

# WHISTLEBLOWING POLICY

## *play-to-learn*

MONTESSORI NURSERIES AND PRE-SCHOOLS



### What is whistleblowing?

Whistleblowing is a term used when someone who works in or for an organisation wishes to raise concerns about malpractice in the organisation. Whistleblowing encourages and enables staff to raise serious concerns within the setting, rather than overlooking a problem or “blowing the whistle” outside.

**Don't think “what if I'm wrong?”, think, “what if I'm right?!”**

### Statement of Intent

The setting is committed to the highest possible standards of openness, probity, and accountability. As a childcare provider, it is our responsibility to maintain the welfare of both the children and staff and we encourage employees, volunteers, and other adults with genuine concerns about any person linked with the setting and/or other adults (e.g., parents/carers) to come forward and voice those concerns or issues to a senior member of staff.

Making a disclosure in the public interest (whistleblowing) is essential for keeping children safe in the setting and to ensure good quality practice.

This policy applies to all employees and applies equally to those designated as casual, temporary, or work experience students and is underpinned by the Public Interest Disclosure Act 1998, which encourages people to raise concerns about misconduct or malpractice in the workplace, to promote good governance and accountability in the public interest. The act covers behaviour that amounts to:

- A criminal offence
- Failure to comply with any legal obligation
- A miscarriage of justice
- Danger to health and safety of an individual and/or environment
- Bullying, humiliation, discrimination, poor practice, unsafe practice, abuse, or neglect
- Deliberate concealment of information about any of the above

It is not intended that this policy be a substitute for, or an alternative to the setting's formal Grievance Procedure, but is designed to nurture a culture of openness and transparency within the organisation, which makes it safe and acceptable for employees and volunteers to raise, in good faith, a concern they may have about misconduct or malpractice.

An employee or volunteer who, acting in good faith, wishes to raise such a concern should normally report the matter to the setting manager who will advise the employee or volunteer of the action that will be taken in response to the concerns expressed. Concerns should be investigated and resolved as quickly as possible.

### Updated:

**Sept 13, Jan 16, Oct 16, Dec 17, Sept 18, July 19, Jun 22**

**Next Annual review date: September 2022**

A disclosure in good faith to the setting manager will be protected. Confidentiality will be maintained wherever possible, and the employee or volunteer will not suffer any personal detriment because of raising any genuine concern about misconduct or malpractice within the organisation.

### **Statutory Framework**

There is government guidance set out in [Working together to safeguard children](#) on how agencies must work in partnership to keep children safe. This guidance places a shared and equal duty on three Safeguarding Partners (the Local Authority, Police and Health) to work together to safeguard and promote the welfare of all children in their area under multi-agency safeguarding arrangements. The statutory partners in Essex are Essex County Council, Essex Police and five of the seven Clinical Commissioning Groups covering the county and the partnership arrangements sit under the Essex Safeguarding Children Board (ESCB). In addition we use the following guidance to support our policy [Early years foundation stage \(EYFS\) statutory framework](#) and [Early years: Ofsted compliance handbook](#)

Early years providers have a duty under section 40 of the Childcare Act 2006 to comply with the safeguarding and welfare requirements of the Early Years Foundation Stage, under which providers are required to take necessary steps to safeguard and promote the welfare of young children.

This policy should be read in conjunction with other statutory and local guidance:

- [Children Act](#) (HMG, 1989)
- [Children Act](#) (HMG, 2004)
- [Home - Essex Effective Support](#) (ESCB)
- [Information sharing advice for safeguarding practitioners](#)
- [Inspecting safeguarding in early years, education and skills settings](#)
- [Protecting children from radicalisation: the prevent duty](#)
- [SET Procedures](#) (ESCB)
- [Statutory framework for the early years foundation stage](#) (DfE, 2021)
- [Understanding and Supporting Behaviour - safe practice for schools and educational settings](#) (ESCB, 2020)
- [What to do if you're worried a child is being abused](#) (HMG, 2015)

The policy also complements our Child protection Policy, Behaviour Management Policy, which includes information on positive handling, and our Staff Code of Conduct.

### **Safeguards**

#### **Harassment or victimisation**

The setting recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The setting will take action to protect you when you raise a concern in good faith. It will not tolerate any resulting harassment or victimisation including informal or indirect pressures and will treat this as a serious disciplinary offence which will be dealt with under the appropriate procedures.

### **Confidentially**

All concerns will be treated in confidence and the setting will do its best to protect your identity if you do not want your name disclosed. If investigation of a concern discloses a situation which is sufficiently serious to warrant disciplinary action or police involvement, then your evidence may be important. If at this stage your name needs to be released as a possible witness, then we will discuss this with you first.

### **Anonymous allegations**

This policy encourages you to put your name to your allegations concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the setting manager against the following criteria:

- The seriousness of the issues raised
- The likelihood of confirming the allegation from the attributable sources
- The setting best interests
- The protection of the setting's assets

You should also bear in mind that if you do choose to raise a concern anonymously it will be more difficult for the matter to be investigated and for you to be provided with feedback.

### **Untrue allegations**

If you make an allegation in good faith but it is not confirmed by the investigation, no reprisals will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you.

### **How to raise a concern**

- As a first step, you should normally raise concerns with the setting manager. However, if for some reason this first step is inappropriate then the concern should be raised with Michelle Wisbey, registered provider.
- Concerns can be raised orally but it is good practice for the concern to be recorded in writing at an early stage to ensure that all details are correctly understood.
- A written allegation should set out the background and history of the concern, (giving names, dates, and places where possible) and the reason why you are particularly concerned about the situation.
- It is preferable for you to record this in writing yourself.
- Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

### **How the setting will respond**

The action taken by the setting will depend on the nature of the concern. After initial enquiries to assess the seriousness of the matter it may be investigated internally or referred to LADO or the police. If urgent action is required in response to a concern this may well be taken before a full investigation is conducted.

Some concerns may be resolved by action agreed with you without the need for an investigation or it may be that an investigation can be completed without the person or persons under investigation being aware of the process.

In any event within ten working days of a concern being received, the setting will write to you at your home address:

- Acknowledging that the concern has been received
- Indicating how it proposes to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Telling you whether any initial enquiries have been made
- Telling you whether further investigation will take place, and if not why

- Naming an independent officer to support you during any investigation

This policy is intended to provide you with a way to raise concerns within the setting. The setting hope you will be satisfied by its response. If you are not, you may wish to raise the matter with the police, a legal adviser and LADO.

### **Legal framework**

- The policy is underpinned by the Public Interest Disclosure Act 1998
- If an employee or volunteer feels the matter cannot be discussed with the setting manager, he or she should contact **LADO** (Local Authority Designated Officer) on **0345 139797** for advice on what steps to follow.

### **How the Setting Management will respond**

The action taken by the setting will depend on the nature of the concern. Many cases may not meet the criteria set out previously or may do so without warranting consideration of either a police investigation or enquiries by the LADO.

### **Initial Response to an Allegation or Concern**

The person to whom the allegation is reported should treat the matter seriously and keep an open mind. They should NOT investigate the matter or ask leading questions, make assumptions, or promise confidentiality.

They should:

- Make a written record of the information (where possible in child/adult's own words) including time, date and place of incident/s, persons present and what was said
- Sign and date the written record
- Immediately report the matter to Michelle Wisbey, registered provider

### **Initial Action by Management**

When informed of an allegation or concern, senior management should NOT investigate the matter or interview staff, children, or potential witnesses.

They should:

- Obtain written details of the concern/allegation, signed, and dated by the person receiving
- Approve and date the written details
- Record any information about times, dates, locations, and names of witnesses
- Record discussions about the child and/or member of staff, any decisions made, and the reasons for those decisions.
- The Employer, Michelle Wisbey, will notify LADO with one working day of an allegation being made and prior to any further investigation taking place. Referrals should NOT be delayed gathering evidence.
- The Employer will seek advice from LADO or the police about how much information should be disclosed to the accused person.
- OFSTED will be informed and invited to take part in subsequent discussions or meetings.
- Subject to restrictions on the information that can be shared, the Employer, will, as soon as possible, inform the accused person about the nature of the allegation, how enquiries will be conducted and the possible outcome.
- The LADO will advise the employer whether informing the parents of the child/ren involved will impede the disciplinary or investigative processes. Acting on this advice, if it is agreed that the information can be fully or partially shared, the employer should inform the parent/s. In some circumstances, however, the parent/s may need to be told straight away (e.g., if a child is injured and requires medical treatment).
- The accused member of staff should:
  - Be treated fairly and honestly and helped to understand the concerns expressed and processes involved.
  - Be kept informed of the progress and outcome of any investigation and the implications for any disciplinary or related process.

- If suspended, be kept up to date about events in the workplace.

### **Initial Action by LADO and Setting Management**

There are three strands of consideration of an allegation:

The matters raised may:

- Be investigated internally, for disciplinary or capability action
- Warrant a police investigation of a possible criminal offence
- Require a social care investigation and/or assessment about whether a child needs protection or services

The **LADO** and Senior Management should consider the following:

- Whether appropriate safeguarding actions has been taken
- Whether further details are needed to establish whether there is evidence or information that establishes that the allegation is false or unfounded.

### **The following definitions apply when determining the outcome of allegation investigations:**

- **Substantiated:** there is sufficient identifiable evidence to prove the allegation.
- **False:** there is sufficient evidence to disprove the allegation.
- **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.
- **Unfounded:** there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively, they may not have been aware of all the circumstances.
- **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation; the term therefore does not imply guilt or innocence.

### **Allegations against staff in their personal lives**

- If an allegation or concern arises about a member of staff, outside of their work with children, and this may present a risk of harm to children for whom the member of staff is responsible, the same principles outlined in these procedures will apply.
- If an allegation of abuse against someone closely associated with a member of staff may present a risk of harm to children which the staff is responsible for then the following will apply:
  - The ability and willingness of the member of staff to adequately protect the children
  - Whether measures need to be put in place to ensure children's safety
  - Whether the role of the member of staff member is compromised

### **Disciplinary Process**

Following on from any investigations the **LADO** and Senior Management will discuss whether disciplinary action is appropriate in cases where:

- a police or social care enquiry is not necessary
- any subsequent police investigation or court trial is complete and to be closed or prosecution discontinued

The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff and consider:

- Information provided by the police or local social care
- Result of any investigation and trial
- Different standard of proof in disciplinary and criminal proceedings

## **Disciplinary Action**

- If formal disciplinary action is not required, the employer should institute appropriate action within three working days.
- If a disciplinary hearing is required, and further investigation is not required, it should be held within 15 working days.
- If further investigation is needed to decide upon disciplinary action, the employer and the LADO should discuss whether the employer has appropriate resources or whether the employer should commission an independent investigation because of the nature and/or complexity of the case and to ensure objectivity.
- The investigation should not be conducted by a relative or friend of the member of staff.
- The aim of an investigation is to obtain, as far as possible, a fair, balanced and accurate record to consider the appropriateness of disciplinary action and/or the individual's suitability to work with children. Its purpose is not to prove or disprove the allegation.
- If, at any stage, new information emerges that requires a child protection referral, the investigation should be held in abeyance and only resumed if agreed with local authority children's social care and the police. Consideration should again be given as to whether suspension is appropriate considering the new information.
- The investigating officer should aim to provide a report within ten working days.
- On receipt of the report the employer should decide, within two working days, whether a disciplinary hearing is needed. If a hearing is required, it should be held within 15 working days.

## **Sharing information for disciplinary purposes**

- Wherever possible, police and local authority children's social care should, during their investigations and enquiries, obtain consent to provide the employer and/or regulatory body with statements and evidence for disciplinary purposes.
- If the police or CPS decide not to charge, or decide to administer a caution, or the person is acquitted, the police should pass all relevant information to the employer without delay.
- If the person is convicted, the police should inform the employer and the LADO straight away so that appropriate action can be taken.

## **Record keeping**

- Employers should keep a clear and comprehensive summary of the case record on a person's confidential personnel file and give a copy to the individual.
- The record should include details of how the allegation was followed up and resolved, the decisions reached, and the action taken. It should be kept at least until the person reaches normal retirement age or for ten years if longer.
- The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will provide clarification where a future DBS request reveals non convicted information and will help to prevent unnecessary reinvestigation if an allegation re-surfaces after a period. In this sense it may serve as a protector to the individual themselves, as well as in cases where substantiated allegations need to be known about to safeguard future children.
- Details of allegations that are found to be malicious should be removed from personnel records.

## **Substantiated allegations**

If an allegation is substantiated and the person is dismissed or the employer ceases to use the person's service or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the employer whether a referral should be made to the Disclosure and Barring Service (DBS). The employer should make this referral, but the LADO has overall responsibility to ensure the referral is made in a timely manner.

## Whistleblowing to Ofsted

### [Childcare provider: Report a serious childcare incident](#)

In accordance with the [Statutory framework for the early years foundation stage](#), the setting will also inform Ofsted of any allegations of serious harm or abuse by any person living, working, or looking after children at the premises (whether the allegations relate to harm or abuse committed on the premises or elsewhere). We will notify Ofsted of the action taken in respect of the allegations. We will make these notifications as soon as reasonably practicable, but within 14 days of the allegations being made. We are aware that not complying with these requirements without reasonable excuse is committing an offence.

### How the matter can be taken further

#### [Report a concern about a child - Essex County Council](#)

#### Contact Children's Social Care

If a child or young person is in immediate danger, call 999.

If you're worried that a child is being abused or neglected, call us on 0345 603 7627.

Out of hours or bank holidays, call the emergency duty team on 0345 606 1212.

You can also report a concern using our [request for support form](#) on our online Social Care Portal.

You can find out how to make an effective request for support on our [examples and guidance page](#).

### Essex duty LADO (Local Authority Designated Officer) Telephone: 03330 139 797

The Essex Duty LADO telephone line is open from Monday to Friday (during office hours, excluding public holidays). All calls are managed by an IT system, so when the Duty LADO is engaged in a telephone call you will receive an automated voice message asking you to leave your contact details.

Due to the high number of referrals, LADO receive you are strongly advised to leave a message if you do not get an immediate response, as the system places all incoming calls in a queue.

The above duty line is for allegations made against those who work with children only and is not a general line of enquiry for children's safeguarding.

- For child protection enquiries that are not related to an allegation about a professional, please call 0345 603 7627.
- For education advice and guidance that is not related to safeguarding, please call 01245 433360.

Or you can the National Society for the Prevention of Cruelty to Children (NSPCC). The NSPCC provides protection to those making any disclosures about child welfare and protection.

### The National Society for the Prevention of Cruelty to Children (NSPCC)

Contact them about matters relating to child welfare and protection.

NSPCC

Weston House

42 Curtain Road

London

EC2A 3NH

Tel: 0800 028 0285

This phonenumber is staffed 365 days a year:

- Mon-Fri (incl. bank holidays) 8am to 10pm
- Weekends 9am to 6pm

Email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

