



Mary Hare Policy: HR005

Whistleblowing Policy

Policy Owner: Mark Dixon

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Securing the future of deaf children and young people

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1. Purpose

- 1.1 Mary Hare is committed to creating an open, transparent and safe working environment where staff feel they are able to speak up in the knowledge that Mary Hare is committed to listening to their concerns and protecting their rights.
- 1.2 The whistleblowing policy ensures that staff are able to raise concerns without fear of victimisation, subsequent discrimination or disadvantage.
- 1.3 The purpose of this policy is to maximise the chance that any fraud, misconduct or wrongdoing by employees, workers, governors, volunteers or any individual performing functions in relation to Mary Hare is reported and properly dealt with.
- 1.4 The Public Interest Disclosure Act enables individuals to raise concerns where they have a reasonable belief that:
 - a criminal offence;
 - a miscarriage of justice;
 - an act creating a risk to health and safety;
 - a breach of other legal obligation;
 - damage to the environment;
 - concealment of any of the above;

is being, has been, or is likely to be committed, and it is in the public interest to disclose it, without fear of dismissal, victimisation or detriment. (Also see appendix 2 glossary re 'what does in the public interest mean')

This policy and procedure sets out how such concerns should be raised and handled within Mary Hare.

2. Applicability

- 2.1 This policy applies to all employees and Governors of Mary Hare as well as individuals performing functions in relation to Mary Hare, such as volunteers, agency workers and contractors.

For the purposes of this policy and procedure those detailed above will be referred to as 'worker/s'

- 2.2 Mary Hare will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others at Mary Hare, **which are in the public interest**. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with. (Also see appendix 2 glossary re 'what does in the public interest mean').
- 2.3 Mary Hare expects the highest standards of conduct from all workers and will treat seriously any concern raised about illegal or improper conduct.
- 2.4 Concern about a colleague's professional capability should **not** be dealt with using this procedure.

- 2.5 This procedure is not designed to replace or be used as an alternative to the grievance procedure, which should be used where a worker is only aggrieved about his/her own situation. Nor should this policy apply where the worker simply disagrees with the way Mary Hare is run.
- 2.6 Grievances against employees (for example bullying, harassment, discrimination) are not covered by whistleblowing law, unless the particular case is in the public interest. Such complaints will be dealt with in accordance with the Mary Hare Grievance Procedure.

3. Responsibilities

- 3.1 The overall responsibility for overseeing this policy and procedure and monitoring its implementation within Mary Hare rests with the Board of Governors.
- 3.2 The Principal/CEO has overall responsibility for the maintenance and operation of this policy and procedure.
- 3.3 The Principal/CEO should receive details of all concerns and is responsible for reporting the concern and the outcome to the Chair of Governors so that it can be recorded.
- 3.4 The Clerk to Governors will keep a record of concerns raised and outcomes (in a form that does not endanger confidentiality).
- 3.5 The Principal/CEO is directly responsible for making their staff aware of this policy and procedure and for the adherence of their staff.
- 3.6 Workers or any individual performing functions in relation to Mary Hare have an individual responsibility to adhere to this policy.

4. Principles

- 4.1 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue, subject to legal constraints.
- 4.2 It is not necessary for a worker to have proof that wrongdoing is being, has been, or is likely to be committed; a reasonable belief is sufficient. Any information provided for a protected disclosure should be true to the best of the workers knowledge.
- 4.3 Any worker who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed must raise their concerns in good faith.
- 4.4 Where a disclosure is merely an expression of opinion that fails to show that a legal obligation has been or is likely to be breached, it cannot amount to a protected or qualifying disclosure for the purposes of the whistleblowing legislation.

- 4.5 Workers who want to use the procedure but feel uneasy about it, may wish to consult their Professional Association or Trade Union initially and bring a colleague or representative along to any discussions, so long as the third party is not involved in the issue.
- 4.6 The worker has no responsibility for investigating the matter; it is Mary Hare's responsibility to ensure that an investigation takes place.
- 4.7 No worker will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because he/she has raised a legitimate concern.
- 4.8 Any worker who makes such a protected disclosure in good faith will not be dismissed, subject to any other detriment, or victimised, because he/she has made a disclosure, provided it has not been made maliciously.
- 4.9 Maliciously making a false allegation is a disciplinary offence and will be dealt with under the Mary Hare Disciplinary Procedure.
- 4.10 Mary Hare will not tolerate harassment and/or victimisation of any worker raising concerns. Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.
- 4.11 If misconduct is discovered as a result of any investigation under this procedure the matter will be considered under the disciplinary procedure, in addition to any appropriate external measures.
- 4.12 Where an investigation confirms the allegations, workers may be required to attend hearings as witnesses.
- 4.13 If urgent action is required, this may be taken before an investigation is conducted.

5. Raising Concerns

- 5.1 Any worker raising a concern under the whistleblowing policy is encouraged to raise concerns early to enable appropriate remedial action to be carried out.
- 5.2 Workers should report matters of concern as defined in this document to:
 - a) their line manager or member of the leadership team
 - b) the Principal/CEO if it is not suitable / applicable to make the disclosure to other members of the leadership team e.g., the disclosure is regarding the workers line manager or one of the leadership team
 - c) the Chair of Governors if it is not applicable to make the disclosure to one of the leadership team or Principal/CEO, e.g., the disclosure is regarding the Principal/CEO. In the absence of the Chair of Governors, or if their involvement is not appropriate, the matter may be raised with the Deputy Chair or Clerk to the Governors, or the Chair of the Finance Committee
- 5.3 Workers' concerns may be raised orally or in writing. Workers who wish to

make a written report are invited to use the form 'Formal Public Interest Disclosure – Whistleblowing', available in the appendix of this policy.

- 5.4 It is helpful to any subsequent investigation if the worker provides the background history of the concern (giving relevant names and dates) and the reason they are particularly concerned about the situation.
- 5.5 Workers are encouraged to put their name to their allegation whenever possible. This is because concerns expressed anonymously can be less impactful and may be more difficult to investigate.
- 5.6 Where allegations are raised anonymously, they will be considered at the discretion of the Principal/CEO in consultation with the Chair of Governors.
- 5.7 All concerns will be treated in confidence and every effort will be made not to reveal the workers identity if so wished unless there is a legal requirement to do so.
- 5.8 Where the identity of the whistleblower is not appropriately shared the ability of the organisation to ask follow-up questions or provide feedback may be limited.
- 5.9 Additionally making a disclosure anonymously means it can be more difficult for the worker to qualify for protection as a whistleblower and/or it may be harder to prove any that unfair treatment or dismissal thereafter was as a direct result of the whistleblowing. This is because there would be no documentary evidence linking the worker to the disclosure for any employment tribunal to consider

6. Procedure

- 6.1 Upon receipt of a disclosure the line manager receiving the concern will hold an initial meeting with the worker to acknowledge the concern has been raised and to gather as many facts as needed to understand the situation.

This initial meeting should be held as soon as possible and within 10 working days of the disclosure being made.

If there is a valid reason to do so, timescales can be varied. If this is initiated the worker should be given an explanation and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.

- 6.2 The worker may invite their trade union representative or a workplace colleague to be present at this meeting or any such meeting in connection with a disclosure, provided that person is not involved in the whistleblowing incident.
- 6.3 At the initial meeting the line manager may discuss the following areas, as appropriate:
 - > the grounds for the belief of malpractice,
 - > what action needs to be taken,
 - > suggestions as to how Mary Hare may deal with the matter,
 - > what form of investigation may take place,
 - > what feedback the worker can expect,

- > the timescales for providing updates to the worker,
 - > supplying the worker with information on staff support mechanisms,
 - > clarify any concerns the worker may have regarding confidentiality
- 6.4 The meeting will be noted (an appropriate notetaker may be present at the meeting) and will be followed up in writing to the worker; acknowledging receipt of the disclosure, detailing any decisions and actions to be taken, including any relevant timelines, and enclosing a copy of the minutes.
- 6.5 Where the matter can be resolved simply and a suitable conclusion reached the manager will explain this to the worker, check that the worker is satisfied that the matter is resolved and keep a record of the outcome.
- 6.6 Managers receiving concerns should notify the Principal/CEO (or Chair of Governors if the matter relates to the Principal/CEO) of all concerns raised and the outcomes once resolved so that they can be recorded (in a format that will not endanger confidentiality) for reporting purposes.
- 6.7 Where the manager decides the matter requires further action, they should seek advice from one or more of the people below regarding how to proceed with the concern:
- > The Designated Safeguarding Lead (DSL)
 - > The Principal/CEO,
 - > The Chair of Governors
- 6.8 In more serious cases there may be a requirement to:
- > instigate a formal internal investigation,
 - > instigate an independent inquiry by an external person appointed by Mary Hare,
 - > report the matter to local department for education bodies e.g., the Local Authority Designated Officer (LADO),
 - > refer the matter to the Police
- 6.9 Concerns regarding allegations which fall within the scope of specific procedures (e.g., child protection issues, disciplinary issues) will normally be considered under those procedures.
- 6.10 The Principal/CEO may delegate any investigation to an appropriate member of staff and the Chair of Governors may delegate any investigation of a concern to another or other Governors, or an approved external body. Governors with this delegated responsibility will be considered as the investigating manager and as such do not participate in subsequent linked actions, e.g., disciplinary decisions.

7. If concerns remain

- 7.1 Workers who remain dissatisfied after having raised concerns in accordance with this policy can also raise their concerns, as appropriate, with any of the following, subject to the concern meeting the criteria for a protected disclosure:

- > Direct to the Chair of Governors (or Clerk to Governors) for further investigation (workers can email their concern to the following: governors@maryhare.org.uk)
 - > A professional Board or inspectorate (e.g., Ofsted or Health & Safety Executive)
 - > A 'prescribed person' as designated by the 'Whistleblowing and the Public Interest Disclosure Act 1998', a full list of whom can be found on the Gov.uk website under "Whistleblowing: list of prescribed people and bodies."
- 7.2 A worker can only make a disclosure to a prescribed person if the disclosure meets all of these criteria:
- > make the disclosure in the public interest;
 - > if the worker reasonably believes the information is substantially true;
 - > if the worker reasonably believes they are disclosing the issue to the appropriate person or Board (e.g. health and safety issues to the HSE).
- 7.3 In taking their concern outside of Mary Hare, workers must ensure that, as far as possible, the matter is raised without personal information relating to other workers, or confidential information about unrelated matters, is being disclosed.

8. Failure to follow this procedure

- 8.1 Workers are expected to report concerns. For some categories of worker failing to report a concern may be a failing in their professional duty; this may result in disciplinary action being taken.
- 8.2 Any worker who makes an allegation frivolously, maliciously, unreasonably and without justification, or who raises such concerns or issues on a wider basis, including with the press, without following the steps and advice in this procedure may be liable to disciplinary action.

9. Appendix:

Whistleblowing Disclosure Form (formal public interest disclosure)

This form is intended for use by any individual working for the organisation/charity (including governors, contractors, agency workers and volunteers) who wishes to raise an issue about serious wrong-doing. You must have a reasonable belief in any allegations that you make, and they must be made in the public interest (Also see appendix 2 glossary re 'what does in the public interest mean').

This form should be used to report wrong-doing within the organisation/charity (for example, financial irregularities or health and safety concerns), rather than to raise a personal grievance. (If you want to make an allegation of bullying or harassment, or are complaining that your contract of employment has been breached, separate procedures exist for these types of concerns.)

If having read the Mary Hare Whistleblowing Policy you are unsure about whether your complaint is best dealt with under the Mary Hare Whistleblowing Policy or the Mary Hare Grievance Procedure, then please consult the Head or HR, Principal/CEO or the Chair of Governors (where the Principal/CEO is the subject of your allegation) for further advice.

Once you have submitted this form, the Mary Hare whistleblowing procedure will be invoked. This will result in an investigation, which will not involve anyone (for example, your line manager) you may have implicated on the disclosure form.

In certain circumstances, you can request that your complaint be kept anonymous. Where possible, Mary Hare will respect a request for anonymity, but cannot guarantee that it will be able to do so.

This form should be completed and delivered to your line manager/Principal/CEO or the Chair of Governors in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line.

Appendix 1: Formal public interest disclosure (whistleblowing)

You can inform your employer or a prescribed person anonymously. However, in doing so they may not be able to take the claim further if you have not provided all the information they need. You can give your name but request confidentiality and the person or body you inform will make every effort to protect your identity

Worker's name:

Worker's job title:

Organisation/charity:

Date:

Does your public interest disclosure relate to your line manager? Yes/No

Summary of disclosure:

Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.

Individuals involved

Please provide the names and contact details of any people involved in your complaint, including witnesses.

Outcome requested

Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.

Declaration

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the organisation/charity taking disciplinary action against me.

Form completed by

Signature:

Date:

For completion by the organisation/charity

Date form received by the organisation/charity: Name recipient and job role:

Appendix 2: Glossary

Qualifying disclosures are disclosures of information where the staff member reasonably believes that one or more of the following matters is either happening, has happened or is likely to happen in the future and **it is in the public interest to disclose them***:

- a criminal offence (e.g. fraud, corruption, sexual or physical abuse of pupils, students or others)
- a failure by a person to comply with any legal obligation to which he/she is subject
- a miscarriage of justice
- a danger to the health and safety of any individual
- damage to the environment, or
- a deliberate attempt to conceal any of the above matters.

To determine if a disclosure is a 'qualifying' disclosure under the act consider:

- whether any factual information was actually disclosed, as opposed to opinion only, to the employer (relevant person); and
- whether the individual making the disclosure believed that the information tended to show that one of the matters above has occurred, is occurring or is likely to occur; and
- whether that belief was reasonable.

* What does 'in the public interest' mean?

Whilst there are no absolute rules about what is reasonable to view as being in the public interest, in practice, if you act as a *witness* to wrongdoing, it is more likely that you will satisfy the public interest test. This means that the concerns impact others rather than just yourself.

If the concern is about *your own treatment at work* only, then this is likely more of a 'private' concern about your own contract of employment, and it will be difficult to satisfy the public interest test. In these types of cases whistleblowing may not be the most effective option for you. Instead, you should seek general employment law advice on your rights and grievance processes.

Due to the potential complexity of whistleblowing and if you are unsure, then you should seek independent legal advice.

Additional supporting advice and information can be found via 'Protect', the UK's whistleblowing charity website at:

[Public Interest - Protect - Speak up stop harm \(protect-advice.org.uk\)](https://www.protect-advice.org.uk)

**THIS POLICY WAS APPROVED BY THE BOARD AT THEIR MEETING ON 27TH NOVEMBER
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