



# Whistleblowing Policy

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# Whistleblowing Policy

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## 1. Legal framework

This policy has due regard to all relevant legislation including, but not limited to, the following:

- Public Interest Disclosure Act 1998
- Employment Rights Act 1996

This policy has been created with regard to the following guidance documents:

- ESFA (2020) 'Academies financial handbook 2020'
- GOV.UK (2015) 'Whistleblowing for employees'
- DfE (2014) 'Whistleblowing procedure for maintained schools'
- Sir Robert Francis (2015) 'Freedom to speak up report'

This policy operates in conjunction with the following trust policies:

- Disciplinary Policy and Procedure
- Retention Policy
- Complaints Procedures Policy
- Data Protection Policy

## 2. Introduction

The Public Interest Disclosure Act 1998 (PIDA) protects employees who “blow the whistle” where the employee reasonably believes that the disclosure falls within the remit of the prescribed person or body and that the information and any allegations are substantially true.

Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. The details of any disclosure will remain confidential.

The **Chief Executive** is the first point of contact for whistleblowing queries. If the disclosure is related to the Chief Executive, the concern will be raised with the **Chair of the Trust Board**.

Any member of the school community or the general public is able to “blow the whistle”; however, the PIDA only protects employees.

This policy enables you to report, confidentially, serious concerns about any aspects of the Trust's work which you suspect involves criminal behaviour or other specific forms of malpractice – damage to the environment, for example, or action that threatens health and safety.

Provided that you act in good faith, and that you have a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur, you can disclose your concerns, using this procedure, and be protected by law from victimisation or dismissal.

This policy does not deal with any complaints relating to a colleague's own treatment at work or own contract of employment. Those matters should be raised under the Grievance procedure or other relevant HR policy unless

related to treatment as a consequence of a whistleblowing matter raised previously.

### 3. Definitions

**Whistleblowing:** Whistleblowing is when an employee reports suspected wrongdoing, or 'qualifying disclosures', at work to their employer.

**Qualifying disclosures:** As outlined by the PIDA, qualifying disclosures pertain to when any of the following takes place:

- A criminal offence has been committed, is likely to be committed or is being committed
- A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- A miscarriage of justice has occurred, is occurring or is likely to occur
- The health or safety of any individual has been, is being or is likely to be endangered
- The environment has been, is being or is likely to be damaged
- Information tending to show any matter falling within any of the preceding points has been, is being or is likely to be deliberately concealed

**In the public interests** means that an individual acted outside of their own personal interest – they acted for more than personal gain. It is not necessary for the disclosure to be of interest to the entire public. The following considerations are often used as a test to establish whether something is within the scope of public interest:

- The number of people in the group whose interests the disclosure served
- The nature of the interests and the extent by which individuals are affected by the wrongdoing disclosed
- The nature of the wrongdoing disclosed
- The identity of the alleged wrongdoer

**Grievances** involve someone filing a complaint because they personally have been mistreated in some way – the person making the complaint will have a direct interest in the outcome. It is important to understand the difference between raising a grievance and blowing the whistle.

### 4. What is Whistleblowing?

Whistleblowing is when a worker reports suspected wrongdoing at work. For example

- A criminal offence; and/or
- A miscarriage of justice; and/or
- Damage to the environment; and/or
- Breach of a legal obligation; and/or
- A danger to health and safety; and/or
- A deliberate concealment of any of the above.

## 5. Scope

This policy will:

- Give confidence to members of the Trust community when raising concerns about conduct or practice that is potentially illegal, corrupt, improper, unsafe or unethical, or which amounts to malpractice or is inconsistent with trust standards and policies.
- Provide members of the Trust community with avenues to raise concerns.
- Ensure that members of the Trust community receive a response to the concerns they have raised and feedback on any action taken.
- Offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the PIDA.

This policy will not be confused with the procedure on dealing with harassment at work or the trust's Grievance and Disciplinary Procedures.

Under this policy, any of the following can raise a concern:

- Employees of the Trust
- Employees of contractors working for the Trust or our schools, for example, agency staff, builders and drivers
- Employees of suppliers
- Voluntary workers working with the trust
- A trainee, such as a student teacher
- Pupils
- The wider community
- Governors

## 6. Harassment and victimisation of staff

The Trust 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 trust as a whole; however, the Trust will not tolerate any such harassment or victimisation and will take appropriate action to protect staff who raise a concern in good faith.

Staff are protected in law by the PIDA, which gives employees protection from detriment and dismissal where they have made a protected disclosure, providing the legal requirements of the Act are satisfied, e.g. the disclosure was in the public interest.

Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with this policy will be dealt with under the Trust's Disciplinary Policy and Procedure.

## 7. Non-employees

The PIDA and the Employment Rights Act 1996 **do not** protect non-employees as far as whistleblowing is concerned.

Irrespective, the Trust will not allow harassment, dismissal or exclusion for any non-employee who raises a genuine concern.

Where an individual feels that they have been unfairly treated following blowing the whistle, they should make a complaint under the Complaints Procedure.

Governors (Trustees) are not employees and, while they are responsible for ensuring there is a whistleblowing procedure in place, they are not protected under the PIDA.

## 8. Provisions

This policy describes the circumstances in which concerns can be reported confidentially or 'disclosed', and the conditions which must be met if the protection offered by the Act is to apply.

## 9. Making a Disclosure

The whistleblower has to meet certain conditions. The disclosure must be in the public interest and they must have a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur. The whistleblower must also honestly and reasonably believe that the information they provide and any allegations contained in it are substantially true.

When individuals raise their concern, they will include the following information as far as possible:

- The background and history of the concern
- Any relevant names, dates and places
- The reasons for the concern

The Trust encourages individuals to let their identity be known when they raise concerns, as anonymous concerns can be challenging to investigate.

Employees are strongly urged to take advice from their Trade Union or Professional Association before making a disclosure.

To make a disclosure write to the Chief Executive (or the Chair of the Trust Board if the disclosure relates to the Chief Executive), marking the envelope: **'PIDA – Strictly Private and Confidential'**.

The disclosure will be acknowledged in writing. They will also gather further information if need be, including by personal interview, at which you can be accompanied by an official of your Trade Union or Professional Association, or by a fellow employee. When the precise nature of the malpractice has been established a decision will be taken regarding what further action, if any, is needed, which may comprise:

- internal investigation
- report to the Police
- independent enquiry
- any combination of the above.

Throughout the process the Chief Executive (or Chair of the Trust Board where necessary,) will keep you informed on progress and (subject to legal constraints) the eventual outcome.

Individuals who would like to seek professional and confidential advice should contact Protect, a registered charity that advises on whistleblowing queries. The Protect website can be accessed [here](http://www.protect-advice.org.uk) (www.protect-advice.org.uk), or they can be contacted on 020 31172520.

## **10. What the Trust asks of you**

The purpose of this policy is to enable individuals to raise concerns in confidence, without any fear of reprisal; therefore, it is imperative that whistleblowers:

- Do not take the concern outside the trust, e.g. gossiping.
- Declare any personal interest in the matter, as the policy is designed to be used in the interest of the public and not for individual matters.

## **11. Further Appeal**

If at the end of the process you, or any other person covered by the Act, are not satisfied with how a disclosure has been dealt with, you may refer to one of the list of prescribed people and bodies whose details are listed on the Gov.Uk Website at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2> As with internal disclosure, before referring to one of these bodies you should consider: do I honestly and reasonably believe that my concerns are well founded and that any allegations I am about to make are substantially true? Again, employees are strongly urged to take advice from their Trade Union or Professional Association before contacting an external organisation.

## **12. Legal Protection**

Exceptionally, the Act offers protection in respect of disclosures made to people or bodies not included in the prescribed list but only when, all things considered, it is reasonable to do this and the disclosure is not made for personal gain. In addition, one of the following must apply:

- The matter must have been raised already with the employer and/or relevant regulatory body; or
- You reasonably believed that you would be victimised if you raised the matter internally; or
- There is no relevant regulatory body, and you reasonably believed that evidence was likely to be concealed or destroyed.
- Your concern is of an "exceptionally serious" nature, which is for you to determine.

It would be exceptionally rare for a disclosure to the media to be appropriate, **if ever.**

### **13. Confidentiality**

The Trust will treat your disclosure in confidence, and only reveal your identity if absolutely necessary (e.g. if required in connection with legal action,) and only to the agencies relevant to the circumstance.

### **14. Responsibilities**

The Trust has overall responsibility for this policy and will decide on the action to be taken in respect of all disclosures.

Unions and Professional Associations can also support and assist their members.

Regulators and other external bodies can deal with concerns in specified circumstances.

### **15. Frivolous/Malicious Claims**

If you make a disclosure where there is evidence that it is frivolous, malicious, or made for personal gain this may result in disciplinary action being taken against you.

### **16. Victimisation**

Anyone who harasses or victimises someone who makes a protected disclosure will be subject to disciplinary action.

### **17. Further Advice and Information**

This policy document is for general guidance only. If you need any further advice about how this policy applies to you please contact your manager.

If you belong to a recognised Trade Union or Professional Association you can get support and assistance from them or if you prefer to seek independent, external advice this can be obtained from the charity Public Concern at Work or the Audit Commission at:

Public Concern at Work Suite 306 16 Baldwins Gardens London EC1N 7RJ Helpline: 020 7404 6609 E-mail: <a href="mailto:whistle@pcaw.co.uk">whistle@pcaw.co.uk</a> Website: <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a>	Audit Commission 1 Vincent Square London SW1P 2PN Telephon: 020 7828 1212 E-mail: <a href="mailto:enquiries@audit-commission.gov.uk">enquiries@audit-commission.gov.uk</a>
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Further background information on this topic is also available on the following Websites:

[www.gov.uk/bis](http://www.gov.uk/bis)

[www.acas.org.uk](http://www.acas.org.uk)

[www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)

[www.pcaw.co.uk](http://www.pcaw.co.uk)

### **18. Other contacts**

Please note that the Trust takes no responsibility or liability for any material produced by or contained in external sites or for any advice or services given by external organisations. It is the responsibility solely of each person to decide whether or not they use any such material, advice or service.