

Guidance for Academies

Whistleblowing Policy and Procedure

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1. Introduction

- 1.1 The academy is committed to the highest standards of openness, probity and accountability. The aim of this policy is to encourage employees and others who have serious concerns about any aspect of the academies work to come forward and voice those concerns. Any victimisation for using the procedure will not be tolerated.
- 1.2 Whistleblowing is 'making a disclosure in the public interest' and occurs when a concern is raised (i.e. someone 'blows the whistle'), about a certain type of wrongdoing, danger or illegality that affects others, for example members of the public. The disclosure may be about the alleged wrongful conduct of the employer, a colleague, client, or any third party. Typically, the whistleblower is not directly, personally affected by the danger or illegality, although they may be.
- 1.3 Personal complaints such as harassment or discrimination are not usually treated as whistleblowing, unless it is in the public interest, and should be raised under the Fairness and Dignity policy or Grievance policy according to the particular circumstance.

2. Scope

- 2.1 This policy applies to all academy employees including teaching and non-teaching staff.

3. Equality and Diversity

- 3.1 Equality and diversity underpin all of the academy policies and practices and absence will be managed in accordance with the Equality Act 2010. The academy promotes equality of opportunity and values diversity among its employees.

4. Principles

- 4.1 All academy employees will be made aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.

- 4.2 Disclosures should be made in the public interest.

- 4.3 Headteachers/Governing Body should:

- ensure that any concerns raised are taken seriously
- investigate thoroughly and make an objective assessment of the concern
- keep the individual advised of progress
- ensure action is taken to resolve a concern.

- 4.4 The Governing Body will specify alternative means for an individual to register concerns with the organisation where they do not wish to approach their Line Manager/Headteacher.
- 4.5 Any academy employee should feel they are able to raise an allegation in good faith and without recourse or being victimised (This means that the continued employment and opportunities for future career progression or training of the employee will not be prejudiced because they have raised a legitimate concern).
- 4.6 The academy recognises that the decision to report a concern can be a difficult one to take, not least because of the fear of reprisal from those responsible for the malpractice or from the academy. The academy will not tolerate any such harassment or victimisation and will take appropriate action to protect those that raise a concern in good faith. In addition, the Public Disclosure Act offers protection to employees from suffering a detriment and dismissal when they have 'blown the whistle'.
- 4.7 If the concern relates to a safeguarding issue, you should inform the Headteacher or Governing Body, if the Headteacher is involved. They should then immediately contact the Local Authority Designated Officer (LADO).
- 4.8 Concerns expressed anonymously, may be considered under this whistleblowing procedure, especially those relating to the welfare of children. The academy, when determining whether an anonymous allegation will be investigated further, will take the following factors into account:
 - The seriousness of the issue raised
 - The credibility of the concern
 - The likelihood of obtaining the necessary information in order to confirm the allegation.
- 4.9 Any academy employee later found to be maliciously making a false allegation will be referred for action under the Disciplinary Policy as this will be considered a Disciplinary matter. If the individual is a contractor, supplier or is employed by another organisation but working on behalf of the academy and they make an allegation maliciously or for personal gain, this may result in them being removed from the approved list of contractors or the academy may discontinue using their services.
- 4.10 An instruction to cover up wrongdoing is in itself a conduct matter. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees should not agree to remain silent. They should report the matter in accordance with this policy.

- 4.11 This procedure is not designed to be a substitute for the academies Fairness and Dignity Policy. If an employee has a concern unrelated to malpractice, they should use the Grievance or Fairness and Dignity Procedures.
- 4.12 If misconduct is discovered as part of any investigation under this procedure, the academies Managing Unsatisfactory Performance/Capability policies and Disciplinary policies may be invoked (in addition to any appropriate external measures).
- 4.13 If an employee is concerned that their own contract has been, or is likely to be, breached, they should use the academies Grievance or Fairness and Dignity Policies.

5. Qualifying disclosures

- 5.1 Qualifying disclosures are disclosures of information where the employee or worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, 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
 - Deliberate attempt to conceal any of the above.

6. Protection

- 6.1 The Employment Rights Acts 1996 and the Public Interest Disclosure Act 1998 gives legal protection to staff (including employment agency supplied workers and those on work experience) against being dismissed or penalised by employers as a result of disclosing information on malpractice, wrongdoing or dangers (a 'qualifying disclosure'). Protection is given to a 'protected disclosure' which is a 'qualifying disclosure' given to particular persons as defined by the legislation, for example the academy as employer.
- 6.2 A disclosure is not protected unless the whistleblower reasonably believes that the disclosure is made in the public interest.
- 6.3 An employee can make a disclosure, and still retain protection, under the Employment Rights Act 1996, to a non-prescribed person if certain conditions are met, namely:
 - the employee reasonably believes the information is substantially true;

- the employee is not making the disclosure for personal gain; and,
- in all the circumstances, it is reasonable for the employee to make the disclosure.
- The employee must also reasonably believe that they would be subject to a detriment by the employer if they made the disclosure directly to the employer or a prescribed person and/or the employee
- reasonably believes that the employer would conceal or destroy evidence if the disclosure were put directly; or have previously made the same disclosure to the employer or a prescribed person to no avail.

6.4 Notwithstanding legal protection for a whistleblower, any victimisation of an employee for raising a protected disclosure will be considered a conduct matter by the academy and dealt with accordingly under the Disciplinary Policy.

7. **Raising a Concern**

7.1 If wrongdoing in the workplace is suspected:

- **Do not** approach or accuse the individual directly;
- **Do not** try to investigate the matter;
- **Do not** convey such suspicions to anyone else other than those with the proper authority but do raise your concern (see below).

7.2 As a first step raise the issue with the Headteacher or in the absence of the Headteacher, the person responsible for the academy at that time. However, if you believe that the Headteacher is involved in the matter of concern you should contact the Governing Body.

7.3 It is expected that the investigating officer will either be the Headteacher or the Governing Body, however they do have the discretion to delegate the investigation to another person if they feel this is appropriate.

7.4 Concerns may be raised verbally, they are better put in writing. When setting out your concern in writing you should include as much detail as possible, for example, set out the background and history of the concern; giving names, dates and places and explaining the reasons for your concerns.

7.5 If you feel unable to raise the issue directly with the Headteacher or Governing Body you can also ask your trade union or professional association to raise the matter on your behalf or support you in raising the concern.

8. **How Will the Academy Respond?**

8.1 Initially the investigating officer will consider the matter raised and decide whether an investigation is appropriate and if so, what form it should take.

8.2 It may be appropriate for the investigating officer to initially consider other procedures such as the Allegations of Abuse against Teachers and other Staff (in cases of safeguarding) and immediately contact the Local Authority Designated Officer (LADO).

8.3 If the concern is unrelated to a qualifying disclosure then the investigating officer should halt the use of this procedure and instead refer the employee to the grievance and harassment or other relevant procedure.

8.4 Once the investigating officer has considered the issue(s) they will write to you within 10 working days of the concern being raised:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter;
- giving an estimate (so far as reasonably practical) of how long it will take to provide a final response;
- advising whether any initial enquiries have been made;
- advising whether further enquiries will take place;
- informing you of any support available whilst matters are investigated;
- maintaining confidentiality where possible, but explaining that it may not be possible that you remain anonymous.

8.5 The investigating officer may decide it is necessary to meet with you to seek further information or for clarification purposes. Where a meeting is arranged you have the right to be accompanied by a trade union representative or a colleague who is not involved in the matter(s) of concern. The investigating officer may also feel it is necessary to collect further evidence and interview witnesses as part of the investigation process.

8.6 The investigation process would aim to be completed within 20 working days of the matter being raised with the investigating officer, however enquiries may extend beyond this timescale in some more complex cases.

8.7 Following the investigation process the investigating officer will write up their findings and recommendations and present them, in the form of a report, to the Headteacher and the Governing Body if the Headteacher or Governing Body has not completed the investigation so that they can determine what further action (if any) is required.

8.8 It may be necessary to refer the matter to other nominated governors to agree actions if the Headteacher and the Governing Body are already involved in the issue(s) or investigation.

8.9 The investigating officer will determine that either:

- there is no evidence to support the matters raised and no further action is required, or
- allegations have been proven and that it is appropriate to take action in accordance with the disciplinary procedure or other relevant action, or
- the outcome is currently unknown because matters have been referred to other parties for further investigation e.g. police, audit, social services, legal, DBS or TRA (Teachers Regulation Agency), or
- the allegation is found to be malicious and will be investigated as a conduct issue under the disciplinary procedure.

8.10 The academy will take appropriate steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the academy will arrange for you to receive advice about the procedure.

8.11 The academy recognises that you need to be assured that the matter has been properly addressed. Therefore, subject to legal constraints, you will receive a copy of the report.

9. How Can Matters Be Pursued Further?

9.1 This policy is intended to provide employees of the academy an avenue in which to raise concerns within the academy and it is hoped that this will be the option in the first instance.

9.2 Worker/employees of the academy who are not satisfied, at any stage of the process, with the action taken by the Trust and feel that it is right to question the matter further, may consider the following possible contact points:

- The employee's trade union;
- The Citizen's Advice Bureau and/or law centre/firm;
- Relevant professional bodies or regulatory organisations (e.g. exam boards);
- The Information Commissioner;
- A relevant voluntary organisation;
- The Police;
- The Health and Safety Executive;
- The Local Authority Designated Officer or Safeguarding Children's Board;

- Ofsted;
- The Education Funding Agency;
- The Department for Education;
- Her Majesty's Revenues and Customs (HMRC).

Please note that this is not an exhaustive list.

10. External Bodies

10.1 You are strongly advised to seek independent advice before you raise any issue outside of the academy. Advice is available from your trade union (if applicable) or 'Public concern at Work' which is an independent charity who provide confidential advice to workers who are unsure whether or how to raise a public interest concern (telephone 020 3117 2520 or [Advice Line | Protect - Speak up stop harm \(protect-advice.org.uk\)](https://www.protect-advice.org.uk/))

10.2 You can also raise your concern with the proper external regulator. The legislation sets out a number of bodies to which qualifying disclosures may be made. The Department for Business, Innovation and Skills has published guidance detailing the list of the prescribed persons and bodies to whom employees can make a disclosure. This includes, amongst other bodies:

- The Secretary of State for Education (since 2015)
- The Audit Commission
- The Health and Safety Executive.

10.3 For the full list of see "*Whistleblowing: list of prescribed people and bodies*" at [Whistleblowing for employees: What is a whistleblower - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/whistleblowing-for-employees-what-is-a-whistleblower)

10.4 An employee can make a disclosure (and still retain protection under the Employment Rights Act 1996) to a non-prescribed person (for example, the police or Ofsted) if certain conditions are met, namely: the worker reasonably believes the information is substantially true; the worker is not making the disclosure for personal gain; and, in all the circumstances, it is reasonable for the worker to make the disclosure. The worker must also: reasonably believe that he or she would be subject to a detriment by the employer if he or she made the disclosure directly to the employer or a prescribed person; reasonably believe that the employer would conceal or destroy evidence if the disclosure were put directly; or have previously made the same disclosure to the employer or a prescribed person to no avail.

The academy encourages employees to raise their concerns in accordance with this procedure in the first instance. If, having read this policy, you are uncertain about

whether it is the appropriate policy or how to proceed, please feel free to seek informal advice from Human Resources.

11. Policy History

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