



# Whistleblowing Policy and Process

## PURPOSE

This document confirms Ark's approach to whistleblowing and outlines the process for reporting and investigating concerns of malpractice and serious wrongdoing.

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## ARK LIBRARY COMPONENT

Component	Element
<input type="checkbox"/> Strategic Leadership & Planning <input type="checkbox"/> Monitoring, Reporting & Data <input checked="" type="checkbox"/> Governance & Accountabilities <input type="checkbox"/> Teaching & Learning <input type="checkbox"/> Curriculum & Assessment <input type="checkbox"/> Culture, Ethos & Wellbeing <input type="checkbox"/> Pathways & Enrichment <input type="checkbox"/> Parents & Community <input type="checkbox"/> Finance, IT & Estates <input type="checkbox"/> Our People	Governance

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# Whistleblowing Policy

## 1. Ark's approach and statement of principle

Ark is committed to achieving the highest ethical standards and standards of service across the Trust. All employees are valued as members of the Trust community and Ark recognises the importance that openness and accountability plays in driving standards of excellence. Employees may often be the first to notice serious wrongdoing and the Trust encourages and expects this to be reported without fear of reprisal.

This policy is a commitment to ensuring individuals working for the Trust, including contractors, agency and casual workers, are able to raise concerns of malpractice or serious wrongdoing in good faith without fear of victimisation, disadvantage or subsequent discrimination. In doing so, this policy aims to strike a balance between promoting the right of individuals to speak freely and the right of the Trust, and its academies, to be protected against malicious or false allegations. It is designed to encourage a culture of co-operation, integrity and accountability.

## 2. Introduction

### 2.1. What is whistleblowing?

Whistleblowing is when an individual, usually an employee or worker, reports concerns about specific types of serious wrongdoing within an organisation. The concern(s) raised must be in the public interest (it must affect others and not just the individual) and the person who raises the concern(s), the 'whistleblower', is protected by law against being treated unfairly or losing their job.

This policy is written in line with the Public Interest Disclosure Act 1998 (PIDA), which amends the Employment Rights Act 1996, which enables workers to raise issues of concern in an appropriate manner and without fear of reprisal.

### 2.2. Remit

This policy applies to all employees of the Trust and those working for the Trust under contract including supply, agency, trainees and casual staff. It also covers suppliers and those providing services under contract with the Trust or any academy on their own premises, or in any other premises where services are delivered.

## 3. Aims and scope of the policy

### 3.1. Aims

This policy aims to:

- Encourage employees/workers to report concerns of serious wrongdoing, malpractice, unethical conduct or as serious breach of internal policies within the organisation about any aspect of the Trust or its academies.
- Reassure employees/workers that they will not be treated unfairly or lose their job if they report a concern and there is reasonable belief that the disclosure is made in good faith.
- Provide a range of avenues to report concerns and receive feedback on any action taken, including the option to raise concerns anonymously.

- Ensure that employees/workers receive a response to their concern and that they are aware of how to raise it further if they are not satisfied, which includes individuals able to make a disclosure to external bodies.
- Confirm a fair and impartial process for investigating and acting on confirmed instances of malpractice and serious wrongdoing.
- Confirm the roles, responsibilities and accountabilities of senior leaders involved in the whistleblowing process.

### 3.2. Scope

The whistleblowing policy and process is intended to address concerns that fall outside of other policies, such as complaints or grievance which should be dealt with under the relevant policy. A definition of a whistleblowing complaint clarifies is a disclosure of information, in the public interest, where the employee reasonably believes that one or more of the following matters is either happening, has taken place, or is likely to happen in the future. Concerns that would be reviewed under this policy include:

- Reporting a criminal offense or breach of the law.
- Health and safety risks, including risks to the public as well as other employees.
- Risk of, or actual, damage to the environment.
- Miscarriage of justice.
- Possible fraud or corruption.
- Unauthorised use of public funds.
- Sexual or physical abuse of others.
- Other unethical conduct, e.g. someone is covering up wrongdoing.
- An abuse of power or authority
- A deliberate attempt to conceal any of the above.

Concerns that should be reported under the grievance policy include personal grievance such as an allegation of bullying, harassment or discrimination specific to the individual (not a systemic issue that affects others too).

**Note:** There may be occasions when concerns are raised under this policy which should be dealt with under another process. However, if in doubt, it is better to raise a concern, which can then be referred, than risk not reporting it at all.

## 4. Confidentiality and employee safeguards

Ark recognises that the decision to report a concern can be a difficult one to make. An employee if they are a member can request support from their union representative to assist them through the process.

A whistleblower's employment rights are protected in the law from victimisation if they follow the criteria below:

- that they made a qualifying disclosure in good faith;
- that they reasonably believed the information was substantially true;
- that it was a qualifying disclosure as per the PIDA;
- the procedure was followed;
- if the disclosure was made outside the trust, that it was made to a 'prescribed person or body', rather than another third party such as the press.

To support employees/workers the following safeguards are in place:

- If an employee/worker raises a concern in good faith they should not fear any reprisals, unfair treatment or loss of employment for reporting their concerns.
- Ark will not tolerate any form of discrimination, victimisation or harassment (including informal pressure) and will take appropriate action to protect those who raise concerns in good faith.
- If any instance of discrimination, victimisation or harassment occur, or any intimidatory threats are made against a whistleblower, the Trust will take disciplinary action against the individual(s) concerned.
- Any investigation into the concern(s) raised by the whistleblower will not influence, or be influenced by, any disciplinary or redundancy procedures that are already in affect with an individual employee.
- Employees may seek advice or support from their trade union representative at any time.

Due to the sensitive and serious nature of whistleblowing, Ark recognises the need to assure confidentiality for those who raise a concern. As far as possible, all concerns will be treated in the strictest of confidence and every effort will be made to protect, and not reveal, the whistleblower's identity. Any member of staff investigation a disclosure under this policy will have an awareness of the requirements of the PIDA and the need for confidentiality.

If a concern leads to investigation or further action then the whistleblower may, at some point in the future, need to act as a witness and/or provide evidence. In such cases, this will be discussed with the whistleblower and every effort will be made to limit the number of people within the Trust with access to the whistleblower's identity. If the whistleblower does not consent to their identity being revealed this will be respected but may hinder the scope or outcome of the investigation.

## **5. Anonymous allegations**

Ark encourages those who report a concern under this policy to include their identity in their allegation(s). Section 4 of this policy provides details on employee safeguards and confidentiality for those who raise a concern and whistleblowers are protected by law against unfair treatment and loss of employment.

Employees can make a disclosure via their trade union rather than personally, in order to further maintain confidentiality. In this circumstance the employee making the disclosure will still be protected by the workers' legal right to make a protected disclosure to certain third parties under the PIDA, as incorporated into the Employment Rights Act 1996. The trade union representative whom the employee approaches will also have protection given to complainants under PIDA – provided they act in accordance with this procedure.

Concerns can be raised anonymously and the Trust will consider the appropriate action in such cases. However, anonymous allegations are much less powerful without the context and evidence that the whistleblower can provide by revealing their name and role.

If the Trust, or one of the academies, receive an anonymous whistleblowing allegation, discretion will be exercised in the appropriate course of action. Factors that will be taken into account include:

- The seriousness of the issue raised.
- Whether there is a safeguarding element to the allegation.
- The credibility of the concern.
- The likelihood of confirming the allegation from attributable sources.

## **6. Untrue, false and malicious allegations**

One of the factors that may cause employees or workers to hesitate in reporting concerns is repercussions if their allegation(s) prove to be untrue. Ark encourages staff to speak out if they have reasonable belief that their suspicions are justified and are reporting the concerns in good faith and the interest of others. If their allegation turns out to be untrue, or it is not confirmed by the investigation, no action will be taken against the individual who raised the concern.

If, however, an employee or worker raises a concern that they know to be false or that is made frivolously, maliciously or for personal gain then disciplinary action may be taken against them.

## **7. Legislation, external sources and other**

This policy is written in line with the [Public Interest Disclosure Act 1998 \(PIDA\)](#), which amends the [Employment Rights Act 1996](#), which enables workers to raise issues of concern in an appropriate manner and without fear of reprisal.

Independent advice can be sought from the [Advisory, Conciliation and Arbitration Service \(Acas\)](#), [Citizens' Advice](#) or your Trade Union, where relevant.

Other Ark policies which relate to this policy include:

- The [Grievance Policy](#) for staff employed at an Ark school
- The [Grievance Policy](#) for staff employed at Ark Central and Ark ventures
- The [Ark Schools Complaints Policy](#)
- [Ark Schools Equal Opportunities Policy](#)
- Data Protection Policy
- Safeguarding & Child Protection Policy

# Whistleblowing Process

## 1. How to report a concern

Reporting a concern depends on the seriousness and sensitivity of the issue, and who the allegation(s) involve.

### 1.1. Stage 1: Reporting initial concerns

- Where possible, the employee/worker should initially raise their concerns with the Principal (for those in an academy) or their line manager (for those in the Trust). This may be verbally or in writing and they may request that it is treated as confidential. If the concern is raised verbally, it is good practice to make a written record of the conversation in case this is needed for reference at a future date.
- If the allegation concerns the Principal, Regional Director or line manager, the employee/worker should raise the concerns with or the Director of Governance.
- The Principal or line manager should then contact the Director or Governance at Ark Central who will confirm whether it is appropriate to use the whistleblowing process and either act as assessor or appoint another assessor who is not implicated.
- The employee/worker may contact the Director of Governance directly to raise their initial concerns. For context they may be asked why they did not raise this with the Principal or Line Manager. The employee/worker may also contact the Director of Governance if their initial concerns have been dismissed and they wish to escalate the matter.
- If the allegation concerns the Director of Governance, the Director of People and Projects should be contacted.

### 1.2. Stage 2: Further Information

Where it is confirmed that there is no risk of immediate harm or serious breach of the law, the assessor is responsible for making contact with the whistleblower for further information about their concerns.

- The assessor will contact the whistleblower within 5 working<sup>1</sup> days of receiving the initial concern to arrange a confidential meeting. The meeting could be face-to-face, via Microsoft Teams or a telephone call.
- The assessor may meet with the whistleblower to obtain any further information needed about the grounds for their concern(s) and whether any additional evidence or witnesses are available. This meeting can take place at a mutually agreed off site location if requested. The assessor will also answer any questions

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<sup>1</sup> For concerns within an academy, the timeframe used will be in school days (not including weekends or any period when the school is closed)

the whistleblower may have about the process, possible next steps and alternative routes if the concern(s) do not fall within the whistleblowing remit.

- At all stages the whistleblower may be accompanied by a recognised trade union representative or a work colleague. The assessor may be accompanied by a note taker.

### 1.3. Stage 3 – Recommendations

Some concerns may be resolved by agreed action without the need for investigation. However, if urgent action is required this will be taken before any investigation is conducted.

Following their meeting with the whistleblower, the assessor is responsible for making recommendations on next steps.

- Within ten working days of the meeting, the assessor will recommend to the Principal (or the line manager for non-school based staff) one or more of the following:
  - a) The matter be investigated internally by the academy or Trust.
  - b) The matter be investigated by an external person appointed by the Trust.
  - c) The matter be reported to a public authority such as the Education & Skills Funding Agency (ESFA), the Department for Education (DfE), the Information Commissioner's Office (ICO) or the Charity Commission.
  - d) The matter be reported to the police.
  - e) No further action be taken.
- The grounds on which no further action may be recommended include:
  - The assessor is satisfied that, based on the balance of probabilities, there is insufficient evidence to suggest that malpractice or serious wrongdoing has occurred, is occurring or is likely to occur\*.
  - The matter is already (or has been) the subject of proceedings under another Ark or school policy.
  - The matter is already the subject of legal proceedings or has already been referred to the police, an external investigator, the DfE or another public authority.

*\*If there is reasonable belief that evidence may exist and come to light through further investigation this will be explored before recommending that no further action should be taken.*

- Where the allegation(s) involve concerns against the Principal or Regional Director, the assessor will make the recommendations to the Director of Governance .
- In all instances the assessor will report the recommendations to the Director of Governance, or the Director of People and Projects if the allegation is against the Director of Governance.



- For recommendations a) to d); the recipient of the recommendations (e.g. Principal or Director of Governance) is responsible for implementing them and contacting the whistleblower (see section 2 below). If they disagree with the recommendations, they should discuss the reasons for this with the Director of Governance.
- If no further action is to be taken the assessor, or Director of Governance, will communicate this in writing to the whistleblower and provide information on how they may take the matter further externally, see section 3 for more information.

## **2. Investigations and how the Trust will respond**

If an investigation is recommended, the Principal (or Director of Governance ) is responsible for implementing the investigation and will write to the whistleblower, in confidence, to:

- Acknowledge the concern has been received
- Indicate how the matter will be dealt with (e.g. internal / external investigation etc.)
- Give an estimate time frame for a final response
- Inform them of whether any initial enquiries have been made
- Supply them with information on staff support mechanisms
- Confirm whether they may be needed to give further evidence

2.1. For internal investigations, the Principal (or lead investigator) may appoint other member(s) of staff to support them in the process, for example in gathering evidence, taking meeting notes, collating reports etc. but will be mindful of the sensitive nature of whistleblowing, the need for strict confidentiality and minimise the number of people involved wherever possible.

All staff involved in the investigation process will be of sufficient seniority and participate in a fair, impartial and confidential manner and have had no previous involvement in the matter.

2.2. For external investigations, the academy or trust will appoint a suitably experienced and impartial person to conduct the investigation and report on their findings, including recommendations for further action where allegations have been proved to be true.

2.3. The investigation process is not restricted to but may include;

- Reviewing written evidence from the whistleblower and notes of the initial meeting,
- A further meeting with the whistleblower for further clarification, a witness statement or further evidence,
- Interviews with other relevant parties such as colleagues, pupils and those members of staff under allegation,
- Analysis of internal data, policy, procedure and records

2.4. The outcome of the investigation will be reported, in writing, to the Principal, and Director of Governance. Any legal or disciplinary actions will be put in place and

monitored by the relevant senior leader, and relevant reports will be made to the police and/or public authority. In all instances where allegations of malpractice or serious wrongdoing have been proved true and further steps are necessary, a full report will be made to the Chief Executive Officer and relevant Governing Board (e.g. Ark Schools Board or Ark Board).

Subject to legal constraints, the outcome of the investigation will also be reported by the Principal or Director of Governance to the whistleblower in writing within 30 working days of the notification that an investigation will take place. In exceptional circumstances the timeframe for investigation may need to be extended, in such circumstances the new deadline and reasons for delay will be communicated to the whistleblower as soon as possible.

### **3. How the concern can be taken further**

Employees and workers may contact Ark's Director of Governance regarding their concerns if they feel that they cannot approach anyone else in the organisation, or for advice on whether their concerns would be considered whistleblowing.

However, if staff are dissatisfied with the Trust's response, or the concern is with the Trust, the following external parties may be contacted (this is not an exhaustive list).

- The Department for Education
- Your local Member of Parliament
- National Audit Office
- Health and Safety Executive
- Ofsted
- Police
- HMRC

\*An employee may make an external disclosure to an outside agency without losing their rights to make a protected disclosure to certain third parties under the Public Interest Disclosure Act 1998 (PIDA), as incorporated into the Employment Rights Act 1996.

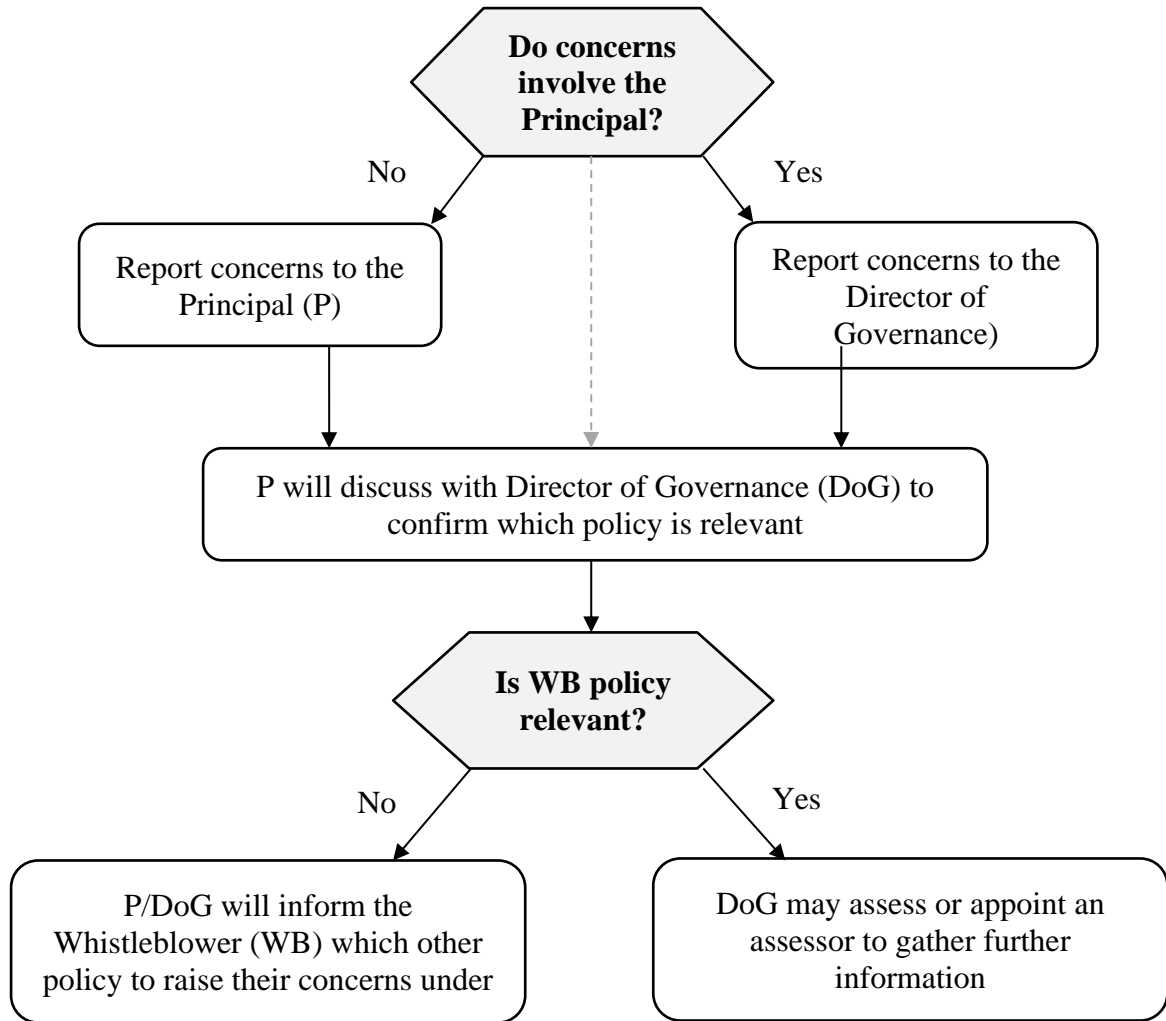
Any employee who approaches the media with their concerns is likely to lose their rights under whistleblowing law. In doing so an employee cannot be acting for personal gain and must reasonably believe the information they disclose is substantially true. If an employee bypasses this internal procedure or a prescribed person before contacting the media, they must reasonably believe that the organisation will subject them to detriment for making the disclosure internally.

Appendix A: Whistleblowing process flow chart (academies)

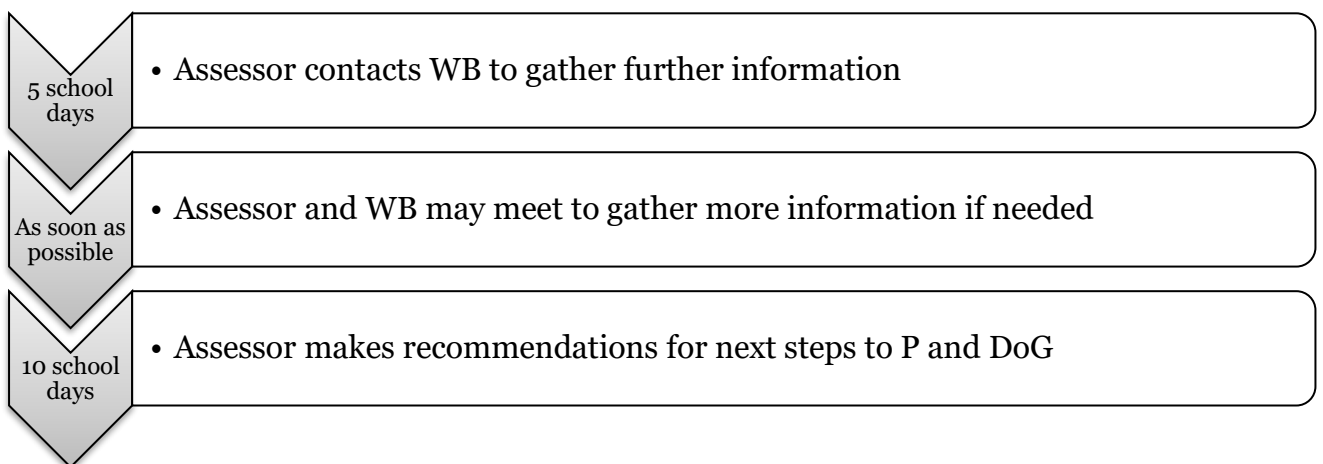
Appendix B: Whistleblowing process flow chart (Ark Central and the Trust)

Appendix A: Whistleblowing Process Flowchart (Academies)

**Stage 1: Reporting**



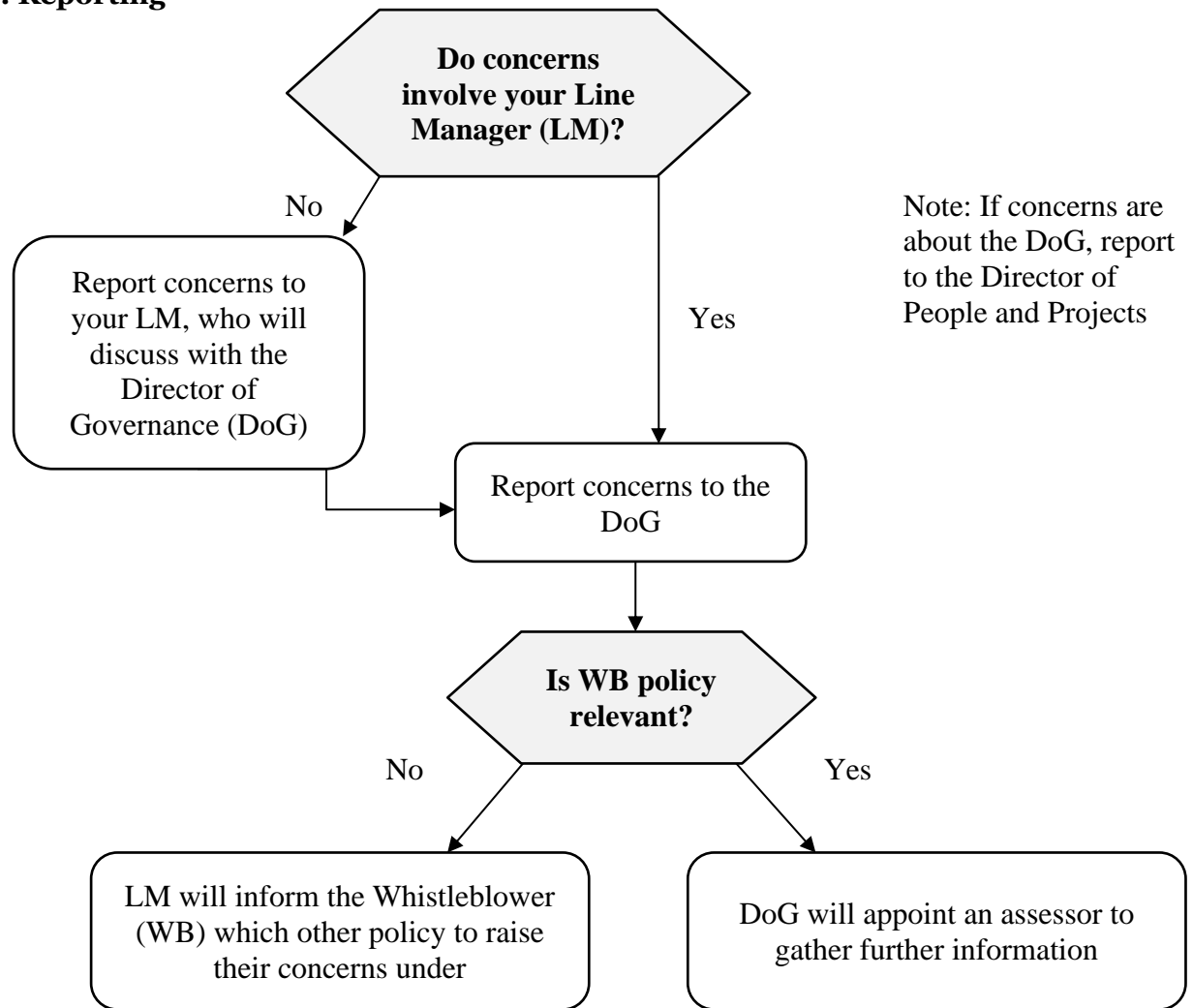
**Stage 2: Further Information**



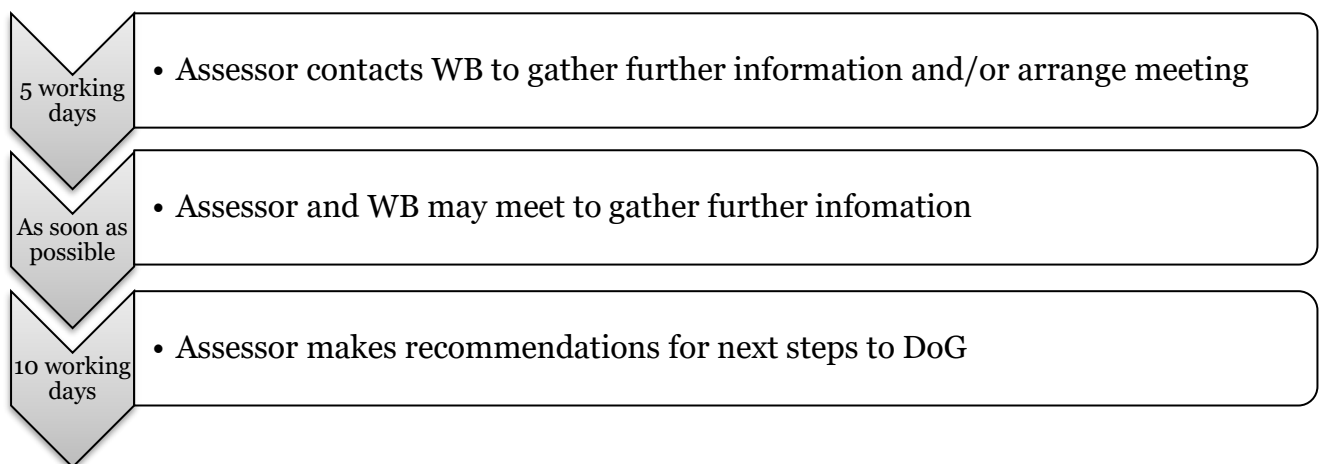
If an investigation is recommended, the final outcome will be communicated to the whistleblower (subject to legal constraints) within 30 school days.

Appendix B: Whistleblowing Process Flowchart (Ark Central and the Trust)

**Stage 1: Reporting**



**Stage 2: Further Information**



If an investigation is recommended, the final outcome will be communicated to the whistleblower (subject to legal constraints) within 30 working days.