



# The Academy for Character and Excellence



## Whistleblowing Policy

Reference: WPRR/HR/Safeguarding

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## Who should use this policy?

All staff at one time or another, have concerns about what is happening at work. More often than not, these concerns are relatively minor and can be easily resolved. Openness, probity and accountability are vital components of our Trust. Employees who discover lapses in these areas must be encouraged to come forward and disclose their concerns to someone who can be trusted to take action. This process is known as 'Whistleblowing'. These issues will be taken seriously and treated in a confidential manner.

This policy will be reviewed every two years by the board of directors.

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## Introduction

The Academy for Character and Excellence is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, staff, governors, directors, volunteers and others that we deal with, who have serious concerns about any aspect of the Trust are encouraged to voice those concerns.

This policy describes how anyone can raise any concerns they may have about working practices and who should be informed about the concerns. It may be that issues raised via this policy will be addressed via other procedures, e.g. anti-fraud and corruption, grievance, disciplinary, harassment and safeguarding/child protection procedures.

Staff and local committees are often the first to realise that there may be something seriously wrong within the Trust. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Trust. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. This policy makes it clear that concerns may be reported without fear of repercussions or detrimental treatment.

This Whistleblowing Procedure is intended to encourage and enable staff, governors and directors to raise serious concerns within the Trust rather than overlooking a problem or raising the matter externally.

The procedure applies to all staff, governors, directors, members, volunteers and those contractors working for the Trust. It also covers suppliers and those providing services to the Trust.

There are existing procedures within the Trust to enable individuals to lodge a grievance or a complaint. The Whistleblowing Procedure is intended to cover major concerns that fall outside the scope of other procedures.

These include:

- possible fraud and corruption
- the unauthorised use of Trust funds
- failure to comply with Standing Orders and Financial Regulations
- failure to comply with Codes of Practice
- conduct, which is a criminal offence
- disclosures related to miscarriages of justice
- health and safety risks, including risks to pupils, the public as well as other colleagues
- damage to the environment
- breach of a legal obligation
- bribery
- negligence
- breach of our internal policies and procedures
- conduct likely to damage our reputation
- unauthorised disclosure of confidential information
- examination fraud
- modern slavery
- the deliberate concealment of any of the above matters

## Legislation

Part IVA of the Employment Rights Act 1996 ('the Act'), as inserted by the Public Interest Disclosure Act 1998, is designed to protect 'whistle blowers' from detriment and unfair dismissal. The people protected by the Act include workers, employees, volunteers, third party contractor staff, agency workers and work experience staff and their providers.

## Objectives/Principles Supporting the Procedure

1. Create an ethical, open culture:
  - Write, publish and communicate a code of conduct and Trust values.
2. Establish safe routes for communications of concerns:
  - Ensure everyone understands who they can approach if they have any concerns about any suspected wrongdoing.
3. Protect the whistle blower:
  - Make it clear that the Trust will support and not subject any employee reporting a concern to any detriment provided any claim is made in good faith.
4. Establish a fair and impartial investigative procedure:
  - Make sure that the Trust responds to the concern by focusing on the problem, rather than denigrating the messenger.
5. Remind staff of the duty of confidentiality:
  - The duty of fidelity is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Trust fails to properly consider or deal with the issue.
6. Safeguard against abuse of the procedure:
  - Ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence.
7. Uphold the right to disclose a concern:
  - The individual member of staff has the right to disclose a concern/issue externally if the Trust does not deal with the matter.
8. Review:
  - Ensure there is a review mechanism using the comments and experience of those who may have had reason to invoke the whistle blowing procedure.

## The Procedure

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 a 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.

## **Instigating the Procedure**

All employees have the right to raise concerns, which could be about the actions of other employees, private contractors, governors, volunteers and the Trust.

Concerns raised by employees about their own conditions of service, should be addressed via the Grievance Procedure or, if the matter relates to salary, the salary review procedures documented in the Pay Policy.

All parties need to agree that the issue raised will be kept confidential while the procedure is in process.

The Complainant (the person raising the concern) should:

- i. Raise their concern with their line manager or a member of the senior leadership team/trust leadership team. This may be done verbally or in writing. The complainant has the right to have the matter treated confidentially.
- ii. If the line manager, or senior member of staff, believes that it is appropriate to use the Whistle Blowing procedure, the line manager, or member of the senior leadership team/trust leadership team, should contact the Head of Safeguarding and Inclusion or the Executive Assistant to the CEO (the Assessor) within 5 working days of receiving the complaint
- iii. Should it be alleged that the Head of Safeguarding and Inclusion and/or the Executive Assistant to the CEO are involved in the alleged malpractice, a member of the trust leadership team should be contacted to act as the Assessor.
- iv. If the complainant feels unable to raise their concern with their line manager or senior member of staff in the first instance, they may contact the Assessor direct. If this occurs the complainant will be asked to justify why they feel unable to raise the concern with their line manager or the senior member of staff.

## **Stage One**

The Assessor should:

- i. Interview the complainant within seven working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury;
- ii. Obtain as much information as possible from the complainant about the grounds for the belief of malpractice;
- iii. Consult with the complainant about further steps which could be taken;
- iv. Advise the complainant of the appropriate route if the matter does not fall under the Trust's Whistle blowing Procedure;

- v. Report all matters raised under this procedure to the CEO and the chair of the board of directors.

At the initial meeting the Assessor should establish that:

- there is genuine cause and sufficient grounds for the concern; and
- the concern has been appropriately raised via the Whistle-blowing Policy.

The Assessor should ask the employee, to put their concern(s) in writing, if they have not already done so. If the employee is unable to do this, the Assessor will take down a written summary of their concern/s and provide them with a copy after the meeting and ask the employee to confirm that it represents an accurate summary of their meeting. The Assessor should make notes of the discussions with the employee. The employee's letter and/or Assessor's notes should make it clear that the employee is raising the issue via the Whistle-blowing procedure and provide:

- the background and history of the concerns; and
- names, dates and places (where possible); and
- the reasons why the employee is particularly concerned about the situation.

The employee should be asked to date and sign their letter and/or the notes of any discussion. The Assessor should positively encourage the employee to do this, as a concern expressed anonymously is much less powerful and much more difficult to address, especially if the letter/notes become evidence in other proceedings, e.g. an internal disciplinary hearing.

The Assessor should follow the policy as set out above and in particular explain to the employee:

- what steps they intend to take to address the concern;
- how they will communicate with the employee during and at the end of the process; and that a written response will generally be sent out within ten working days.
- that their identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed;
- that the need for confidentiality may prevent the Trust from giving the employee specific details of any investigation or disciplinary action taken as a result of the concern raised;
- that the Trust will do all that it can to protect the employee from any detriment arising from raising the concern;
- that the matter will be taken seriously and investigated immediately; and
- that if the employee's concern, though raised in good faith, is not confirmed by the investigation, no punitive action will be taken against them.

- The Assessor should explain to the employee, as a matter of fact, that:
  - if clear evidence is uncovered during the investigation that they have made a malicious or vexatious allegation, disciplinary action may be taken against them; and
  - the investigation may confirm their allegations to be unfounded in which case the Trust will deem the matter to be concluded and they will be expected not to raise the concern again, unless new evidence becomes available.

At the interview with the Assessor, the complainant may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of staff to take notes, who may also be a local committee clerk. The Assessor may also want to have the assistance of HR and if this is the case they should contact them prior to the meeting.

## Stage Two

Within ten working days of the interview, the Assessor will recommend to the CEO and the chair of the board of directors one or more of the following:

- i. the matter be investigated internally by the Trust;
- ii. the matter be investigated by the external auditors appointed by the Trust;
- iii. the matter be reported to the Department for Education
- iv. the matter be reported to the Police or LADO;
- v. the route for the member of staff to pursue the matter if it does not fall within this procedure; or
- vi. that no further action is taken by the Trust.

The grounds on which no further action is taken include:

- i. the Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur;
- ii. the Assessor is satisfied that the complainant is not acting in good faith;
- iii. the matter is already (or has been) the subject of proceedings under one of the Trust's other procedures or policies;
- iv. the matter concerned is already the subject of legal proceedings, or has already been referred to the Police/LADO, the external auditors, the Department for Education, EFSA, or other public authority.

Should it be alleged that the CEO is involved in the alleged malpractice, the Assessor's recommendation will be made to the Trust's chair of directors alone.

The recipient of the recommendation will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the Trust's board.

The complainant's identity will be kept confidential unless the complainant otherwise consents.

In the absence of such consent or grounds, the Assessor will not reveal the identity of the complainant except:

- i. where the Assessor is under a legal obligation to do so;
- ii. where the information is already in the public domain;
- iii. on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice;
- iv. where it is essential that the complainant provides evidence at a disciplinary hearing or other proceedings.

The conclusion of any agreed investigation will generally be reported by the Assessor to the complainant within twenty working days following the commencement of the investigation. If the Assessor anticipates a longer period being required, the complainant should be kept informed.

All responses to the complainant will be made in writing and sent to the complainant's home address, sent by recorded delivery and/or by email should the complainant agree.

If the complainant has not had a response within the above time limits, they may appeal to the Trust's board of directors, or the Trust's external auditors if the complaint relates to the board, but will inform the Assessor before doing so.

The complainant may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

The Trust will ensure the complainant is protected from any repercussions and any form of detrimental treatment as a result of raising a concern.

### **Malicious Accusations**

If an allegation is made in good faith, but it is not substantiated, no disciplinary action will be taken against the person raising the concern. If, however, an allegation is made frivolously, maliciously or for personal gain by an employee, the Trust may investigate this under the Disciplinary Procedure which may result in their dismissal.

In the event of a false or malicious allegation being made, the subject of the complaint may have legal remedies available.

### **Anonymous Allegations**

Employees are encouraged to put their name to an allegation. Allegations expressed anonymously are much less powerful and more difficult to address, but they will be considered at the discretion of the Trust. In exercising the discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

If an individual has genuine concerns about reprisals if their name is revealed, they should speak with the Head of Safeguarding.

## External Sources

Whistle blowing to an external source without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the complainant is not content with the conclusion of the Assessor. In particular, approaches to the media without having gone through these procedures may be considered evidence of bad faith. Compelling reasons could be the involvement of the senior managers, serious health and safety issues, serious safeguarding issues or possible discrimination. The external sources which could be used are:

- i. Department for Education
- ii. Education and Skills Funding Agency  
<https://www.gov.uk/government/organisations/education-and-skills-funding-agency>
- iii. Member of Parliament
- iv. National Audit Office i.e. Health and Safety Executive.
- v. Police
- vi. LADO
- vii. NSPCC Whistleblowing helpline: 0800 0280285 Email:[help@nspcc.org.uk](mailto:help@nspcc.org.uk)
- viii. Trade union
- ix. Information Commissioner – <https://ico.org.uk/>
- x. Local Citizens Advice Bureau
- xi. Health and Safety Executive – <http://www.hse.gov.uk>
- xii. Relevant professional body or regulatory organisation
- xiii. HM Revenue & Customs
- xiv. The Environment Agency
- xv. Protect \* *Protect is a registered charity that employees can contact for advice to assist them in raising concerns about poor practice at work*

If the matter is taken outside the Trust, it is the employee's responsibility to ensure that confidential information is not disclosed, i.e. confidential information, in whatever format, is not handed over to a third party.

## Appendix One – Whistleblowing Flowchart

