

Whistleblowing

EYFS: 3.4 – 3.18 and 3.22

Arc fosters an open-door policy where staff, parents and others are able to voice their concerns in a safe, confidential environment, knowing that they will be taken seriously and investigated. For this reason, whistle blowing is supported and expected within the Nursery.

At **Arc** we expect all our colleagues, both internal and external, to be professional at all times and hold the welfare and safety of every child as their paramount objective.

We recognise that there may be occasions where this may not happen, and we have in place a procedure for staff to disclose any information that suggests children's welfare and safety may be at risk.

We expect all team members to talk through any concerns they may have with their line manager at the earliest opportunity to enable any problems to be resolved as soon as they arise.

Legal framework

The Public Interest Disclosure Act 1998, commonly referred to as the 'Whistleblowing Act', amended the Employment Rights Act 1996 to provide protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. On 25 June 2013, there were some legal changes to what constitutes a qualifying disclosure.

A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that:

- A criminal offence
- A miscarriage of justice
- An act creating risk to health and safety
- An act causing damage to the environment
- A breach of any other legal obligation or
- Concealment of any of the above
- Any other unethical conduct
- An act that may be deemed as radicalised or a threat to national security
Is being, has been, or is likely to be, committed.

Qualifying disclosures made before 25 June 2013 must have been made 'in good faith' but when disclosed, did not necessarily have to have been made 'in the public interest.'

Disclosures made after 25 June 2013 do not have to be made 'in good faith'; however, they must be made in the public interest. This is essential when assessing a disclosure made by an individual.

The Public Interest Disclosure Act has the following rules for making a protected disclosure:

- You must believe it to be substantially true
- You must not act maliciously or make false allegations
- You must not seek any personal gain.

It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be, committed; a reasonable belief is sufficient.

For a disclosure to be protected by the Act's provisions it must relate to matters that "qualify" for protection under the Act. Qualifying disclosures are disclosures which the worker reasonably believes tends to show that one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence;
- the breach of a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of any individual;

- damage to the environment; or
- deliberate concealment of information tending to show any of the above five matters

What does 'Whistle Blowing' mean?

Whistle Blowing occurs when a person raises a concern about dangerous, illegal or any wrongdoing activities within the organisation.

Whistle blowing can involve sharing potentially vital information with either someone within the company or an outside organisation.

'Blowing the whistle' is necessary when faced with behaviours that:

- May endanger the public, the environment, or the people within the organisation.
- Bribery
- Financial malpractice, fraud
- Theft
- Intoxication whilst working (including drinking or drug taking)
- Bullying or harassment
- Concerns about the standards of care of the children

Things to consider before 'Blowing the Whistle'.

- Keep calm.
- Consider risks and next steps.
- Let the facts do the talking. This means recording nothing but what has been seen and heard (including names, locations, times and dates)
- Don't jump to conclusions and make assessments yourself.
- Don't pursue the allegation yourself.
- Keep your observations confidential between you and the authority with whom you have discussed your concerns – remember that a full investigation needs to be pursued before any conclusions are made.

It is essential that concerns are addressed immediately. 'Blowing the Whistle' as early as possible will allow prevent dangerous or destructive behaviours from continuing.

- **Remember it is your duty to safeguard all children in your care.**

Disclosure of information

If, in the course of your employment, you become aware of information which you reasonably believe indicates that a child is/may be or is likely to be in risk of danger and/or one or more of the following may be happening, you **MUST** use the nursery's disclosure procedure set out below:

- That a criminal offence has been committed or is being committed or is likely to be committed
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject (e.g. EYFS, Equalities Act 2010)
- That a miscarriage of justice 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, has been, is being, or is likely to be deliberately concealed.

Disclosure procedure

- Where you reasonably believe one or more of the above circumstances listed above has occurred you should promptly disclose this to your manager so that any appropriate action can be taken. If it is

inappropriate to make such a disclosure to your manager (i.e. because it relates to your manager or if you feel that no appropriate action has been taken) you should speak to one of the Trustees (contact details of the Trustees can be found below)

- James Chair of the Board JamesTrustee@arcnursery.com
- Gill Safeguarding Board Member GillTrustee@arcnursery.com

- If, for any reason, you do not wish to report your concerns to those detailed above you can also contact Ofsted directly on 0300 123 4666, or your local safeguarding team and nursery LADO Local Authority Designated Officer if you have concerns about the conduct of a staff member (details of who this is can be found on the Staff Board, and should be in the Safeguarding Policy located in the staff room too)
- If this information relates to child protection/safeguarding then the nursery *child protection/*safeguarding children policy should be followed, with reference to the staff and volunteering section.
- Where you reasonably believe one or more of the above circumstances listed above has occurred, you should promptly disclose this to your manager so that any appropriate action can be taken. If it is inappropriate to make such a disclosure to your manager (i.e. because it relates to your manager) you should speak to a member of the board of trustees.
- Employees will suffer no detriment of any sort for making such a disclosure in accordance with this procedure. For further guidance in the use of the disclosure procedure, employees should speak in confidence to the nursery manager.
- Any disclosure or concerns raised will be treated seriously and will be dealt with in a consistent and confidential manner and will be followed through in a detailed and thorough manner.
- Any employee who is involved in victimising employees who make a disclosure, takes any action to deter employees from disclosing information or makes malicious allegations in bad faith will be subject to potential disciplinary action which may result in dismissal.
- Failure to report serious matters can also be investigated and potentially lead to disciplinary action which may result in dismissal.
- Any management employee who inappropriately deals with a whistleblowing issue (e.g. failing to react appropriately by not taking action in a timely manner or disclosing confidential information) may be deemed to have engaged in gross misconduct which could lead to dismissal

Confidentiality

At the Nursery we will do our best to protect someone’s identity when they raise a concern. However, it must be appreciated that any investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.

If you would like to speak to someone during this time or need further support you can ask to be assigned a mentor, this will be someone who is employed by the company but at another nursery or speak with the person that you notified your concerns to. It is important that you only speak to an appropriate person and not to other staff members, families using the nursery or friends and family at home as this is not appropriate and a breach of confidentiality and could in itself lead to formal proceedings being taken against you.

Failure to report serious matters can also be investigated and potentially lead to disciplinary action which may result in dismissal.

This policy was reviewed on	Signed on behalf of the nursery
12.09.22	Sharon Lodge
12.09.22	Khelood Jubber
17.04.23	James Rickard