

Whistleblowing and Serious Misconduct Policy



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Signed by Chair of Trustees:	

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1. Introduction

- 1.1 Trinity Specialist College is committed to ensuring that it, and the people working for it, complies with the highest standards of openness, honesty, and accountability. Trinity Specialist College is not prepared to tolerate improper practice and/or wrongdoing. In line with that commitment, we expect employees, and others that we deal with, who have any serious concerns about any aspect of Trinity Specialist College's work to come forward and voice those concerns. Wherever possible, individuals are encouraged to use relevant council procedures to report issues in an open and transparent way.
- 1.2 Individuals within Trinity Specialist College can sometimes be the first to realise that there may be something seriously wrong with procedures and/or processes within Trinity Specialist College. However, they may not always express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear the threat of harassment or victimisation and in these circumstances, they may feel it easier to just ignore their concern rather than report what may just be a suspicion of wrongdoing.
- 1.3 'Whistleblowing' is the term used when an individual passes on information concerning serious wrongdoing. This is generally referred to as 'making a disclosure' or 'blowing the whistle'. Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998) (PIDA).
- 1.4 The information passed on must always be more than a general assertion (or an un-particularised allegation), or mere opinion. In this policy, receipt of any such information will simply be referred to as a "**disclosure.**"
- 1.5 An individual includes a direct employee of Trinity Specialist College, agency staff, contractor or consultant, volunteers and elected members doing work for Trinity Specialist College, collectively referred to in this policy as "**individuals.**"
- 1.7 To this end, where this policy makes reference to a "**Whistleblower**", it refers to individuals who make a disclosure.
- 1.8 This policy is designed to provide guidance on how an individual should report any suspected serious misconduct as well as reassurance that any disclosure can be made safely.
- 1.9 This policy is in addition to Trinity Specialist College's complaints procedures and other statutory reporting procedures applying to some services.

1.10 This policy seeks to:

- 1.10.1 encourage Whistleblowers and/or their representatives to feel confident in raising disclosures in the public interest about suspected serious misconduct in Trinity Specialist College and its services;
- 1.10.2 set out how Trinity Specialist College will handle and respond to disclosures and what you can do if you are not satisfied with the feedback received;
- 1.10.3 reassure Whistleblowers that they will be protected from possible reprisals or victimisation if there is reasonable believe that the disclosure made is in the public interest; and
- 1.10.4 ensure consistency and fairness in dealing with whistleblowing across Trinity Specialist College.

1.11 Where any individual reasonably believes:

- 1.11.1 they are acting in the public interest; and
- 1.11.2 that the disclosure shows past, present or likely future wrongdoing by Trinity Specialist College, members and/or individuals undertaking work for Trinity Specialist College (whether employees, contractors, suppliers or consultants) falling into one of more of the following categories:
 - failure to comply with a legal obligation;
 - a criminal offence;
 - a miscarriage of justice;
 - a danger to the health or safety of any individual or damage to the environment, or;
 - information tending to show that any of the above matters is being deliberately concealed; these concerns should be reported and Trinity Specialist College will assess the disclosure and, where appropriate, investigate and take action accordingly.

1.12 Trinity Specialist College may, where such behaviour has been identified, take disciplinary action against any employee responsible for harassment, victimisation, or unfair treatment against a Whistleblower as a result of the disclosure they have made.

2 Exemptions

- 2.1 This policy will not apply where there is already an appropriate procedure in place for dealing with the concern. Specifically, this policy is not designed to be used:
- 2.1.1 for raising or reconsideration of matters that clearly come under existing internal procedures following initial assessment e.g. Grievance, Disciplinary, Capability, Dignity at Work, or Trinity Specialist College's general complaints procedure; or
 - 2.1.2 for allegations that fall within the scope of specific statutory procedures (for example child or vulnerable adult protection) which will normally be referred for consideration under the relevant process, unless the Whistleblower has good reason to believe that the appropriate process is not being followed or will not be followed effectively, in which case the provisions of this policy shall apply in relation to that allegation; or
 - 2.1.3 as an appeal process from any complaint or grievance handled under any of the above procedures.
- 2.2 Where a disclosure falls outside the scope of this policy, Trinity Specialist College will advise the Whistleblower of this and consult with them in respect of taking the matter further, if appropriate. Wherever possible, Trinity Specialist College will comply with the reasonable views of the Whistleblower in relation to the disclosure of information, but there may be situations where Trinity Specialist College is legally required to pass on details of a disclosure, without the consent of the Whistleblower, such as in Police investigations or legal proceedings.
- 2.3 Likewise, if a disclosure made under a separate Council procedure falls under the remit of a "serious misconduct," Trinity Specialist College will notify the Whistleblower of this and investigate the allegation under this policy instead.

3 Disclosures made by Individuals

- 3.1 This is called making a "Protected Disclosure" under PIDA, and when it is made in the public interest and in accordance with this policy, an employee or worker (including agency workers and individuals supplied to work via an intermediary where the agency or intermediary introduces them to or finds them the post, and the terms of their employment are substantially determined by the agency or Trinity Specialist College) is legally protected from harassment or victimisation and will not be subject to any other detriment as a result of the disclosure.

- 3.2 PIDA will protect any employee or worker making a protected disclosure, irrespective of whether or not the disclosure relates to information gained in the course of their employment (e.g. a protected disclosure made by an employee acting as a service user would still fall under the PIDA protection).
- 3.3 If an individual does not feel comfortable making a disclosure to Trinity Specialist College, they shall be entitled to make a disclosure to other prescribed persons. For further information please see Schedule 2.

4 Protecting an employee Whistleblower

4.1 Individuals should feel safe making a disclosure and are protected against repercussions if:

- they reasonably believe that the information disclosed, and any allegations contained in it, are substantially true;
- they think they are telling the right person; and
- they believe that their disclosure is in the public interest even if the disclosure turns out to be mistaken.

4.2 Trinity Specialist College is committed to preventing harassment or victimisation. If an employee claims that, despite that commitment, he or she has been victimised for making a disclosure, they should make a further complaint under this whistleblowing procedure directly to the City Solicitor.

4.3 Any allegation that an employee has victimised a Whistleblower will be taken seriously by Trinity Specialist College and managed appropriately, however a decision on whether it has occurred can only be determined by an employment tribunal in appropriate cases.

5 Advice to individuals wishing to make a disclosure

5.1 Trinity Specialist College hopes that individuals have the confidence to use our internal procedures, however individuals can also seek independent advice, for example, from their trade union or the charity Protect (0203 117 2520 – <https://protect-advice.org.uk>), to see whether the information which they wish to report would be a disclosure under this policy, or some other procedure.

6 How to report a concern

6.1 An individual who wishes to report any concerns to Trinity Specialist College should contact Trinity Specialist College either by:

Email: matthew.scarrott@trinityspecialistcollege.ac.uk or philippa.hunt@trinityspecialistcollege.ac.uk

Post: Principal, Trinity Specialist College, The Lindridge, Lindridge Road, Sutton Coldfield, West Midlands, B75 7JB

Telephone: 0121 378 3242

Setting out the following information:

- Name (unless you wish to be anonymous)
 - Contact details (unless you wish to be anonymous – although please note that it will not be possible to provide feedback on the concern if no contact details are provided)
 - Who has committed the alleged serious misconduct?
 - What is the nature of the alleged serious misconduct? (please include as much background and history (including dates) as possible and why you are concerned about the situation).
 - That you are using the Whistleblowing Policy to raise the concern.
- 6.2 Employees are also entitled to make a disclosure through their manager if they feel confident in approaching a manager. The manager must follow the obligation of confidentiality, but must, as soon as possible, and no later than 2 working days after receiving the protected disclosure, log the disclosure in accordance with 9.1 above, and then confirm to the employee concerned, in writing or email, that this matter has been recorded.
- 6.3 In the event that an employee does not feel comfortable in making a disclosure to Trinity Specialist College, they are entitled to make a protected disclosure to a number of other organisations. For further information as to whom, other than Trinity Specialist College, a protected disclosure can be made, see schedule 2.

7 How Trinity Specialist College will respond to a disclosure

7.1 Trinity Specialist College will acknowledge receipt of a disclosure within 2 working days. In some cases, if insufficient information is provided with the initial disclosure (in the reasonable opinion of Trinity Specialist College), the Whistleblower may be asked to provide further information and the procedure may not continue until this has occurred. All initial contact will be made by Trinity Specialist College's Professional Standards Team.

- 7.2 Trinity Specialist College will consider and decide whether the disclosure falls under the criteria within this policy and, if not, wherever appropriate, it will recommend how those concerns can instead be taken forward using appropriate existing council procedures. Trinity Specialist College's decision will be given to the person making the disclosure, wherever possible, as soon as possible after receipt of the disclosure and usually within 5 working days after acknowledging receipt of the disclosure. The decision notification will state whether or not the disclosure is considered to fall under the policy and how it will be dealt with.
- 7.3 There are situations where Trinity Specialist College is legally required to investigate, under separate procedures, without the consent of the Whistleblower, such as investigating allegations of ill-treatment or abuse of children or vulnerable adults (safeguarding). In these circumstances, Trinity Specialist College will, wherever possible, advise the Whistleblower that the disclosure will be investigated under another process, but there may be situations where it is not appropriate to disclose the existence of these investigations or any further details.
- 7.4 When a disclosure is considered to come under the Whistleblowing Policy Trinity Specialist College will appoint an investigator at its earliest opportunity. This may be an appropriate officer within Trinity Specialist College, or an independent investigator, depending on the nature of the disclosure and at the reasonable discretion of Trinity Specialist College. Once Trinity Specialist College has assigned an investigator, they will be instructed to contact the Whistleblower at the first available opportunity and in any event no later than 10 working days from the date of their appointment, to advise them of the following:
- 7.4.1 the name of the investigator appointed to undertake the investigation;
 - 7.4.2 arrangements for confidentiality;
 - 7.4.3 how the person making the disclosure will be expected to contribute to the investigation;
 - 7.4.4 an estimate of how long the investigation is likely to take;
 - 7.4.5 the right of an employee Whistleblower to representation by a recognised trade union or work colleague at any meeting; and
- 7.5 In any event, Trinity Specialist College will arrange to keep the Whistleblower updated throughout the process and, wherever possible, will seek to advise the Whistleblower of the outcome of the investigation but will not provide a copy of the investigators report. However, Trinity Specialist College is bound by the Data Protection Act 1998 and the

Human Rights Act 1998 in respect of allegations relating to individuals and may not be able to disclose specific information in certain circumstances.

7.6 Trinity Specialist College shall treat all disclosures consistently and fairly.

8 Confidentiality and Anonymity

8.1 Trinity Specialist College will seek to treat all disclosures in confidence as a means of preventing victimisation and will endeavour to avoid disclosing information identifying any Whistleblower. However, there may be situations where, due to the circumstances of the alleged serious misconduct, it may be impossible to avoid disclosing information identifying any Whistleblower. In these circumstances, Trinity Specialist College will consult with the Whistleblower prior to the disclosure taking place.

8.2 Trinity Specialist College may also be required to disclose the identity of the Whistleblower to third parties, where necessary for the purposes of undertaking investigations, for example where the disclosure relates to criminal offences where Trinity Specialist College considers that the Police should investigate.

8.3 There may also be situations where Trinity Specialist College is obliged to disclose information, such as where there are legal proceedings following on from investigation of the disclosure. This may require the disclosure of witness statements or correspondence, and there is also the possibility that the Whistleblower may be expected to give evidence at any hearing. In these circumstances, Trinity Specialist College will discuss the implications for the Whistleblower and, where appropriate, discuss appropriate support arrangements.

8.4 Anonymous disclosures will be considered at the discretion of Trinity Specialist College taking into account the seriousness of the information given, the credibility of the evidence and the likelihood of confirming the allegation from attributable sources. There may not be enough information or sufficient evidence to pursue an investigation without the investigator being able to contact the Whistleblower for further information.

9 Untrue Allegations

9.1 As set out in paragraph 3.1 above, if a Whistleblower makes an allegation which is believed to be true and in the public interest, but it is not confirmed by the investigation, no action will be taken against the employee. However, Trinity Specialist College will view very seriously any false or malicious allegations or allegations made for personal gain and where the whistleblower is an employee, disciplinary action may be

taken against the Whistleblower under Trinity Specialist College's Disciplinary Policy.

10 Recording and monitoring complaints

- 10.1 Trinity Specialist College is legally required to maintain a list of disclosures raised by individuals
- 10.2 For the purposes of investigating whether or not there are any systemic issues that need to be addressed, and to monitor the performance of any investigation, an anonymised summary of all disclosures of serious misconduct, made by employees, will be sent on a termly basis to the Board of Trustees.
- 10.3 Trinity Specialist College will record details of all disclosures made under this policy, anonymising the identity of the Whistleblower and use this information for the purposes of identifying areas of concern, which may indicate further action is required, and where appropriate, share this information with other regulatory bodies.
- 10.4 Both lists are maintained in accordance with the Data Protection Act 1998.
- 10.5 A report on the number of concerns will be published annually. This report will not include any information identifying any Whistleblower.

Appendix 1 – whistleblowing by member of the public

Unlike disclosures by employees, the Public Interest Disclosures Act does not cover disclosures by members of the public.

However, Trinity Specialist College considers that many disclosures or allegations made by members of the public in respect of serious wrongdoing should be handled in the same way as disclosures made by employees.

Once disclosure from a member of the public has been received by Trinity Specialist College, it will be handled in the same way as a disclosure made by an employee under the Public Interest Disclosure Act.

Schedule 1

The Nolan Principles of Conduct Underpinning Public Life

1. Selflessness – Holders of public office should act solely in terms of the public interest.
2. Integrity- Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. Objectivity- Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. Accountability- Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. Openness- Holders of the public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. Honesty- Holders on public office should be truthful
7. Leadership- Holders of the public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Holders of public office are defined in law. They include local government Councillors, school governors and clerks to school governing bodies. They also include certain senior local government officers required to be appointed by law.

Schedule 2

List of other bodies a whistleblowing disclosure can be made to:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404330/bis-15-43-blowing-the-whistle-to-a-prescribed-person-list-ofprescribed.pdf