

## 12. Complaints and Whistleblowing

The Chapter considers:

- dealing with complaints in schools; and
- 'whistleblowing' in schools.

### Background

1. The Education Act 2002 Section 29 requires all governing bodies to have a procedure in place to deal with complaints relating to aspects of the school and to any community facilities or services that the school provides. The law also requires that the procedure must be publicised.
2. Whistleblowing is the means by which an employee can raise concerns with a third party, often with his or her employer.

### Dealing with Complaints

3. Where a complaint is made against a school it is the responsibility of the school governing body to ensure that complaints are dealt with properly.
4. Schools should encourage parents, staff, pupils and members of the community to settle complaints quickly by speaking to the relevant person in the school. Complaints should usually go first to the class teacher and then, if necessary to the head teacher. This approach will resolve most concerns and complaints.
5. If the head teacher cannot resolve the complaint, or is the subject of the complaint, the governing body may receive the complaint. Where a complaint is made against the school it is the responsibility of school governing bodies to ensure that complaints are dealt with properly.
6. Individual governors are advised not to attempt to resolve issues but should follow the school complaint procedures. Therefore, if approached by any individual with a concern or complaint a governor should direct the person to the governing body's complaints procedure.
7. The governing body should make every effort to ensure that anyone who wishes to make a complaint is given fair treatment and in particular, a chance to state their case.
8. Decisions taken and the reasons for making them, should be given in writing to the person complaining. It is advisable that timescales are set for dealing with complaints so that the process does not take too long. You can get advice on how to deal with complaints from the LA.

## Guidance Documents

9. At the time of publication of this guide, the WAG is working on a revised guidance document on complaints for school governing bodies which is expected to be available in 2009. The document will provide guidance for school governing bodies on developing and publishing procedures for dealing with complaints from parents, members of staff, members of the local community, governors, pupils and others, and will include a model policy for handling complaints which governing bodies may wish to adopt. The guidance will also cover the need to develop and adopt procedures for dealing with complaints in which pupils are involved (as the complainer, witness or subject of a complaint).

## What is Whistleblowing?

10. Whistleblowing is the means by which an employee can raise concerns with a third party, often with his or her employer.

11. In a maintained school, all members of staff should feel and be able to raise concerns about conduct or practice within the school which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice, and that they are able to do so without fear of victimisation and with confidence that their concerns will be taken seriously and dealt with properly.

12. The Children's Commissioner for Wales set out a number of recommendations in his Clywch Inquiry report, published in June 2004.

13. The WAG, in response to the recommendations, gave a commitment to issuing guidance to governing bodies to assist them in putting whistleblowing procedures in place for school staff.

14. The WAG circular 036/2007 entitled 'Procedures for Whistleblowing in Schools and Model Policy - Guidance for School Governing Bodies on Procedures for Whistleblowing in Schools and Model Whistleblowing Policy', provides guidance for governing bodies on:

- the legal context;
- what constitutes whistleblowing;
- the aim, scope and context of a whistleblowing procedure, including how a process for raising and handling a concern might best operate; and
- a model whistleblowing policy.

15. Employees who whistleblow are provided with statutory protection by the **Public Interest Disclosure Act 1998 ("PIDA")**, which protects them against victimisation if they make a protected disclosure within the meaning of the PIDA. Information on this is contained in the Guidance circular.

16. The LA is the legal employer of staff in community, community special and voluntary controlled schools, but the regulation of conduct and discipline in relation to the staff of such schools is the responsibility of the governing body where the school has a delegated budget. Generally, the governing bodies of such schools are to be treated as the employer of staff for the purposes of employment law. Where such a school does not have a delegated budget, staffing/employment matters are the responsibility of the LA. In foundation, foundation special and voluntary aided schools, the governing body is the employer of most staff.
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17. The responsibility for establishing a whistleblowing procedure is a matter for each employer. In respect of community, community special, voluntary controlled, voluntary aided, foundation and, foundation special schools, including maintained nursery schools, this is the governing body.
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18. Irrespective of the legal provisions relating to whistleblowing, governing bodies should seek to establish a culture in their schools in which members of staff can express their concerns, confident that such concerns will be taken seriously, investigated and appropriate action taken in response. Consequently the existence of a whistleblowing procedure in a school should not in any way lessen a governing body's commitment to fostering a general climate of openness and co-operation in the school in which there should be opportunity for all school staff to be able to discuss difficulties and problems of all kinds with management.
19. Having a whistleblowing policy should also not lessen in any way the governing body's commitment to dealing with concerns raised by individuals outside of the school staff i.e. parents, pupils, governors etc under its complaints or other relevant procedures.

## The Law

Education Act 1996  
School Standards and Frameworks Act 1998  
Education Act 2002  
The Staffing of Maintained Schools (Wales) Regulations 2006  
The Public Interest Disclosure Act 1998

## Guidance

Procedures for Whistleblowing in Schools and Model Policy - Guidance for School Governing Bodies on Procedures for Whistleblowing in Schools and Model Whistleblowing Policy; Circular 036/2007

**The following guidance is currently in force - but is to be replaced by the new guidance referred to in paragraph 9, when published**

National Assembly for Wales Circular No: 03/2004 "School Governing Bodies Complaints Procedures" (issued 21 May 2004)

National Assembly for Wales Circular No: 39/2006 "Guidance for School Governing Bodies on Procedures for Handling Complaints Involving Pupils." (issued 25 October 2006)

## Related Documents

The Clywch Inquiry – Report of the Examination of the Children’s Commissioner for Wales into allegations of child sexual abuse in a school setting, June 2004

NAW Circular 45/2004 – Staff Disciplinary Procedures in Schools

National Assembly for Wales Circular No: 23/2003 “Respecting Others: Anti-Bullying Guidance” (issued September 2003)

Safeguarding Children: Working Together under the Children Act 2004 (National Assembly for Wales, NAFWC 12/2007)

Framework for the Assessment of Children in Need and their Families (National Assembly for Wales and Home Office 2001)