3.15 Whistleblowing Policy

Brambley Tots Day Nursery is committed to the highest standards of openness, probity and accountability. If a member of staff discovers evidence of malpractice or wrongdoing within the nursery they can disclose this information internally without fear of reprisal.

**Purpose**
Under the Public Interest Disclosure Act 1998 (PIDA), the Employment Rights Act 1996 and the Enterprise and Regulatory Reform Act 2013, protection is afforded against victimisation or dismissal for workers who report ('blow the whistle') on criminal behaviour or other misconduct within an organisation either to the employer, a regulatory or other body.

**Scope**
The act applies to ‘workers’ within Great Britain, including employees, contractors providing services, agency workers, home workers and trainees on work experience or vocational schemes. Employees or workers who are posted outside Great Britain but whose work is for the purpose of a business in Great Britain, whose base is in Great Britain or who has a substantial connection with Great Britain are covered.

Our Whistleblowing policy is intended to cover concerns such as:

- Financial malpractice, corruption or fraud
- Criminal activity
- Improper conduct or unethical behaviour
- Health and safety issues in the workplace or environment that puts the safety of workers or visitors at risk;
- Failure to comply with a legal obligation or breaches of legislation;
- A miscarriage of justice;
- Risks of damage to the environment;
- Deliberate concealment of information relating to any of the above.

The legislation covers internal disclosures to the employer and disclosures to regulatory bodies such as HMRC, the Financial Conduct Authority, the Health and Safety Executive, the Information Commissioner and Pensions Regulator.

**Qualifying Conditions**
The employee or worker must make the disclosure in the reasonable belief that it is in the public interest. Whilst the disclosure need not be made in good faith i.e., where the whistle blower has a reasonable suspicion that the alleged malpractice has taken place, employees and workers should be
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aware that if the matter is subject of a formal tribunal at a later date, reductions in compensation can be affected as a result of failing to do so.

This policy should not be used to question business decisions made by the Nursery, or to raise any matters that are covered under other policies (eg discrimination or racial harassment). Any allegations relating to child protection will follow the procedures set out in the Safeguarding Children policy. Any concerns relating to the employment conditions of an individual member of staff should be raised according to the procedures set out in the Staff Grievance policy.

Raising a concern

Ideally the staff member should put his or her allegations in writing, setting out the background to the situation, giving names, dates and places where possible, and the reason why they are concerned about the situation.

In the first instance concerns should be taken to the Nursery’s manager. If, due to the nature of the problem, this is not possible, then with the Director. If the situation involves the Safeguarding of a child then the Designated Person may also be involved.

If the above person is the employee’s Manager and the individual does not feel able to raise the matter with them then the concern should be raised with another Director.

If this person or body is unwilling or unable to act on the concern, the staff member should then raise it with:

- Ofsted (if it concerns the safe and effective running of the setting)
- The Local Authority Designated Officer or the Local Safeguarding Children Board (if it concerns a child protection issue and is not already covered by the procedure set out in the Club’s Safeguarding Children policy)
- Ultimately, with the police (if a crime is thought to have been committed).

If the member of staff is still uncertain about how to proceed with the concern, he or she can contact the whistle-blowing charity PCAW (Public Concern at Work) for advice.

Responding to a concern

Initial enquiries will usually involve a meeting with the individual raising the concern, and will decide whether an investigation is appropriate and, if so, what form it should take. If a concern relates to issues which fall within the scope of other policies, it will be addressed under those policies.

If the initial meeting does not resolve the concern, further investigation is required. The appropriate person will investigate the concerns thoroughly, ensuring that a written response can be provided.
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within ten working days where feasible, or if this is not possible, giving a date by which the final response can be expected. The response should include details of how the matter was investigated, conclusions drawn from the investigation, and who to contact if the member of staff is unhappy with the response and wishes to take the matter further.

Rights and responsibilities of the whistle-blower

All concerns will be treated in confidence and the Nursery will make every effort not to reveal the identity of anyone raising a concern in good faith. At the appropriate time, however, the member of staff may need to come forward as a witness. The employee will be advised of the outcome of the investigation.

If a member of staff raises a concern in good faith which is then not confirmed by the investigation, no action will be taken against that person.

If the investigation concludes that the member of staff maliciously fabricated the allegations, disciplinary action may be taken against that person.

Employees should be reassured that there will not be any harassment, victimisation or other detriment for reporting such actions either from the Company or their colleagues. If an employee experiences or has a genuine fear of reprisals, these should be raised with the employer or can be raised with the regulator or other relevant body. The Company will take all reasonable steps to prevent such behaviour. Employees who have concerns or complaints regarding their employment or employment matters which are not in the public interest may raise these issues under the Staff Grievance Procedure. Employees who subject colleagues who have made disclosures under this procedure to bullying, harassment or some other detriment are likely to be subject to the Company’s Disciplinary Procedure and this may be considered a gross misconduct offence.

Contact information

LADO (Local Authority Designated Officer): 0300 300 4833

LSCB (Local Safeguarding Children Board): 0300 300 8585

Ofsted: 0300 123 1231

Whistle Blowing Hotline: 0800 028 0285

Related policies

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Staff Grievance policy, Safeguarding Children policy.