



## Whistleblowing policy

### Policy purpose

Whistleblowing inside the work place is the term used to describe reporting by employees or ex-employees, of wrongdoing on the part of management, Committee or by fellow employees. Such wrongdoing may include for example, fraud, corruption, malpractice, breach of health and safety law, any other illegal or unethical act or breaches of the Academy Code of Conduct.

Employees may, for this purpose include, for example, contractors and agency/bank workers.

This policy aims to give members of staff and other individuals the confidence to raise serious concerns using the routes provided, and to reassure staff of the protection they are afforded when they have made a disclosure in good faith. It will be fairly and consistently applied in accordance with the BSM's commitment to equal opportunities.

### Protecting the Whistle-blower

Under the Public Interest Disclosure Act 2013 a Whistle-blower is protected from detriment and unfair dismissal. Nailsworth Playgroup will support and not discriminate against concerned employees who apply the Whistleblowing procedure, provided any claim is made in good faith.

An employee who makes a qualifying disclosure has the right not to be dismissed, subjected to any other detriment or victimised because he/she has made the disclosure. A zero tolerance approach will be taken to any act of harassment or victimisation resulting from a member of staff raising a concern in good faith. A member of staff making an allegation within the scope of this policy will be supported when raising a concern, providing that he/she:

- Believes the concern to be true;
- Is not acting maliciously or making false allegations;
- Is not seeking any personal gain.

### When should whistleblowing procedures be used?

If an employee has concerns about wrongdoing in the workplace and feels that those concerns are sufficiently serious to require reporting, this procedure outlines what should be done.

Each individual member of staff should feel able to speak freely on such matters. However, the Playgroup and colleagues have the right to protect themselves against unfounded false or malicious accusations.

Whistleblowing should only be used when the party implementing the procedure (Representor) has reasonable grounds for believing that a serious offence has been or may be committed. It must never be used without good grounds, falsely or maliciously.

Whistleblowing is not appropriate for dealing with issues between an employee and the Playgroup, which relate to the employee's own employment or rights or employment conditions generally.

Whistleblowing is not appropriate for dealing with parental complaints, which will be dealt with under separately published procedures (Making a complaint policy).

Whistleblowing is not appropriate to specific cases of child safety or safeguarding, which will be dealt with under the procedures specified in that connection. If any staff member has concerns that a child is being dealt with unfairly in the Playgroup, they should raise their concern, in the first instance with the Designated Safeguarding Lead (DSL).

## **The Procedure**

Any issue raised will be kept confidential while the procedure is being used.

The Representor (the person raising the concern) should raise their concern with their line manager. This may be done orally or in writing. However, if the concern relates to the Representor manager, the Representor should raise the issue with the Chair.

If the concern relates to the Chair, the Representor should raise the matter with another Committee member.

The person with whom the matter is raised is referred to as the 'Assessor'. The Assessor will:

- a. Interview the Representor as soon as possible within seven working days, in confidence. Early interview will be essential if the concern relates to an immediate danger to loss of life or serious injury or risk to children.
- b. Obtain as much information as possible from the Representor about the grounds for the belief of wrongdoing.
- c. Consult with the Representor about further steps which could be taken.

At the interview with the Assessor, the Representor may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by an officer of the Committee to take notes.

The Assessor may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The Assessor may also discuss the issue, in confidence, with other suitable professionals in order to assess the nature of the case and to inform the outcome of the investigation.

Promptly within 10 working days of the interview, the Assessor will recommend one or more of the following:

- a. The matter be further investigated internally by Nailsworth Playgroup.
- b. The matter be further investigated by external consultants appointed by Nailsworth Playgroup.
- c. The matter be reported to an external agency.
- d. Disciplinary proceedings be implemented against an employee or employees.
- e. The route for the Representor to pursue the matter if it does not fall within this procedure.
- f. That no further action is taken by the Playgroup.

The grounds on which no further action is taken include:

- a. The Assessor is satisfied that, on the balance of probabilities, there is no evidence that wrongdoing within the meaning of this procedure has occurred, is occurring or is likely to occur.
- b. The Assessor is satisfied that the Representor is not acting in good faith.
- c. The matter is already (or has been) the subject of proceedings under one of the Playgroups other procedures or policies.
- d. The matter concerned is already (or has been) the subject of legal proceedings or has already been referred to an external agency.

The recommendation of the Assessor will be made to the manager. However, should it be alleged that the manager is involved in the alleged wrongdoing; the recommendation will be made to the Chair and Committee. Should it be alleged that the Chair or other Committee member is involved in the alleged wrongdoing; the recommendation will be made to another impartial Committee member.

The Chair will ensure that the recommendation is implemented unless there is good reason for not doing so in whole or in part.

The Representor's identity will be kept confidential unless the Representor otherwise consents or unless there are grounds to believe that the Representor has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representor except:

- a. Where the Assessor is under a legal obligation to do so.
- b. Where the information is already in the public domain.

- c. On a legally privileged basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

The conclusion of any agreed investigation will be reported by the Assessor to the Representor promptly within twenty-eight working days of the initial interview.

All responses to the Representor will be made in writing and sent to the Representor's home address.

If the Representor has not had a response within the above time limit or such reasonable extension as the Playgroup requires, the Representor may go to an appropriate external agency, under paragraph 6, but will inform the Assessor before doing so.

The Representor may at any time disclose the matter on a legally privileged basis to a professionally qualified lawyer for the purpose of taking legal advice.

### **Malicious or Vexatious Accusations**

If the Representor makes an allegation that is deliberately false, malicious, or for personal gain, it will be counted as a disciplinary offence and will be dealt with under Nailsworth Playgroup's disciplinary procedure, as well as potentially exposing the Representor to legal liability.

### ***Informing External Agencies***

Within Nailsworth Playgroup, all staff have a duty of confidentiality. The duty of confidentiality is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that the information is disclosed or unless the provision fails to follow required procedures. Other legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.

Whistleblowing to an external agency without first going through the internal procedure is a breach of the Playgroup's Grievance policy and puts you in breach of contract. The external agencies which may be used if disclosure is permitted are:

- a. Department for Education (ESFA). (In these circumstances, the DfE/ESFA will assess whether all processes have been applied and that the Assessor has done everything possible to resolve the issue. If this is not the case, the DfE/ESFA will refer the matter back to the Assessor).
- b. Member of Parliament.
- c. National Audit Office.
- d. Health and Safety Executive.
- e. Police.

***Whistleblowing to the media is not appropriate or permitted in any circumstances.***

## **Confidential Employee Enquiries**

Employees may, on a confidential basis seek prior guidance from the Manager and/or Chair if they wish to establish whether any course of conduct on their part or on the part of another employee may amount to wrongdoing under these procedures. Such enquiry shall be kept confidential. The Manager and/or Chair will attempt to provide guidance on the basis of the information provided, but such guidance shall not prejudice the rights of Nailsworth Playgroup or any person under these procedures. Should an employee wish to seek guidance regarding any course of conduct on the part of the Manager, which may amount to wrongdoing under these procedures, they should contact the Chair.

## **Legal framework**

Public Interest Disclosure Act 2013

## **Related documents/forms**

Making a complaint policy