

# Whistleblowing Policy

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| Policy reviewed and adopted by the Board of Trustees | <b>Summer 2021</b>                                                                                  |
| Version                                              | <b>V2</b>                                                                                           |
| Date of next review:                                 | <b>Summer 2023</b>                                                                                  |
| Responsible Committee:                               | <b>Finance and Personnel</b>                                                                        |
| Monitoring:                                          | <b>Finance and Personnel</b>                                                                        |
| Related Policies                                     | <b>Grievance Policy and Procedure<br/>Safeguarding Policy<br/>Disciplinary Policy and Procedure</b> |

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## 1 Introduction

- 1.1 Our vision, underpinned by co-operative values<sup>1</sup>, is threefold; to work in partnership with the community we serve to combat social exclusion and deprivation, to build a sustainable and vibrant community and local economy, and to provide learners with a global perspective helping them to become responsible and articulate citizens in a global economy. We will achieve this by delivering the highest possible standards of education, and for this we rely on the appropriate conduct of all our employees and volunteers.
- 1.2 Thrive welcomes the support of recognised Trade Unions in seeking to implement this policy in a fair and consistent manner.
- 1.3 Prior to final approval by the Thrive Board this policy has been the subject to consultation with unions and professional associations; their suggested amendments have been taken into consideration and changes made where they can be agreed.
- 1.4 The Trust prides itself on having an open and honest culture, and is committed to the highest possible standards of probity and accountability. However, it also recognises that irregularities, wrong doing or serious failures in standards can sometimes occur.
- 1.5 The Trust recognises that, from time to time, situations will arise where employees become aware of poor practice that can affect the wellbeing of pupils, users of our services, our employees and the long-term reputation of the School and the Trust. We encourage employees with serious concerns about any aspects of the Trust's work to come forward and voice those concerns. Confidentiality will be maintained as far as is possible.

## 2 What is whistleblowing - is this the right policy to use?

- 2.1<sup>2</sup> For the reasons given in 2.2 - 2.5 colleagues should give careful consideration to whether this is the right policy to use. If they have a complaint against another colleague they should seek to resolve this informally with that colleague. If this fails then they should refer the complaint to a senior manager who will deal with the matter appropriately. If a colleague believes that they are the victim of bullying, harassment or discrimination they should use the Trust's grievance policy and procedure as these are not covered by whistleblowing law, unless your particular case is in the public interest. A flow chart to give guidance on which policy to use is given in appendix 1.
- 2.2 Whistleblowing is the term used when a colleague passes on information concerning wrongdoing. In this policy, we call that "making a disclosure" or "blowing the whistle". The wrongdoing will typically (although not necessarily) be something they have witnessed at work.
- 2.3 To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.
- 2.4 The second thing that a worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
  - criminal offences (this may include, for example, types of financial impropriety such as fraud)
  - failure to comply with an obligation set out in law
  - miscarriages of justice
  - endangering of someone's health and safety
  - damage to the environment
  - covering up wrongdoing in the above categories

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<sup>1</sup> self-help, self-responsibility, democracy, equality, equity, solidarity, honesty, openness, social responsibility and caring for others

<sup>2</sup> 2.1 - 2.5 based on [Whistleblowing: Guidance for Employers and Code of Practice \(2015\)](#) and [Government guidance 'Whistleblowing for employees' \(2021\)](#)

If the disclosure fits in one or more of these categories it will be viewed as a 'protected disclosure' and it would be appropriate to use the Whistleblowing Policy.

- 2.5 Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.
- 2.6 No one who raises a genuine concern about poor practice will be put at risk of losing their job, or suffering any form of retribution as a result of doing so. Harassment or victimisation of whistleblowers will not be tolerated. The Trust expects all managers to recognise their responsibilities in this matter, and to adopt and implement this policy and adhere to its procedures with regard to whistle blowing by any employee.

### 3 Entitlement

- 3.1 [The Public Interest Disclosure Act](#), commonly called the "Whistleblowers Act", came into force on 2 July 1999. The Act provides protection for workers who disclose information which might otherwise be regarded as confidential and was strengthened by the Enterprise and Regulatory Reform Act 2013.
- 3.2 The Act provides protection from dismissal, or action short of dismissal, and makes void any term in a contract of employment which would prevent the employee from making a protected disclosure (so called "gagging clauses"), providing that the disclosure is a "qualifying disclosure" and it is made in the public interest and is a genuinely held belief that the information is true.
- 3.3 The reasonable belief does not need to be correct and the whistle blower does not need to provide evidence; an investigation may subsequently find that they were wrong, however the employee only needs to show that they held the belief and that it was a reasonable belief in the circumstances at the time of disclosure.
- 3.4 The 'public' in the public interest can be a subset of the wider population and so can be interpreted as all of the people employed by an employer e.g. the Trust.
- 3.5 The disclosure is protected if it is made to the correct authority. This will be either internally to their manager at the School or Trust (or another person who they reasonably believe to be solely or mainly responsible for the relevant failure) or externally to a 'prescribed person or body'. These are certain statutory bodies - or people within them - who have the authority to receive disclosures relevant to the role of that particular body. A list of these bodies can be accessed [here](#).

### 4 Scope

- 4.1 This policy applies to employees, agency workers, self-employed workers and professional visitors. This policy does not cover issues such as an employee's concerns regarding their own pay or working hours, working conditions or volume of work, as those issues should be addressed via other policies and procedures (e.g. The Trust's Grievance Procedure).

## 5 Roles and Responsibilities

- 5.1 The Trust Board is responsible for approving this policy, monitoring its effectiveness and ensuring it is published on the Trust's website. Trustees must also appoint at least one Trustee and one member of staff who other staff can contact to report concerns, these are Claire Wood (Chair of the Trust Board) and Jonathan Roe (Chief Executive Officer).
- 5.2 **The CEO** is responsible for ensuring that staff and others do not suffer a detriment in the application of this policy and procedure.

The CEO will also ensure that:

- Any individual who makes a disclosure of wrongdoing or malpractice in good faith is protected against victimisation.
- Anyone who victimises a whistleblower will be subject to the Trust's Disciplinary Policy and Procedure.
- Any matters raised will be treated seriously, swiftly, consistently, fairly and professionally
- Any matter raised will be promptly and thoroughly investigated by an appropriate senior person
- The whistleblower's identity will, so far as is possible, remain confidential
- Any employee or worker who knowingly makes false allegations against a colleague will be subject to the Trust's Disciplinary Policy and Procedure.
- Any employee who, in good faith, makes allegations that turn out to be unfounded will not be penalised.

- 5.3 The **Human Resources Manager** is responsible for ensuring that all employees and officers of the Trust are aware of this policy. The HRM will also ensure that;
- 5.3.1 The policy is implemented fairly and consistently.
- 5.3.2 Staff know what protection is available to them if they report areas of malpractice or wrongdoing, and who to approach to report a concern.
- 5.3.3 Whistleblowers are treated with dignity and respect and offered access to appropriate support. Whistleblowers are encouraged to access additional support via their trade unions and the employee assistance programme.
- 5.4 **Leaders and managers** must ensure they deal with whistleblowing issues swiftly, respectfully, thoroughly and professionally, whilst upholding confidentiality as far as possible.
- 5.5 **All employees, agency workers, self-employed workers and professional visitors** have a responsibility for raising any concerns they have, thus providing the Trust with the opportunity to resolve any issues that arise. It is expected that wherever possible employees and officers of the Trust raise concerns prior to malpractice or wrongdoing occurring. However, where this isn't possible, it is expected that employees and officers of the Trust raise concerns at the earliest opportunity in line with this policy and procedure.

## 6 Equality and Diversity

- 6.1 The Thrive Cooperative Learning Trust is committed to:
- 6.1.1 Promoting equality and diversity in its policies, procedures and guidelines;
- 6.1.2 Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged.

## 7 Safeguards

- 7.1 Any person who blows the whistle is protected from harassment or bullying by the organisation or anyone on behalf of the organisation (this includes co-workers or contractors). Anyone in the organisation (or anyone who is working on behalf of the organisation) who subjects a whistleblower to 'detriment' will be subjected to the disciplinary process. Information about available support for the whistleblower will be offered to any employee who blows the whistle by the person they contacted within the Trust.
- 7.2 Every effort will be made to ensure that the employee's identity is kept confidential if they so wish. However, it must be appreciated that an investigation process may reveal the source of the information. The organisation may need the whistleblower to give evidence at disciplinary or criminal proceedings. If it becomes necessary to reveal the employee's identity in order to pursue the investigation, this will be discussed with them at the earliest stage. In such circumstances, it may affect the organisation's ability to continue the investigation if they do not agree to be identified.
- 7.3 If an allegation is not confirmed by the investigation, no action will be taken against the whistleblower. If, however, it is found that they have made maliciously false allegations, disciplinary action may be taken against them using the Trust's Disciplinary Policy and Procedure.

## 8 Independent advice

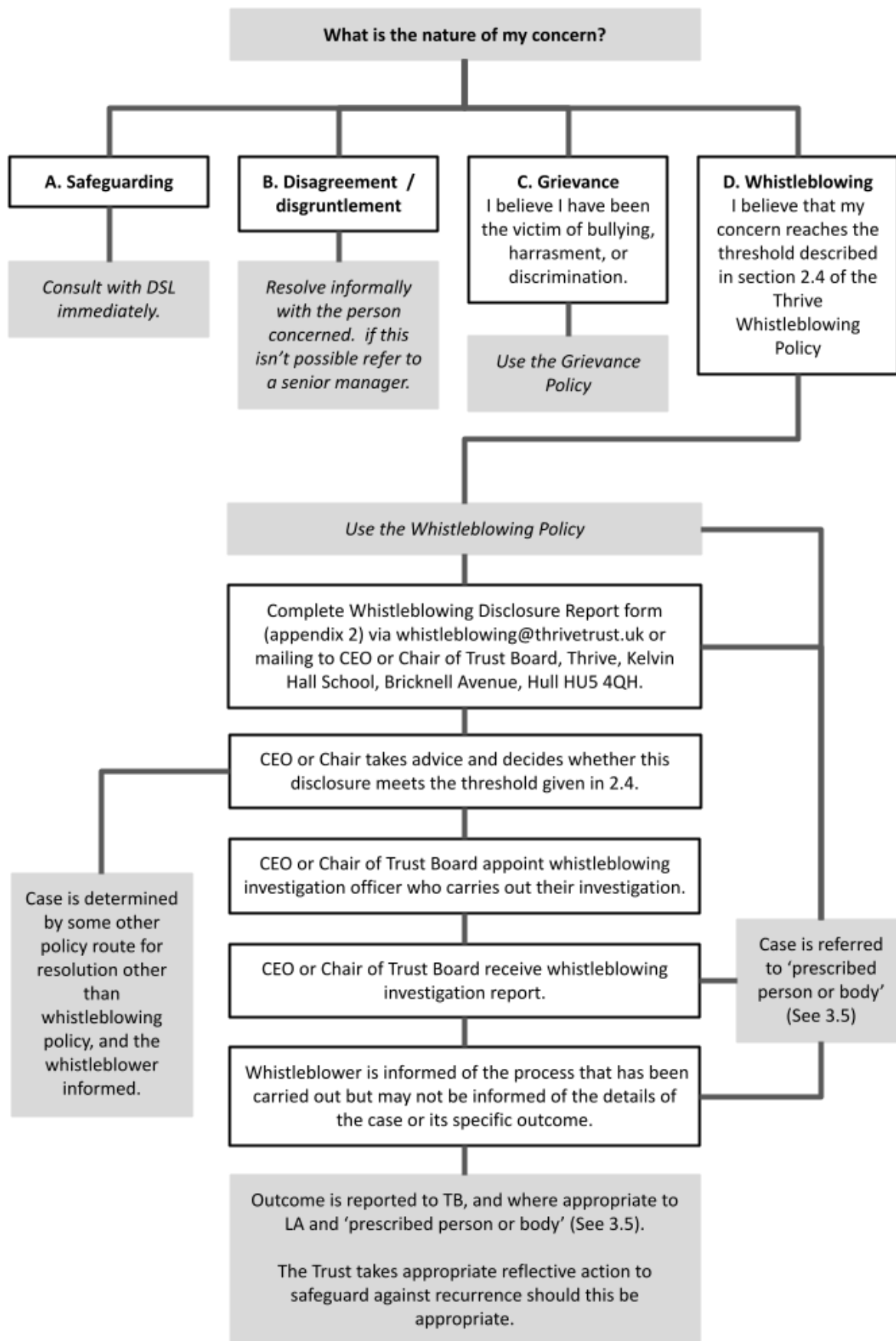
- 8.1 If at any stage in the procedure employees are unsure about what to do and would like independent advice, they may like to discuss their concerns with someone at Public Concerns at Work (PCaW). PCaW is an independent charity staffed by lawyers that offer confidential free legal and practical advice on how people can raise concerns about malpractice at work. They can also give advice on whom else employees may contact and about what legal protection may be available. PCaW's legal helpline can be contacted on 020 7404 6609 or by e-mailing [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk) or by visiting the [PCAW website](#).
- 8.2 Professional associations, trade unions and the Citizens Advice Bureau can also offer advice concerning raising concerns.
- 8.3 If a member of staff feels unable to raise an issue regarding child protection failures/ safeguarding with anyone internally or feels that their genuine concerns are not being addressed, the NSPCC whistleblowing helpline is available. Staff can call 0800 028 0285 (available from 8:00 AM to 8:00 PM, Monday to Friday) or email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk) or visit the [NSPCC webpage](#).

## 9 Dealing with a Whistleblowing Disclosure (See Appendix 1)

- 9.1 The Whistleblower must believe that their concern meets the threshold to be considered by this policy as described in section 2 above.
- 9.2 The whistleblower will make their disclosure to the CEO or the Chair of Trust Board as appropriate via [whistleblowing@thrivetrust.uk](mailto:whistleblowing@thrivetrust.uk) or mailing to CEO or Chair of Trust Board, Thrive Co-operative Learning Trust, Kelvin Hall School, Bricknell Avenue, Hull HU5 4QH. The whistleblower must use the form given in appendix 2.

- 9.3 The whistleblower's anonymity will be protected through this process as far as possible.
- 9.4 The whistleblower must be prepared to explain the reasons for their disclosure, but they do not have to be able to prove it.
- 9.5 The CEO or Chair of the Trust Board will acknowledge receipt of the disclosure within 5 working days and will reassure the whistleblower that the matter will be treated in confidence, and initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take, and give an indication of timescales.
- 9.6 If an investigation is warranted the CEO or Chair of the Trust Board will appoint a whistleblowing investigating officer. This will normally be from within the Trust but there may be reasons for seeking support with this from a third party.
- 9.7 The Head should be kept informed, except where the disclosure may involve them, in which case the Chair of Trust Board or CEO should be informed.
- 9.8 At any meeting during the process in which a non-anonymous whistleblower is involved, the whistleblower has the right, if they so wish, to be accompanied by a trade union representative or colleague who is not involved in the area of work to which the concern relates.
- 9.9 Should the investigation uncover a criminal offence then the police, and any other relevant external body, will be involved as soon as this is known.
- 9.10 So that the whistleblower who raised the concern can be sure that the matter has been properly addressed, they will be given feedback on how their concern has been handled. However, the organisation may not be able to fully disclose full details owing to confidentiality in relation to other people involved or owing to legal constraints. This situation will be explained to the employee.
- 9.11 The legislation sets out a number of bodies to which qualifying disclosures may be made, including:
- HM Revenue and Customs
  - Financial Conduct Authority
  - Health and Safety Executive
  - Environment Agency
  - Serious Fraud Office
  - Department for Education
  - Ofsted

## Appendix 1: Whistleblowing Flowchart





**Appendix 2: Whistleblowing Disclosure Referral Form**

Please use this form to report any serious concerns that you may have over malpractice or wrongdoing occurring at Thrive, including but not limited to:

- a criminal offence, for example fraud
- someone’s health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, for example does not have the right insurance
- you believe someone is covering up wrongdoing

Please complete and return this form to whistleblowing@thrivetrust.uk or mailing to CEO or Chair of Trust Board, Thrive, Kelvin Hall School, Bricknell Avenue, Hull HU5 4QH.

The information in this form will be held in confidence and the identity of the whistleblower nor revealed unless there is a legal reason not to do so.

|                                                                                                                                                                                                                                                                                                                                                                                                                            |          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| A. Date this Disclosure Referral Form was completed and sent                                                                                                                                                                                                                                                                                                                                                               |          |
| B. Have you read and understood the Whistleblowing Policy?                                                                                                                                                                                                                                                                                                                                                                 | Yes / No |
| C. Have you used the flowchart in appendix 1 of the Whistleblowing Policy and have decided that the Whistleblowing policy is the right one to seek a resolution?                                                                                                                                                                                                                                                           | Yes / No |
| <p>D. If the answers to B. and C. above are both ‘yes’ please give full details of your whistleblowing disclosure.</p> <p>To ensure we have all of the facts surrounding your disclosure please include what is the suspected wrongdoing, when it occurred, who is involved and have you reported this previously?</p><br><br><br><br><br><br><br><br><br><br><br><br><br><p>Continue on a separate page as necessary.</p> |          |
| E. Do you wish to remain anonymous?                                                                                                                                                                                                                                                                                                                                                                                        | Yes / No |

F. If no, please provide your contact details.

This is not mandatory, but we may sometimes need to ask you more questions or follow up on the information you've provided.

What happens next?

- The person to whom you have sent this form will;
  - Confirm receipt of your disclosure and carefully review the disclosure;
  - Take HR and / or legal advice as appropriate ;
  - Contact you within 10 working days to give details on whether this disclosure will be dealt with as a whistleblowing disclosure or whether it should be dealt with via some other route.