Act promotes public interest by providing a service that protects the worker who raises honest concern against reprisals from their workplace. The concern may relate to something that is happening or has happened in the past or something that you fear may happen in the future.

The Act protects all workers, including temporary agency staff from reprisals for reasonably raising an honest and genuine concern internally, as long as they are acting in the public interest and not for personal gain. The Act does not cover the self-employed or volunteers.

Workers who 'blow the whistle' or 'make a disclosure' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure.

If a worker is going to make a disclosure it should be made to the employer first. If they feel unable to use the organisation's procedure the disclosure should be made to a specified person, so that employment rights are protected.

A worker will have to show three things to claim PIDA protection:

1. that he or she made a disclosure
2. that they followed the correct disclosure procedure
3. that they were dismissed or suffered a detriment as a result of making the disclosure.

For more information on the law visit: www.pcaw.co.uk/law/uklegislation.htm or <http://www.legislation.gov.uk/ukpga/1998/23/section/1>



What should somebody do if they have a concern at your setting?

- The concern should initially be raised internally, for example with a line manager.
- If the staff member feels unable to do this (maybe the concern relates to the line manager) then the concern should be raised with a named person detailed in the setting's policy. For voluntary led groups this could be a member of the management committee, for privately run organisations this might be the owner.
- If the staff member feels unable to raise the concern at any level within the organisation, then the concern must be raised externally to an organisation outside their place of work. The setting's policy should provide details of names, organisation names and contact details of where the concern can be raised. For example this may include Ofsted, the Local Authority Designated Officer (LADO), Local Authority Early Years and Childcare team.
- If the staff member has raised the concern internally but feels it has not been properly addressed this must be taken further. Your policy should provide details of names, organisation names and contact details of where they can do this.
- If the staff member has a concern and is worried at any stage about how to raise a concern, with whom to raise the concern or would like to talk the matter through in confidence, they must seek independent advice at the earliest opportunity. Your policy should give direct contact details of where to do this. It is advisable, in terms of addressing the concern and securing their own protection, that the person raising a concern contacts an organisation that has good knowledge of the work of the setting and early years.
- **If the staff member has genuine concern regarding child safety and feel the matter is an emergency (i.e. if there is an immediate or current risk to an individual child or children) that person must follow (LSBC) child protection procedures – which could be contacting the Multi-Agency Safeguarding Hub.**



What is the manager's role?

Managers should be promoting a transparent culture of openness.

An open culture is where staff are encouraged to speak out, confident that they can do so without adverse repercussions, confident that they will be listened to, and confident that appropriate action will be taken.

Managers should regularly be:

- making staff aware what is acceptable behaviour in the workplace and what is not, referring to the setting's code of conduct. As a result issues will come to light sooner and issues will be resolved more effectively
- encouraging staff to ask if they are unsure of the appropriateness of any behaviour.
- modelling practice and encouraging staff to keep their eyes open and to speak about any concerns.
- encouraging staff to view a 'person raising a concern' or 'whistleblower' as a witness and not a complainant.
- separating the message from the messenger.
- encouraging staff to raise a matter when it is just a concern and not waiting to gain proof or investigating the matter further themselves first. However it should also be made clear that raising an untrue allegation maliciously is a disciplinary offence

How should a manager respond to a concern?

As a line manager, deputy manager, setting manager or setting owner, it is your duty to take any concern or 'disclosure of information' seriously and deal with it immediately and effectively.

Remember it can be awkward and embarrassing for a staff member to raise a concern, particularly one which may have an impact on friends, colleagues or managers so ensure all matters are dealt with in a serious and appropriate manor.

- Thank the staff member for raising the matter, even if the concern proves to be mistaken.
- Reassure the staff member that they will be supported and protected from reprisals - respect and heed legitimate concerns that the staff member may have about their own position or career.



- Advise the staff member who and how to obtain confidential independent and impartial advice if they are unsure whether or how to raise a concern. Provide the space and privacy should they wish to make the call.
- If you as a manager feel uncomfortable or unequipped to deal with a particular matter, advise the staff member to raise the concern immediately at a more senior level or with the support of an outside organisation.
- Remember there are different perspectives to every story.
- Remain impartial, focus on the facts and record any serious concern.
- Manage expectations and respect promises of confidentiality.
- Discuss reasonable timeframes for feeding back with the staff member about the outcome of any enquiry and immediate action you propose to take.
- Determine whether there are grounds for concern and investigate if necessary as soon as possible. If the concern is potentially very serious or wide-reaching, consider who should handle the investigation and know when to ask for help. If asked, put your response in writing.
- Always remember that you may have to explain how you have handled the concern.
- Feedback any outcome and/or proposed actions taken.
- Report to LADO the outcome of any genuine concern where malpractice or a serious safety risk was identified and addressed.



Brighton & Hove Useful Contacts

Multi Agency Safeguarding Hub (MASH)

To raise concerns about failures in practices and procedures for the safeguarding of children in early years settings in Brighton & Hove.

Telephone: **01273 290400**

Email MASH@brighton-hove.gcsx.gov.uk

Out of Hours Emergency Duty Service

Telephone: **01273 335905** or **335906**

Police - Brighton & Hove Child Protection Team

Telephone: **101** and ask for Brighton CPT.

Local Authority Designated Officer (LADO)

In Brighton & Hove, the LADO has overall responsibility for the management of allegations of Abuse against Adults who work with Children. The LADO provides advice and guidance, liaises with the Police, Social Care Teams, regulatory bodies such as Ofsted and other organisations as needed and ensures a consistent, fair and thorough process for both child and adult.

For more information see BHCC Local Safeguarding Children Board (LSBC) website:

<http://www.brightonandhovelscb.org.uk/>

Telephone: **01273 295643**

Email: darrel.clews@brighton-hove.gcsx.gov.uk

Designated Professionals Brighton & Hove

Designated Doctor Safeguarding Children: 01273 265788

Designated Nurse Safeguarding Children: 01273 574680 / 07770381421



Other national websites for information, guidance and support

Committee on Standards in Public Life: GOV.UK

The best place online to find official government services and information

<https://www.gov.uk/whistleblowing/overview>

ACAS

Independent and impartial 'Advisory, Conciliation and Arbitration Service' that gives free and impartial advice for employees, employers and representatives

<http://www.acas.org.uk/index.aspx?articleid=1919>

Helpline number: 0300 123 1100

Monday - Friday: 8am - 8pm and Saturday 9am - 1pm

Public Concern at Work

<http://www.pcaw.org.uk/>

Advise for individuals with [whistleblowing dilemmas](#) at work and support for organisations with their [whistleblowing](#) arrangements

Whistleblowing Advice Line: 020 7404 6609

Email: whistle@pcaw.co.uk

Ofsted

Dedicated whistleblowing hotline: 0300 123 3155 (Monday to Friday: 8am to 6pm)

Email: whistleblowing@ofsted.gov.uk

Ofsted's external [whistleblowing policy](#) outlines procedures to adopt when receiving referrals about children's safety and their safeguarding arrangements.