



GREAT HEIGHTS

ACADEMY TRUST

Whistleblowing Policy September 2020

1. Introduction

The Public Interest Disclosure Act 1998 inserted provisions into the Employment Rights Act 1996 to give protection against victimisation to employees acting as 'whistleblowers' (victimisation in such circumstances including being subjected to informal means of recrimination or retribution as well as formal disciplinary sanction up to and including dismissal)

Whistleblowing is defined as making a 'protected disclosure' as a means of raising concerns about serious malpractice at their place of work, provided the employee has acted in a responsible manner in dealing with the issues.

For the disclosure to be protected by the relevant legislation it must be made to the right person and in the right way. Staff must have a reasonable belief that:

- any disclosure of information is in the public interest*
- any disclosure of information is being made to the correct 'prescribed person' (further defined in Section 8 below)
- any information disclosed is substantially true.

In this context, the precise meaning of 'public interest' is not defined within the relevant legislation and schools should be aware that interpretation of this point is currently dependent on evolving case law. Recent rulings (although still subject to appeal) have indicated that this may conceivably include issues linked to an individual's terms and conditions of employment or own experiences at work and thus of interest to only a particular sub-section of the public (as opposed to the public as a whole). In other words, the school should **not (despite this being the intended express purpose of said amendment) rely on the 2013 amendment to the Public Interest Disclosure Act 1998 (which amended the wording to the effect that a qualifying disclosure must be made 'in the public interest', as opposed to the previous wording 'in good faith') as necessarily excluding matters relating to an individual's own contract or personal conditions of employment.*

2. Purpose and scope

It is important to draw a distinction between whistleblowing, which is relevant only to matters which are **in the public interest**, and issues which are not relevant to the above legislation and do not qualify as whistleblowing, such as concerns relating to a personal grievance (for instance related to discrimination, bullying, harassment etc).

Matters relating to a personal grievance are **not** covered by whistleblowing legislation (unless the particular circumstances of the case are deemed to be in the public interest) and should

always be addressed in accordance with the appropriate policy (grievance, bullying and harassment etc) rather than invoking the whistleblowing procedure.

This policy may be used by all workers and staff members within The Trust to raise concerns where the wellbeing of others, or that of The Trust itself, is felt to be at risk, for instance in relation to the alleged commission of criminal offences or employment of practices endangering health and safety.

The terms 'worker' and 'staff member' in this policy broadly include the following: employees; contractors; agency workers; trainees; and any person who is subject to a contract to undertake work or services for The Trust.

The policy encourages staff to feel confident in raising issues of consequence and to question and act upon any serious concerns they might have about practices within The Trust. It aims to establish a fair and impartial investigative procedure and to ensure that staff receive an appropriate response to concerns and are aware of how to pursue them if they are not satisfied by this outcome.

This policy enables The Trust to comply with the Public Interest Disclosure Act 1998 and the Public Interest Disclosure (Prescribed Persons) Order 2014.

The whistleblowing procedure is intended to cover major concerns that may fall outside the scope of The Trust's other procedures (such as health and safety or grievance process). These include (this list is not exhaustive):

- possible fraud and corruption
- unauthorised use of academy funds
- failure to comply with Trust financial regulatory and compliance matters
- failure to comply with Codes of Practice
- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks including risks to children, public and colleagues
- damage to the environment
- other unethical conduct

3. Employer responsibility

As the employer of staff in each academy the Academy Trust has overall legal responsibility for ensuring that the Trust has a whistleblowing policy. The MAT Board is responsible for the running of the Trust and through each academy's management will maintain (in a format that will not compromise confidentiality) a comprehensive record of concerns raised and subsequent outcomes.

The Trust recognises that the decision to report a concern can be a difficult one, not least because of fear of reprisals or recrimination from those responsible for the alleged failure or malpractice.

The Trust does not tolerate harassment or victimisation and, being conscious of its vicarious liability for any employee's conduct should this amount to victimisation of a whistleblower, will take all necessary action to protect staff members when a concern is raised.

4. How to raise a concern

Concerns are most appropriately raised in writing. Any submission should set out the background and history of the issue giving rise to concern, giving names, dates and places

where possible. The submission should also clarify the reason why there is felt to be particular concern about the situation and should include sufficient grounds to justify this concern. It is advised that the earlier a concern is raised the easier it is to take appropriate action.

Staff are encouraged to involve their trade union or professional association and may be accompanied by a recognised trade union representative or work colleague during any meetings, reasonable time off from work being permitted for this purpose.

A form for recording the whistleblowing concern is available for use at Appendix 1.

It should be noted that should any staff member making a disclosure under the terms of the whistleblowing policy already be subject to disciplinary, grievance or redundancy procedures, these procedures will not be halted as a result of any disclosure.

5. Untrue or malicious allegations

If an allegation is made in the public interest but is not confirmed by any subsequent investigation, no action will be taken against the staff member making the disclosure. However, malicious or vexatious allegations could potentially lead to disciplinary action including proceedings for gross misconduct.

6. Confidentiality

Any individual raising a whistleblowing concern will be protected. The investigation process, may, however, reveal the source of the information and a statement may be required as part of the evidence-gathering process. If the staff member does not wish to disclose their identity it could make it difficult to proceed further with the matter.

Anonymous allegations may be considered by The Trust but are much less powerful than those which are attributable to an individual and consequently are significantly less likely to prove effective.

Following discussions staff may consider raising a matter if there are two or more individuals who have had the same experience or share the same concerns. Care and judgement must, however, be exercised in all cases, with due consideration being given to whether there may be reasonable grounds for concern.

7. Raising a concern - internal procedure

The concern can be raised in writing or orally if preferred.

The staff member should raise their concern with the Principal or line manager (as appropriate) or, if the complaint is about the Principal, the CEO.

If the concern relates to the governing body, it should be raised with the Chair of the Academy Trust (or, if that is felt inappropriate, with the most relevant of the external bodies identified in section 8).

The action taken by the Principal, CEO or Chair of the Academy Trust will depend on the nature of the concern. The matters may be subject to:

- internal investigation
- referral to the police

- referral to other external enforcement agencies
- consideration of the Trust's disciplinary procedure should it relates to an employee (or employees)

An initial assessment should be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of other specific procedures (such as child protection etc) will normally be referred for consideration under those procedures.

It may be possible to resolve some concerns by agreed action without any requirement for an investigation. Within 10 working days of a concern being received, the Line Manager, Principal, CEO or Chair of the Academy Trust will write to the staff member who has raised the issue to:

- acknowledge receipt of the concern
- indicate how it is proposed to deal with the matter
- indicate whether an initial enquiry has been made
- indicate whether further investigation will take place, and if so,
- give an estimate of length of time before a full response will be provided.

The amount of contact between the person dealing with the matter and the staff member raising the concern will depend on the nature of the matters raised, the complexity of the issue(s), and the clarity of the initial information provided. If necessary, further information may be sought from the individual raising the concern.

Subject to legal and confidentiality constraints, the staff member will receive information about the outcomes of any investigation.

8. Raising a concern - external procedure

In accordance with legal protection for whistleblowers, only certain (prescribed) authorities and individuals are to be regarded as legitimate bodies who may be contacted to make a 'protected disclosure'.

Whistleblowing to an external body without initially going through the internal procedure is inadvisable without compelling reason. Examples of compelling reason could, for instance, include either concerns in relation to serious issues of health and safety or allegations that senior management had colluded in inappropriate conduct.

Should a staff member feel that it is appropriate to take the matter outside of the Trust, the following authorities (defined as 'prescribed persons') are the external regulators who, within an educational setting, are most likely (although the list is not exhaustive) to be approached by a whistleblower:

- Ofsted
- Ofqual
- National Audit Office

Members of Parliament also qualify as 'prescribed persons' according to the relevant legislation.

If a member of staff does not feel able to raise concerns in any of the ways outlined above, they should consult the Public Disclosure Act for information about other routes by which a disclosure may be made.

September 2020

Appendix 1: Report Form to Be Used For Public Interest Disclosures

Great Heights Academy Trust:

Name (staff member making report - not compulsory but you are encouraged to insert your name)	
Persons reported	
Concerns reported (give full details of the background to the concern including names, dates and places; reasons why you are concerned – attach separate sheet if necessary)	
Date	
Signed (if name appears above)	