



# **Whistle Blowing Policy**

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## Introduction

There is a balance to be struck between the right of the individual member of staff to speak freely on a range of matters and the right of the Academy or colleagues to protect themselves against false and malicious accusations.

A whistle blowing procedure is about the ways in which concerns about malpractice may properly be raised within the Academy and if necessary outside the Academy.

## Definition

Whistle blowing inside the work place is the reporting by workers or ex-workers, of wrong doing such as child protection concerns, fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management, the Governing Body or by fellow employees. Workers may include, for example, contractors and agency workers.

## Principles Supporting the Procedure

- Create an ethical, open culture
- *Establish safe routes for communications of concerns*
- *Protect the whistle blower*
- *Establish a fair and impartial investigative procedure:*
- 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 Academy fails to properly consider or deal with the issue.
- Ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence
- To be effective there should be a sense of organisational ownership of a whistle blowing procedure.

## Legislation

The Public Interest Disclosure Act 1998 is designed to protect 'whistle blowers' from detriment and unfair dismissal if the disclosure is made in the reasonable belief that it is in the public interest. The people protected by the Act include workers, employees, third party contractor staff, agency workers and work experience providers.

Students may also have information which should be raised in the public interest and there should be proper procedures in place for them to air their concerns; e.g. a students' complaints procedure.

## **The Procedure**

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

The Representor (the person raising the concern) should:

- raise their concern with their line manager or the Headteacher. This may be done orally or in writing. The Representor has the right to have the matter treated confidentially
- if the line manager believes the concern to be genuine and that it is appropriate to use the Whistle Blowing procedure, the manager should contact the Clerk to the Governing Body (the Assessor)
- should it be alleged that the Clerk to the Governing Body is involved in the alleged malpractice, a senior manager should be contacted to act as Assessor
- if the Representor feels unable to raise their concern with their line manager or the Headteacher in the first instance, they may contact the Assessor direct. If this occurs the Representor will be asked to justify why they feel unable to raise the concern with their line manager or the Headteacher

The Assessor should:

- interview the Representor within seven working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury
- obtain as much information as possible from the Representor about the grounds for the belief of malpractice
- consult with the Representor about further steps which could be taken
- advise the Representor of the appropriate route if the matter does not fall under the Academy's Whistle blowing Procedure
- report all matters raised under this procedure to the Chair of Governors

At the interview with the Assessor, the Representor may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of the Academy staff to take notes.

Within ten working days of the interview, the Assessor will recommend to the Headteacher, 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 Child Protection Authority, the LADO
- 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
- 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 Headteacher is involved in the alleged malpractice; the Assessor's recommendation will be made to the Chair of Governors .

The recipient of the recommendation (Headteacher or Chair of Governors ) 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 Governing Body.

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.

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

The Academy will ensure the Representor is protected from any form of victimisation or discrimination.

### **Malicious Accusations**

Deliberately false or malicious accusations made by a Representor will be dealt with under the Academy's disciplinary procedure.

### **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 Representor is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination. The external sources which could be used are:

- Department for Education
- Member of Parliament
- National Audit Office
- Health and Safety Executive
- Police
- Child Protection Agency

The Academy will take all reasonable steps to ensure the Representor is protected from any form of victimisation or discrimination.