



WHISTLEBLOWING POLICY – NOVEMBER 2022

Introduction

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

Staff, trustees and governors at the Academy are often the first to realise that there may be something seriously wrong within the Academy. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Academy. 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 document makes it clear that concerns may be reported without fear of victimisation, subsequent discrimination or disadvantage.

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

There are existing procedures within the Academy 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.

Legal Framework

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

- Public Interest Disclosure Act 1998
- Employment Rights Act 1996.
- ESFA (2021) 'Academy trust handbook 2021'
- DfE (2022) 'Keeping children safe in education 2022'
- GOV.UK (2012) '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 Academy policies:

- Disciplinary Policy and Procedure
- Complaints Procedures Policy
- Data Protection Policy & UK GDPR

The Public Interest Disclosure Act

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 CEO is the first point of contact for whistleblowing queries. If the allegation is related to the CEO, the concern will be raised with the Chair of Governors.

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

Definitions

Whistleblowing is when an employee reports suspected wrongdoing, or ‘qualifying disclosures’, at work to their employer. 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

Blacklisting refers to an individual who is being refused work because they are viewed as a whistleblower.

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.

Roles and Responsibilities:

The Governing Body will be responsible for:

- Establishing and agreeing the whistleblowing procedure.
- Ensuring the agreed whistleblowing procedure is published on the Academy’s website.
- Monitoring the effectiveness of this Policy and undertaking any necessary reviews, e.g. in relation to good practice recommendations or changes in legislation.
- Ensuring all members of the Academy community have access to this Policy.
- Investigating, in liaison with the CEO, any concerns that are raised.
- Ensuring this Policy provides an open and transparent framework where members of the Academy community can raise their concerns.
- Taking the necessary action against members of staff following an investigation into any alleged malpractice.
- Ensuring that the minutes of the Governing Body include a record of the Academy’s whistleblowing arrangements and who, both internally and externally, staff members should report concerns to.
- Appointing one governor and one member of staff to act as points of contact for staff members when reporting concerns.

The CEO will be responsible for:

- Ensuring all members of staff have read and understood this Policy.
- Receiving, investigating and responding to any concerns that have been raised by the Academy community.
- Being the first point of contact regarding whistleblowing.

The Chair of Governors will be responsible for receiving any concerns raised about the CEO.

All members of the school community will be responsible for:

- Raising any concerns that meet the definitions of this Policy.
- Being truthful and reasonable with any concerns that they have.
- Not raising malicious or unfounded concerns.

Scope

This Policy:

- Provides members of the Academy community with avenues to raise concerns.
- Ensures that members of the Academy community receive a response to the concerns they have raised and feedback on any action taken.
- Offers 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.
- Will not be confused with the procedure on dealing with harassment at work or the Academy's Grievance and Disciplinary Procedures.

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

- Employees of the Academy
- Employees of contractors working for the Academy, for example, agency staff, builders and drivers
- Employees of suppliers
- Voluntary workers working with the Academy
- A trainee, such as a student teacher
- Children of the Academy
- The wider community
- Governors.

Harassment and Victimisation of Staff

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 as a whole; however, the Academy 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 Academy's Disciplinary Policy and Procedure.

Non-employees

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

The Academy 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 Academy's Complaints Procedures Policy.

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

Good Practice Principles

The Academy will implement the core whistleblowing principles, as outlined in the 'Freedom to speak up report', to ensure that whistleblowing procedures are fair, clear and consistent.

The Academy will implement a culture of change by ensuring the following principles are reflected in our ethos and values – there will be a culture:

- Of safety in the Academy.
- Where people feel confident with raising concerns.
- Free from bullying.
- Of visible leadership.
- Of valuing staff.
- Of reflective practice.

By providing a clear procedure for mediating and resolving cases, the Academy will ensure that all cases are efficiently handled. This procedure includes:

- How to raise and report concerns.
- How investigations will be conducted.
- How the Academy will mediate and resolve disputes.

The Academy will implement measures to support good practice by ensuring adherence to the following principles:

- Offering relevant training to staff
- Providing the necessary support to staff
- Providing support to staff who are seeking alternative employment
- Being transparent
- Being accountable
- Conducting an external review of any concerns raised, where necessary
- Undertaking regulatory action as required.

We will ensure there are particular support measures in place for vulnerable groups by adhering to the following principles:

- Ensuring non-permanent staff are taught, and receive training on, the same principles as permanent staff
- Ensuring students and trainees are subject to all the safeguarding and whistleblowing principles
- Ensuring staff from ethnic minorities are supported, as they may feel particularly vulnerable when raising concerns
- Ensuring staff are empowered and protected, enabling them to raise concerns freely.

Procedure - Initial Concern

When raising concerns, individuals will express them orally or in writing to the CEO.

If an individual is raising a concern about the CEO, they should express their concerns orally or in writing to the Chair of Governors. Where this is the case, the Chair of Governors will take on the CEO's duties outlined in this Policy.

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

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.

Once an individual has raised a concern, the Academy will be responsible for investigating it.

In certain instances, it may be appropriate for the individual to raise the concern with an outside agency, e.g. the police, depending on the severity of the concern. Equally, it may be appropriate for the individual to request that their trade union raises the matter.

If a member of staff feels they should report a concern to the ESFA, they should use the [online contact form](#).

Appropriate whistleblowing procedures will be put in place for concerns about poor or unsafe practice and potential failures in the Academy's safeguarding system to be raised with the SLT. If a member of staff feels like they are unable to raise a safeguarding-related concern with the Academy, or feels that their genuine concerns are not being addressed, they are able to contact the NSPCC Whistleblowing Helpline on 0800 028 0285 or the LADO.

The Academy, or the appropriate external agency, will acknowledge receipt of a disclosure but, unless additional information is required, will not contact or engage in dialogue with the whistleblower, as this may undermine the legitimacy of the investigation outcome.

Next Steps – Initial Interview

The appointed Assessor will meet with the Representor within 7 working days (or earlier if there is an immediate danger to loss of life or serious injury).

The Assessor may be accompanied by a member of staff to take notes. The Representor is permitted to be accompanied by a trade union representative or a fellow member of staff not involved in the area of work that the concern relates to. This person will provide support only and will not be allowed to become involved in the proceedings.

The initial stage will be an interview with the Representor (whistleblower), and then an assessment of further action will be discussed. During this initial stage, the Assessor will establish if:

- There are grounds for a concern and that it is genuine.
- The concern was raised in accordance with this Policy.

During the initial interview, the Assessor will request the individual puts their concern in writing, if they have not already done so. The Assessor will write a summary of the concern if the individual is unable to put it in writing.

The Assessor will explain the following to anybody raising a concern:

- How they will communicate with the Representor throughout the process. It should be noted, the need for confidentiality may prevent the Academy giving the Representor specific details of any necessary investigation or any necessary disciplinary action taken as a result of the concern.
- That the Representor's identity will be kept confidential from the alleged wrongdoer.
- That the Governing Body will do everything in its power to protect the Representor from discrimination.
- That if the concern is genuine, even if the concern is not confirmed, no disciplinary action will be taken against the Representor.
- If clear evidence is uncovered that the representor's concern is malicious or unfounded, disciplinary action may be brought against them.

If an investigation is carried out, the Representor will be informed of the final outcome.

A record will be kept of the seriousness of the issues raised and the credibility of the concern.

It may be possible for the concern to be resolved by simply agreeing the necessary action or explaining procedures to the alleged wrongdoer; however, depending on the severity and nature of the concern, it may:

- Be investigated by management, an internal audit or through the disciplinary process.
- Be referred to the police or an external auditor.
- Form the subject of an independent inquiry.

A record will be made of the nature and outcome of the concern. The purpose of this is to ensure that a central record is kept which can be cross-referenced with other complaints to monitor any patterns of concern across the Academy and to assist in monitoring the procedure.

The Representor will be informed of the results of the investigation, and any action that is proposed will be subject to third party rights. Where action is not taken, the individual will be given an explanation.

Next Steps – Recommendations

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

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

The grounds on which no further action is taken include:

- 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;
- the Assessor is satisfied that the Representor is not acting in good faith;
- the matter is already (or has been) the subject of proceedings under one of the Academy's other procedures or policies;

- the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the external auditors, the Department for Education 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 Chair of Governors.

The recipient of the recommendation (CEO or Chair) 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 next meeting of the Academy Trust.

The Representor's identity will be kept confidential unless the Representor otherwise consents or unless there are grounds to believe that the Representor has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representor except:

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

The conclusion of any agreed investigation will be reported by the Assessor to the Representor within twenty-eight days.

All responses to the Representor will be made in writing and sent to the Representor's home address.

If the Representor has not had a response within the above time limits, they may appeal to the Academy's external auditors, but will inform the Assessor before doing so.

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, vexatiously or for personal gain, the Academy may investigate this under the Disciplinary Procedure.

What The Academy Asks Of Whistleblowers

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 talk about the concern outside the Academy unless it is to report the concern through the proper external channels, e.g. the LA..
- 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.

Appeal Process

If no action is to be taken and/or the individual is not satisfied with the way the matter has been handled, they can make a complaint under the Academy's Complaints Procedure Policy.

Unfair Treatment

An individual can take a case to an employment tribunal if they feel that they have been treated unfairly as a result of whistleblowing.

Further information can be sought from the [Citizen's Advice Bureau](#), the whistleblowing charity [Protect](#), or from an individual's trade union.

Any claims of unfair dismissal needs be made within three months of the investigation ending.

Monitoring and Review

The Governing Body will review this Policy annually, ensuring that all procedures are up-to-date.

The next review date for this Policy is November 2023.