



## **POLICIES AND PROCEDURES**

# **WHISTLEBLOWING**

**SEPTEMBER 2021**

|                                      |   |
|--------------------------------------|---|
| <b>Date ratified at Trust Board:</b> | 5 October 2021  |
| <b>Signature of Chair:</b>           |  |
| <b>Author/Reviewer:</b>              | Trust HR Team   |
| <b>Date for Review:</b>              | September 2024  |

## DOCUMENT CONTROL

Unless there are legislative or regulatory changes in the interim, this Policy will be reviewed every 3 years. Should no substantive changes be required at that point, the policy will move to the next review cycle.

|                          |                          |
|--------------------------|--------------------------|
| <b>First Issue</b>       | February 2015            |
| <b>Originator</b>        | J Boyden                 |
| <b>Linked Policies</b>   | Code of Conduct          |
| <b>Target Audience</b>   | All stakeholders in MLT  |
| <b>Dissemination via</b> | Email and Trust Websites |

| <b>Version</b> | <b>Date</b> | <b>Reviewer</b> | <b>Changes</b>   |
|----------------|-------------|-----------------|--|
| 1.1            | July 2019   | J Boyden        |  |
| 1.2            | August 2021 | E Staley        | <ul style="list-style-type: none"><li>• Reviewed and updated to ensure policy reflects Trust governance and statutory guidance</li><li>• Removal of repetitive wording</li><li>• Created new sections on confidentiality and the process for investigations to add clarity</li></ul> |

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Appendix 1

Appendix 2

## **1 Purpose**

- 1.1 The Trustees at Mercia Learning Trust are committed to ensuring that standards within the Trust and its schools are high and that all statutory regulations and requirements are complied with.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within the Trust. By encouraging a culture of openness within the Trust, we believe that we can prevent malpractice before it happens.
- 1.3 The Trust will take seriously any concerns relating to malpractice within the organisation and believes it is important that all members of the school community feel safe in the knowledge that they can voice any concerns in confidence and that they will be taken seriously and dealt with appropriately.
- 1.4 In line with that commitment, employees, officers, consultants, contractors, volunteers, casual workers and agency workers with genuine concerns are encouraged to come forward and voice those concerns. This policy document makes it clear that employees can do so without fear of reprisals; it is intended to encourage and enable employees to raise serious concerns within the Trust rather than overlook a problem.

## **2 Aims and Scope of this Policy**

- 2.1 This policy aims to:
  - Provide avenues for making a genuine disclosure under the Public Interest Disclosure Act 1998 which enables all workers to feel confident in raising concerns at an early stage in the knowledge that these will be taken seriously and investigated appropriately.
  - Provide guidance on wider disclosure in the event that the employee feels there is no internal authority that can be contacted, or they believe that the concern they have raised has not been taken seriously or acted upon correctly.
  - Provide reassurance to employees that they will be protected from possible reprisal or victimisation if they have made a disclosure in the public interest.
  - Allow employees to take the matter further if they are dissatisfied with the governing body response

2.2 If you are considering raising a concern you should read this Policy first. It explains:

- the type of issues that can be raised
- how the person raising a concern will be protected from victimisation and harassment
- how to raise a concern, and
- what the Trust will do

Before initiating the procedure, employees should consider the following:

- the responsibility for expressing concerns about unacceptable practice or behaviour rests with all employees
- employees should use line manager or team meetings and other opportunities to raise questions and seek clarification on issues which are of day-to-day concern
- whilst it can be difficult to raise concerns about the practice or behaviour of a colleague, employees must act to prevent an escalation of the problem and to prevent themselves being potentially implicated

2.3 This policy should not be used for complaints about an employee's personal circumstances, such as the way s/he has been treated at work. In these cases, an employee should use the Trust's Grievance Policy or Dignity and Respect at Work Policy. If the matter relates to salary, the salary review procedures documented in the school's pay policy should be used.

### **3 Definitions**

3.1 A whistleblower is a person who raises a genuine concern relating to certain types of wrongdoing. The wrongdoing must be in the public interest, this means it must affect others for example, the general public.

If employees or workers have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) they should report it under this policy.

Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work and may include:

- criminal activity
- danger to health and safety
- risk or actual damage to the environment
- failure to comply with any legal or professional obligation or regulatory requirements
- bribery
- financial fraud or mismanagement

- negligence
- breach of our internal policies and procedures
- conduct likely to damage our reputation
- unauthorised disclosure of confidential information
- public examination fraud
- the deliberate concealment of any of the above matters

## **4 Confidentiality**

- 4.1 All concerns will be treated in confidence and the Trust is committed to protecting the identity of the whistleblower as far as possible when they raise a concern. There may, however, be occasions where it may not be possible to do this (for example, if the Trust is legally obliged to share information, for the purposes of seeking legal advice or if the employee is asked to give evidence).
- 4.2 The Trust recognises that raising a concern against a fellow colleague is not an easy thing to do and there may be concerns about jeopardising someone's career, however, the welfare of the children in our schools is paramount. Workers are able to raise concerns in confidence and this will be handled sensitively.
- 4.3 Confidentiality is important throughout any investigation and continues to apply once the investigation is completed. The Trust expects all workers to follow its guidelines relating to confidentiality but this should not prevent them from raising a genuine concern in the public interest.

## **5 Safeguards**

### **5.1 Harassment or Victimisation**

The Trustees and Governors recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal. The Trust will not tolerate harassment or victimisation and will take action to protect employees when they have a genuine concern.

This does not mean that if an employee is already the subject of internal procedures such as disciplinary or redundancy, that those procedures will be halted as a result of that employee raising a concern under the whistleblowing policy.

### **5.2 Support**

In any meetings that have a connection to a whistleblowing concern, employees have the right to be accompanied by their trade union representative or a work colleague (providing they are not involved in the issue and would not be called as a witness).

These meetings might include:

- A meeting with your line-manager or other appropriate person to raise your concern.
- A meeting with an investigation officer in connection with the concern.
- Taking part as a witness in any action taken as a result of raising the concern.

### **5.3 Anonymous or False Allegations**

Employees are strongly encouraged to put their name to any allegation in order to aid a more thorough investigation, however, the Trust will consider anonymous allegations and investigate these as far as possible with the information available.

Employees are encouraged to voice their concerns safe in the knowledge that if an allegation is made in good faith but does not prove to be true, no action will be taken against them. However, the Trust may act against an employee in accordance with the Trust's Disciplinary Procedure if they have knowingly made false or malicious allegations or allegations for personal gain

### **5.4 Independent Advice**

If you are unsure whether to use this policy, or if you want independent advice at any stage, you should contact:

- Your trade union
- The independent charity Public Concern at Work whose lawyers are available give you free confidential advice at any point in the process. Their helpline is 020 7404 6609 or email [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk). For further information, go to [the Public Concern At Work website](#) – it includes guidance on whistleblowing legislation.

## **6. Raising a Concern**

- 6.1 Where an employee has a concern about another member of staff it should normally be reported, either in person or in writing, to a member of the School Leadership Team, a member of the Trust Leadership Team or Chair of Trustees depending on the seriousness and sensitivity of the issue and who is involved in the alleged malpractice.
- 6.2 If your concern is about the Chair of Governors, you may approach the CEO or the Chair of Trustees. If your concern is about the Chair of Trustees, you may approach a 'member' of the Trust Board via the Clerk to the Trust Board.
- 6.3 Concerns are better raised in writing. Therefore, where a concern is raised verbally in the first instance, you are then likely to be invited to set out the

background and history of your concern, giving names, dates and places, where possible, and the reason why you are particularly concerned about the situation, in writing. If you are not able to put your concern in writing, you can telephone or arrange to meet the appropriate officer. If you are a member of a trade union you may find it helpful to take advice from them about putting your concerns in writing.

- 6.4 The earlier you express your concern, the easier it is to take action. Over time details can be forgotten, or remembered incorrectly, which can make a concern more difficult to investigate and so it would help us if you make a note of your concerns at the time and let us know about them as soon as possible.

You will need to demonstrate that there are sufficient grounds for your concern. It would be useful to provide relevant information including, where possible, but not limited to:

- the background and history to the case
- the reason why you are particularly concerned
- any specific details available including names, dates, times and places
- details of any particular conversations that support the concerns
- details of any personal interest that you may have in the matter; and
- how you think that things may be put right, if possible.

- 6.5 Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

## **7 How the Trust will respond**

- 7.1 The Trust or School, depending on the allegation, will investigate all allegations and concerns. It should be noted that the act of investigation does not indicate that the Trust or the School has accepted the allegations as true.

- 7.2 The matters raised may lead to one of the following actions:

- A referral to the Trust HR Director and/or independent investigator
- An investigation by managers or through the disciplinary process
- An investigation under other procedures such as safeguarding
- An investigation under procedures designed to deal with allegations made against professionals
- A referral to the police
- A referral to the external auditor or other external investigation
- An investigation under other forms of prosecution and inspection such as the protection of public health and safety



7.3 Within ten working days of receiving a concern, the Trust will write to:

- Acknowledge that the concern has been received
- Indicate how it proposes to deal with the matter
- Give an estimate of how long it will take to deal with the matter
- Confirm if any initial enquiries have been made; and
- Confirm whether further investigations will take place, and if not, why not

7.4 Some concerns may be resolved without the need for an investigation

## **8 Investigation Process**

8.1 On receipt of an allegation, the manager/leader concerned will usually discuss the circumstances with the Director of HR and hold an interview with the person making the allegation. This will be in confidence and will take place at the earliest opportunity.

8.2 The amount of contact between the manager/leader and the person raising the allegation will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided.

8.3 During the interview the investigating manager/Director of HR will:

- Gather as much information about the basis of the allegation and record what is discussed
- Discuss the next steps with the employee who has raised the allegation and ensure that they fully understand what is going to happen. If the whistleblowing procedure is not going to be followed, this should be explained, and an alternative procedure outlined
- Provide support to the employee who has raised the allegation. The Trust recognises that the whistleblower may be worried about their position, getting someone else into trouble or what they suspect may be happening

8.4 On completion of the interview, the investigating manager will consider whether there is cause for concern that requires further investigation or whether no further action should be taken. Where no further action is taken, this may be because:

- It is felt there is not enough evidence to warrant a continued investigation and that it is unlikely any malpractice has occurred or will occur
- There is a belief that the whistleblower is not acting in good faith or can demonstrate there is a genuine concern raised in the public interest
- The matter has already been raised and is being investigated separately

- 8.5 The whistleblower will be informed of the outcome of the meeting or investigation, subject to confidentiality, in writing to their home address, usually within five working days following completion of the investigation.
- 8.6 When any meeting is arranged to discuss your concerns, you have the right, if you so wish, to be accompanied by a trade union representative or a friend who is not involved in the area of work to which the concern relates and who also who could not be called as witness.

## **9 How the Matter can be Taken Further**

- 9.1 This policy is intended to provide you with an avenue to raise concerns internally and all employees are encouraged and expected to follow the procedure outlined in this policy in the first instance. However, the Trust understands that in some cases, employees may not be satisfied with the outcome and may feel it is right to take the matter to external agencies.
- 9.2 Employees should only approach external agencies regarding their concerns without prior discussion internally if:
- They feel they are being discriminated against and that there is no internal authority that can be contacted within the Trust
  - They reasonably believe they will be victimised if they follow internal procedures for whistleblowing; and
  - They believe that the concern they have raised has not been taken seriously or acted upon correctly
- 9.3 If, having exhausted internal procedures, an allegation is found to be unsubstantiated, the employee has the right to access an appropriate official and independent external body.

An appropriate official may be:

- An MP or local Council member
  - The Trust's External Auditors
  - Relevant professional bodies or regulatory organisations such as the Education and Skills Funding Agency (ESFA) or Ofsted
  - The Police
  - Other relevant voluntary organisations
- 9.4 Advice may be sought from 'Protect' (formerly Public Concern at Work), a registered charity which advises on serious malpractice in the workplace and can advise people whether they can or should take their concern further. They can be contacted on 0203 117 2520 or through the contact form on their website [www.protect-advice.org.uk](http://www.protect-advice.org.uk)

- 9.5 Where employees do not feel able to raise concerns regarding child protection failures or have concerns about the way a concern has been handled by their school, further advice can be sought from the NSPCC whistleblowing helpline. They can be contacted on 0800 028 0285 between 8.00am and 8.00pm, Monday to Friday or by email at [help@nspcc.org.uk](mailto:help@nspcc.org.uk). Alternatively, they may write to the NSPCC, Weston House, 42 Curtain Road, London, EC2A 3NH.
- 9.6 The media, including social media, are not appropriate mechanisms for raising whistleblowing concerns and employees should be mindful of Trust policies regarding the use of social media, code of conduct and data protection. Should an employee resort to this, it may result in disciplinary action against the individual concerned.
- 9.7 If you do take the matter outside your Trust's governing body, you need to ensure that you do not disclose confidential information, or that disclosure would be privileged.

## **10 Monitoring and Evaluation**

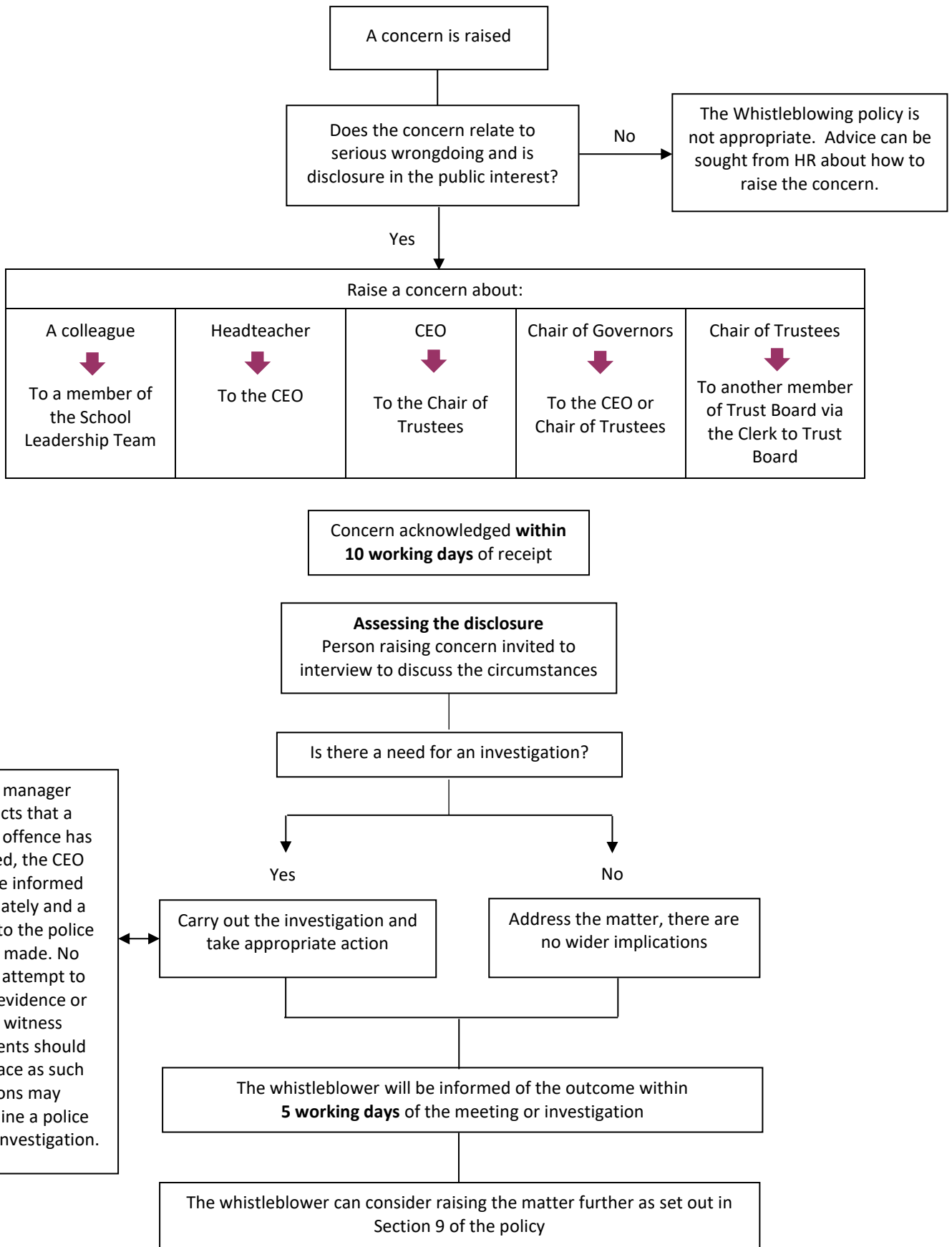
- 10.1 The Trust will review this policy at least every three years and assess its implementation and effectiveness. This policy will be promoted and implemented throughout the Trust.
- 10.2 All whistleblowing allegations will be recorded in a central record and reported to the Trust Board on a termly basis. This will enable the Trust to cross reference these with other complaints and monitor any patterns across the Trust as well as ensuring action is taken to address concerns and monitor the effectiveness of the procedure.
- 10.3 The Headteacher will report any allegations on completion of the investigation, in a form that endeavours to maintain confidentiality as far as possible, to the Local Governing Body for information.

**POLICY AND PROCEDURE FOR WHISTLEBLOWING IN SCHOOLS**

This list illustrates the kind of issues considered as malpractice or wrongdoing that could be raised under this whistleblowing policy. However, the list is not exhaustive.

- Poor or unprofessional practice by a member of staff, governor or an agency which results in the stakeholder not getting the same quality of service which is available to others
- Improper/unacceptable behaviour towards a student or member of staff, which could take the form of emotional, sexual or verbal abuse, rough handling, oppressive or discriminatory behaviour or exploitative acts for material or sexual gain
- Improper relationships with a student or member of staff
- Inappropriate use of technology, ie texting, Social Network sites, e-mail, with regards to contact with a student or member of staff
- Any unlawful activities, whether criminal or a breach of civil law
- Fraud, theft or corruption
- Concerns regarding possible breaches of Health and Safety Regulations
- Harassment, discrimination, victimisation or bullying of employees and/or students
- Leaking confidential information in respect of the Trust's Governing Body activities and/or records
- Undertaking of undisclosed private work which may conflict with duties and responsibilities, or which are being carried out during work time
- Inappropriate contact with members of the public within school facilities, or whilst carrying out governing body duties or outside of working time
- Taking gifts or inducements
- Inappropriate use of external funding or the school budget
- Maladministration as defined by the Local Government Ombudsman
- Exam or assessment malpractice
- Breach of any Statutory Code of Practice
- Breach of, or failure, to implement, or comply with any Trust's Governing Body policy
- Misuse of school assets, including computer hardware and software, buildings, stores, vehicles

WHISTLEBLOWING PROCEDURE



## APPENDIX 3

### LIST OF PERSONS/ORGANISATIONS WITH WHOM CONCERNS MAY BE RAISED

| Officer's Name                               | Job Title   | Telephone  |
|--|---|--|
| Chris French                                 | Chief Executive Officer   | 0114 349 4230  |
| Phil Smith                                   | Chair of Trustees   | Via Clerk to Trust Board –<br>Claire Hogg<br>chogg@merciatrust.co.uk   |
| Emma Anderson                                | Headteacher Newfield School   | 0114 255 7331  |
| Paul Haigh                                   | Headteacher King Egbert School  | 0114 235 3855  |
| Dean Webster                                 | Headteacher Mercia School   | 0114 553 9080  |
| Lauren Johnstone                             | Headteacher Valley Park Primary School  | 0114 239 6464  |
| Michele Nott                                 | Headteacher Nether Edge Primary school  | 0114 255 0926  |
| Ben Paxman                                   | Headteacher Topley Primary School   | 0114 236 4482  |
| Ofsted Whistleblowing Line                   | Email: <a href="mailto:whistleblowing@ofsted.gov.uk">whistleblowing@ofsted.gov.uk</a> .<br><br>Write to:<br>WBHL<br>Ofsted<br>Piccadilly Gate<br>Store Street<br>Manchester M1 2WD                            | 0300 123 3155<br>(8am to 6pm, Monday to Friday)  |
| Protect<br>(formerly Public Concern at Work) | Protect are an independent Whistleblowing Charity who offer a free, confidential advice line.<br><br>For further information, go to <a href="https://protect-advice.org.uk">https://protect-advice.org.uk</a> | 020 7404 6609<br><br>The Advice Line is open on Mondays, Tuesdays and Thursdays between 9.30am and 1.00pm and 2.00pm and 5.30pm and Wednesdays and Fridays between 9.30am and 1.00pm<br><br>Anyone in need of advice outside of those times can contact them via a contact form on their website and arrange a callback. |

|                                   |  |  |
|-----------------------------------|--|--|
| The Audit Commission for England  |  | 0303 444 8330  |
| Information Commissioner's Office | The ICO is the UK's independent body set up to protect information rights (data protection)                                      | 0303 123 1113<br>Monday to Friday<br>9.00am to 5.00pm  |
| Serious Fraud Office (SFO)        | Email: <a href="mailto:public.enquiries@sfo.gov.uk">public.enquiries@sfo.gov.uk</a><br>2-4 COCKSPUR STREET<br>LONDON<br>SW1Y 5BS | Public Enquiries Line<br>0207 239 7272<br><br>Reports should not be made via the above number or email address. Reports should be made via their website using their Secure Reporting Form |
| The Health and Safety Executive   | <a href="http://www.hse.gov.uk/contact/index.htm">http://www.hse.gov.uk/contact/index.htm</a>                                    | The HSE does not operate a telephone helpline.   |