Safeguarding Children

1.4 Whistleblowing Policy and Procedure (Making a Disclosure in the Public Interest)

Introduction

Tywardreath Pre-School Playgroup is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide staff and other members of the pre-school (referred to as 'workers' throughout this document) with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious malpractice or wrongdoing within the organisation.

Tywardreath Pre-School Playgroup encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice without fear of reprisal.

The Public Interest Disclosure Act came into effect in 1999 and gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The law allows workers to raise such concerns externally and this policy informs staff how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.

This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded.

The principles of openness, probity and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. The Trust is also committed to ensuring compliance with the Bribery Act 2010.

Parents/carers are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the pre-school safeguarding officer, Tracey Lewarne or committee chair, Harley Medgyesy. This policy and procedure is designed for the use of staff of Tywardreath Pre-School Playgroup.

Applicability of this policy and procedure

This policy applies to all employees of the Tywardreath Pre-School Playgroup, including apprentices, students, volunteers, agency workers and employees of subcontractors

Workers might be unsure whether it is appropriate to raise their concern under this policy and procedure. Any worker in this situation is encouraged to approach the Tywardreath Pre-School Playgroup manager, Tracey Lewarne.

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Protected disclosures

The law protects workers who, out of a sense of public duty and in good faith, want to reveal suspected wrongdoing or malpractice.

The law allows staff to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (See Section 4 below) and the disclosure must also be made in an appropriate way (See Section 5). A 'protected disclosure' must, in the reasonable belief of the worker making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

Specific Subject Matter

If, in the course of employment, a worker becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- that a miscarriage of justice, improper conduct or unethical behaviour has occurred, is occurring, or is likely to occur;
- that the health or safety of any individual has been, is being, or is likely to be, endangered;
- that the environment, has been, is being, or is likely to be, damaged;
- that information tending to show any of the above, is being, or is likely to be, deliberately concealed.

Procedure for making a disclosure

Information which a worker reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed to the pre-school manager, so that any appropriate action can be taken.

If it is inappropriate to make such a disclosure to the pre-school manager, a worker can raise the issue with the chairperson of the committee.

If the disclosure relates to the chairperson of the committee, a worker can raise the issue with the safeguarding lead officer, Tracey Lewarne.

Workers are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, Tywardreath Pre-School Playgroup management sub-committee will not be in a position to notify the individual making the disclosure of the outcome of action taken by Tywardreath Pre-School Playgroup management sub-committee.
Anonymity also means that Tywardreath Pre-School Playgroup management sub-committee will have difficulty in investigating such a concern. Tywardreath Pre-School Playgroup management sub-committee reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- the seriousness of the issues raised in the disclosure;
- the credibility of the concern; and
- how likely it is that the concern can be confirmed from attributable sources.

For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the Tywardreath Pre-School Playgroup management sub-committee.

Procedure for investigation of a disclosure

When a worker makes a disclosure, the Tywardreath Pre-School Playgroup management sub-committee will acknowledge its receipt, in writing, within a reasonable time.

Tywardreath Pre-School Playgroup management sub-committee will then determine whether or not it believes that the disclosure is wholly without substance or merit. If the Tywardreath Pre-School Playgroup management sub-committee considers that the disclosure does not have sufficient merit to warrant further action, the worker will be notified in writing of the reasons for the Tywardreath Pre-School Playgroup management sub-committee's decision and advised that no further action will be taken by Tywardreath Pre-School Playgroup management sub-committee under this policy and procedure. Considerations to be taken into account when making this determination may include the following:

- if Tywardreath Pre-School Playgroup management sub-committee is satisfied that a worker does not have a reasonable belief that suspected malpractice is occurring; or
- if the matter is already the subject of legal proceedings or appropriate action by an external body; or
- if the matter is already subject to another, appropriate Tywardreath Pre-School Playgroup procedure.

When a worker makes a disclosure which has sufficient substance or merit warranting further action, Tywardreath Pre-School Playgroup management sub-committee will take action it deems appropriate (including action under any other applicable Tywardreath Pre-School Playgroup policy or procedure). Possible actions could include internal investigation; referral to the Tywardreath Pre-School Playgroup auditors; or referral to relevant external bodies such as the police, Ofsted, Health and Safety Executive or the Information Commissioner's Office.

If appropriate, any internal investigation would be conducted by a manager of the Tywardreath Pre-School Playgroup management sub-committee without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the Tywardreath Pre-School Playgroup management sub-committee, as appropriate.

Any recommendations for further action made by the Tywardreath Pre-School Playgroup management sub-committee t will be addressed to the Tywardreath Pre-School Playgroup Chair, as appropriate in the circumstances. The recipient will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.

The worker making the disclosure will be notified of the outcome of any action taken by the Tywardreath Pre-School Playgroup management sub-committee under this policy and

procedure within a reasonable period of time. If the worker is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the Chair of Tywardreath Pre-School Playgroup management sub-committee within 10 working days by contacting the Tywardreath Pre-School Playgroup management sub-committee. The Chair of the Tywardreath Pre-School Playgroup management sub-committee will make a final decision on action to be taken and notify the worker making the disclosure.

Safeguards for workers making a disclosure

A worker making a disclosure under this procedure can expect the matter to be treated confidentially by the Tywardreath Pre-School Playgroup management sub-committee and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval. For confidentiality purposes, if the worker requests to raise their concern verbally, it would be appropriate for the Tywardreath Pre-School Playgroup management sub-committee to allow the worker to do so.

Tywardreath Pre-School Playgroup management sub-committee will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the Tywardreath Pre-School Playgroup management sub-committee does not identify the worker making the disclosure without their written consent, or unless the Trust is legally obliged to do so, or for the purposes of seeking legal advice.

No formal disciplinary action will be taken against a worker on the grounds of a disclosure made under this policy or procedure. This does not prevent the Tywardreath Pre-School Playgroup management sub-committee from bringing disciplinary action against a worker where the Tywardreath Pre-School Playgroup management sub-committee has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the Tywardreath Pre-School Playgroup management sub-committee without reasonable grounds.

A worker will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the Tywardreath Pre-School Playgroup management sub-committee for making a disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the Tywardreath Pre-School Playgroup management sub-committee against the colleague in question.

Disclosure to external bodies

This policy and procedure has been implemented to allow workers to raise disclosures internally within the Tywardreath Pre-School Playgroup. A worker has the right to make a disclosure outside of the Tywardreath Pre-School Playgroup management sub-committee where there are reasonable grounds to do so and in accordance with the law.

Workers may make a disclosure to an appropriate external body prescribed by the law. This list of ‘prescribed’ organisations and bodies can be found in information on the GOV.UK website.

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Workers can also make disclosures on a confidential basis to a practising solicitor or barrister.

If a worker seeks advice outside of Tywardreath Pre-School Playgroup, they must be careful not to breach any confidentiality obligations or damage the Tywardreath Pre-School Playgroup's reputation in so doing.

Accountability

Tywardreath Pre-School Playgroup management sub-committee will keep a record of all concerns raised under this policy and procedure (including cases where Tywardreath Pre-School Playgroup management sub-committee deems that there is no case to answer and therefore that no action should be taken) and will report to the Tywardreath Pre-School Playgroup management sub-committee chairperson on an annual basis as appropriate.

Further assistance for workers

Tywardreath Pre-School Playgroup will not tolerate any harassment or victimisation of workers who make disclosures. If, at any stage of this procedure a worker feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing, to Tywardreath Pre-School Playgroup management sub-committee chairperson.

A worker making a disclosure may want to confidentially request counselling or other support from the occupational health service. Any such request for counselling or support services should be addressed to the Tywardreath Pre-School Playgroup management sub-committee chairperson. Such a request would be made in confidence.

Workers can also contact the charity Public Concern at Work for confidential advice on whistleblowing issues. Contact details are as follows:

3rd Floor, Bank Chambers
6 - 10 Borough High Street
London SE1 9QQ

Whistleblowing Advice Line: 020 7404 6609

http://www.pcaw.org.uk

Review

This Policy and Procedure will be reviewed regularly and at least every year.

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